

March 13, 2020

VIA EMAIL

Jon Steinbrecher [Chair]
Commissioner, Mid-American Conference
NCAA Division I Transfer Waiver Working Group
P.O Box 6222
Indianapolis, IN 46206

Dear Mr. Steinbrecher:

Thank you for the opportunity to provide feedback to the NCAA Division I Transfer Waiver Working Group. LEAD1 is the association that represents the athletic directors of the 130 member universities of the NCAA Division I Football Bowl Subdivision (FBS). To best provide comment, we created a working group comprised of selected member athletics directors as well as other senior athletics staff. During the past several months, the working group members as well as LEAD1's Board of Directors carefully considered and deliberated this important topic.

With respect to the four-year undergraduate transfer waiver guideline proposal, we: (1) believe that all student-athletes should receive an immediate one-time transfer waiver, regardless of their sport, however, we believe that there should be certain guardrails to strengthen current tampering rules; (2) support relief of the transfer-residence requirement in documented unique, extenuating and extraordinary ("UEE") circumstances (where a student-athlete does not meet the proposed One-time Undergraduate Transfer Waiver Guideline), however, we support very narrow and defined UEE circumstances; and (3) have concerns with respect to potential Academic Progress Rate (APR) and graduation rate implications.

I. One-Time Undergraduate Transfer Waiver Guideline -- We are "Supportive with Caveats"

Benefits: We believe that the current waiver process lacks transparency and consistency and that a uniform system is needed so that all student-athletes receive a one-time transfer waiver, regardless of their sport. In addition, based upon the increased public spotlight on NCAA issues, perhaps now more than ever, it is only a matter of time until a football, men's basketball, women's basketball or men's ice hockey student-athlete successfully sues the NCAA and/or a member institution for restricting their ability to transfer institutions (especially when the exception is granted to the other sports in the NCAA). Such a lawsuit(s) could result in effecting court-ordered transfer policy, based upon legal precedent, as opposed to treating all student-athletes equally.

Challenges: While we support student-athletes being immediately eligible to compete upon transferring (one time only), we, however, support guardrails addressing the possibility of increased transfers and recruiting of current rosters. We have concerns that an immediate transfer release, particularly in the sports of football and basketball, would lead to widespread "tampering," which is difficult to monitor and enforce. In this regard, the proposed guideline would provide student-athletes with greater facility to transfer from smaller schools to larger schools (e.g., "transferring up") to pursue opportunities perceived as a "higher level." This would be highly disruptive to a program that provided the student-athlete with an initial opportunity and was depending on that person for four-years. In turn, coaches and athletic administrators might have their job security impacted as a result of consistently losing their best players to other schools. Because of this, the membership believes that the current tampering rules would need to be strengthened and that penalties should be imposed against any institution that attempted to entice or recruit a student away from another institution. There may also be the need for greater roster flexibility, such as increasing the number of recruits that can be signed in any given year (to this end, our working group supports current NCAA legislative proposal, 2019-42, which would increase the number of counters in FBS football). Further,

to prepare for the possibility of replacing a student-athlete who transfers, there could be a timeframe for granting such waivers (i.e., permissible to transfer after the season, but not in-season). Implementing such a timeframe could also result in a “cooling-off” period for student-athletes to mitigate “knee-jerk” transfer decisions (such as transferring based on one bad practice or game).

Some of our athletics directors have expressed three additional concerns. First, there are concerns regarding the requirement that the original institution must approve the waiver of transfer-residence rule, which could lead to unnecessary appeals and an environment remnant of the current system. Second, there are concerns that a more liberal environment could lead student-athletes to seek to transfer at the slightest difficulty or challenge at their institution. Third, some of our athletic directors have commented that these rules should be legislated, rather than deliberated by an NCAA committee, due to perceived and actual lack of transparency in the transfer process.

II. Unique, Extenuating and Extraordinary Circumstances Guideline – We are “Supportive with Caveats”

While we support relief of the transfer-residence requirement in documented UEE circumstances (where a student-athlete does not meet the proposed One-time Undergraduate Transfer Waiver Guideline), because such circumstances may be subjective, there should be a very high and narrow standard of UEE circumstances that are consistently applied. In other words, such exceptions should be clearly defined and concrete, otherwise, current problems would persist such as the steady stream of waivers, outside lawyers remaining in the process and the media creating undue pressure on such cases.

III. Four-Year Transfer Waiver Process and Student-Athlete’s Academic Record

We believe that the undergraduate four-year transfer waiver process should take into greater account the possible unintended consequences with respect to institutional APR and graduation rates. For example, under the APR, an institution could lose retention points based upon a student-athlete departing from their institution, even while in good academic standing. Thus, such APR implications should be further discussed.

IV. Conclusion

In the upcoming weeks, our working group will continue to deliberate the aforementioned and several other transfer-related concepts. Such concepts include the possibility of limiting when freshman may transfer (e.g., freshman may have to sit one year if they transferred their first year), closing the transfer portal during the season (to mitigate “poaching,” support coaches and avoid some of the unnecessary transfers), and allowing five (as opposed to four) years of intercollegiate competition (but if the student-athlete transferred, he or she would have to sit out one year), etc. We thank our co-chairs and their committee members for their effort on this issue, and, again, thank you for the opportunity to provide comment to the NCAA Division I Transfer Waiver Working Group.

Sincerely,

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