



NCAA Division III Management Council Subcommittee for Legislative Relief Policies and Procedures

The NCAA Division III Management Council Subcommittee for Legislative Relief, formerly the NCAA Division III Management Council Administrative Review Subcommittee, was created in 1993 as a response to the membership's desire for more rules flexibility. This group consists of a subcommittee of the NCAA Division III Management Council that reviews the application of NCAA legislation in cases where the circumstances are extraordinary in nature (NCAA Division III Bylaw 5.4.1.7). In October 20, 2015, the Management Council approved the integration of the NCAA Division III Committee on Academic Issues Subcommittee into Subcommittee for Legislative Relief; consequently, Subcommittee for Legislative Relief is also specifically authorized to hear, deliberate and decide all waivers of the academic and full-time enrollment requirements and to consider relief from the application of NCAA legislation in Bylaws 14.01.2 (academic status); 14.1.7 (admission and enrollment); and 14.1.8 (full-time enrollment) and its subsections.

The philosophy of the Subcommittee for Legislative Relief is to review requests to waive the normal application of the legislation, appeal cases and render decisions while considering the following to determine if relief is appropriate:

1. The purpose or intent of the legislation;
2. Any information submitted by the applicant institution and student-athlete relative to, or affected by, the student athlete's institutional academic status;
3. The involvement and the overall well-being of the student-athlete;
4. A competitive or recruiting advantage; and
5. Prior case precedent.

NCAA member institutions, conferences and committees/subcommittees may apply for a Subcommittee for Legislative Relief waiver when no other committee/subcommittee has the authority to waive specific NCAA legislation for extenuating/extraordinary circumstances.

Reporting Lines.

The subcommittee reports directly to the Management Council.

Subcommittee Composition and Terms.

1. The subcommittee shall consist of six members of the Management Council, one of whom shall be elected chair;
2. The subcommittee chair shall only cast a vote in the event of a tie;
3. Members shall serve terms of office in accordance with Management Council's legislated policies and procedures.

Absences (Bylaw 21.7.2.3).

A member of the subcommittee shall be replaced if:

1. The chair deems the member to not be discharging their subcommittee duties properly; or
2. They are absent from two consecutive meetings/teleconferences without reasons approved by the Management Council.

Waiver Submission Procedures.

1. Waiver requests shall be submitted to the NCAA national office via Requests/Self-Reports Online.
2. Waiver submissions must use electronic signature or have a signature uploaded in RSRO.
 - a. Requests submitted by an institution require signatures from two of the following individuals of the involved institution (one of whom must be from outside the athletics department):
 - (1) Chancellor, president or faculty athletics representative; and
 - (2) Director of athletics or senior woman administrator.
 - b. Requests submitted by a conference office shall be signed by both the commissioner (or executive director) and at least one conference officer (e.g., associate commissioner).
 - c. Requests submitted by an NCAA committee or subcommittee shall be signed by the chair or a member of that committee or subcommittee.
3. Stamp signatures will not be accepted. Waiver submissions for individual student-athletes or prospective student-athletes are required to include a signed Buckley Statement.
4. The case will be considered complete and case processing timelines begin once all required information is uploaded into RSRO (either by the applicant institution or by NCAA academic and membership affairs staff).

Review Guidelines.

1. Documentation for review. A decision will be made by the staff and subcommittee based solely on the submitted written documentation from the applicant institution. The request shall include:
 - a. The background of the involved situation;

- b. The reason(s) the institution, conference or NCAA committee or subcommittee believes relief from the application of the legislation is warranted; and
- c. Any additional information the institution, conference or NCAA committee or subcommittee believes is relevant to the case (e.g., medical documentation, educational transcripts, game schedules).

NCAA committee or subcommittee members are prohibited from conducting independent research (e.g., online searches) in an effort to gather more facts/information regarding a pending request. When additional information or documentation is necessary, the subcommittee shall direct the staff to contact the applicant institution to request that the additional information or documentation be submitted.

- 2. Review timeline. The institution, conference or NCAA committee or subcommittee will typically receive a decision through RSRO on its waiver submission within three weeks of receipt of the appropriate materials at the national office. It is important for the submitting institution, conference or NCAA committee or subcommittee to specify clearly the reason(s) the issue may be time sensitive.
- 3. Urgent requests involving unforeseen circumstances (e.g., death, severe injury or illness, catastrophic events). The subcommittee granted the staff authority to provide relief of the legislation via the telephone. An institution will be required to submit a formal waiver submission via RSRO to the NCAA staff within two business weeks of receiving the telephone waiver decision. Institutions are encouraged to call the staff anytime an unforeseen urgent issue arises in which relief of the legislation is necessary via the waiver process.
- 4. Requests involving other institutions, conferences or specific student-athletes. For requests involving statements or assertions regarding another member institution's or conference's conduct or actions as a basis for relief, the applicant institution will be required to:
 - a. Submit all application materials and supporting documentation to the member institution(s) or conference cited as part of the allegations; and
 - b. Give the member institution(s) 10 business days for the chancellor or president, director of athletics, faculty athletics representative, senior woman administrator or in the case of a conference, the commissioner, to respond in writing to the subcommittee and provide a copy of the response to the applicant. The response will be included in the application materials for review.

For requests involving a specific student-athlete(s), a written release from the student-athlete(s) is required according to federal law (i.e., Federal Educational Rights and Privacy Act) for the staff to provide applicant's request materials or supporting documentation to another member institution.

5. Transfer waiver requests. For transfer waiver submissions, the legislative relief staff may request the following:
 - a. A position on the waiver request from the previous institution;
 - b. Any available information on the prospective student-athlete from the enforcement staff; and
 - c. Information from applicant institution regarding any third-party involvement (e.g., attorney, advisor, former coach) in recruiting and transfer decision(s). This request may include follow-up on information received from the enforcement staff.

In addition:

- d. The case manager may research the Internet for articles regarding the prospective student-athlete's recruitment to the previous institution and recruitment and transfer to the applicant institution.
6. Cases involving misinformation, a lack of information or institutional error. For cases in which a student-athlete(s) is detrimentally impacted by the actions of institutional personnel or if the applicant institution benefits (request is approved) as a result of the circumstances, the chancellor or president of the applicant institution will be notified by letter from the staff detailing the chronology of the institution's/individual's actions.

In situations where an institution has submitted multiple waiver requests involving misinformation, a lack of information or institutional error that has detrimentally impacted a student-athlete, a member of the staff or subcommittee may call an institution's chancellor or president to recommend that an institution establish a specific plan to prevent future instances of misinformation/error.

7. Season-of-participation exception - pending Subcommittee for Legislative Relief waiver. A transfer student-athlete who has a Subcommittee for Legislative Relief waiver request pending at the staff and/or subcommittee level may practice, but not compete, after the first contest or date of competition in the traditional segment in the student-athlete's sport without using a season of participation provided the staff has notified the institution both verbally and in writing (i.e., email) that the staff has received the institution's completed waiver application and relevant supporting documentation. The student-athlete may continue practice until a decision has been reached on the waiver request.
 - a. If the student-athlete's waiver request is denied, the institution shall, on verbal and written notification from the staff, immediately prohibit the student-athlete from participating in further practice with their team.
 - b. If the student-athlete's institution appeals the denial, the institution may permit the student-athlete to resume practicing with their team only on verbal and written

notification from the staff that it has received the institution's request for appeal. If the subcommittee denies the institution's appeal, the student-athlete must cease practicing immediately on receiving verbal and written notification from the staff that the appeal has been denied.

- c. If the waiver request is denied and the student-athlete continues to practice, they shall be charged with the use of a season of participation.
8. Requests involving medical documentation. For requests involving medical documentation that does not clearly demonstrate that the requirements of a given waiver are met (e.g., noncontemporaneous, does not state the student-athlete or family member is debilitated), the information may be shared with a medical expert.

The expert analysis shall be included as part of the waiver request to be considered by the legislative relief waiver staff and subcommittee for review.

9. Requests involving issues, arguments or mitigation regarding an education-impacting disability. For requests involving an education-impacting disability (e.g., impairments such as mental health disorders, eating disorders, learning disability, attention deficit hyperactivity Disorder, medical conditions, deaf/hard of hearing), the information may be shared with an expert in that field.

The expert analysis shall be included as part of the legislative relief waiver request to be considered by the legislative relief staff and subcommittee.

10. Communication protocol. Members of the subcommittee shall not discuss a pending request with the NCAA staff, institutional representatives, the prospective or enrolled student-athlete, or their legal counsel without all parties having the opportunity to participate. Further, the subcommittee members may contact the staff to request that additional information about the case be obtained prior to a final decision.

All inquiries from the media should be forwarded to the national office for response.

11. Archived cases. The subcommittee may archive cases based on a change in subcommittee philosophy (with appropriate notice given to the membership) or based on the decision date of a case (i.e., cases decided prior to a given date are designated as archived). Cases shall be archived by the staff every three years. The archived cases serve only as a historical resource to the membership and staff.

Review Procedures.

Per NCAA Constitution 4.7.3-(h), the Management Council has authorized the subcommittee to consider requests for relief from the application of NCAA legislation in instances where no Division III committee, subcommittee or NCAA staff member has the authority to act.

The staff may make a decision on behalf of the subcommittee (except for requests involving a blanket waiver). On request of the subcommittee, a waiver may be elevated directly to the subcommittee without a staff decision. A waiver may be elevated directly to the Management Council without either a staff or subcommittee decision only in instances when the subcommittee deems that Management Council would be the appropriate body to issue an initial decision on the request.

The staff and subcommittee should strive for consistency in treating issues involving similar circumstances.

Committee discussions and decisions should reflect and advance the interests of the Association, the division, or the sport, and ultimately enhance the student-athlete experience.

Recusal Procedures.

It is the responsibility of a subcommittee member to recuse themselves from participation in the review of an institution's or conference's request if:

1. They are connected to that institution by employment, personal or conference affiliation; or
2. They have a personal relationship or institutional affiliation that reasonably would result in the appearance of bias or prejudice.

Institutional objections to a subcommittee member participating in the review of a request should be raised with the subcommittee chair as soon as recognized but will not be considered unless the concern is raised prior to the subcommittee's review of the matter.

All ex parte communication between applicant representatives and subcommittee members about a pending case is prohibited.

Appeals to the Subcommittee.

The subcommittee will serve as an appellate body for all staff decisions that the membership wishes to appeal. The subcommittee will maintain a standing appointment for a weekly teleconference to discuss the appeal cases. In order for the subcommittee to take action, at least three subcommittee members shall be available. A majority vote of those members who have agreed to hear the issue is required. The chair only votes in case of a tie. The subcommittee shall not consider appeals of decisions of an NCAA committee or subcommittee with legislative authority to act.

1. Timeline.

Within 30 calendar days from the date on the initial staff decision letter, the applicant institution, conference, committee or subcommittee may appeal the staff decision to the subcommittee. An appeal letter submitted to the associate director after the 30-day appeal period will not be processed.

- Exceptions to this policy may be granted by the chair when an institution is able to demonstrate, in writing, that exceptional circumstances caused the institution's appeal to be submitted beyond the 30-day appeal period. Appeals will be submitted to the subcommittee members for review on a weekly basis.
- At the institution's request, an institution may participate, via teleconference, during the subcommittee's review of a waiver. An institutional staff member (as opposed to a conference office staff member or external counsel) may participate on a subcommittee conference call to present the institution's case. Such a presentation is limited to five minutes, with additional time allotted for questions from subcommittee members. At the discretion of the chair, the institution's presentation may exceed five minutes. At the conclusion of the presentation and any questions, the institution shall exit the call and the subcommittee will deliberate privately.

2. Decision.

The subcommittee decision shall be communicated to the involved institution by the NCAA staff. A summary of the decisions of the staff and subcommittee shall be provided to the Management Council and NCAA Division III Presidents Council on a regular basis

Reconsideration.

If new information becomes available after the subcommittee has denied a waiver request, an institution may submit a reconsideration request to the subcommittee. The initial request and all supplemental information for reconsideration shall be submitted to the NCAA staff by an NCAA institution, conference or NCAA committee.

The director or associate director shall determine if the submitted information meets the new information standard. If yes, the staff will then forward the request for reconsideration to the subcommittee. If no, then the reconsideration request shall be denied.

The applicant institution may appeal the director's or associate director's decision to deny the reconsideration request to the chair of the subcommittee. If the chair determines that the case should be reconsidered by the subcommittee, then the staff will forward the case to all subcommittee members. If the chair affirms the director's or associate director's decision to deny the request for reconsideration, the chair's decision is final.

In the event that the chair recuses themselves, the senior member of the subcommittee will review the appeal decision.

Appeals to Management Council.

Once an institution has exhausted its appellate and if appropriate, reconsideration opportunity with the subcommittee, an institution may appeal the subcommittee's decision to the Management Council. The

Management Council and Presidents Council have adopted the following procedures to apply for appeal of any committee or Management Council subcommittee action:

General Authority.

The Management Council shall review membership appeals and decisions made by a Division III committee or the NCAA staff regarding the application of NCAA legislation to a particular situation when no other committee, subcommittee, or conference has the authority to act [Constitution 4.8.3-(h)]. All Management Council decisions shall be reported to the Presidents Council which may ratify, amend or rescind the actions of Management Council [Constitution 4.4.2-(g)-(h)]. The Presidents Council shall hear appeals of original Management Council actions (as opposed to Management Council appellate decisions). Presidents Council is not required to hear or act on any request for additional consideration in which an appellate opportunity has already been provided by the Management Council. Presidents Council may, however, review any issue at its discretion..

Standard of Review.

A council shall not alter the decision of the committee, subcommittee or council that initially decided the matter unless it concludes that the committee, subcommittee or council erred in its decision in a manner that, in the judgment of the council, affected the decision. The finding of such an error shall be based on a determination of one of the following:

1. The committee, subcommittee or council improperly applied NCAA legislation or official interpretations;
2. The committee, subcommittee or council took an action inconsistent with established precedent; or
3. The committee, subcommittee or council deviated from its approved procedures or that the decision is clearly erroneous.

Documentation for Review.

The involved institution must submit a written notice of appeal to be received in the national office not later than 30 days after it has received notification of the adverse decision.

1. The appeal must be submitted by at least two of the following institutional representatives: chancellor/president, faculty athletics representative, director of athletics and senior woman administrator.
2. The Notice of Appeal must include reasons the institution believes the decision was erroneous. All supporting documentation from the involved institution shall be submitted no later than five business days before the meeting in which the appeal will be reviewed.

Review of appeals shall take place only in conjunction with regularly scheduled meetings of the applicable council or the NCAA Division III Administrative Committee. All appeals shall be based on the written record, unless the council officers conclude that compelling reasons exist to conduct an in-person meeting.

Not later than 48 hours before the meeting in which the appeal will be reviewed, the committee, subcommittee or council shall submit reports that detail the initial decision. The report shall identify the involved NCAA rules and interpretations and shall specify the information and precedent relied on in reaching the decision.

Parliamentary Procedure and Recusals.

For purposes of parliamentary procedure the Presidents Council, Management Council or Administrative Committee shall constitute a "board," rather than a "committee," in applying the provisions of Robert's Rules of Order Newly Revised; therefore, parliamentary procedures shall be those specified for boards by Robert's Rules in such matters as appeals, rehearing or other appearances. [Note: This affects such matters as motions to reconsider, amend or rescind earlier actions].

Members shall recuse themselves from participating in the complete review process (discussion and vote) if the matter involves their institution or conference. Members shall recuse themselves from voting on a matter of a decision by a committee or subcommittee on which they serve or if the matter involves a member of their conference. However, these members may participate in discussions related to the matter.

Decision.

The Presidents Council, Management Council or Administrative Committee shall deliberate and notify the national office staff of its decision (based on standard of review set forth above). The national office staff shall notify the involved institution and shall provide a written confirmation of the decision. The notification should occur as soon as practical after the decision is reached and adjournment of the meeting. No notification, formal or informal, should occur before adjournment. The appellant also should be notified of any additional procedures available. No public announcement shall be made until the meeting has adjourned.

Rehearing.

Rehearing of an issue may be granted only on the basis of new, relevant and significant information directly related to the original findings. The applicable officers will review the submitted evidence to determine if it believes the new-evidence requirement has been met.

If in reviewing the appeal the Presidents Council, Management Council or Administrative Committee concludes that new information that was not made available to the involved committee or subcommittee at the time of its initial decision has been reported, and that the information is of such importance to make a different result reasonably probable, the case shall be redirected to the committee or subcommittee that initially considered it for further review.

Conflict of Interest Statement.

The NCAA is a voluntary Association comprised of colleges, universities, conferences and other organizations, and governed through a membership-led committee structure. Within the governance structure, committee members must carefully balance their responsibilities to their respective institutions and/or conferences with the obligation to advance the interests of the Association, the division, or the sport, and ultimately enhance the student-athlete experience. While the fiduciary obligations of committee members to their own institution, their conference, and to the Association ordinarily are not in conflict, it is recognized that as a representative membership organization, committee members' fiduciary obligations are first to their institution, second to their conference, and third to the Association. NCAA committee service involves important ethical and moral obligations. Committee integrity is critical to the decision-making process and includes trust, confidentiality and honesty in all issues and aspects of service and representation. NCAA committee members shall disclose any conflict or potential conflict between their respective personal, professional, institutional, conference, or business interests and the interests of the Association that may affect or otherwise threaten such integrity, in any and all actions taken by them on behalf of the Association, for committee evaluation under this Statement.

In addition to any fiduciary obligation to their institution and conference, committee members also have a fiduciary duty to the Association not to use knowledge or information obtained solely due to service on that committee to the disadvantage of the Association during the term of committee service. Further, a Committee member shall not participate in the committee's discussion or vote on any action that might bring direct or indirect personal financial benefit to the member or any organization (other than the member's institution or conference) in which the member is financially interested. A committee member should also not participate in a discussion or vote for which the member's institution or conference is to be accorded a special benefit beyond benefits shared with other institutions or conferences or is to receive a penalty or disqualification. A violation of either of the above rules by a member of the committee shall not invalidate the action taken by the committee if, following disclosure of the conflict of interest, the committee authorizes, ratifies or approves the action by a vote sufficient for the purpose, without counting the vote of the committee member with the conflict of interest, and the appropriate oversight body approves the action.

A committee member is responsible for advising the chair of any actual or potential conflicts of interest or obligations which they may have hereunder, and should recuse him/herself from participating in proceedings, as may be warranted by this policy. Abuse of one's position as a member of a committee may result in dismissal from that position. Where such abuse appears evident, a committee member will be notified by the committee chair and will have the opportunity to present a rebuttal or details of the situation. (*August 2008 NCAA Executive Committee minutes.*)

Speaking Agent Policy.

The president of the Association and the chair of the Executive Committee are the only individuals authorized to speak on behalf of the Association except as outlined below. An individual representing a member institution or conference who speaks or opines on an Association issue only has the authority to express the view of that individual or the member institution or conference unless the individual has been designated by the Executive Committee of the Association as a speaking agent of the Association on that issue.

Subcommittee chairs are hereby designated as speaking agents of their subcommittees regarding issues within their subcommittees' jurisdiction on which there is consensus, except that positions of advocacy on behalf of the subcommittee or the Association to be communicated in writing or orally to persons or entities external to the Association must have prior approval by the Executive Committee or the president of the Association.

The president of the Association is hereby granted authority to designate additional speaking agents of the Association. (*April 2001 Executive Committee minutes.*)