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July 14, 2017

VIA ELECTRONIC MAIL

Mr. Joel McGormley
Managing Director of the Committees on Infractions
National Collegiate Athletic Association
PO Box 6222
Indianapolis, IN 46206-6222

Dear Joel:

I am enclosing the University of North Carolina at Chapel Hill's Second Supplement to the University's Response to NCAA Second Amended Notice of Allegations together with Exhibit 1-56, which is a 23-page letter that was sent by President Emmert to Congress about this matter and some of the issues presented. Given the length of President Emmert's letter, we thought it would be most efficient for the Panel if we provided a very brief supplement highlighting the specific language in the letter that we believe is relevant and providing citations to the pertinent portions of the University's Response that are supported by President Emmert's statements.

These documents are being offered pursuant to Bylaw 19.7.5 and Internal Operating Procedure 3-15, which authorize the submission of supplemental submissions and other written material up to 30 days prior to the hearing.

Sincerely,

BOND, SCHOENECK & KING, PLLC



Robert H. Kirchner

RHK/trb
Enclosures
cc: Ms. Lissa Broome
Mr. Bubba Cunningham
Mr. Rick Evrard
Ms. Carol Folt
Mr. Tom Hosty
Mr. Vince Ille
Mr. Steve Keadey
Mr. Scott Lassar
Mr. Mark Merritt
Mr. John Swofford

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

SECOND SUPPLEMENT TO THE UNIVERSITY'S RESPONSE

TO

NCAA SECOND AMENDED NOTICE OF ALLEGATIONS

JULY 14, 2017

**Submitted by Rick Evrard &
Bob Kirchner of Bond, Schoeneck & King, PLLC**

The University of North Carolina at Chapel Hill (the University) submits this Second Supplement to the University's Response to NCAA Second Amended Notice of Allegations (Second Supplement) in accordance with the terms of Bylaw 19.7.5 and IOP 3-15.

On June 13, 2014, Mark Emmert responded to a letter from Hon. Elijah Cummings and Hon. Tony Cardenas of the United States House of Representatives that sought certain information from the NCAA regarding number of subjects including the NCAA's authority over academic matters and pertaining to the instant matter. A copy of President Emmert's letter is enclosed as **Exhibit 1-56**. President Emmert's letter states that "the NCAA is not empowered to interfere with an instructor's ability to teach [courses] how he or she sees fit" and cannot "second-guess academic decisions made at the campus level" as long as the students and student-athletes are treated similarly. (**Exhibit 1-56**, page 6.) President Emmert further stated that "The NCAA will not penalize a student-athlete from taking a course available to all students." (**Exhibit 1-56**, page 6.) These statements directly support the University's position that the NCAA has no authority to judge the structure, content, and administration of the Courses because the Courses were generally available to the University's students. (See University's Response to NCAA Second Amended Notice of Allegations [University Response], pages 6-9, 11-13, 19-20, 31-33, 37-38, 42-43, 74.)

In addition, President Emmert noted that different courses or majors "may well be more rigorous than" other courses or majors, but noted that "this does not mean that these [less rigorous] courses and majors are without serious or useful content." (**Exhibit 1-56**, pages 2-3.) He emphasized, however, that "At a fundamental level, the evaluation of 'hard' or 'easy' majors [or courses] is entirely subjective. Certainly it is not within the purview of the NCAA to consider the rigor of majors [or courses] that universities choose to offer all students." (**Exhibit 1-56**, page 9.) These statements support the University's position that the Enforcement Staff inappropriately focuses on the fact that the Courses were taught in an independent study format, required little attendance and limited faculty interaction, and allegedly had "lax paper writing standards" and "awarded artificially high final grades to students." (See University Response, pages 11-12, 31-36.)

Finally, President Emmert was asked by Representatives Cummings and Cardenas to respond to evidence that 83% of the membership has at least one team that was disproportionately

enrolled in a major. President Emmert responded by noting that “College students generally are guided in their major choices by interest and aptitude, among other factors” and that student-athletes are more likely to choose certain majors, such as those related to recreation and fitness, education, and athletics administration as opposed to STEM majors, which “is not unlike band members majoring in music.” (**Exhibit 1-56**, page 9.) President Emmert’s statements apply equally to the courses chosen by students and provide additional support for the University’s contentions that disproportional use of courses or majors is not an issue governed by NCAA legislation, disproportional use exists throughout the membership, and disproportional use can be caused by a variety of different factors, including personal interest in a subject matter. (See University Response, pages 11-12, 19-22.)



June 13, 2014

EXHIBIT 1-56

Mark A. Emmert
President

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Indianapolis, Indiana 46206
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The Honorable Elijah Cummings
Ranking Member, House Committee on Oversight and Government Reform
U.S. House of Representatives
2147 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tony Cárdenas
U.S. House of Representatives
1508 Longworth House Office Building
Washington, D.C. 20515

Dear Ranking Member Cummings and Representative Cárdenas:

Thank you for your letter of May 20, 2014, requesting information about the practices of the NCAA and the responsibilities of its member colleges and universities to provide valuable academic opportunities to our student-athletes. Along with the entire leadership of the NCAA, I share many of the concerns outlined in your letter, and we are pleased to have the opportunity to provide you additional information. I look forward to working with you and your staffs to address your concerns directly and constructively.

Our core mission is to support student-athlete success on the field, in the classroom and throughout life. Practically speaking, that means providing a world-class athletics experience to nearly a half million student-athletes each year in the context of their receiving an equally world-class education. To truly succeed, we must never see this mission as complete.

For the vast majority of those who participate in NCAA sports - 460,000 young men and women each year at nearly 1,100 schools across three divisions and in 23 different sports - the experience is exactly what it is intended to be: a meaningful extension of the educational process that provides the opportunity for athletes to compete while they are students, against other students, within an educational environment. While NCAA member schools spend roughly \$13.8 billion per year on athletics - including \$2.7 billion on direct scholarship support - athletic spending represents a very small proportion of total institutional spending: approximately 3.8 percent.

N a t i o n a l C o l l e g i a t e A t h l e t i c A s s o c i a t i o n

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Further, those same schools generate far less revenue from athletics than they spend: the deficit is greater than \$6 billion collectively. The value of intercollegiate athletics is not in maximizing revenue or minimizing expenses; rather, it is in the integral role athletics plays in the overall educational experience.

The NCAA is keenly focused on the issues you identify around the academic preparation and success of student-athletes as well as time demands on student-athletes. Indeed, the academic success of student-athletes has been a major area of emphasis since the mid-1980s, and there have been dramatic results. When the NCAA first began collecting graduation data more than 25 years ago, student-athletes were lagging behind the rest of the student body. Two years into reforms, they had drawn even. They quickly pulled ahead and have continued an upward trajectory.

Today, student-athletes consistently graduate at higher rates than their counterparts in the general student population. In fact, more than 80 percent of all student-athletes graduate. Across nearly all demographic groups, student-athletes are graduating at a higher rate than their counterparts in the general student body.

But this is work never done. For example, while the graduation rates of African-American student-athletes in Division I are considerably ahead of their counterparts in the student body, they lag behind those of white student-athletes, and that is not acceptable. We see steady improvement, but we must not accept this discrepancy as simply the way it is. The NCAA continues to study research data that predict how likely students are to complete requirements for degrees, and then set standards that will spur even greater success.

We know that some believe these results are aided by courses that lack serious content and majors that lack rigor. The majors and courses available to student-athletes are the same ones available to the entire student body. The standards for instruction and approval of majors are the purview of the faculty, not the athletics department. The data from our national Growth, Opportunities, Aspirations, and Learning of Students in College (GOALS) study show that 87 percent of student-athletes would have chosen their current majors again even if they were not student-athletes, and that personal interest and career fit played the greatest role in the selection of a major. The requirements for a degree in bio-medical engineering may well be more rigorous than those for political science (my undergraduate major), or business, or English, or any number of other degrees. But this does not mean that these courses and majors are without serious or

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useful content. Of course, human behavior is such that there will be isolated instances of academic misconduct and the abuse of policies. The college and university presidents who comprise our membership take these issues on their campuses very seriously and have largely retained authority and responsibility to handle matters when they arise. However, the membership has empowered the national office to investigate and act where it appears that student-athletes may be receiving disparate academic treatment from the general student body.

Below, I have responded to your questions as completely as possible. In a few instances, attachments expand on answers; also noted are instances where we do not have certain data, nor are we aware of any agency or group that has those data.

1. During a recent interview on Meet the Press, you emphasized the need to ensure that student-athletes are receiving a "real, valid, and legitimate education."

a. How does the NCAA ensure that member institutions are providing its student athletes such an education?

The NCAA first developed significant academic legislation in the mid-1980's. Since that time, student-athletes have outpaced their student body counterparts in graduation rates. In particular, African-American student-athletes graduate at much higher rates than other African-American students (see below). Over the past 10 years, there have been notable gains in all graduation rates, with substantial improvement in men's basketball and FBS football.

Academic success is the cornerstone of the collegiate model. The NCAA takes this issue as seriously as anything we do. The gains in student-athletes' academic success can be tied directly to legislation adopted by the Division I membership. These policies are based on data from several million current and former student-athletes. The membership committees actively examine data on student-athlete academic performance and, for the first time in history, teams are barred from postseason competition for failing to maintain sufficient academic performance as measured by the NCAA Division I Academic Progress Rate (APR). The APR is one of two metrics that have been employed to get a better picture of how well student-athletes are performing from semester to semester, and ultimately graduating. APR examines how well a team is doing in the classroom every

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semester or quarter. It is the basis for penalties if certain threshold rates are not achieved, and is the academic metric that must be satisfied for a team to compete in the post-season. The second metric is the Graduation Success Rate (GSR), which uses the same six-year window as the federal rate, but requires institutions to count transfers in and to discount those who transfer out in good academic standing.

Current Graduation Success Rate (GSR):

- (1) Division I: 82 percent (Up 8 percent over the last decade);
- (2) Men's basketball: 73 percent (Up 17 percent over the last decade);
- (3) FBS football: 71 percent (Up 8 percent over the last decade);
- (4) GSR for African-Americans in men's basketball is up 22 percent in the last decade;
- (5) African-American male student-athletes graduate at a rate nine points higher than African-American males in student body;
- (6) African-American female student-athletes graduate at a rate 13 points higher than African-American females in student body;
- (7) These changes in graduation rates translate to 11,000 more graduates over the last 10 years;
- (8) Since the inception of the APR, we have seen more than 13,000 former student-athletes return to earn their degrees after their five years of eligibility were completed; and
- (9) Almost 30 percent of former Division I student-athletes report having a graduate degree by the time they are 30 years old.

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The NCAA continues to closely monitor the academic success of student-athletes. In 2016, more stringent initial-eligibility standards for prospective student-athletes will go into effect, based on a decade of evidence that these standards will enhance the preparation levels of Division I student-athletes and create even better opportunities for success in the future.

- b. What disciplinary procedures are enforced if an institution is not providing its student-athletes with such an education?*

May 14, 2014, the NCAA publicly released information regarding 58 Division I teams that are subject to penalties based on sub-par academic performance. These penalties are a result of athletic teams that have an APR below the NCAA required 930, which approximates a 50 percent graduation success rate, a minimum level of success that is required. Among these 58 penalized teams, 36 teams also are ineligible to compete in post-season competition. As you are likely aware, the 2014 national champion University of Connecticut men's basketball team was ineligible for the 2013 tournament due to low APR performance. Because it had real-time data on classroom performance for the team, the university took a number of steps to strengthen overall academics for the basketball program. Other teams are subject to practice limitations and contest reductions. These measures were enacted by the Division I membership nearly a decade ago to help ensure Division I member school athletic teams meet a minimum academic team standard.

- c. For each of the last five years, please provide a description of all NCAA investigations into the quality of education administered by member institutions and all enforcement or disciplinary actions initiated by the NCAA against member institutions or student-athletes for academic reasons.*

For student-athletes currently enrolled at a member institution, the enforcement staff will investigate alleged violations involving academics. The enforcement staff receives information on academic violations from many sources including, but not limited to, the member institutions through a self-report, the NCAA Eligibility Center and confidential sources. From January 2009 through May 2014, out of a total of approximately 107 cases deemed major violations by the

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Committees on Infractions, approximately 28 cases involved academic violations of some kind. These numbers include cases from Divisions I, II, and III. Each division maintains its own respective Committee on Infractions. These cases include, but are not limited to, violations involving initial eligibility, failure to meet the required continuing eligibility legislation, and academic misconduct. This number does not include secondary cases, cases currently under investigation or investigations that have been concluded but not yet heard by the Committees on Infractions. Please see **Attachment A** for further detail.

- d. *How does the NCAA determine that member institutions are not allowing fraudulent classes, such as those detailed in the 2010 case at the University of North Carolina, with the sole intent of keeping student-athletes athletically eligible?*

NCAA legislation requires that member campuses follow their own procedures for class registration and course creation. Member institutions cannot have a separate academic policy that provides a benefit to student-athletes not generally available to all students. Because our member institutions confer degrees, it is each school's responsibility to ensure the academic content of all courses meets appropriate academic standards.

Academic content of a class cannot deviate from institutional requirements for the purposes of providing student-athletes with an advantage or benefit. If a student-athlete enrolls in a course through the standard enrollment process and is treated the same as all students, the NCAA is not empowered to interfere with an instructor's ability to teach the course how he or she sees fit. Around the country and at the institutional level, classes vary in their respective degrees of difficulty. The NCAA will not penalize a student-athlete for taking a course available to all students.

Like all NCAA bylaws, the academic rules are developed and adopted by member colleges and universities. They are not a product of the NCAA national office staff, which has limited authority in second-guessing academic decisions made at the campus level. However, to assure that member institutions apply campus academic policies equally to the general student population and to student-

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athletes, the enforcement staff uses various tools. These include, among others, (1) sources that provide information about potential infractions, (2) extensive education efforts to familiarize the membership with academic expectations, (3) regular updates to the governance substructure (including the Committee on Academic Performance and the Academic Cabinet), and (4) public release of penalties prescribed by the Committees on Infractions.

e. What steps is the NCAA taking to ensure that the problems identified at the University of North Carolina are not more widespread?

As with any organization with a large, diverse membership, there are certainly some instances where issues that would not conform to the mission and ideals of the organization come to light. There is always a tendency to paint with a broad brush an outlier's conduct on the entire enterprise. I certainly do not believe that our member institutions are not holding to the principles of higher education, including providing quality educational opportunities to all students, not just student-athletes.

The enforcement staff maintains an academic integrity unit that serves as the subject matter experts in the area of academics. The individuals in this unit all have former campus experience including a former coach, a former compliance officer and a former athletic academic advisor. A representative from this group participates in Academic Cabinet meetings as well as Committee on Academic Performance meetings in an effort to collaborate both with NCAA staff and with member institutions in the area of academics. The academic integrity unit monitors academic violations looking for trends and engages member institutions through outreach and education.

April 2014, the Division I Leadership Council reinforced the definition of academic misconduct, which is rooted in the principle that each member school is responsible for determining academic misconduct for student-athletes in the same manner as determined for all students. When allegations of academic misconduct by student-athletes occur, member schools adhere to the policies applicable to all students and adjudicate each case in a manner consistent with the process for all students. Schools that determine academic misconduct has occurred must report it

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to the NCAA when: a staff member is involved in arranging for false credit or transcripts for a student-athlete or future student-athlete; a student-athlete or prospect is involved in arranging for false credit or transcripts; or a student-athlete competes while ineligible as the result of academic misconduct. When academic misconduct is reported by a member school or when the NCAA receives information of suspected academic misconduct, the enforcement staff will conduct an investigation.

The clarification regarding academic misconduct has been widely distributed to member schools. Furthermore, member institutions continue to discuss the need for additional bylaws or other requirements to assure proper education of student-athletes. The NCAA staff will participate in those discussions and help members make fully informed decisions, but the ultimate policy decisions belong to colleges and universities rather than the national office staff.

- f. Please include any documentation demonstrating how the NCAA has determined that these infractions are unique to the University of North Carolina.*

Academic concerns like those reported at the University of North Carolina may not be unique to a single institution. Academic misconduct allegations happen regularly on all campuses throughout the country for students generally. The NCAA expects that all member schools will adjudicate misconduct allegations by student-athletes with the same process for all students. When the NCAA learns of instances where a member fails or refuses to meet that expectation, it will investigate as outlined above in section c, and present alleged infractions to the appropriate Committee on Infractions.

Additionally, the National Association for Academic Advisors for Athletics (N4A) is finalizing a best practices document regarding academic misconduct that will help campus academic support personnel and others with processes and information that can assist in reducing potential misconduct. As articulated above, the academic integrity unit within enforcement monitors current trends in the area of academic misconduct. By educating on the types of academic

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misconduct observed by the NCAA, member institutions can better monitor the academic activities of their staff members and student-athletes.

2. **A 2008 USA Today study evaluated 142 NCAA member institutions and found that 83% had at least one team in which 25% or more of the student-athletes majored in the same subject. What steps does the NCAA take to ensure that student-athletes are being counseled appropriately about their academic goals and not solely to maintain eligibility by pursuing the easiest coursework?**

When assessing the USA Today study, it's important to remember that many teams have between eight and 12 participants. In such cases, two or three student-athletes taking the same major would meet the 25 percent threshold. Having said that, the NCAA has looked at major distribution across the nation for all student-athletes. In broad terms, the distribution of majors for student-athletes looks quite similar to the distribution for all students in the country. Student-athletes are somewhat more likely to be in majors related to recreation and fitness, and somewhat less likely to be in some of the STEM majors. It is not uncommon that student-athletes gravitate toward majors such as education or athletics administration, just to use two examples, given their interest in these professions. This is not unlike band members majoring in music.

We also have surveyed current and former student-athletes about the reasons for choosing their major, and their satisfaction with the major. Among the findings:

- a. Personal interest in the topic and career preparation are the most common reasons cited for selecting a major;
- b. Fewer than 10 percent of current student-athletes reported regretting their choice of major; and
- c. A vast majority of former student-athletes report being satisfied with their career.

College students generally are guided in their major choices by interest and aptitude, among other factors. At a fundamental level, the evaluation of 'hard' or 'easy' majors is entirely subjective. Certainly it is not within the purview of the NCAA to consider the rigor of majors that universities choose to offer all students.

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3. University employed coaches and students that participated in other non-athletic activities are permitted to transfer between NCAA member institutions without sanction.

- a. *Why are NCAA student athletes not allowed to transfer schools with equal ease?*

More than one-third of all students graduate from an institution other than the one at which they originally matriculated. Student-athletes are permitted to transfer to the institution of their choosing at any time. However, the legislation adopted by NCAA membership establishes a general rule against a transfer student being immediately eligible for competition at his or her new institution. The rule prohibiting immediate competition eligibility upon transfer exists for two interrelated reasons:

- A negative relationship exists between transfer and academic outcomes - transfer student-athletes are at a higher risk of academic failure at all points in time after transfer in comparison to non-transfers; and
- Without transfer legislation, a free agency system would develop - a system more appropriate to a professional model, which focuses only on athletic performance.

The membership has acknowledged that there are many reasons why student-athletes transfer. Consequently, there are a number of exceptions that enable student-athletes to transfer and compete immediately. Those exceptions include:

- Academically related reasons (e.g., previous institution discontinues the student's academic program);
- Circumstances in which the student-athlete has had limited exposure to athletics (e.g., at the previous institution, the student did not compete and did not otherwise participate in athletics outside of a 14-consecutive-day period or the student's original institution never sponsored, drops or reclassifies the sport in which the student participates);

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- The student returns to college from at least 12 months of active service in the armed forces of the United States; and
- The one-time transfer exception, which is the most common exception and is available in all sports other than baseball, men's basketball, women's basketball, men's ice hockey and bowl subdivision football because of the highly competitive recruiting culture in these sports. To use this exception, the student must have not previously transferred from a four-year institution (unless that institution did not sponsor the student's sport or discontinued its sponsorship of the student's sport), be academically eligible to continue participating at the previous four-year institution and have a written certification that the previous institution does not object to the student using the exception.

Students in eligible sports who are denied permission to use the one-time transfer exception by their previous institution must be informed in writing of the opportunity to appeal the decision to an institutional entity or committee outside of athletics. The student must be provided an opportunity to actively participate in the hearing and if the institution does not conduct the hearing and provide a written response to the student-athlete within 15 business days of receiving the student's written request for a hearing, then the request is granted by default and the institution must provide the student-athlete a written release.

Beyond the significant number of transfer students who are competing due to one of the transfer exceptions, many are eligible to play immediately because they were granted a waiver of the transfer legislation. In 2012-13, 284 transfer waiver requests were submitted to the NCAA national office. Sixty percent of those requests were approved.

Because data have shown that transferring increases the likelihood that student-athletes will face academic challenges, the membership recently approved a change in the type of relief granted when a waiver of the transfer legislation is approved for a four-year college transfer. Beginning with student-athletes transferring for the 2015-16 academic year, if a waiver is granted for a student-athlete who transfers without meeting one of the membership-adopted exceptions,

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relief will be provided as a one-year extension of the student-athlete's five-year period of eligibility, not as an opportunity to be immediately eligible to compete at the new institution. This change in approach is expected to allow student-athletes to focus on the reasons for their transfer and get acclimated to their new institution while remaining eligible for practice and financial aid at the new institution. These changes were supported by the NCAA Division I Leadership Council and approved by the NCAA Division I Board of Directors.

- b. Please provide a detailed explanation for the discrepancy between this treatment and how this benefits the academic goals of the student-athlete.*

Longitudinal research studies conducted on thousands of student-athlete transfers indicate that transfer is associated with (a) decreased probability of graduating and (b) longer time to graduation among those who do graduate. This relationship holds even after controlling for the student's demographics and prior academic performance. In fact, student-athletes with lower academic performances at their initial college are most susceptible to these effects. This may be due to high credit loss (estimated at 20-30 percent or more depending on factors such as year in school at transfer) and the expiration of athletic eligibility for some student-athletes prior to the completion of their degree. Quality longitudinal research studies on transfer impacts among non-athletes are limited, but have shown similar disruption in academic trajectories.

- 4. Many scholarship renewal decisions are made for NCAA student-athletes on an annual basis.**

- a. Are such decisions made by athletics coaches or academic personnel?*

When discussing "scholarship renewal decisions," it is important to distinguish athletics aid awarded by an institution's athletics department from other financial aid the student receives. The rules NCAA membership have in place only affect financial aid based on athletics ability. For all other financial aid the student receives, institutions have the responsibility for such policies. Due to the variability of those policies, this answer is limited to providing information

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related to the only type of financial aid NCAA renewal rules cover: financial aid based on athletics ability.

When a student-athlete receives financial aid based on athletics ability, NCAA rules require the institutional agency making the award, whether for a single regular academic year or for multiple regular academic years, to provide the student a written statement of the award's amount, duration, conditions and terms. The award must be signed (or electronically authorized) by the chair of the regular committee or other agency for the awarding of financial aid to students generally, or the chair's official designee. The rule specifically notes that the signature of the athletics director does not satisfy this requirement. These requirements ensure that the institutional financial aid received by a student-athlete is signed off on by the same institutional body that awards financial aid to all students.

Even if the athletics department makes the initial recommendation regarding the renewal of aid, the institution's regular financial aid authority becomes involved in cases where the student's financial aid based on athletics ability is to be reduced, canceled or not renewed. And, the institution's regular financial aid authority is responsible for providing the student written notice of the opportunity for a hearing and of the institution's established policies and procedures for conducting the hearing. The membership also has adopted rules that require institutions to have reasonable procedures for promptly hearing the student's request and that specify the responsibility for conducting such hearings cannot be delegated to the athletics department or to a faculty athletics committee. As a result, even if the initial decision regarding the renewal of financial aid based on athletics ability is made by athletics personnel, the final decision rests with the institution whenever that financial aid is reduced, canceled or not renewed.

- b. *Please provide a detailed explanation of how these decisions are made, and who is involved in making such decisions.***

As described in the answer to the previous question, the athletics department typically makes the initial decision. However, any time a student-athlete's institutional financial aid based in any degree on athletics ability would be

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reduced, canceled or not renewed, the final decision rests outside athletics. The rules adopted by the membership establish the requirement that the institution have reasonable procedures for promptly hearing the student-athlete's request and do not permit the responsibility for conducting the student-athlete's hearing to be delegated to the athletics department or its faculty athletics committee. Within the boundaries established by the membership, policies and procedures can vary from institution to institution. This enables an institution to implement policies and procedures that are appropriate for its campus and its students.

- c. *Please provide current NCAA rules, regulations, or other guidance regarding policies for the withdrawal, termination or failure to renew a student-athletes scholarship for non-disciplinary reasons.*

The requested information is attached to this response as **Attachment B**.

- d. *If the NCAA does not have such rules, regulations, or guidance, please provide this information from each NCAA member institution.*

The NCAA does have such rules. Please refer to **Attachment B** for the information requested in Question 4c.

- e. *For each of the last five years, please provide a description of all instances in which an NCAA member institution has withdrawn, terminated, or failed to renew a student-athlete's scholarship for non-disciplinary reasons and by whom this decision was made.*

The requested information may be available from each member institution, but the NCAA does not collect this information.

5. **The Collegiate Basketball post-season schedule requires student-athletes to miss significant amounts of instructional time away from campus in the midst of the spring academic session.**

- a. *How does the NCAA ensure that these student-athletes are receiving the same academic preparations as students not participating in athletics?*

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The NCAA Division I Academic Performance Program (APP) system, with its term-by-term evaluation of graduation, retention and academic eligibility, requires member institutions to monitor the academic success and well-being of student-athletes each term. The APP penalties for academically underperforming teams include a reduction in playing season, competition and practice and redirecting that time to academic matters.

Though not seen by the public, student-athletes participating in NCAA championships have academic time built into their schedules each day, including mandatory study halls. Schools proctor exams at championships, and academic advisors and tutors are often among the NCAA-funded travel party with participating teams.

- b. For the previous academic school year, please provide the number of hours the average NCAA student-athlete spent training, meeting, traveling, or otherwise preparing for his or her sport during the academic year.*

The best estimate of the in-season athletic time commitments of student-athletes comes from a self-report survey conducted in 2010 (data obtained from about 20,000 student-athletes). On average, student-athletes reported spending 33 hours (inclusive of the maximum supervised/required 20 hours and voluntary activities) on their sport and 39 hours on academics during a typical in-season week.

- c. If the NCAA does not have this information, please explain the specific procedures used by the NCAA to monitor the amount of time spent by student-athletes in academic and athletic endeavors.*

NCAA playing and practice season regulations are based on the general principle that the time required of student-athletes for participation in intercollegiate athletics must be regulated to minimize interference with their opportunities for acquiring a quality education in a manner consistent with that afforded the general student body.

Specifically, NCAA legislation stipulates that student-athletes may not spend more than 20 hours per week (supervised or required by the coach) on countable

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athletically related activities during their playing season and must be provided with at least one calendar day off per week. Outside the playing season, student-athletes may not spend more than eight hours per week engaged in countable athletically related activities and must be provided two calendar days off per week. Additionally, all countable athletically related activities are prohibited one week prior to the beginning of the final examination period for the applicable academic term through the conclusion of each student-athlete's final exams. Student-athletes may not miss class to attend practice at any time.

All member institutions are required to maintain a written record of each student-athlete's participation in countable athletic related activities on a daily basis. Institutions also must establish policies in all sports concerning student-athletes' missed class time due to participation in intercollegiate athletics and in athletics competition scheduled during final examination periods.

- 6. Does the NCAA keep track of metrics of academic outcomes that would assist in determining the quality of education received by student-athletes? If such metrics are recorded, please provide them.**

Colleges and universities, their trustees, state oversight agencies, faculty, administrators, and accrediting agencies all have a role in ensuring and overseeing the quality of education provided to all students. In many cases, faculty and provosts determine the academic rigor of specific courses and majors. It is not the role of the NCAA to determine course or major offerings by its member schools. Those academic decisions are appropriately made by academic faculty, administrators, trustees and accrediting agencies.

- 7. Please provide current NCAA rules, regulations, or other guidance regarding the role of the NCAA clearinghouse to independently confirm the high school academic progress of student-athletes during the recruiting process. Please provide equivalent information about the NCAA's role in monitoring the academic progress of student-athletes at the collegiate level.**

The NCAA membership has had initial-eligibility rules in place for decades to ensure the academic preparation of incoming student-athletes. These rules are based on extensive

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longitudinal research that help inform how high school courses, grade-point averages and standardized test scores predict prospective student-athletes' success in their first year of collegiate enrollment. Research data also are used to determine how academic performance in the first year and beyond can help predict success, retention and graduation rates.

These initial-eligibility rules require a prospective student-athlete to achieve grades in core courses (e.g., English, math, science, social studies) in combination with an SAT or ACT score. These variables help ensure that these students are indeed in a position to be academically successful. The majority of students meet these standards; however, approximately 10 percent fall short of the minimums and are unable to practice, compete or receive athletically related financial aid in their first year at the NCAA institution.

In 2007, the NCAA Eligibility Center replaced the NCAA Clearinghouse. The NCAA Eligibility Center certifies the academic and amateur credentials of all college-bound student-athletes who wish to compete in NCAA Division I or II athletics. To assist with this process, the NCAA Eligibility Center staff fosters a cooperative environment of education and partnership with high schools, high school guidance counselors, administrators, coaches and college-bound student-athletes. Every year, prospective student-athletes from 16,000 U.S. high schools and an additional 180 countries are processed by the Eligibility Center. Ultimately, the individual student-athlete is responsible for achieving and protecting his or her eligibility status. The NCAA Eligibility Center does not monitor a student-athlete's high school academic progress legislatively; however, should a college-bound student-athlete present a qualifying test score(s) and six semester transcript(s), a preliminary evaluation based on completed core courses (grades and credit) may be completed. This preliminary evaluation, performed after the student-athlete has completed a minimum of six semesters in high school, provides a snapshot of a college-bound student-athlete's progress to the final academic evaluation, which is performed after the completion of their high school senior year.

Only NCAA-approved core courses are used in academic evaluations performed by the NCAA Eligibility Center. Each high school attended by a college-bound student-athlete establishes and maintains a list of NCAA courses in order for their coursework to be utilized in NCAA certifications. In 2006, NCAA Divisions I and II legislation charged the NCAA, through the NCAA Eligibility Center, to conduct an academic review of any

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high school attended by a college-bound student-athlete. These reviews can result in a determination that the high school's academic credentials cannot be used for the purpose of meeting the NCAA initial-eligibility requirements. High schools may be selected for review based on three methods of identification: (1) the high school is a new high school that has never been used in the NCAA initial-eligibility process; (2) a periodic review of all high schools (which may include review of a random sampling of high schools) in the NCAA Eligibility Center database may be conducted; or (3) identified academic irregularities or potential issues at a particular high school. Upon receipt of high school transcripts for a college-bound student-athlete, completed coursework is matched against the high school's list of NCAA courses (if available) in the academic certification process.

In 2003, the current progress-toward-degree standards were implemented in response to the membership's desire that student-athletes annually make reasonable progress toward graduation. The goal of the current standards, based on research, is to ensure that a student-athlete meets specific benchmarks that will lead to graduation within five years of initial full-time enrollment. Progress-toward-degree requirements are specifically designed with a focus on grade-point average, credit hours earned, and percentage of degree completed. Student-athlete progress toward their chosen degree is monitored on a term-by-term and a yearly basis by each member institution. Annual continuing education is provided to the membership regarding progress-toward-degree requirements and updates both during the Regional Rules Seminars conducted by the NCAA staff and through outreach to member conferences and institutions.

Additional information regarding the initial eligibility standards and processes administered by the NCAA Eligibility Center is publicly available in the Guide for the College-Bound Student-Athlete and at www.eligibilitycenter.org.

- 8. The NCAA has stated in court filings that, "The NCAA denies that it has a legal duty to protect student-athletes" from injuries arising from their athletic participation. Please provide a detailed explanation for the basis of this legal position, including a detailed explanation of who the NCAA believes has the legal duty to protect student-athletes.**

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The NCAA will continue to make informed decisions that improve student-athlete health and safety as it has done throughout its history. The NCAA has consistently adopted rules, and developed policy as well as equipment standards, to address student-athlete health and safety. The NCAA also has been recognized for its educational materials, best practices, and resources related to health and safety available to our member institutions and to the student-athletes.

The NCAA is a defendant in litigation in which plaintiffs allege the NCAA, as an organizer of sporting events, has a legal duty to guarantee the safety of participants in athletic competition. The law is clear that a governing body organizing sports competition does not have a legal duty to guarantee athlete safety. In addition, the law recognizes that there is inherent risk in sports that must be evaluated by parents and participants based on individual circumstances and the benefits derived by participation in sports.

A legal defense in litigation should in no way be confused with the NCAA's firm commitment to the health and safety of its student-athletes and its strong record for addressing health and safety issues since its inception.

9. **The NCAA has indicated that the primary benefit to student-athletes is their academic preparation, despite the fact that the NCAA and members institutions make tens of millions of dollars from the participation of student-athletes in collegiate sports.**

- a. *Is the position of the NCAA that the exchange of academic preparation for collegiate athletic participation provides equivalent financial value to the NCAA and its student-athletes?*

An athletics scholarship provides access to some students who may never otherwise have the opportunity to attend college and earn a degree. In fact, nearly 20 percent of current student-athletes are first-generation college students. According to recent estimates, the value of a four-year degree over one's lifetime is almost \$1 million. The benefits student-athletes access while part of an athletics team including leadership, collaboration, and teamwork are invaluable qualities in the post-college job market.

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- b. Please provide any data valuing the cost of academic scholarships compared to the value created by student-athletes to their institutions, aggregated by sports.*

A full athletics scholarship at our Division I institutions (some of the best academic institutions in the world) over four or five years would range from a simple monetary value of around \$100,000 to almost \$250,000. However, in order to truly understand the value of the opportunity to participate in intercollegiate athletics, one would have to take into account the value of elite-level coaching, academic and career advising, strength training and conditioning, sports medicine facilities and other factors that accrue to these student-athletes. The NCAA has not undertaken such a “valuation,” but it would substantially add to any monetary estimate of the gains that accrue to student-athletes.

Similarly, the Association does not perform econometric evaluations of the specific “value” student-athletes provide to their institutions. Undoubtedly, they add significant value to their schools (as do most other students, in their own way). However, my belief is that college sports thrive mainly due to being housed on campuses, a dynamic that alumni and local residents love and value greatly. College sports fans relate to the institution, more than to single student-athletes.

- 10. The NCAA has stated that it generates most of its revenue, \$800-900 million each year, primarily from the Division I Men's Basketball tournament.**

- a. With the financial health of the NCAA so inextricably tied to the success of this one tournament, how does the NCAA avoid conflicts of interest between its financial needs and the needs of its athletes?*

Approximately 85 percent of the NCAA’s annual revenues are generated from the Division I men’s basketball tournament. The NCAA has developed a revenue mitigation plan should a catastrophic event occur that would result in loss of this revenue, because of this dependency on one revenue source. The plan includes event and ticket insurance policies on the tournament of \$245 million, the use of quasi-endowment funds that have been set aside that amount to \$327 million, a budget cutting measure from national office operations, and a decrease in our

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distributions to membership for the year. This plan allows the NCAA to make the decisions that are in the best interest of our student-athletes. Like our membership, the NCAA uses its resources to benefit all student-athletes, not just those that compete in revenue-generating sports. The dollars earned from Division I men's basketball are used to provide programs and championships for the other NCAA divisions and sports, not unlike the school of business at a major university providing the additional funds that assist in providing a world-class nursing program. The NCAA has more than 460,000 student-athletes. Fewer than 1,000, or well under 1 percent, annually enjoy the privilege of competing in the three weeks that make up the Division I Men's Basketball Championship. It is all of those 460,000 student-athletes that guide membership decisions.

- b. How does the NCAA ensure that it provides equal oversight of all NCAA sports and athletes?*

NCAA rules generally apply to all sports, except and unless the unique needs of the sport, research data, or overall student-athlete welfare suggest the need for varying rules. In a few instances in which rules do not apply across all sports, some basis for these exceptions exists. For example, men's baseball and football have additional academic standards for student-athletes in addition to other academic requirements for student-athletes. These additional requirements are based on research and were implemented to help increase graduation rates in these sports. In both cases, the unique rules are intended to better ensure the academic success of student-athletes and while both sets of rules are relatively new, early data would suggest that the intended outcome, improved academic performance, is indeed occurring.

- 11. For the previous academic school year, please provide the total number of student-athletes at NCAA member institutions who received federal financial assistance, as well as the percentage of student-athletes at NCAA member institutions who received federal financial assistance. Please also provide this information for student-athletes who participate in the Football Bowl Subdivision and Division I Basketball programs.**

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We only collect these data at the Division I level, and not on a sport-specific basis. Based on what was submitted by the conferences to the NCAA national office, the number of Division I student-athletes with Pell Grants in 2012-2013 was 32,149. That represents 18 percent of all Division I student-athletes.

- 12. For each of the last five years, please provide the total amount of incoming revenues received by the NCAA, the individual amounts of outgoing funds distributed to each member institution, and the specific conditions on the use of those outgoing funds by each member institution, whether for academic, athletic, or other purposes.**

The revenue and distribution information requested is captured in **Attachment C**. Total NCAA revenue for the fiscal year ending August 31, 2013 was \$913 million. \$527 million, or 58 percent (similar to the previous five years), was distributed directly to Division I membership in the form of five major revenue distribution funds throughout the year. Depending on the fund, based on membership direction, the distributions are either sent directly to the institution or to their conference office (for subsequent distribution among its members), or a combination of both. The specific conditions on the use of the distributions are delineated in the DI Revenue Distribution Plan (See **Attachment C**).

- 13. Please provide copies of the current compensation agreements for the top five NCAA executives, including the specific criteria on which compensation, bonuses, or other financial incentives are awarded, and whether those criteria relate to the academic performance of student-athletes at member institutions.**

Attached are pages from the NCAA's most currently filed 990 (See **Attachment D**). These pages reflect our highest compensated individuals for that period. When the NCAA files our next 990, we will share with you the updated pages related to highest compensated employees.

Compensation and bonus decisions for each executive are made based upon an evaluation of the executive's performance against established goals and objectives and are consistent with the mission and strategic plan of the organization. Incentive compensation (bonuses) is limited to an annual maximum of \$15,000 per individual.

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It is my hope that the information contained in this letter provides greater insight into the collective efforts of the NCAA national office and its college and university members to ensure student-athlete success. I am committed to these issues and to the 460,000 student-athletes who compete in intercollegiate athletics each year. Thank you for the opportunity to respond to these important matters.

Sincerely,



Mark A. Emmert
NCAA President

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