MEMORANDUM

To: President Jim Barker, Chair, Rules Working Group
From: 1A FAR Board of Directors
Date: September 12, 2012
Re: August 15, 2012, Package of Proposed Rules

Thank you for the opportunity to comment on the package of proposed rules that were posted on the NCAA website on August 15, 2012. We are offering certain specific comments about subparts of the package below. We would also like to direct your attention to the various, extensive comment documents that we previously submitted to you pertaining to each of the general areas that have been under review thus far during the process. Rather than re-attach those comments here, links to all of these prior submissions are available on the main page of our website at http://www.oneafar.org, and are listed under "Our Positions."

Overall, we have mixed reactions to this first set of substantive proposals. We recognize that they are targeted to those concepts in which there was general membership support. We also recognize that the Rules Working Group ("RWG") has tackled an enormous project. We are somewhat disappointed, however, that the RWG might have missed an opportunity to develop a major, re-conceptualized redraft of major portions of the manual. That type of re-drafting has been undertaken for the new "Commitments" provisions of the Constitution, but many of the other proposals appear primarily to involve pruning of the existing structure and bylaws. Moreover, we applaud the significant efforts at deregulation in some sections (e.g., Proposals 11-1 and 14-1), but other sections do not appear to include as much deregulation as we had hoped (e.g., see our discussion below about the Bylaw 16 proposals).

Our specific comments follow below in the order set forth in your August 15 document:

Proposal 2-1 – Commitments:

Initially, we applaud the RWG's specific inclusion of "academic integrity" to the list of fundamental values in 2.17.4, "academic success" to 2.17.6 on Student-Athlete Well-Being, and "including graduation" to 2.17.7's Commitment to Sound Academic Standards.

Although improved from the previous draft, we continue, however, to have concerns about the lack of sufficient direct references to the importance of the academic progress, success, and graduation of student-athletes overall in 2.17, which is entitled "Commitments of the Collegiate Model." We believe that academic success and integrity are *pervasive* fundamental values which should be emphasized throughout the title. For example, 2.17.1, the Commitment to Value-Based Legislation, speaks of fostering competition, but *not* of the academic success of those who compete. We know that much NCAA legislation attempts to do just that, as it should. Similarly, 2.17.3, the Commitment to Fair Competition, speaks to areas for regulation by the association, but omits academic progress and success, although the APR certainly encompasses and regulates

both. We also would prefer some specific reference to the responsibility of institutions to provide Life Skills programs as part of 2.17.6, the Commitment to Student-Athlete Well-Being.

We also have continuing concerns about the statement contained in 2.17.7, the Commitment to Sound Academic Standards, that "[i]ntercollegiate athletics programs shall be maintained as a vital component of the educational program …." We believe that intercollegiate athletics are certainly *important*, but not *vital* to a university's educational program. The math and English departments are vital; intercollegiate athletics are not. Thus, we believe that the use of the term "vital" is unduly self-serving and inappropriate and should be replaced by "important." Vital is not a word that many educators would use to describe the role of athletics at a university.

In sum, it is important to us that the "student" part of "student-athlete" be consistently and pervasively emphasized, particularly in the recitation of something as foundational as the NCAA's "Commitments to the Collegiate Model." The Collegiate Model should reflect the fundamental idea that the principal mission of colleges and universities is to educate all students and that athletics is an important, but still adjunct part of that overarching mission.

(By way of reference, our earlier comments on the Constitutional provisions are available at http://www.oneafar.org/1AFAR_NCAA_Constitution_2012.pdf.)

Bylaws 11 & 12 Proposals:

The RWG proposals for changes to Bylaws 11 and 12 are very consistent with most of the views and wishes expressed in the 1A FAR Board's previously submitted feedback documents, which are available at http://www.oneafar.org/1AFARBoard_Bylaw11_2012.pdf and http://www.oneafar.org/1AFARBoard_Bylaw12_2012.html, respectively. We do have two specific observations about these proposals, however:

Bylaw 11 issue: Many FARs support the concept of additional regulations in the sports of men's and women's basketball and football to prohibit the employment of coaches who remain employed in coaching prospective student-athletes who participate on non-scholastic teams/clubs. Some are also interested in *extending* the current prohibition of individuals associated with a prospect from being employed by institutions to work in non-coaching positions in men's basketball to both women's basketball and football. These concepts were not included in the RWG proposed legislation, but we suggest that the situation be monitored and that new legislation eventually be proposed if deemed necessary.

Bylaw 12 issue: With regard to Proposal No. 12-2, we continue to have a concern about its implementation. For example, what if in the first of two events scheduled in the same calendar year a student-athlete got prize money over expenses and then was injured and did not compete or did not make the cut for the later event? As the proposal is written, this would be a violation. To avoid this kind of situation, the Board would like to see Proposal No. 12-2 modified so that a student-athlete cannot at any time during a calendar year have more total prize money than expenses.

Bylaws 13 Proposals:

We applaud the overall intent of the proposed changes set forth in the Bylaw 13 proposals to eliminate seemingly trivial and overly burdensome rules. It is laudable to want to reduce the bureaucratic and costly overhead on our compliance and athletics personnel. To that end, we are generally supportive of the various deregulation efforts set forth in the Bylaw 13 proposals. In that regard, however, we are concerned about creating or continuing with inconsistencies between sports. For example, Proposal 13-3 includes extensive deregulation of communications methods that many FBS FARs favor, but it also includes differing effective dates for different sports. Why? We encourage you to use the same key start dates for all sports. Why create confusion and further burdens on institutions? In contrast, however, Proposal 13-2 provides for a common start date for communications beginning on June 15 following the prospect's sophomore year of high school, but provides significantly less deregulation of communications methods than does Proposal 13-3. Why is there not a proposal that includes *both* a common start date and significant, extensive deregulation of communications methods? Perhaps it is the RWG's intent that both proposals be adopted, which can accomplish both goals, but we are concerned as to the result if one is adopted and the other is not (or one is dispatched through the override process, but the other is not). It strikes us as being more efficient to include both concepts in the same proposal.

In addition, we must remain mindful of a broader obligation to protect the prospective student athlete. We are concerned because many of these rules were initially enacted as a result of some past transgression(s). We hope that there will be some general expectation of oversight by institutions or conferences to avoid excessive intrusions on young people's lives, or it is likely we will once again be adding to these rules, and in a few years end up with the same basic bylaw as presently exists. In the meantime, prospective student athletes will be at risk.

There is also concern by some FBS FARs with allowing earlier access to prospective student athletes. Although some FBS FARs do not object to the proposed start dates (i.e., June 15 following the prospect's sophomore year), other FBS FARs believe that the summer after the sophomore year of high school is too early.

On the other hand, we strongly support the deregulation efforts reflected in Proposal 13-4 regarding data publication, the broader effort at deregulation of recruiting materials set forth in Proposal 13-5-A (as opposed to Proposal 13-5-B), the deregulation of general advertising and promotions to solicit prospects as included in Proposal 13-6, the modest deregulation of publicity after a prospect's commitment as set forth in Proposal 13-7, and the deregulation of rules pertaining to camps and clinics employment legislation as reflected in Proposal 13-8.

Bylaws 14 Proposal: We are very supportive of the deregulation provisions included in Proposal 14-1. We recognize, however, that many of the more controversial or difficult areas for consideration under Bylaw 14 have not yet been tackled. Our earlier submission may be viewed at http://www.oneafar.org/1AFARBoard_Bylaw14_2012.html.

Bylaws 16 Proposals:

The general questions and principles the RWG previously shared with the membership suggested to us a revolutionary, and much needed, deregulation of these bylaws. Instead, the various Bylaw 16 proposals retain the basic current structure, have much too much detail, and regulate in areas about which we disagree. We will not attempt to go through Bylaw 16 proposal by proposal. Instead, we have picked out proposals that illustrate our "not-enough-deregulation" point and also have highlighted areas in which the 1A FAR Board agrees, or disagrees, strongly with what is proposed. In addition, our previous submission in reply to the request for input on the various concepts is available at http://www.oneafar.org/1AFARBoard_Bylaw16_2012.pdf.

Our initial comment is that we have some discomfort with the phrase "relative or other individual of a comparable relationship" as we are unsure who is intended to be within the scope of the phrase. A fourth cousin? The wife by marriage of an uncle? More specificity would be helpful.

1. Bylaw 16.1.1.2. The 1A FAR Board strongly supports deregulation of awards by institutions, conferences, and the NCAA and by recognized outside organizations when a student-athlete competes on her own. We do not understand, however, why a student-athlete may not receive a cash award if, as the proposal mandates, the award conforms to the regulations of the outside group. One of the constant media refrains is that many student-athletes do not have sufficient funds. So, why not permit cash? If the problem with cash is monitoring it, then the re-drafted bylaw could say any monetary amount needs to be by check, money order, or direct deposit, but not actual cash. If the issue of concern is amateurism, then we do not see why a gift certificate does not undercut the amateurism principle but cash does.
2. Bylaw 16.1.7 appears to have too much unnecessary language. Why is there a need to specify "conference, institution, USOC, NGB, or the awarding agency?" Why is it not sufficient simply to say "any amateur organization (see 16.1.6)?"
3. We are very disappointed that there was not more deregulation in Bylaw 16. 1.7.3. Why not just state that a conference or institution can pay actual and necessary expenses for a student-athlete getting an award and up to [3] relatives or individuals of a comparable relationship?
4. Bylaw 16.3.1.1 also appears to retain unnecessary language. We fail to understand why the proposal does not simply add "conference and NCAA" to the base sentence. The proposal's language also injects some uncertainty – by its terms it specifies that conference and NCAA counseling and academic support services must be "reasonable," but it does not explicitly say that any such institutional support services must also be reasonable. Does that mean they can be unreasonable?
5. Bylaw 16.4 (medical services), in our view, is exactly correct, both in substance and also that it is succinct. Other laudable examples are Bylaws 16.8 and 16.9.
6. We recommend that the RWG revisit Bylaw 16.6.1.1. Either there is a typo or the proposed draft regulates more than before. Prior to the proposed edit, a spouse and children could go to postseason on the institution's tab. Now the proposal says, in the singular, "relative" or "individual."
7. Finally, we believe that Bylaw 16.6 is unduly complicated and retains too much regulation. Why not just say that an institution can pay actual and necessary expenses for a spouse and children or up to [3] relatives and individuals of a comparable nature to accompany

student-athletes to post season and that an institution also may negotiate reduced charges for relatives for hotels, transportation, etc.? In the spirit of deregulation, we recommend that the bylaw say that all such provision of expenses is permitted EXCEPT (and then list those exceptions seen to be absolutely critical).