

**REPORT OF THE
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
BOARD OF GOVERNORS MEETING
AUGUST 7, 2018**

ACTION ITEMS:

- **Certification of compliance penalties.** The NCAA Board of Governors voted to charge the NCAA Divisions I, II and III Committees on Infractions to determine the appropriate penalties for those individuals required to attest to certification of compliance if they knew or should have known of violations and did not address them.

INFORMATONAL ITEMS:

1. **Welcome and announcements.** NCAA Board of Governors Chair President Bud Peterson convened the meeting at approximately 2 p.m. and welcomed the Governors. He gave a special welcome to President Nayef, a new member of the Board of Governors who was attending his first meeting. NCAA staff confirmed that a quorum was present. Because they were participating in their last meeting, President Peterson recognized the following members with gifts of appreciation: Presidents Dianne Harrison and Samuel Stanley.
2. **Consent Agenda.** By way of a consent agenda, the Board of Governors approved the reports of its May 3, 2018, teleconference, and May 15-16, 2018, electronic vote, as well as the appointments of Sue Henderson, president of New Jersey City University, to the NCAA Board of Governors Student-Athlete Engagement Committee, and Dylan Gladney, a Prairie View A&M student-athlete, to the NCAA Board of Governors Committee to Promote Cultural Diversity and Equity. The Governors also approved revisions to its policies and procedures based on board action over the past year. (Unanimous voice vote)
3. **NCAA president's report.** President Mark Emmert reported that much of the meetings this week will focus on the work to address the Commission on College Basketball recommendations. President Emmert reviewed the timeline for how the Association arrived at this point of final action on the working groups' recommendations. He expressed thanks to the staff for all the work done in a very short time and in addition to their regular job responsibilities. He also noted that this will continue to be a work in progress as adjustments likely will need to be made as we move forward in implementing the recommended changes.
4. **NCAA strategic plan update.** President Glendell Jones, Board of Governors vice chair and lead for the strategic planning process, updated the Governors on the strategic planning process. President Jones noted that the process has been deliberately slowed to allow for membership focus on the initial phase of addressing the Commission on College Basketball recommendations. He also noted that earlier this year, consultants were brought on board and the initial meeting of the NCAA Strategic Planning Working Group was conducted in June, during which time the working group reviewed a draft workplan for the process and provided input on the workplan and a timeline moving forward. This fall will be used to gather feedback from various governance bodies, as well as the membership at large. The

goal remains that the final plan be presented to the Board of Governors during its August 2019 meeting.

5. NCAA Board of Governors Finance and Audit Committee report. Chancellor Philip DiStefano, chair of the Finance and Audit Committee, presented the committee's report.

a. Executive summary of NCAA president's recommendations for 2018-19 budget.

(1) Evaluation criteria memorandum from NCAA President Mark Emmert. Chancellor DiStefano noted that President Emmert's budget recommendations for 2018-19 were guided by the following criteria:

- (a) Covering compensation increases and contract inflation.
- (b) Division II and Division III allocations based on legislated mandates.
- (c) Division I programming for championships.

President Emmert noted that pending the outcome of the men's basketball working groups' recommendations, he chose to reserve the rest of the allocations for future needs.

(2) FY 2018-19 budget requests and recommendations. Chancellor DiStefano reported that the proposed FY 2018-19 total budget is \$1,000,854,922 which includes requests and recommendations in the amount of \$27,690,272. Chancellor DiStefano highlighted the following areas of the budget, indicating that full details were included in the written materials:

- (a) A \$14.4 million increase to the Division I Distribution.
- (b) Increases to the Division II and Division III allocations of \$2.4 million.
- (c) Division I Championship spend increased \$2.3 million.
- (d) Total compensation increases of \$4.5 million.
- (e) Contract inflationary increases of \$783,000.
- (f) A total of \$3.3 million set aside for future allocation needs based on recommendations that resulted from the Commission on College Basketball report.

Chancellor DiStefano reflected that the committee approved the budget as proposed and recommended approval by the full board.

It was VOTED

“That the Board of Governors approve the budget for the 2018-19 fiscal year as recommended.” (Unanimous voice vote)

- b. **FY 2017-18 external audit plan presented by Deloitte.** Chancellor DiStefano described the Deloitte external audit plan for the 2017-18 fiscal year and indicated that the committee had no concerns with the material presented.

It was VOTED

“To accept the external audit plan from Deloitte for the 2017-18 fiscal year.” (Unanimous voice vote)

- c. **FY 2018-19 NCAA internal audit plan.** Chancellor DiStefano noted the committee received a report of the internal audit plan for 2018-19 fiscal year from NCAA Director of Internal Audit Jim Brown. The plan is based on a risk assessment that is performed annually by staff. The committee had no concerns and accepted the report.

It was VOTED

“To approve the internal audit plan for the 2018-19 fiscal year.” (Unanimous voice vote)

- d. **Third quarter fiscal year 2017-18 budget-to-actual review.** Chancellor DiStefano reported that the committee reviewed a comparison of actual revenues and expenses versus budgeted revenues and expenses during the third quarter of the current fiscal year (2017-18) and advised that the Association is on track to meet budget. Chancellor DiStefano reported that the committee understood all significant variances and had no concerns.

6. **NCAA Board of Governors committee reports.**

- a. **Commission to Combat Campus Sexual Violence.** NCAA Chief of Staff Cari Van Senus

- (1) Report of institutions that have fulfilled the requirements of the campus sexual violence policy. The board received a list of all member institutions that appropriately completed the attestation form required by policy. It was noted that 11 institutions did not appropriately complete the form. President Peterson noted that the Executive Committee met earlier in the day and reviewed the list of schools that have not provided the appropriate certification under the NCAA Campus Sexual Violence Policy. The Executive Committee determined that the published list should include both schools that have certified appropriately and those that have not.

It was VOTED

“That the list of compliant schools be published immediately and prior to publishing the list of non-compliant schools, the Board of Governors instruct the NCAA president to send a letter to the president/chancellor of each school that has not properly certified and inform him or her that they have not properly certified and the entire list shall be published in two weeks.” (Unanimous voice vote)

- (2) Final report of the Commission to Combat Campus Sexual Violence. Van Senus reviewed with the board the final commission report, which included recommendations to amend the Association-wide sexual violence policy, to clarify the education requirement and to add a penalty for failure to complete the attestation form. In addition to including in the published list those schools that have not certified appropriately, the Commission recommended that the board approve the following:

- (a) Clarify that the education requirement is annual;
- (b) Change the “fully knowledgeable” language to “should be informed on;”
- (c) Modify the Title IX coordinator asterisk to apply for international members and schools that do not receive federal funding or are otherwise exempt from Title IX; and
- (d) Articulate in year two and beyond that failure to sign the annual attestation form will result in prohibition of hosting championships for the next applicable academic year.

It was VOTED

“That the Board of Governors approve the Commission recommendations outlined in Item No. 6-a-(2) above.” (Unanimous voice vote)

- (3) Final commission recommendations and dissolution of commission. Van Senus noted the additional informational items included in the final Commission report. The Commission suggested that NCAA staff provide enhanced education, resources and clarification to the membership to assist with full compliance with the policy. In addition, the commission provided guidance on strategic research areas that could be pursued by staff. Lastly, an issue on which the Commission spent considerable time was individual accountability of student-athletes involved in acts of sexual violence. The Commission encouraged the board to direct the divisional governance bodies to consider legislation that reflects an Association-wide approach to individual accountability.

President Peterson informed the board that the Executive Committee reviewed the work of the Commission and determined that it has completed its charge and

will be disbanded. He also noted that the Executive Committee discussed the Commission's recommendation related to individual accountability and agreed that together with NCAA legal counsel, the Executive Committee would continue to monitor and track on sexual violence issues considering differing state laws and institutional policies and will follow up with the board as necessary.

- b. **Student-Athlete Engagement Committee.** President Samuel Stanley reported that the Student-Athlete Engagement Committee participated in its first in-person meeting in July and much of its discussion centered around two issues: 1) A sexual violence recognition program; and 2) Mental health. The Committee discussed the desired elements of a program to recognize student-athletes that are leading the way in raising awareness and fostering an environment where sexual violence is not acceptable, with the goal of the first recognition occurring in spring 2019. The Committee also spent time discussing mental health issues among student-athletes. Mary Wilfert, recently retired NCAA associate director of prevention and health promotion, shared with the committee recently released resources to assist institutions and conferences in implementing mental health workshops. The Committee noted the importance of supporting student-athlete mental health and issued the following statement:

Student-athlete mental health should be a top priority on all NCAA member campuses, and the NCAA Board of Governors Student-Athlete Engagement Committee believes schools must commit more support and resources to this crucial part of overall student-athlete health and well-being, no matter the school's budget level. As a first step, campuses should implement NCAA best practices regarding mental health. Also, the committee urges schools to create and support intervention and treatment resources as well as other types of programming to help student-athletes. The Committee recommends the NCAA Board of Governors make additional resources available to schools to support this vital health initiative. The health and wellness of the whole student-athlete is a critical part of the higher education experience.

7. **Sports Wagering Update.** NCAA Senior Vice President of Championships Joni Comstock and NCAA Executive Vice President for Law, Policy and Governance/Chief Legal Officer Donald M. Remy provided an update on sports wagering issues after the Supreme Court of the United States decision invalidating the Professional and Amateur Sports Protection Act (PASPA). Comstock informed the Board of Governors that in an effort to examine the long-term impact of legal sports wagering on college sports, an internal task force has been created to explore how best to protect game integrity, monitor betting activity, manage sports data and expand educational efforts. Comstock noted that six focus areas have been identified: 1) Education; 2) Integrity services; 3) Information/data management; 4) NCAA legislation and policy; 5) Political landscape; and 6) Officiating. The key to success will be the task force working in partnership and collaboration with the membership.

Remy reminded the board that in the initial discussions following the United States Supreme Court decision, the Executive Committee agreed that the Association should work in concert

with other professional and amateur sports organizations to pursue a core federal regulatory framework for legalized sports betting to ensure student-athlete well-being and the integrity of amateur and professional sports. The NCAA government relations staff have been active in Washington, D.C. in pursuit of such regulation.

The Governors noted the significance of the legalization of sports wagering and the urgency to address several of the areas identified by the task force and voted to adopt the following resolution:

On May 14, 2018, the Supreme Court of the United States issued its opinion in Murphy vs National Collegiate Athletic Association, et. al, which struck down the Professional and Amateur Sports Act (PASPA), a federal ban on state-sponsored sports betting and legalized sports wagering, including single-game sports wagering on competitions between NCAA members in various sports.

On May 14, 2018, the NCAA Board of Governors Executive Committee convened to discuss the Supreme Court decision and the Association's championships policy related to sports wagering, which prohibited any championship competition from occurring in any state that allows single-game sports wagering. The Executive Committee was informed of the number of states that had enacted legislation to legalize sports wagering if PASPA were deemed unconstitutional, as well as the growing number of states considering similar legislation. The Executive Committee recommended that the NCAA championships policy related to sports wagering be suspended immediately.

On May 16, 2018, the Board of Governors voted to suspend the NCAA championships policy related to sports wagering and to allow for championships hosting in locations regardless of whether a state is considering, or has legalized, sports wagering. The board's decision provided championship location continuity as states contemplate whether to allow legalized sports betting.

WHEREAS the Board of Governors has suspended the NCAA championships policy related to sports wagering, the NCAA remains committed to protecting the integrity of college sports and is working with the NFL and other professional and amateur sports organizations to call on Congress to enact a core regulatory framework for legalized sports betting.

WHEREAS some have advocated that NCAA members financially benefit from new state laws, including integrity fees levied on sports wagering revenues, the NCAA chooses to focus its attention on education, the protection of student-athletes and staff, and a standard approach to game integrity through consistent national guidelines.

WHEREAS the landscape is changing, the NCAA must evolve and expand its long-standing efforts to protect both the integrity of competitions and the well-being of student-athletes.

WHEREAS student-athlete well-being is at the core of NCAA values, the Association will continue to build on its efforts related to policy, research and education around sports wagering to assist members as they adapt to legalized sports wagering in their states and regions.

NOW THEREFORE BE IT RESOLVED by unanimous vote that the Board of Governors reaffirm its support to maintain current NCAA legislation that prohibits NCAA student-athletes, member institutions' athletics staff and non-athletics staff with athletics responsibilities, and conference office staff from participating in sports wagering activities. Further, the Board directs the divisional governance bodies to examine existing legislation related to sports wagering and explore whether additional legislation is appropriate recognizing a change in environment that includes legalized sports wagering, but that also safeguards fair competition and ethical practices expected in intercollegiate athletics programs and benefits nearly 500,000 student-athletes.

8. Law, Policy and Governance Strategic Discussion.

- a. **Government relations.** The Governors were informed of the quarterly government relations activity report included in their meeting materials.
- b. **Legal and litigation update.** NCAA Vice President and General Counsel Scott Bearby facilitated a privileged and confidential discussion regarding several matters of ongoing litigation.

9. NCAA Board of Governors' Executive Committee report. President Peterson reported on matters considered in the Board's Executive Committee meeting earlier in the day.

10. Executive Session. The Governors convened in executive session to discuss various administrative matters.

Members of the Division I Board of Directors who do not serve on the Board of Governors joined the meeting at this time.

11. Commission on College Basketball Association-wide recommendations. President Ronald Machtley, chair of the Association-wide Issues Topical Working Group, presented to the Board of Governors the working group's recommendations to address the Association-wide issues included in the Commission on College Basketball report. The working group was charged with addressing two Commission recommendations:

- a. **Adding independent members to the Board of Governors.** To add at least five independent Board of Governors members with the experience, stature and objectivity

to assist the NCAA in re-establishing itself as an effective and respected leader, and that one of the independent members shall also serve as a member of the Board of Governors Executive Committee.

- (1) Legislative recommendation. President Machtley informed the board that a change in the composition of the Board of Governors requires a two-thirds majority vote by all three divisions voting together in a joint session at the annual NCAA Convention and only the Board of Governors can sponsor such legislation. President Machtley noted that the working group recommended that the board sponsor legislation for the 2019 NCAA Convention that would:
 - (a) Increase the number of members from 20 to 25 by adding five independent voting members;
 - (b) Define an independent member;
 - (c) Specify that an independent member shall be appointed to a three-year term that is renewable for one additional three-year term; with the first group of five independent directors having a staggered initial term;
 - (d) Specify that the Board of Governors shall issue a call for nominations when a vacancy for an independent member occurs; with nominations from any source to the Executive Committee of the Board of Governors; and
 - (e) Specify that the Board of Governors shall serve as the final authority for the election of and additional duties assigned to the independent members

The Commission on College Basketball recommended that the NCAA restructure its highest governance body, the Board of Governors, to include at least five independent members with the experience, stature and objectivity to assist the NCAA in re-establishing itself as an effective and respected leader and regulator of college sports. One of these independent members will also serve on the Board of Governors Executive Committee. The current Board of Governors includes 16 institutional presidents or chancellors representing each division as voting members, the chairs of the Division I Council and the Division II and III Management Councils as ex-officio nonvoting members, and the NCAA president (who may vote in case of a tie). Like public companies, major non-profit associations typically include outside board members to provide objectivity, relevant experience, perspective and wisdom. Board members with those qualities will provide valuable insight to the NCAA generally as it works towards the restoration of public confidence in college basketball and college sports in general. The Board of Governors will issue a formal call for nominations to fill vacancies; appoint the Board of Governors Executive Committee as the nominating committee; and serve as the final authority for the selection of and additional duties assigned to the independent members.

It was VOTED

“It was voted that the Board of Governors sponsor legislation for the 2019 NCAA Convention to add five independent members to the board as specified above and that the legislation be effective not later than August 1, 2019.” (For 16, Against 0, Abstain 0)

- (2) Policy recommendations. President Machtley reported that the working group recommended the following Board of Governors policy changes to support the five independent members serving on the Board of Governors:
- (a) That its Executive Committee shall serve as the nominating committee for independent members and that the nominating committee shall vet and make recommendations on these individuals to serve as independent representatives for final approval by the Board of Governors. When possible, consideration should be given to ensure that these five new positions enhance the gender, diversity and ethnicity of the Board of Governors.
 - (b) That the composition of the Executive Committee be amended to add one independent member (lead independent member); that the independent members shall vote annually to determine the lead independent member; and that an independent member shall serve no more than three years as the lead independent member.
 - (c) That the terms of the first selected independent members be staggered as follows:
 - i. One independent Governor – one-year term (August 1, 2019, through August 31, 2020), **automatically** renewed for an additional three-year term (September 1, 2020, to August 31, 2023)
 - ii. Two independent Governors – two-year term (August 1, 2019, through August 31, 2021), **automatically** renewed for an additional three-year term (September 1, 2021, through August 31, 2024); and
 - iii. Two independent Governors – three-year term (August 1, 2019, through August 31, 2022), renewable for an additional three-year term (September 1, 2022, through August 31, 2025).

It was VOTED

“That the Board of Governors approve the recommended policy changes specified above, effective immediately following the adoption of legislation to add five independent members to the Board of Governors for Item No. 11-a-(2)-(a), which establishes the Executive Committee as the Nominating

Committee. Item Nos. 11-a-(2)-(b) and 11-a-(2)-(c) would be effective not later than August 1, 2019.”

- b. Annual certification of compliance.** To require coaches, athletics directors and college presidents to certify annually that their athletics programs comply with NCAA rules and that the NCAA rules should provide for significant penalties for those individuals if they knew or after appropriate due diligence should have known of violations and did not address them.

- Divisional Legislation. President Machtley reported that the working group recommended the Board of Governors direct each division to consider adopting legislation to specify that in order to enter a team or to enter an individual into a NCAA championship, an institution’s president or chancellor and all athletics department staff members (full time, part time, clerical, volunteer) shall attest that the membership obligations of Constitution 2.1 (institutional control and responsibility) and Constitution 2.8 (rules compliance) have been met; and to specify that an institution that fails to complete the annual institutional attestation by September 15 shall be subject to removal from and/or ineligibility of individuals to serve on an NCAA board, council or committee.

It was VOTED

“That the Board of Governors direct each division to consider adopting legislation as specified above to complete an annual certification of compliance attestation, effective August 1, 2019.” (For 16, Against 0, Abstain 0)

- Increased penalties. The working group recommended that the Board of Governors charge the NCAA Divisions I, II and III Committees on Infractions to determine the appropriate penalties for those individuals required to attest to certification of compliance if they knew or after appropriate due diligence should have known of violations and did not address them.

It was VOTED

“That the Board of Governors charge the NCAA Divisions I, II and III Committees on Infractions to determine the appropriate penalties for those individuals if they knew or should have known of violations and did not address them.” (For 16, Against 0, Abstain 0)

12. Adjournment. The meeting adjourned at approximately 5:33 p.m.

Board of Governors chair: G.P. “Bud” Peterson, Georgia Institute of Technology
Staff liaisons: Jacqueline Campbell, law, policy and governance
Donald M. Remy, law, policy and governance.

August 7, 2018, Meeting
Attendees
Eli Capilouto, University of Kentucky
Philip DiStefano, University of Colorado, Boulder
Jeffrey Docking, Adrian College
Mark Emmert, NCAA
Burns Hargis, Oklahoma State University
Dianne Harrison, California State University, Northridge
Sue Henderson, New Jersey City University
Susan Herbst, University of Connecticut
Shantey Hill, St. Joseph's College, Long Island
Glendell Jones, Jr., Henderson State University
Eric Kaler, University of Minnesota, Twin Cities
Ronald K. Machtley, Bryant University
Gary Olson, Daemen College
Pennie Parker, Rollins College
Bud Peterson, Georgia Institute of Technology
Nayef Samhat, Wofford College
Samuel Stanley, Stony Brook University
Denise Trauth, Texas State University
Satish Tripathi, University at Buffalo, The State University of New York
Absentees
Blake James, University of Miami
Guests
Frank Bonner, Gardner-Webb University
Dean Bresciani, North Dakota State University
Walter E. Carter, United States Naval Academy
Christine Copper, United States Naval Academy
Philip DuBois, University of North Carolina at Charlotte
Anthony J. Frank, Colorado State University
Andrew Hugine, Jr., Alabama A&M University
Noah Knight, University of Missouri, Kansas City, Division I Student-Athlete Advisory Committee
James J. Maher C.M., Niagara University
Jane Miller, University of Virginia
Michael Rao, Virginia Commonwealth University
NCAA staff liaisons in attendance
Jacqueline Campbell and Donald Remy.
Other NCAA staff in attendance
Katrice Albert, Scott Bearby, Joni Comstock, Diane Dickman, Dan Dutcher, Kimberly Fort, Jenn Fraser, Dan Gavitt, Terri Gronau, Michelle Hosick, Kevin Lennon, Felicia Martin, Kathleen McNeely, Stacey Osburn, Dave Schnase, Naima Stevenson, Cari Van Senus, Bob Williams and Leeland Zeller.

Report is not final until approval of the Board of Governors.