

REPORT OF THE NCAA DIVISION I LEGISLATIVE COUNCIL
SUBCOMMITTEE FOR LEGISLATIVE RELIEF
(FORMERLY THE NCAA DIVISION I MANAGEMENT COUNCIL
ADMINISTRATIVE REVIEW SUBCOMMITTEE)

ACTION ITEMS.

1. **Legislative Action Items.**

- **None.**

2. **Nonlegislative Items.**

a. **Guidelines and Information Standards - Waiver Requests Involving NCAA Division I Bylaw 14.2.3.2 (tennis, swimming and diving, and women's volleyball) and International Mandatory Military Service. [Attachment A]**

- (1) Recommendation. During its April 2 teleconference, the NCAA Division I Legislative Council Subcommittee for Legislative Relief agreed to revise the October 2005 guidelines for waiver requests involving the tennis and swimming and diving legislation and international mandatory military service. Specifically, the subcommittee recommends the guidelines specify that the maximum relief that may be provided for assertions involving international mandatory military service, in and of itself, is to permit the student-athlete to regain season(s) of competition; however, no relief may be provided for the academic year in residence requirement. The subcommittee proposes this change become effective for any tennis, swimming and diving or women's volleyball student-athlete initially enrolling as a full-time student at a Division I institution on or after January 1, 2010. The subcommittee noted a year-by-year analysis will be used to determine if relief under the guidelines for any seasons of competition is warranted. Factors such as the dates and amount of competition the student-athlete participated in, whether any leaves of absence were taken and amateur status will be considered in the analysis.

Example of year-by-year analysis: A men's tennis student-athlete from Israel participated after his grace year in organized competition during 2007-08 and 2008-09 while fulfilling mandatory military service and; therefore, is subject to two seasons of competition and must fulfill an academic year in residence. The student-athlete's participation during 2007-08 satisfied the April 2009 guidelines. During 2008-09, the student-athlete took an extended leave of absence from his military service and; therefore, did not satisfy the guidelines because he competed outside of regular military service. Under the year-by-year analysis, the student-athlete would be granted partial relief to regain one season of competition based on his participation during 2007-08; however, the student-athlete would still be charged one season of competition based on his

participation during 2008-09 and must fulfill the academic year in residence.

In addition, the subcommittee approved the creation of new information standards for such waiver requests [Attachment B]. The subcommittee recommends that the NCAA Division I Legislative Council review and approve the proposed revisions to the guidelines (effective January 1, 2010, for any tennis, swimming and diving or women's volleyball student-athlete initially enrolling as a full-time student at a Division I institution on or after January 1, 2010) as well as the newly created information standards. If approved by the Legislative Council, the staff will archive all previous cases involving mandatory military service that were decided based on the application of the October 2005 guidelines.

- (2) Rationale. Under the current analysis for waivers involving international mandatory military service, if a student-athlete's participation satisfies the October 2005 guidelines, full relief of the legislation may be provided. The subcommittee reviewed concerns from the Division I membership related to the competitive advantage gained by individuals who are required to delay collegiate enrollment in order to fulfill international mandatory military service. In addition, the subcommittee considered that these individuals have not been enrolled in school for more than a year. Based on these concerns, the subcommittee agreed that these student-athletes should not receive relief of the academic year in residence. Requiring a student-athlete to fulfill the academic year in residence would allow such student-athletes time to become academically acclimated at the institution and demonstrate a long-term commitment to higher education. In addition, fulfilling an academic year in residence will help address concerns related to the immediate competitive impact of these student-athletes. For requests involving additional mitigation or extenuating circumstances in addition to mandatory military service, the circumstances shall be reviewed on a case-by-case basis to determine if further relief is warranted. Finally, the subcommittee noted the newly established information standards have been developed after several years of experience handling such requests and will help institutions properly document a waiver request involving international mandatory military service.
- (3) Estimated Budget Impact. None.
- (4) Student-Athlete Impact. This change would narrow the scope of relief provided for student-athletes who participate in international mandatory military service. However, under the proposed guidelines, student-athletes who are permitted to regain seasons of competition via the waiver process

may potentially have the opportunity to participation in four seasons of intercollegiate competition within a five-year period.

b. Policies and Procedures - Establishment of a Previously-Approved Waivers Process.

- (1) Recommendation. During its April 2 teleconference, the Subcommittee for Legislative Relief reviewed and supported the previously-approved waivers concept. Currently, NCAA institutions must file a formal Subcommittee for Legislative Relief waiver application with the NCAA national office in order to receive relief from the legislation. With the exception of previously-approved incidental expense waivers in NCAA Bylaw 16.12, no authority exists to permit institutions to self-apply Subcommittee for Legislative Relief waiver requests on campus without filing a formal waiver request. The previously-approved waivers concept would allow institutions to self-apply specific waiver requests on campus rather than submitting a Subcommittee for Legislative Relief waiver application to the national office.

The subcommittee approved select waiver circumstances to appear on the list of previously-approved waivers along with specific criteria that must be satisfied [Attachment C]. When selecting the types of waiver requests to be included in this process, the subcommittee considered the ease of application (those cases that are straightforward in nature), the potential controversial nature of the legislation involved and requests for which a significant amount of precedent exists. An institution would only be permitted to self-apply (approve a waiver request) relief if the institution's circumstances appear on the list of designated previously-approved waivers and it satisfies the specified criteria established for the particular previously-approved waiver. If a previously-approved waiver is granted on campus, an institution would be required to submit a brief report to its conference office on a quarterly basis (i.e., once every three months).

If an institution's circumstances do not appear on the list of previously-approved waivers or if the circumstances do not satisfy all of the established criteria for a particular previously-approved waiver, the institution may submit a formal Subcommittee for Legislative Relief waiver application to the national office for consideration.

The subcommittee recommends that the Legislative Council review and approve the previously-approved waivers process with an immediate effective date [Attachment D]. In addition, the subcommittee recommends the Legislative Council review and approve the list of waiver circumstances along with the specific criteria that must be satisfied.

- (2) Rationale. The intent behind the previously-approved waivers process is to reduce bureaucracy and permit the membership and NCAA staff to work more efficiently in limited circumstances. While the volume of Subcommittee for Legislative Relief waiver requests has increased substantially in the last three years, this process will have the primary benefit of permitting campus administrators to resolve the identified issues in a more timely manner. In addition, the subcommittee sought feedback from the Collegiate Commissioners Association of Compliance Administrators (CCACA) and the National Association for Athletics Compliance (NAAC) and both organizations supported the concept. The subcommittee will review the list of previously-approved waivers on a yearly basis to determine if the list of previously-approved waivers should be expanded to include other common waiver circumstances reviewed via the Subcommittee for Legislative Relief waiver process. Initially, it is anticipated that this concept will only apply to Division I waiver requests and will not extend to Divisions II and III; however, if this concept is successful, the other divisions may contemplate a similar process.
- (3) Estimated Budget Impact. None.
- (4) Student-Athlete Impact. Depending on the waiver circumstances involved, timelier waiver notification could be provided to student-athletes through this process.

INFORMATIONAL ITEMS.

1. **Clarifications to Policies and Procedures: Transfers Requests Involving Sports that Cannot Use the One-Time Transfer Exception.** During its April 2 teleconference, the Subcommittee for Legislative Relief approved the following clarifications to the current policies and procedures for waiver requests involving sports that cannot use the one-time transfer exception:
 - a. The legislative relief staff may share all materials with the previous institution after submission of the request to the NCAA. Applicant institution will provide, along with the waiver request, a signed release from the student-athlete in order to facilitate the sharing of information. The Legislative relief staff will seek comment on waiver materials and the position on the request from the previous institution within 10 business days of receipt of the materials. Applicant institution will be copied on the request and any responses from the previous institution.
 - b. The Legislative relief staff will request that any available information on the prospective student-athlete be provided by the enforcement staff.

- c. The Legislative relief staff will request 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.
 - d. The Legislative relief case manager will research the Internet for articles regarding prospective student-athlete's recruitment to the previous institution and recruitment and transfer to applicant institution.
2. **Transfers Requests Involving Assertions of Injury or Illness.** During its April 2 teleconference, the Subcommittee for Legislative Relief reviewed waiver requests submitted for student-athletes in sports that cannot use the one-time transfer exception that involved an asserted injury or illness to the student-athlete or a family member as the primary basis for relief. The subcommittee reviewed the common circumstances submitted for such waiver requests and instructed the staff to continue reviewing such requests on a case-by-case basis using the October 1999 information standards and guidelines. In addition, the subcommittee noted relief of the transfer year-in-residence legislation should be considered when the following circumstances are appropriately documented:
- a. Nature of injury or illness. Staff should consider relief of the legislation for circumstances involving a life-threatening injury or illness (e.g., terminal medical conditions) to a student-athlete's immediate family member (e.g., mother, father, sibling, legal guardian);
 - b. Student-athlete's responsibilities related to the care of the family member. Staff should consider relief of the legislation when the student-athlete can demonstrate that he or she is the primary day-to-day caregiver to the individual(s) who is injured or ill; and
 - c. Chronology of events. Staff should consider relief of the legislation when the chronology of events supports the necessity for the student-athlete to transfer.

Subcommittee Chair: Peg Hefferan, Wagner College, Northeast Conference
Staff Liaisons: Frank Arredondo, Academic and Membership Affairs
Vanessa Fuchs, Academic and Membership Affairs

**NCAA Division I Legislative Council Subcommittee for Legislative Relief
April 2009 Guidelines for Waivers Involving International Mandatory Military Service**

During its April 2009 meeting, the NCAA Division I Legislative Council Subcommittee for Legislative Relief revised the relief that can be provided for waivers involving NCAA Bylaw 14.2.3.2 (tennis, swimming and diving; and volleyball) for student-athletes who became subject to the legislation during his or her participation in international mandatory military service. Specifically, the subcommittee agreed relief could only be provided for the season(s) of competition that a student-athlete became subject to under Bylaw 14.2.3.2; however, no relief may be provided by the staff for the academic year in residence. Additional mitigation or extenuating circumstances unrelated to the assertion of mandatory military service shall be reviewed on a case-by-case basis to determine if relief of the academic year in residence is warranted. This change is effective January 1, 2010, for any tennis, swimming and diving or volleyball student-athlete initially enrolling as a full-time student at a Division I institution on or after January 1, 2010. The subcommittee noted staff could consider partial relief [i.e., season(s) of competition] from the tennis, swimming and diving; and volleyball legislation when the following information or circumstances are presented for cases involving international mandatory military service:

1. Mandatory military service requirement must be supported by objective documentation;
2. The service must occur immediately after the student-athlete's completion of high school (as defined and required in the rule); and
3. The participation may only be of an amateur nature and there can be no amateurism violations as a result of the participation (e.g., prize money, contract, professional competition).

