



A G E N D A
NCAA Division III Administrative Committee Teleconference

Microsoft Teams
Dial-In No.: 317-550-5692
Access Code: 363 412 586#

May 28, 2020
10 to 11 a.m. Eastern Time

1. Welcome. (Dan Dutcher/Tori Murden McClure)
2. May 15 report. [Supplement No. 1] (Dutcher)
3. COVID-19 impact, updates and actions.
 - a. Membership Committee report. [Supplement No. 2 – to be distributed prior to the videoconference] (Eric Hartung)
 - b. Championships Committee report. [Supplement No. 3] (Liz Suscha)
 - c. COVID-19 Playing and Practice Seasons Working Group update. (Louise McCleary/Jeff Myers)
 - (1) Resocialization of Collegiate Sport: Action Plan Considerations.
 - (2) Fall playing and practice season calendars.
4. Name, Image and Likeness update. [Supplement No. 4] (Dutcher/Myers)
 - Membership feedback survey.
5. Other business. (All)
6. Adjournment.



**REPORT OF THE
NCAA DIVISION III ADMINISTRATIVE COMMITTEE
MAY 15, 2020, TELECONFERENCE**

ACTION ITEMS.

- **None.**

INFORMATIONAL ITEMS.

1. **Welcome.** The call commenced at 10:01 a.m. Eastern Time. Staff welcomed the committee and reviewed the agenda.
2. **May 7, 2020, Administrative Committee Report.** The committee reviewed the May 7 report and approved it as written.
3. **COVID-19 Impacts and Updates.**
 - a. **D3CA Membership Survey.** Staff provided an update on the D3CA survey that was sent to all Division III athletics directors Tuesday, May 12. The survey is to assess the impact of COVID-19 and seek feedback from the membership on sports-sponsorship and competitive requirements, championships, and playing and practice season issues. An aggregate report will be shared with each conference, as well as the entire membership and NCAA staff.
 - b. **Membership Committee discussion.** Eric Hartung, primary liaison to the Membership Committee, gave a recap of the committee's recent teleconference. The committee wants to provide maximum relief if possible, noting that ultimate authority rests with campus leaders. The committee endorsed blanket relief of the minimum number of contests required per Bylaw 20.11.3.8 but did not determine the best metric to use in providing that relief. The committee identified the following items to guide its future discussions:
 - (1) A reduction in the minimum number of contests per sport will not provide adequate relief for every institution. The committee will likely receive requests for additional waiver relief regardless of the reduced minimums.
 - (2) Individual institutions are best equipped to determine how to conduct outside competition on their campuses (i.e., reduced outside competition, full outside competition).
 - (3) Any alternate competition model should permit a schedule primarily based on conference and/or regional competition.
 - (4) While there is a relationship between NCAA Bylaws 20.11.3.8 and 31.2.1, the minimum number of contests for NCAA Championships eligibility is distinct and under the purview of the Division III Championships Committee.
 - c. **AMA Question and Answer Document.** Staff shared the most up to date Q&A document, noting updates are made weekly and posted to ncaa.org every Monday. The questions are now focusing on student-athlete eligibility next academic year, future eligibility issues and playing seasons, greater clarity around preseason practice opportunities.
 - d. **COVID-19 Playing and Practice Seasons Working Group update.** This internal working group continues to consider different scenarios regarding the COVID-19 issues impacting practice and playing seasons and noted that it is not a decision-making group. Recommendations are sent to the NCAA COVID-19 Action Team for review and subsequent divisional and Association-wide

action. The recently released resocialization guidelines don't completely align with existing Division III preseason practice legislation. Therefore, in the coming weeks, the Playing and Practice Seasons Subcommittee, with assistance from SSI and CSMAS, will work to provide relief and greater alignment.

4. **Name, Image and Likeness.** At its April meeting, the Board of Governors accepted the Federal and State Legislation Working Group's report and formally charged each division to create NIL legislation. In February, the Interpretations and Legislation Committee (ILC) proposed two legislative concepts that have been reviewed and initially endorsed by SAAC, and the Management and Presidents Councils. On a recent videoconference, ILC discussed the following items, which need greater clarity:
 - a. Use of institutional marks. It was noted that student-athletes should be able to use institutional marks in a manner consistent with use by the student-body in general.
 - b. Potential prohibition of certain categories of promotions (e.g., alcohol, tobacco, sports wagering).
 - c. Pre-enrollment. Use of NIL by prospective student-athletes.
 - d. Compliance. The need to provide compliance assistance and education to athletics administrators and student-athletes, potentially provided by a third-party administrator.
5. **Other business.** Monday, May 18, is the due date for the concussion management attestation per the Arrington settlement. To date, 924 institutions have successfully submitted their certification. The submission deadline is 5 p.m. Central time Monday, May 18, and no extension will be given.
6. **Adjournment.** The meeting adjourned at 10:55 a.m.

Committee Chair: Tori Murden McClure, Spalding University, St. Louis Intercollegiate Athletic Conference
Staff Liaisons: Dan Dutcher, Division III Governance
Debbie Kresge, Division III Governance
Louise McCleary, Division III Governance
Jeff Myers, Academic and Membership Affairs
Ali Spungen, Division III Governance

NCAA Division III Administrative Committee May 15, 2020, Teleconference
Attendees:
Heather Benning, Midwest Conference.
Fayneese Miller, Hamline University.
Tori Murden McClure, Spalding University.
Dennis Shields, University of Wisconsin, Platteville.
Gerard Bryant, John Jay College of Criminal Justice.
Not in Attendance:
Staff:
Dan Dutcher, Debbie Kresge, Louise McCleary, Jeff Myers, Adam Skaggs, Ali Spungen and Liz Suscha.



**REPORT OF THE
NCAA DIVISION III MEMBERSHIP COMMITTEE
MAY 27, 2020, VIDEOCONFERENCE**

ACTION ITEMS.

1. Legislative Items.

- **Membership – Division III Membership Requirements – Sports Sponsorship – Minimum Contests and Participants Requirements for Sports Sponsorship—Bylaw 20.11.3.8.**

- (1) Recommendation. Approve a waiver to reduce the minimum number of contests required for sports sponsorship by 33 percent. This applies to all sports. The minimum number of participants required will remain unchanged.
- (2) Effective Date. September 1, 2020, to August 31, 2021.
- (3) Rationale. The committee seeks to provide relief for institutions related to disruptions and uncertainty resulting from the COVID-19 pandemic. Specifically, relief is intended to:
 - a. Help Division III institutions remain in compliance with NCAA Bylaw 20 membership legislation;
 - b. Guide institutions as they determine the best model for providing the student-athlete experience in the 2020-21 academic year; and
 - c. Reduce the administrative burden for institutions seeking relief.

In a recent survey of the Division III membership by the Division III Commissioners Association in which 98 percent of the division's athletics directors participated, 85 percent supported a reduction to contest minimums. A reduction in minimum contests would provide each institution with the flexibility to determine how best to conduct outside competition on their campuses (i.e., reduced outside competition, full outside competition). It also would allow for an alternate competition model permitting a competition schedule primarily based on conference

and/or regional competition, and a competition schedule that can fit into a revised academic calendar (e.g., delayed start of classes, earlier end-of-classes date).

While the committee noted that championships selection requirements (Bylaw 31.2.1) are the purview of the Division III Championships Committee, there was desire to continue to align the minimum contest requirements for championships selection with the minimum contest requirements for sports sponsorship. At its May 19, 2020, meeting, the Championships Committee recommended a reduction to the contest minimums for championships eligibility for all sports by 33 percent for one year, with the agreement to consider an extension of the reduction for an additional year at a later date. A 33 percent reduction of contest minimums for sports sponsorship would preserve that alignment.

The Membership Committee will be open to waiver requests from schools that are unable to meet the existing sport sponsorship standards and the new minimum contest standards, and approach those requests with maximum flexibility.

- (4) Budget Impact. None.
- (5) Student-Athlete Impact. Provides flexibility for institutions to determine the best possible way to conduct their athletics program in a way that ensures the health and safety of student-athletes and the best possible format to ensure a meaningful athletics experience for the most student-athletes possible.

2. **Nonlegislative Items.**

- None.

INFORMATIONAL ITEMS.

1. **Welcome and announcements.** The videoconference commenced at 12:02 p.m. Eastern time Wednesday, May 27, 2020.
2. **Roster and conflict of interest.** Committee members were reminded of the NCAA Conflict of Interest Policy and proper procedures for recusal if a conflict of interest might arise. Committee members followed the recusal procedures during all deliberations.

3. **Review May 14, 2020, meeting report.** The committee reviewed and approved its May 14, 2020, videoconference report.
4. **Consideration of a reduction to sports-sponsorship minimums.** The committee considered reducing the minimum number of varsity intercollegiate sports an institution must sponsor per Bylaws 20.11.3.1 and 20.11.3.2 but decided to revisit the topic at a later date. The committee noted that additional information concerning the number of member institutions intending to suspend or discontinue sports, as a result of COVID-19, is needed to make a decision in that area. The committee is committed to reviewing waiver requests on a case-by-case basis and providing appropriate flexibility.
5. **Future meeting update.** The chair noted the upcoming June 24-25, 2020, videoconference and the possibility of an additional meeting if necessary.
6. **Other business.** None.
7. **Adjournment.** The committee concluded its business and adjourned at 1:45 p.m. Eastern time.

Committee Chair: Laura Mooney, Massachusetts College of Liberal Arts, Massachusetts State Collegiate Athletic Conference

*Staff Liaisons: Eric Hartung, Division III Research
Tiffany Alford, Academic and Membership Affairs
Corey Berg, Academic and Membership Affairs*

NCAA Division III Membership Committee May 27, 2020, Videoconference	
Attendees:	
William Fell, United States Merchant Marine Academy.	
Michael Frandsen, Wittenberg University.	
Jan Hathorn, Washington and Lee University.	
Jessica Huntley, Atlantic East Conference.	
Charles Jacobs, St. Norbert College.	
Erica Lemm, Mount Holyoke College.	
Monique McLean, Trinity Washington University.	
Laura Mooney, Massachusetts College of Liberal Arts.	
Elliott Strickland, Pennsylvania College of Technology.	
Megan Valentine, Hilbert College.	
Absentees:	
None.	

NCAA Staff Support in Attendance:
Tiffany Alford, Corey Berg, Debbie Brown and Eric Hartung.
Other NCAA Staff Members in Attendance:
Dan Dutcher, Louise McCleary, Jeff Myers and Liz Suscha.



**REPORT OF THE
NCAA DIVISION III CHAMPIONSHIPS COMMITTEE
MAY 19, 2020, VIDEOCONFERENCE**

ACTION ITEMS.

1. Legislative items.

- None.

2. Nonlegislative items.

- **Minimum contest requirements for championship selection be reduced by 33 percent.**

a. Recommendation. That the minimum contest requirements for championship selection be reduced by 33 percent in all sports for the 2020-21 academic year.

b. Effective date. Immediate. The committee agreed that the recommendation would apply for the 2020-21 academic year but that the modification could be revisited as circumstances warrant in the near future.

c. Rationale. The committee discussed potential blanket relief in the area of minimum contest requirements for championship selection purposes. While the committee noted that sports-sponsorship requirements are the purview of the Division III Membership Committee (which has not yet determined action in that regard as noted in Item 3-b above), there is a desire to align the minimum contest requirements for sports sponsorship with the minimum contest requirements for championship selections and to remain consistent with Bylaw 31.2.1(c). In weighing minimum contest reductions for championship selection purposes, the Championships Committee also noted a desire to anchor any decision firmly within the Division III philosophy, which emphasizes conference and regional competition as a core tenet. Committee members based their recommendation on the following:

- Any reduction should allow conferences to play a conference-centric schedule (e.g., competition among only conference members, or a schedule that includes conference and in-region competition).
- While various percentages of reduction were considered, the Championships Committee maintains that a 33 percent reduction accommodates conference-centric scheduling in almost every sport and satisfies the Division III philosophy's emphasis on conference and regional competition.

- The Championships Committee will be open to considering waivers from schools that are unable to meet the new minimum standards and still want to be considered for championship selection.
- d. Estimated budget impact. None.
- e. Student-athlete impact. Aligning minimum contest requirements for sports sponsorship with minimum contest requirements for championship selections satisfies the committee's desire to remain consistent with Bylaw 31.2.1(c) governing institutional eligibility for championships.

INFORMATIONAL ITEMS.

1. **Welcome and Announcements.** The committee chair Kiki Jacobs welcomed the group to the videoconference and reviewed the agenda.
2. **Approval of Recent Reports.** The committee approved the report from its May 7 videoconference as presented.
3. **COVID-19 Issues – Championship Impacts.**
 - a. Division III Commissioners Association survey. The committee reviewed results from a survey of Division III athletics directors conducted by the Division III Commissioners Association in the wake of the COVID-19 crisis to collect input on issues related to sport sponsorship, playing and practice seasons, and championships for 2020-21.
 - b. Division III Membership Committee update. The Division III Membership Committee convened May 14 and considered areas of relief but took no formal action (results from the commissioner's association survey noted in Item 3-a above were not available to the committee at the time of its meeting). The Membership Committee agreed that blanket relief of the minimum number of contests required for sports sponsorship is warranted but did not determine the best metric to use in providing that relief. However, the committee did identify a number of principles to guide future discussion in this area, including that any alternate competition model should permit a schedule primarily based on conference and/or regional competition.
4. **Future Meetings.**
 - June 2, 2020 (videoconference).

- June 22-23, 2020 (videoconference).
- September 14-15, 2020 (videoconference).
- February 2-3, 2021 (videoconference).

Committee Chair: Kiki Jacobs, Roger Williams University

Staff Liaisons: Liz Turner Suscha, Championships and Alliances

Laura Peterson-Mlynski, Championships and Alliances

Julie Sargent, Academic and Membership Affairs

Division III Championships Committee May 19, 2020, Videoconference
Attendees:
Heather Benning, Midwest Conference.
Jason Fein, Bates College.
Kiki Jacobs, Roger Williams University.
Braly Keller, Nebraska Wesleyan University.
Chuck Mitrano, Empire 8.
Michelle Morgan, John Carroll University.
John Neese, Hardin-Simmons University.
Penny Siqueiros, Wesleyan College (Georgia).
Absentees:
Robin Baker, University of Wisconsin-Eau Claire.
Guests in Attendance:
Gary Brown, NCAA Contractor.
NCAA Staff Support in Attendance:
Laura Peterson-Mlynski, Championships and Alliances.
Julie Sargent, Academic and Membership Affairs.
Liz Turner Suscha, Championships and Alliances.
Other NCAA Staff Members in Attendance:
Dan Dutcher, Eric Hartung, Laura Klee, Louise McCleary, Jeff Myers.



Division III Webinar

Name, Image and Likeness Updates

Dan Dutcher and Jeff Myers

Agenda

- Background.
- Key Association-wide principles.
- Division III legislative definitions, bylaws and principles.
- Division III legislative concepts.
 - Work product and services.
 - Endorsements.
 - Additional considerations.
- Next steps and timeline.

Background

- In April, the BOG received the Federal and State Legislation Working Group's final report and charged each division with modernizing its rules within a collegiate framework.
- Division III will determine its best course of action.
- Early actions.
 - Created Division III NIL Oversight Group (Nov. 2019).
 - Discussed and received feedback at 2020 Division Convention Issues Forum.

Background

- Recent actions.
 - ILC discussed in February and developed NIL concepts.
 - April 1 webinar.
 - In April, SAAC, Management and Presidents Councils reviewed and endorsed the concepts.
 - In May, the Division III NIL Oversight Group discussed the proposed concepts and outlined next steps.

Background

- Next steps.
 - In early June, the Division III NIL Oversight Group will send a feedback form to presidents, ADs and commissioners.
 - June 19: Regional Rules Seminar session will include feedback results.
 - July and August SAAC and Council meetings will finalize the legislative proposals for vote at the 2021 NCAA Convention.

Key Association-Wide Principles

- BOG determined that status quo is not an option, and that the following Association wide principles should guide the divisional review:
 - Compensation to student-athletes for use of their name, image or likeness should not be pay for athletics performance or participation; nor should the payments serve as an inducement to select a particular school.

Key Association-Wide Principles (cont..)

- Regulations for the use of a student-athlete's NIL should be transparent, narrowly tailored and enforceable, and should facilitate the principle of fair competition, including the integrity of the recruiting process.
- Student-athletes should be able to use their name, image or likeness similar to other college students, unless there is a compelling reason to differentiate.

Legislative Definition

NIL is a concept based on laws defining “rights of publicity” or when permission is required to use someone’s name, image or likeness.



NIL and Current NCAA Bylaws

- Student-athletes may not participate in promotional activities unless specifically allowed by NCAA legislation. (Bylaw 12.5.1)
- Specific exceptions allowing use of the student-athlete's NIL:
 - Institutional, charitable, educational and non-profit use.
 - Modeling and other non-athletically related promotional activity.
 - Media activities.
 - Student-athlete's own business.

Current modeling and other non-athletically related promotional activities

Can accept pay for use of NIL to promote the sale or use of a commercial product provided:

- Student-athlete became involved in activity for reasons independent of athletics ability;
- No reference is made in these activities to the student-athlete's involvement in intercollegiate athletics; and
- Pay is commensurate with the student-athlete's skill and experience as a model and is not based on athletics ability or reputation.

Bylaw 12.5.1.3

Current Media Activities

- Student-athlete may participate in media activities (e.g. appearance on radio, television, in films or stage productions, or participate in writing projects) even when appearance/participation is related to athletics and may receive the following:
 - Legitimate and normal expenses; and
 - Compensation commensurate with the going rate.

Also, student-athlete's name may be used to advertise participation, but status as a student-athlete may not be used for promotional purposes.

Bylaw 12.5.2



11

Current Student-Athlete Business

Student-athletes may establish and promote their own business but may not use their status as a student-athlete to promote the business.



*Official Interpretation
February 1, 2007*



12

Proposed Legislative Concepts

Key Division III NIL Principles

- Compensation to student-athletes must be consistent with the fair market rate and should not constitute pay for play.
- Student-athletes can use institutional marks to the extent students generally can use institutional marks.
- Students could use agents, advisors and professional services to help with their NIL activities.
- Institutions may not use promotional opportunities as a recruiting inducement.

Key Division III NIL Principles

- Institutions may only support a student-athlete's NIL activities to the extent they support students generally in their NIL activities.
- Specific reporting and disclosure requirements are not yet a part of these concepts, but are under discussion.

NIL Concept 1: Work Product and Service

- Concept: Allow student-athletes to use their status as athletes to promote their own work product or service.
- Why: Student-athletes should be able to use their NIL in a similar manner as college students who are not student-athletes, unless there is a compelling reason to differentiate.
- Proposed change: Student-athletes could use their status as athletes to promote their own work product or service. Institutions would only be permitted to support NIL opportunities for SAs in the same manner institutions support NIL opportunities for their students generally.

NIL Concept 1: Work Product and Service

- General work product examples: Creative and academic endeavors in acting, music, art and writing; starting and running one's own business; providing private athletics lessons; conducting one's own camp; and providing tutoring.
- Specific usage examples: Identify their status as a SA in creating social media content; advertising private lessons; advertising one's own business.
- Institutions should only be involved to the extent that they are involved with students generally.

NIL Concept 1: Work Product and Service

- Examples to consider.
 - Promotion of private lessons.
 - Promotion of their own camp or clinic.
 - Monetize social media platform(s).
 - Paid for autographs.
 - Promotion of creative and/or academic endeavors.
 - Promotion of their own business.
 - General promotion of other work product or service.

NIL Concept 2: Endorsements

- Concept: Student-athletes may use their status as athletes to endorse third party products or services provided:
 1. Payment is commensurate with the fair market rate.
 2. No institutional involvement in procuring promotional opportunities for student-athletes (except to the extent the institution is involved with assisting students generally).
 3. NIL opportunities are not part of the recruiting process.

NIL Concept 2: Endorsements

- Why: Student-athletes should be able to use their NIL in a similar manner as college students who are not student-athletes, unless there is a compelling reason to differentiate.
- Proposed change: Student-athletes may use their status as athletes to promote third party products or services, provided the noted limitations are followed.
- General promotion examples: Appearing in commercials, using social media as brand ambassadors, providing testimonials for used products and services, and promoting appearance at a commercial location.

NIL Concept 2: Endorsements

- Specific usage examples: Promote a makeup brand on their social media platform; a local business uses a student-athlete in print advertising declaring it is their favorite post-game hangout; a student-athlete appears in a commercial for the medical practice group that repaired the student-athlete's knee.
- Institutions should only be involved to the extent that they are involved with students generally.

NIL Concept 2: Endorsements

- Examples to consider.
 - Payment for appearance at a commercial establishment (e.g. car dealership, restaurant).
 - Promotion of commercial products via social media platforms (e.g. brand ambassadors).
 - Model/promote non-institutional athletics apparel and equipment.
 - Promotion of third-party products or services via traditional commercials.
 - Provide testimonials for a product or service.

Additional Considerations

- Prohibition of promoting certain types of products or services (e.g. alcohol, tobacco, sports gambling).
- Use of institutional marks (e.g. logos and slogans).
- Compliance and educational responsibilities.
- Mandatory reporting.
- Professional services (e.g. engagement of professional services, including agents).
- Pre-enrollment NIL allowances.

Next Steps and Timeline

- Seek membership feedback via survey. (early June)
- NIL webinar. (June 19)
- Additional committee review.
- Final SAAC, MC and PC review in July/August.
- Proposed legislation at 2021 NCAA Convention.

Ways You Can Help

- Discuss the concepts and other identified areas.
- Share your thoughts with campus and conference administrators via the feedback survey.
- Participate in the June 19 webinar.
- Be ready for the “final round” of information coming from the summer Council meetings.
- Prepare for the 2021 Convention vote.

Questions?

- All questions, must be submitted via your computer, using the following instructions:
 - Click on the chat icon – near the top of your screen. It will open a text box at the bottom of your computer screen.
 - Type in message and click on send.