



## NCAA Division I Committee on Academics Directive Regarding the Standard of Review of Two-Year College Transfer Waivers

### **Background.**

The NCAA Division I Board of Directors adopted legislation that raised the two-year college transfer standards for competition, practice and athletics aid, effective August 1, 2012, reinforcing the importance of academic readiness for entering Division I student-athletes. Therefore, within the two-year college transfer waiver process, the threshold for full relief (e.g., receipt of athletically related financial aid, practice and competition) will be set correspondingly high.

In anticipation of waiver requests seeking relief from these standards, the NCAA Division I Academic Cabinet drafted this directive to provide guidance to the NCAA academic and membership affairs staff and the NCAA Division I Progress-Toward-Degree Waivers Committee Subcommittee on Two-Year College Transfer Waivers as outlined below, with the understanding that both entities may use discretion in the application of this directive. Further, exceptions to this directive may be applied by the staff and/or the committee when warranted by the circumstances of a specific case.

In January 2016, the NCAA Division I Council granted the staff authority to consider extenuating circumstances, exercise reasonable discretion in evaluating cases and allow consideration of mitigating factors that may justify departure from the strict application of legislation, case precedent or committee guideline where the prescribed outcome is disproportionate or inconsistent with legislative intent. This authority applies to all facets of this directive, including waiver decisions granting access to athletically related aid only, athletically related aid and practice and athletically related aid practice and competition.

This directive will be reviewed and updated annually by the NCAA Division I Committee on Academics.

### **Guiding Principles.**

Institutions seeking relief of NCAA Division I Bylaws 14.5.4 (two-year college transfers), 14.5.4.1 (qualifier), 14.5.4.2 (nonqualifier), 14.5.4.2.1 (eligibility for financial aid, practice and competition), 14.5.4.2.2 (eligibility for financial aid and practice), 14.5.4.3 (academic redshirt) and 14.5.6 (4-2-4 college transfers), must present evidence of compelling mitigating circumstances along with a reasonable expectation that the student-athlete would have met the transfer requirements absent the mitigation. Such waivers will be reviewed under the presumption of a good-faith effort on the part of the student-athletes and his or her institution toward completion of the student-athletes collegiate degree within five years of the student-athlete's full-time enrollment, unless and until circumstances surrounding the waiver request indicate otherwise.

Waiver requests seeking relief from Bylaws 14.5.4.1.1, 14.5.4.2.5, 14.5.4.3.3 and 14.5.6.5 (baseball and basketball – midyear enrollee) in which a two-year college transfer initially enrolls at the certifying institution as a full-time student after the conclusion of the institution's first term of the academic year and is seeking immediate eligibility in the sport of baseball or basketball should generally be denied. Staff should consider more closely cases in which there exists significant mitigation related to personal hardship or natural disasters, outside the control of the

student-athlete and unrelated to athletics, demonstrating a strong need for the student-athlete to transfer after the conclusion of the institution's first term of the academic year. Cases warranting approval will meet the preceding mitigation standard and be accompanied by an exemplary academic record with a small deficiency clearly outside the control of the student-athlete.

Waiver requests seeking relief from Bylaw 14.5.6-(b) (4-2-4 college transfers) in which a student-athlete who transfers from a four-year college to a two-year college and then to the certifying institution before one-calendar year has elapsed since the student-athlete's departure from the previous four-year college and is seeking immediate eligibility will be denied absent, unique and extraordinary mitigation. Staff should consider more closely cases in which there exists significant mitigation outside the control of the student-athlete and unrelated to athletics for the transfer from the original four-year institution to the two-year college as well as for the transfer from the two-year college to the certifying institution; demonstrating a strong need for the student-athlete to be immediately eligible for competition prior to one-calendar year elapsing. Cases warranting approval will meet the preceding mitigation standard and be accompanied by an exemplary academic record with a small deficiency clearly outside the control of the student-athlete.

Institutions submitting waiver requests seeking relief from Bylaws 14.5.4.2.1-(b), 14.5.4.2.2-(b), 14.5.4.3-(b) and 14.5.6.2 (math requirement) should consider whether the math course meets a quantitative reasoning requirement in the student-athlete's degree program.

#### **Minimum Review Standard.**

Staff and the Subcommittee on Two-Year College Transfer Waivers will not consider waiver requests submitted on behalf of a student-athlete if that student-athlete's eligibility for competition and/or athletically related financial aid will not be directly affected by the outcome of the waiver decision. Specifically, the student-athlete must have exhausted his or her options for rectifying the deficiency and must be enrolled at the certifying institution or have enrollment immediately pending (e.g., immediately preceding term has been completed). Further, staff and Subcommittee on Two-Year College Transfer Waivers will not consider waiver requests for nonqualifiers who have completed less than three full-time terms at a two-year institution unless they are currently enrolled at the certifying institution.

#### **Data-Driven Guiding Principles.**

Two-year college transfer standards have been developed based on extensive research regarding the academic success of student-athletes. Statistical prediction modeling of four-year college outcomes from two-year college academic variables indicated three key predictors of academic success at the four-year institution: (1) Two-year college grade-point average; (2) Low numbers of physical education activity courses; and (3) Successful completion of core credits in English, math and natural and/or physical science.

Institutions seeking a two-year transfer waiver on behalf of a student-athlete for relief of Bylaws 14.5.4 (two-year transfers) and 14.5.6 (4-2-4 college transfers) must present favorable evidence of these predictors of academic success along with compelling mitigating circumstances for the waiver request to be granted. [Academic success will be based on the student-athlete's grade-point average for transferable credit (per Bylaw 14.5.4.6.3.2) and the successful completion of the transferable core courses (English, math, natural and/or physical science).] These waivers will be reviewed under the presumption of a good-faith effort on the part of the student-athlete and his or her institution toward completion of the student-athletes collegiate degree within five years of the student-athlete's full-time collegiate enrollment, unless and until circumstances surrounding the waiver request indicate otherwise.

**Required Documentation.**

Institutions are required to provide, at a minimum, the following supporting documentation with all two-year college transfer waiver requests:

1. An accurately completed two-year college transfer waiver application submitted via the Requests/Self-Reports Online (RSRO) Case Management System;
2. Letters or statements from the institution and student-athlete explaining the reasons for the deficiency;
3. A copy of the applicant institution's two-year college transfer evaluation(s);
4. A copy of the applicant institution's transfer-course equation for the student-athlete's academic record, demonstrating each transfer course's equivalent at the member institution;
5. Documentation of the applicant institution's two-year college transfer grade-point average calculation (per Bylaw 14.5.4.6.3.2);
6. Evidence of the compelling mitigating circumstance(s) supporting the waiver request;
7. A copy of the student-athlete's current official transcript and copies of official transcripts from any previous institutions (unofficial or print-screen transcripts will not be accepted); and
8. A graduation plan, designed by the applicant institution, that demonstrates how the student-athlete's individual efforts, course schedule planning (including consideration of academic- and athletics related time demands) and use of academic resources (including appropriate accommodations for any education-impacting disability) will demonstrate that the student-athlete is able to graduate within five years of initial full-time enrollment. The graduation plan should include term-by-term scheduling of courses to the greatest extent

possible and must be signed by both the student-athlete and an institutional representative with academic oversight for the student-athlete.

9. To be provided, if needed or requested, by staff to support waiver request:
  - a. Description of the designated degree as found in the academic catalog;
  - b. Degree audit indicating degree applicable courses;
  - c. Current course-enrollment list or schedule; and
  - d. Other documents, as deemed necessary by staff.

**Information to Be Considered.**

When reviewing a two-year college transfer waiver, staff may consider any information submitted by the applicant institution. In addition to the required supporting documents, the following may be considered by the staff:

1. Letters of recommendation or support;
2. If applicable, evidence of misadvisement or a lack of advisement by the student-athlete's two-year college or by a member institution; and
3. Other information as requested.

**Information Not to Be Considered.**

When reviewing a two-year college transfer waiver, staff shall not consider the following information:

1. Initial-eligibility information. Due to the predictive nature of the academic performance at the two-year college, all waivers for student-athletes who have initially enrolled full time at a two-year institution will be reviewed in the two-year college transfer waiver process under the parameters set forth in this directive.

Initial-eligibility information will only be considered in circumstances when significant mitigation clearly outside the control of the student-athlete combines with an exemplary academic record at the two-year institution to give evidence of the student-athlete's academic preparedness. Examples of significant mitigation include natural disasters and illness to the student-athlete or a member of the student-athlete's immediate family. In limited circumstances, staff will consider waiver requests that involve a prospective student-athlete that was misadvised by high school administrators. Core-course

determinations and missing pre-enrollment standardized tests are not considered significant mitigation in the two-year transfer waiver process.

2. Academic performance at the certifying institution. The two-year college transfer waiver process will focus on the student-athlete's academic performance at collegiate institutions prior to enrollment at the certifying institution and the mitigation for the student-athlete's failure to meet the two-year transfer requirements. Coursework completed at the certifying institution (e.g., summer hours, fall term hours for a winter or spring sport) will not be considered except as prescribed under the conditional approvals section in this directive.

### **Staff Decisions.**

In analyzing all two-year college transfer waiver cases, staff will review the student-athlete's academic record and weigh the student-athlete's academic record against the two-year transfer requirements deficiency and the mitigating circumstances presented as reasons for that deficiency.

#### **1. Approvals.**

Staff is granted the authority to approve waivers of the two-year college transfer requirement(s) based on a review of some or all of the following information:

- a. The size of the deficiency. The staff should consider how close the student-athlete is to meeting the transfer requirement;
- b. The student-athlete's overall academic record and whether it demonstrates a likelihood of academic success;
- c. Documented compelling mitigating circumstances surrounding the waiver request and evidence that it is reasonable to determine that absent the mitigation, the student-athlete would have met the academic requirement; and/or
- d. A reasonable graduation plan signed by both the student-athlete and an institutional representative.

#### **2. Partial approvals.**

Staff is granted the authority to partially approve waivers of two-year college transfer requirement(s) in those circumstances that do not meet the criteria for either approval or denial.

- a. When a student-athlete's academic record does not project a likelihood of academic success but there are mitigating circumstances present to warrant a partial waiver of two-year college transfer requirements, a waiver may be partially approved to permit the receipt of athletically related financial aid only.

- b. When a student-athlete's academic record demonstrates a likelihood of academic success and/or there are mitigating circumstances present to warrant a partial waiver of two-year college transfer requirements, a waiver may be partially approved for athletically related financial aid and practice.
- c. Staff is also granted the authority to partially approve a waiver to allow for receipt of athletically related financial aid and limited participation in practice activities when his or her academic record, based on the data analysis noted, minimally demonstrates a likelihood of academic success but there are mitigating circumstances present to warrant such a partial waiver of two-year college transfer requirements.

3. Conditional approvals.

Staff is granted the authority to conditionally provide relief for waivers of two-year college transfer requirements as follows:

- a. When a student-athlete does not satisfactorily complete a transferable core course (e.g., English, math, natural/physical science) to the certifying institution;
- b. The student-athlete's academic record demonstrates a likelihood of academic success; and/or
- c. There are mitigating circumstances present to warrant such a waiver of two-year college transfer requirements.

Further, staff may condition partial approval of a waiver to permit athletically related financial aid and practice during the following term or full approval of the waiver on the successful completion of academic requirements as determined by staff during the student-athlete's initial term in residence.

4. Denials.

Staff is granted the authority to deny waivers of the two-year college transfer requirement(s) based on a review of some or all of the following information:

- a. The absence of documented mitigating circumstances surrounding the waiver request;
- b. The mitigating circumstances are insufficient or do not tie directly to the deficiency;
- c. Staff concludes that based on the student-athlete's overall academic record, it is not reasonable to determine that absent the mitigation, the student-athlete would have met the two-year college transfer requirement;

- d. In situations involving misadvisement, if the student-athlete is not eligible at any Division I institution, regardless of the misadvisement received, provided the request for relief is solely based on the misadvisement; and/or
- e. In cases in which an education-impacting disability (EID) is cited as mitigation and the student-athlete was provided the appropriate accommodations by the institution but elected not to use them.

**Analysis of Mitigating Circumstances.**

- 1. Circumstances that may be considered as compelling mitigation and supported by objective documentation shall include, but are not limited to, the following:
  - a. Personal hardship:
    - (1) Situations clearly supported by contemporaneous documentation, which indicate that the student-athlete was unable to meet the two-year transfer requirements as a result of significant physical or mental circumstances suffered by the student-athlete, an immediate family member or others on whom the student-athlete is dependent.
    - (2) Extreme financial difficulties as a result of a specific event (e.g., layoff, death in the family) experienced by the student-athlete or by an individual on whom the student-athlete is legally dependent, which prohibit the student-athlete from completing the two-year transfer requirement(s). The circumstances must be clearly supported by objective documentation (e.g., decree of bankruptcy, proof of termination) and must be beyond the control of the student-athlete or the individual on whom the student-athlete is legally dependent.
  - b. Natural disasters (e.g., earthquakes, floods);
  - c. Restrictive degree programs;
  - d. Restrictive transfer;
  - e. EID;
  - f. Misadvisement (Note: Staff is required to notify the chancellor or president of an institution in which misadvisement is determined to be the mitigation that impacted the student-athlete's ability to meet a two-year college transfer requirement);
  - g. Nonrecruited/late recruitment or nonstudent-athlete; or

- h. Other unforeseen events and/or circumstances beyond the student-athlete's control.
- 2. Circumstances that will not be considered as compelling mitigation may include, but are not limited to, the following:
  - a. Unreasonable reliance by a student-athlete on misinformation from an institutional staff member (e.g., misadvisement) unless accompanied by the documented assertion of misadvisement; or
  - b. Mitigation not tied to a deficiency of the two-year transfer requirements.

**Guidelines for Consideration of Mitigating Circumstances.**

- 1. Personal hardship.
  - a. Documentation confirming the hardship event or circumstances.
  - b. Documentation linking the hardship event or circumstances to the term in which the two-year college transfer requirement was not met.
  - c. Clarification that the event or circumstance has been resolved or accommodated to the point that it will no longer impact the student-athlete's ability to be academically successful.
  - d. Evidence demonstrating that it is reasonable to believe that, but for the medical condition or event, the student-athlete would have met the two-year college transfer requirement.
- 2. Restrictive degree programs.
  - a. Documentation of the degree program requirements that restrict the student-athlete's ability to meet the two-year college transfer requirement.
  - b. Documentation of the institutional policy impacting the student-athlete's ability to meet the requirements that would otherwise be degree applicable.

Note: The staff will request mitigation that impacted the student-athlete's academic record.
  - c. Evidence demonstrates that it is reasonable to believe that absent the restrictive nature of the academic program, the student-athlete would have been academically eligible.



3. Education-Impacting Disability.

a. Full and complete documentation of the student-athletes EID, including:

- (1) Current, signed documentation of the diagnosis (including test data) and/or recommendation from the treating professional (e.g., medical doctor, clinical psychologist, another qualified individual). If specific circumstances of the case indicate that this requirement is unnecessary, a prior diagnosis may be acceptable;

Note: The staff or subcommittee reserves the right to request a second opinion or diagnosis.

- (2) A copy of the student-athlete's Individual Educational Plan or Section 504 plan, if applicable; and
- (3) Contemporaneous medical documentation provided by an individual qualified and licensed to diagnose and treat the particular impairment (e.g., psychiatrist, psychologist) must be submitted on behalf of a student-athlete with a mental health disorder (e.g., depression, anxiety, post-traumatic stress disorder).

- b. If the student-athlete has voluntarily disclosed his or her diagnosed disability to the institution's office for disability services, documentation on the office's letterhead verifying the student-athlete's disability.
- c. A written copy of the institution's policies and curriculum guidelines applicable to all students with EIDs.
- d. If the student-athlete has voluntarily disclosed to the office, documentation of the specific accommodations granted to provide access to the student. This summary must include accommodations provided by the institution with respect to the student-athlete's disability, as well as academic and other support services provided, and any institutional accommodations related to adjustments of minimum performance requirements. If the institution offers any accommodations with respect to the student-athlete's athletics responsibilities, those should be indicated as well.
- e. Statement on the use of said accommodations in the student-athlete's academic-recovery plan.
- f. Evidence that demonstrates that it is reasonable to believe the impact of the disability was such that the student-athlete would have otherwise met the two-year transfer requirements;

- g. Written statement from the student-athlete that addresses the impact of the diagnosed disability on his or her academic performance.
- 4. Nonrecruited/late recruitment or nonstudent-athlete.
  - Nonrecruited status, late recruitment or not being a student-athlete is not, by itself, sufficient mitigation to warrant relief. Nonrecruited status, late recruitment or not being a student-athlete will not be considered mitigation for a student-athlete's poor academic performance. The nonrecruited status, late recruitment or the student-athlete not being a student-athlete at the time of the deficiency will be weighed against the academic record and the deficiency to determine whether relief is warranted.
- 6. Transferable math/completed quantitative reasoning.
  - a. Documentation of institutional assessment of student-athlete's transferable courses and his or her inability to meet the legislative standard; and
  - b. Documentation that the completed quantitative reasoning (or equivalent institutional math/quantitative reasoning course requirement) coursework is transferable in the student-athlete's degree program.

#### **Misadvisement and Institutional Recovery Plans.**

Misadvisement and lack of advisement by member institutions, two-year colleges and high schools is not, unto itself, sufficient mitigation to warrant a full approval of two-year college requirements.

In order for misadvisement and/or lack of advisement by member institutions to serve as sufficient mitigation to warrant a full approval of two-year college transfer requirements, the documentation received must clearly demonstrate that the student-athlete would have satisfied all two-year college transfer requirements absent the misadvisement and/or lack of advisement.

Misadvisement and lack of advisement by two-year colleges will only be considered as sufficient mitigation for waivers of the graduation portion of the two-year college transfer requirements. The documentation received must clearly demonstrate that the student-athlete would have satisfied the graduation requirement from the two-year college [per Bylaws 14.5.4.2-(a) and 14.5.6-(c)] but for the misadvisement or lack of advisement by the two-year college.

Misadvisement and/or lack of advisement by a high school will only be considered in limited circumstances to serve as sufficient mitigation to warrant a full approval of two-year college transfer requirements, the documentation received must clearly demonstrate that the student-athlete would have satisfied all initial-eligibility requirements for qualifiers absent the misadvisement and/or lack of advisement.

Waiver requests from member institutions that have submitted multiple waiver requests citing misadvisement in the same year or in consecutive years, despite repeated failures on the part of the institution to correctly advise two-year college prospects, will be taken into consideration during the case analysis and likely result in a denied waiver.

Conversely, the National Association of Intercollegiate Athletics, two-year college advisors, administrators and coaches are not considered reliable sources of information on all other pieces of Division I two-year college transfer requirements and progress-toward-degree legislation.

1. Institutional Misadvisement/Lack of Advisement.

In all two-year college transfer waivers citing institutional misadvisement or lack of institutional advisement as a mitigating circumstance, staff has the discretion on a case-by-case basis to request the following supporting documentation.

- a. A written statement of explanation from the person or persons responsible for providing erroneous information regarding two-year college transfer requirements.
- b. Contemporaneous documentation demonstrating the misadvisement (e.g., notes, phone logs).
- c. A written statement from the student-athlete in question demonstrating whether he or she, in good faith, relied on the erroneous information.
- d. The institution's recruitment history of the student-athlete.
- e. A written statement or recovery plan from the institution regarding its actions to educate institutional staff in order to avoid misadvisement of future student-athletes. An institutional misadvisement plan may include, but is not limited to the following:
  - (1) Education sessions with coaches and other personnel who have a role in counseling student-athletes.
  - (2) Early evaluation of student-athlete's transferable credits and transfer grade-point average to identify potential deficiencies.
  - (3) Work with the student-athlete's two-year college(s) to obtain necessary records for a timely two-year college transfer certification.
  - (4) Requiring that all two-year transfers' eligibility certification be complete before they trigger transfer status (per Bylaw 14.5.2) at the certifying institution.

- (5) Revision of transfer certification policies to include a grade-point average calculation that reflects the requirements of Bylaw 14.5.4.6.3.2.
    - (6) Advice and encouragement on the completion of additional transferable core courses.
  - f. Note: Staff has the discretion to notify the chancellor or president of an institution in which misadvisement or lack of advisement is determined to be the mitigation which impacted the student-athlete's ability to meet an academic requirement in the following instances:
    - (1) The institution has filed more than one waiver during the current academic year citing misadvisement or lack of advisement due to the same, recurring procedural deficiencies or errors; or
    - (2) The waiver filed by the institution indicates that a significant procedural error exists and there is a high likelihood of misadvisement continuing to occur unless the advisement policies and procedures are corrected.
- 2. Two-Year College or High School Misadvisement/Lack of Advisement.

In all two-year college transfer waivers citing two-year college or high school misadvisement or lack of institutional advisement as a mitigating circumstance, staff has the discretion on a case-by-case basis to request the following supporting documentation.

  - a. Written documentation from the individual at the two-year college or high school who provided erroneous information; and
  - b. A written statement from the individual in question demonstrating whether the student-athlete, in good faith, relied on the erroneous information.