

NCAAWORKING GROUP ON THE COLLEGIATE MODEL – RULES
PROPOSED CHANGES TO NCAA CONSTITUTION (ART. 2)

As part of this Working Group’s charge, it is necessary to review certain provisions of the NCAA Constitution. Specifically, Article 2 of the Constitution is entitled “Principles for Conduct of Intercollegiate Athletics” and describes 16 different Principles “to which the members are committed.” Constitution 2.01.1¹ Some of those Principles address matters not strictly within the purview of this Working Group. These include Principles 2.3 (Gender Equity), 2.4 (Sportsmanship and Ethical Conduct), 2.6 (Nondiscrimination) and 2.7 (Diversity within Governance Structures). While those provisions are addressed below (see new Commitments 2.4 and 2.9), the focus of this Group is on provisions most directly related to Articles 11-17.

Provisions in Article 2 outline broad commitments of the Association. They are designed to articulate the priorities and set the overall direction for the Association, as expressed by member institutions. They are intentionally broad, as implementing detail is provided in supporting and specific bylaws. All bylaws in the Manual, and all future legislation, should advance one or more of these provisions. Thus, there is a thread that runs from the broad commitments in Article 2, through the general provisions of each Article and into every bylaw ultimately adopted by the membership.

The proposed revisions that follow generally use current language from Article 2 as a starting point. Recommended changes are designed to (1) more accurately capture the fundamental principles of the Collegiate Model, (2) update arguably obsolete language, and (3) streamline and simplify provisions in Article 2. The revisions are also designed to reduce confusing overlap of common terms presently used in the Manual. For example and for purposes of discussion, “principles” in Article 2 could be called “commitments” and references to “rules,” “regulations,” or “rules and regulations” could be replaced with a simple reference to “bylaws.”

In addition to language changes, this recommendation removes several stand-alone sections of Article 2 for purposes of discussion. These include Constitution 2.12 (Eligibility), 2.13 (Financial Aid), 2.14 (Playing and Practice Seasons) and 2.15 (Postseason Competition). While these items clearly support the Collegiate Model, they do not necessarily require individual constitutional provisions because each is addressed by other commitments. Notes about how these provisions fit within Article 2 follow related commitments.

INTRODUCTORY COMMENTS FROM 1A FAR BOARD

In general, the 1A FAR Board agrees with the redraft of Article 2 of the NCAA Division I Constitution. Although it probably does not matter whether we talk about “principles,” or “values,” or “enduring values” or “commitments,” we prefer framing Article 2 in terms of

¹ Citations are to numbers and titles appearing in the 2011-12 Division I Manual.

principles or values. As a matter of semantics, the words “principle” and “value” signal that we are talking about fundamental precepts; the word “commitment” does not. In addition, standing alone it is difficult to understand what “commitments” means. That is not a problem when words such as “principles” or “values” are employed. In art.2.1 the draft refers to “enduring values.” What are they? Where are they? Is this what the working group means by “commitment?” In addition, in the bulleted question for 2.1 the working group refers to “most basic principles” and commitments. Whatever the language chosen, we believe that consistency is important.

The 1A FAR Board believes the redraft that specifies “the collegiate model” is the right way to proceed.

2.1. ENACTMENT OF BYLAWS

1. The 1A FAR Board does not believe that this provision belongs under “Elements of the Collegiate Model.” It simply says that bylaws should be adopted pursuant to the model. Certainly it is true that bylaws should reflect the structure and principles of an association and not be separate from them. But it seems odd to say that part of the collegiate model is adopting bylaws that foster it. If this provision were placed elsewhere, perhaps as a prefatory paragraph before the list of commitments, it would be clearer and could be stated more expressly. We suggest that perhaps the title of the chapter be “CONSTITUTION: THE COLLEGIATE MODEL, ARTICLE 2”; that the prefatory paragraph could say: “Bylaws enacted by the Association shall promote the principles of the collegiate model.” And, then would come the substantive principles.

2. As stated above, we wonder about the statement of “enduring values” in the body of 2.1 if nowhere does the Constitution set them out. We believe you mean the items to which you state Division I is “committed.” If so, we urge you to be explicit. In addition, the phrasing suggests that the “collegiate model” is different from “foster[ing] competition in amateur athletics” and enduring values. While we are not sure what the “enduring values” are, we believe they, and amateur athletics, fall under the framework of the collegiate model and are not separate from it. A basic problem is that “collegiate model” is left undefined.

3. Finally, we believe that all the sections should be parallel in phrasing. Right now there are various constructions, including “member institutions shall,” “it is the responsibility of member institutions to,” “Member institutions shall be committed to,” and “bylaws . . . shall.”

Specific questions regarding individual commitments are embedded in the recommendations below. In addition, general questions to consider include the following:

1. Are there additional commitments that should be included in the NCAA Constitution? In general, we believe additional emphasis on the academic success and graduation of student athletes is warranted. For example, we believe it a fundamental principle that institutions should have as a goal the graduation of a high percentage of their student-

athletes in all sports. We have provided examples below. We also note that the proposals lack any mention of institutions' obligation to student-athletes in the Life Skills areas.

2. Should these commitments be reworded to be more specific or less specific?
3. Are these commitments understandable and consistent with the Collegiate Model?
4. Are any of these commitments unique to Division I, or are they all Association-wide?

In conclusion, reasonable minds can and do differ about the NCAA's enduring values and how they should be articulated. These draft proposals are designed to encourage productive feedback about furthering the Collegiate Model of athletics. Accordingly, further debate and analysis will be important.

CONSTITUTION, ARTICLE 2

Elements of the Collegiate Model

2.1 ENACTMENT OF BYLAWS

Bylaws enacted by the Association's members governing the conduct of intercollegiate athletics shall be designed to advance the Collegiate Model, foster competition in amateur athletics and promote the Association's enduring values set forth in this Constitution. In some instances, a careful balancing of these values may be necessary to help achieve the purposes of the Association.

[Note: This provision is derived from current Constitution 2.01 (General Principle).]

- *Does this make sufficiently clear that subsequent bylaw proposals need to support the NCAA's most basic principles and commitments?*

Please see out introductory comments above. In addition, we believe that specific mention of fostering the academic success of student-athletes is appropriate here to emphasize that is an integral part of the Collegiate Model.

2.2 THE COMMITMENT TO AMATEURISM

Member institutions shall conduct their athletics programs for students who participate as a part of their educational experience, thus maintaining a **sharp distinction** ~~line of demarcation~~ between student-athletes who choose to participate in the Collegiate Model from athletes competing in the professional model.

We think "sharp distinction" is a better phrase than "line of demarcation." It better makes the point of the significant difference between student-athletes and professional athletes. At least one

member of the 1A FAR Board believe that the Constitution should stop using the word “amateurism” altogether and delete it from the title of the section.

[Note: This provision updates and clarifies Constitution 2.9 (Amateurism). It is designed to clearly state the membership’s dedication to amateur competition, while allowing flexibility for implementing definitions and bylaws. It is also broad enough to capture portions of Constitution 2.13 (Financial Aid) and, when combined with other commitments, would allow that provision to be removed as a stand-alone section in Article 2.]

- Are there specific subjects that should be added here in support of amateurism?

2.3 THE COMMITMENT TO FAIR COMPETITION

Alternative 1:

Bylaws of the Association shall be designed to promote the opportunity for institutions and eligible student-athletes to engage in fair competition. Member institutions shall abide by uniform bylaws in areas impacting athletics competition including but not limited to personnel, eligibility and amateurism, recruiting, financial aid, the length of playing and practice seasons and the number of institutional competitions per sport. However, bylaws shall not be designed to foreclose advantages that may arise from an institution’s decisions regarding allocation of resources or from advantages or disadvantages that may arise from geographical location.

Alternative 2:

The member institutions are committed to the principle of competitive fairness. Competitive fairness requires that student-athletes compete against their peers. This requires that all member institutions compete within the framework of the collegiate model of athletics where athletic competition is an integral part of the student-athlete’s effort to acquire a degree in higher education. Competitive fairness suggests that the framework for the student’s experience should be one in which academic **success** pursuit is expected and reinforced, where the student-athletes are competing against amateurs like themselves rather than against professionals, and where the rules of the game as well as rules relating to recruitment, eligibility, financial aid and benefits, and conduct do not impose burdens on any team or individual that are not imposed on all teams or individuals. Competitive fairness does not support rules or regulations that prevent or reduce the advantages that arise from a student-athlete’s level of talent or an institution’s financial or other natural advantages.

[Note: These alternatives are designed to update and clarify Constitution 2.10 (Competitive Equity). They are also designed to capture portions of Constitution 2.12 (Eligibility), 2.1(Financial Aid), 2.14 (Playing and Practice Seasons) and perhaps 2.15 (Postseason Competitions) and 2.9 (Amateurism).]

We prefer Alternative 2 because it includes references to attaining a degree. We believe, however, that “academic success” is a superior term to “academic pursuit.” We do not object to

Alternative 1 if language about academic success is added. We think that there is some value in the shorter, less dense statement of Alternative 1.

1. *Feedback on the scope of “fair competition” and the level of specificity to include in this provision would be helpful.*
2. *Please also provide feedback on whether this provision should include the proposed language clarifying that “fair competition” does not mean removing all advantages that may inure to a member institution based on its resources or other factors. We agree that the proposed language is in general appropriate and would encourage inclusion of language identifying geography or location differences or advantages as not being a goal of competitive fairness. Some members would suggest that the language might be changed to “other advantages such as location or breadth of academic opportunities while others favor not further defining “natural advantages” for fear of being under inclusive.*

2.4 THE COMMITMENT TO INTEGRITY AND SPORTSMANSHIP

It is the responsibility of each member institution to conduct its athletics programs and manage its representatives and student-athletes in a manner that promotes the ideals of higher education and the integrity of intercollegiate athletics. Member institutions **must be** ~~are~~ committed to encouraging behavior that advances the interests of ~~the Association, its membership and~~ the Collegiate Model. All individuals associated with intercollegiate athletics programs and events should adhere to such fundamental values as respect, fairness, civility, honesty, **academic integrity** and responsibility. These values should be manifest not only in athletics participation, but also in the broad spectrum of activities affecting the athletics programs.

[Note: This would represent a new addition to Article 2, derived in part from Constitution 2.4 (Sportsmanship and Ethical Conduct).]

- *Please provide feedback on whether this language captures the overall concepts of integrity and sportsmanship and, if not, what should be added.*
We believe that “academic integrity” should be added to the list of fundamental values. Also, we would suggest elimination of the language redlined above since the goal of advancing the interests of the association and its membership is too often regarded in the popular press as promoting commercialism and making a profit from college athletics. It seems to us that advancing the interests of the collegiate model says it all in a succinct and direct manner. To maintain the grammatical structure of the bylaw, we suggest that the second sentence should say “member institutions must be” rather than “are” as in our red-line above.

2.5 THE COMMITMENT TO INSTITUTIONAL CONTROL AND COMPLIANCE

It is the responsibility of each member institution to monitor and control its athletics programs, its representatives and its student-athletes to assure compliance with the Constitution and bylaws of the Association. It is also the responsibility of each member institution to report all instances of noncompliance to the Association and cooperate with the Association’s enforcement efforts. Upon a finding of one or more violations, an institution shall be subject to such disciplinary and corrective actions as are recommended by the Association on behalf of the entire membership.

[*Note: This contains elements of Constitution 2.1 (Institutional Control and Responsibility) and 2.8 (Rules Compliance).*]

- *Please provide feedback on whether this provision makes clear the general responsibility of member institutions to comply with applicable bylaws, and to cooperate in related investigations.*
- *Some members of the board would delete “monitor” from the first line and simply say “control” because monitoring is part of maintaining control, rather than a separate item. Other board members would prefer to use both words for emphasis and to spell out that control begins with monitoring.*

2.6 THE COMMITMENT TO STUDENT-ATHLETE WELL-BEING

Intercollegiate athletics programs shall be conducted in a manner designed to enhance the well-being of student-athletes who choose to participate and to prevent undue commercial or other influences that may interfere with their scholastic, athletics or related interests. It is the responsibility of each member institution to establish and maintain an environment in which student-athletes’ activities, in all sports, are conducted as an integral part of the educational experience. Each member institution should also provide an environment that fosters fairness, sportsmanship, honesty, **academic success**, and positive relationships between student-athletes and representatives of the institution.

[*Note: Portions of this language are borrowed from current Constitution 2.2 (Student-Athlete Well-Being) and 2.11 (Recruiting). The provision is also designed to capture portions of Constitution 2.14 (Playing and Practice Seasons) and 2.15 (Postseason Competition) and, when combined with other commitments, would allow those to be removed as stand-alone provisions in Article 2.*]

We believe that “academic success” should be added to the list in the last sentence. Also, we suggest that some language should be added which reflects an institution’s responsibility to aid student-athletes transition from college to the real world, e.g. through such avenues as Life Skills and Champs programs. It seems to us that this is an important part of student-athlete well-being, particularly since student-athletes often have more time demands than non-athletes. Institutions have some responsibilities in this area which should be reflected here.

- *Please provide feedback about whether the first sentence fits better in this section or in the Commitment to Amateurism.*

We believe that the reference to the prevention of undue commercial or other influences should be in 2.2 since that principle is integral to amateurism. We do not object, however, to the principles appearing in both Articles, as essential as they are, and would suggest that a reference to student-athlete well-being be added to 2.2.

- **2.7 THE COMMITMENT TO SOUND ACADEMIC STANDARDS**

Standards of the Association governing participation in intercollegiate athletics, including postseason competition, shall be designed to assure proper emphasis on educational objectives and the academic success of student-athletes who choose to participate **and pursue a degree** at a

member institution. Intercollegiate athletics programs shall be maintained as **an important** ~~vital~~ component of the educational program, and student-athletes shall be an integral part of the student body. Each member institution's admission and academic standards for student-athletes shall be consistent with the standards adopted by the institution for the student body in general.

[Note: This language contains elements found in Constitution 2.5 (Sound Academic Standards) and 2.12 (Eligibility). It is broad enough to cover initial and continuing eligibility standards that are tied directly to academic readiness and performance. Other eligibility standards (such as rules about seasons of competition, transfers, outside competition and certain promotional activities) can fall within the Commitment to Fair Competition.]

- *Please provide feedback on whether additional educational goals should be included in this provision.*

We believe that "important" should replace "vital" as suggested above because vital seems to overstate the case for intercollegiate athletics. We do not believe athletics is or should be a vital component of an institution's educational program, although it is and should be an important part of it. We also suggest adding the phrase "and pursue a degree." Student-athletes are not just choosing to participate (presumably in their sports) at our institutions, but they are there to pursue a degree. We should say so. In that regard, we also believe some language should be added relating to institutional goals of securing high graduation rates for its student-athletes in all sports. Although one might argue that "academic success" subsumes that, we believe that specific reference to graduation or graduation rates is important to reinforce what we mean by academic success.

2.8 THE COMMITMENT TO RESPONSIBLE RECRUITING STANDARDS

Recruiting bylaws shall be designed to promote informed decisions and balance the interests of prospective student-athletes, their educational institutions and the Association's member institutions.

[Note: This provision is largely subsumed by the Commitments to Fair Competition and Student-Athlete Well-Being. However, it is included as a stand-alone section here given its importance to the membership and the importance of balancing different interests.]

- *Please provide feedback on whether this should remain a stand-alone provision or, alternatively, whether additional detail is warranted.* We would prefer the provision not be a stand-alone since it is covered in 2.3. It seems unduly narrow in scope compared to the other broad principles.

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2.9 THE COMMITMENT TO DIVERSITY AND INCLUSION

The Association shall promote an atmosphere of respect for and sensitivity to the dignity of every person. The Association should **encourage diversity in its policies and practices and should** not adopt bylaws that would prevent member institutions from promoting diversity or from complying with applicable laws, ordinances or policies regarding civil rights.

2.9.1 Nondiscrimination. It is the policy of the Association ~~to refrain from~~ **not to** discriminate with respect to its educational programs, activities and employment policies,

including on the basis of age, color, disability, gender, national origin, race, religion, creed, sexual orientation, genetic information or any other classification protected by federal law. It is the responsibility of each member institution to comply with applicable laws regarding nondiscrimination and to determine independently **and adhere to** its own nondiscrimination policies.

2.9.2 Governance Diversity. The Association shall promote diversity of representation within its governance structure. This **principle** includes assuring diverse membership in Association-wide bodies, each divisional governing body and their supporting committees, cabinets, councils and other groups.

[Note: This language combines provisions currently located in Constitution 2.3 (Gender Equity), 2.6 (Nondiscrimination) and 2.7 (Diversity Within Governance Structures). This provision is not specifically within the purview of this Working Group. These provisions are included to demonstrate how Article 2 might look upon completion.]

- *Please provide feedback on whether these provisions adequately address the NCAA's commitment to diversity and inclusion.*

We would urge consideration of the red-lined language above which states the commitment to diversity in a more positive, straightforward manner. We also believe adding “and adhere to” in the last sentence strengthens the institutional responsibility towards non-discrimination.