

CHAPTER XI

ATHLETICS

NOTES:

Adopted 10/11/85

POLICY ON INTERCOLLEGIATE ATHLETICS

On October 11, 1985, the Board of Governors accepted as policy the recommendations contained in a report of the Special Committee on Intercollegiate Athletics entitled "Intercollegiate Athletics in Fifteen Institutions of The University of North Carolina."

The following policies are excerpted from pages 42 through 50 of the report.

A. General Institutional Policy

1. The Board of Governors affirms the delegation of responsibility for intercollegiate athletics to the chancellors as specified in the resolution on the Delegations of Duty and Authority (July, 1972), subject to the actions set out herein.
2. The chancellors shall submit annually to the Boards of Trustees of the institutions, and to the president of the University, beginning in July 1986, a report on intercollegiate athletic programs. The report shall be in a format to be defined by the president. The first report, due in July 1986, shall include the specific subjects discussed later in this section. In addition, the 1986 report and all those submitted thereafter shall include:
 - (a) organization and philosophy of athletics programs;
 - (b) policy on admission of student-athletes, including "exceptional" admissions;
 - (c) student-athlete profiles, including SAT scores, high school grade-point averages, and number admitted as exceptions (by varsity sport);
 - (d) graduation and progression information;
 - (e) information about the majors or programs of study chosen by student-athletes and other activities during the previous year; and
 - (f) information about "booster" club organizations and procedures.

The chancellors are asked in this report to make any comments or recommendations concerning intercollegiate athletics that they may wish the trustees or the president to consider. The report shall also be given to officers of the faculty and to members of the faculty committee on athletics to encourage their more informed involvement and participation in the internal governance of intercollegiate athletics.

3. Former student-athletes who have completed their athletic eligibility and who remain in good academic standing, but who have not graduated, have been a subject of concern to this committee. Accordingly, the chancellors shall study the status of these former student-athletes during the coming year, giving particular attention to whether they continue to have access to needed financial aid and academic counseling to the end that graduation rates of athletes with grants-in-aid are raised to those levels that apply to the general student bodies. The chancellors will include their findings and plans in this regard in the annual report to be made in July 1986.
4. The special committee agrees with testimony presented that the tutorial and remedial programs for student-athletes should be administered by the appropriate deans or other academic officers in cooperation with the athletic departments. Each chancellor shall therefore insure that these programs are adequately supervised by academic personnel.

5. The booster clubs associated with the athletic programs in the University enthusiastically support the various teams and provide valuable contributions toward the operation of the programs. It is clear, however, that illegal payments to athletes have been the practice in a number of universities in other states. Reports of these abuses elsewhere underscore the need for each chancellor and director of athletics to insure as best they can that the clubs and their members are fully informed of the activities of these clubs and associations. The chancellors are asked to review the structure and governance of these organizations and their relationships to the institutions, and to report their conclusions in their first annual report in July 1986.
6. The responses to the committee's survey indicated that the housing arrangements for student-athletes varied considerably among the 15 institutions. The special committee discussed this issue with the chancellors, the directors of athletics, and the faculty representatives, and we believe that it would be preferable to house student-athletes among the general student population to the degree possible. The chancellors are requested to study carefully the issue of student-athlete housing and to report their findings and plans in the first annual report in July 1986.

B. Freshman Sports Eligibility and Admission of Student-Athletes

1. The Board of Governors unanimously adopted the special committee's "Interim Report" on September 13, 1985. This interim policy statement, which is part of this report and is attached as Appendix 2, was issued because both the NCAA Council and the President's Commission of the NCAA had scheduled meetings in early October to discuss possible modifications to Proposition 48, or NCAA Bylaw 5-1-(j), before this report was to be completed.

Proposition 48 is the "law" for all Division 1 NCAA member institutions, effective August 1, 1986. The position of the Board of Governors on this matter has been made clear, and it needs no elaborations now by this committee. We expect our Division I institutions to be fully in compliance with it on the effective date.

The need for stronger academic eligibility standards than those currently in effect, especially in Division I-A, is underscored by the information we have presented in this report. It is clear, however, that the national debate on this subject is not over, and it is expected that proposals to change Proposition 48 will be made before and during the NCAA Convention in January of 1986. Accordingly, the special committee shall continue its work and is instructed to consult regularly with the president on developments in this area. The special committee is authorized to bring to the board any additional report and recommendations it may deem necessary concerning sports eligibility of freshman athletes.

2. The data submitted by the chancellors show, in general, an excessive number of student-athletes admitted as "exceptions" to the minimum admission requirements that apply to all freshmen. This is especially true among the Division I institutions, and particularly in football and men's basketball. There has been a recent effort at some campuses to reduce the number of such "exceptions," and this has been supported by the faculties and administrations. The special committee recognizes that more rigorous eligibility standards for freshman competition, as well as the new minimum high school course requirements adopted by the Board of Governors that will become effective in the fall of 1988, will affect such practices. Nevertheless, each chancellor in consultation with appropriate faculty organizations, shall carefully monitor this area and report on it annually.

C. Season Lengths, Number of Contests, and Recruiting

With reference to season lengths and number of contests, the special committee notes the changes adopted by the recent Special Convention of the NCAA and especially the resolution

dealing with season lengths. This resolution essentially will discourage further expansion. However it is clear from testimony we have received that the time associated with many sports is still excessive. This is particularly the case in football, baseball, and men's basketball, and perhaps also in other sports, like golf and women's basketball.

Football has come to be a full-time, year-round occupation for participating student-athletes. Practice and "orientation sessions" now begin two to three weeks before classes in the fall, and there are time-consuming practices and scrimmaging sessions every spring. A drastic reduction in the inordinate amount of time devoted to football is necessary, and we are also concerned about rules that allow freshmen to participate in football practice before they have even attended their first class in the fall semester.

Basketball seasons, including pre-season practices, the "holiday" tournaments and trips, and the post-season tournaments, have lengthened. Practice now begins in mid-October and successful teams in the NCAA tournament can play nearly through the beginning of final examinations in the spring semester.

Baseball teams have a fall season as well as the traditional spring season, and they may play up to 20 games in the fall and 60 in the spring. The NCAA baseball tournament is held in late spring, a full month or more after many of our student-athletes have graduated or finished school. Furthermore, the Atlantic Coast Conference recently voted 7-1, with Duke University casting the dissenting vote, to hold its baseball tourney, as well as some "regular" season games, in the later part of May so they would be closer to the NCAA tournament. One argument made for this change is that students are not being required to miss classes. The committee finds this argument invalid as a justification for extending the baseball season in this manner.

The sport of golf also consumes a great deal of time, and much of it may involve actually missing classes. Part of the problem is that tournaments and matches often have to be played during weekdays, since the country clubs where matches are held reserve weekends for their regular members. There are other examples of the excessive time associated with collegiate sports that could easily be cited.

With reference to recruitment, institutions have a clear responsibility in the areas of academic progression and graduation, particularly when the student-athlete is admitted as an "exception" to the regular admission process and on the basis of athletic and not academic ability. Coaches would be encouraged to recruit student-athletes with stronger academic backgrounds if the rules of the NCAA provided the appropriate incentives. For example, in basketball there is a total limit of 15 grant-in-aid players at any one time, but there is no limit on the number of annual recruits. Thus, a basketball coach could theoretically recruit 15 new freshmen each year, and could continue to do so indefinitely with no incentive to keep any of them academically eligible because he is able to replace them all. A yearly limit on the number of new recruits that a coach may sign would provide a strong incentive to enroll better student-athletes because of the limited ability to replace those who may become academically ineligible. The same is true in football with a total limit of 95 scholarship players at any one time and a limit of 30 new recruits per year. The yearly limit of 30 in a recruiting class is often not even reached by Division I institutions, and a lower limit might be more realistic and may also provide an incentive to recruit better students.

The recruitment of prospective student-athletes begins much too early, often in the eighth and ninth grades for especially gifted young athletes. This practice can be quite disruptive to the life of a 14- or 15-year-old, and it is also expensive. The committee thus agrees with testimony received to the effect that recruitment should be totally limited to a prospective student-athlete's junior and senior years in high school.

Many of our athletic administrators and coaches, as well as our chancellors and colleagues in other universities across the nation, share our concerns in these areas of length of seasons, number of contests, and recruitment. In addition, there is increasing evidence that the NCAA

and the athletic conferences see the need to re-focus the tone of intercollegiate athletics and to re-emphasize the academic mission of the universities. The special committee proposes that no action be taken by the Board of Governors now, but rather asks the chancellors to study effects on their institutions of the length of seasons, number of contests, and recruitment practices, and to conduct that study in concert with their directors of athletics and coaches, as well as with the NCAA and the athletic conferences. These special studies should take particular advantage of the national leadership of many of our coaches in the various sports, and we strongly urge that the chancellors and directors of athletics diligently work toward the adoption of appropriate measures within their individual athletic conferences and in the NCAA. The special studies shall be submitted by the chancellors to the president no later than October 1, 1986, and shall contain recommendations for each sport, and specifically for football, men's and women's basketball, baseball, and golf, on proposed limits to practice and playing seasons, number of contests, and recruitment. The president is asked to review these special reports and make a recommendation on these matters to the Board of Governors by November 14, 1986.

D. Drugs and Gambling

Institutions in Division I of the University are directed to establish formal awareness programs on the problems and dangers of drugs and gambling beginning with their football and men's basketball players. Such programs now exist at some University institutions with the help of the law enforcement agencies and their expert personnel. University institutions in Division II and III are also directed to explore the possibility of establishing such programs, and all campuses are asked to report on their efforts in their first annual report. The NCAA has proposed a national drug testing and education program, and our institutions should be encouraged to support this program and take advantage of its benefits. Prior to the NCAA convention in January of 1986, the president will consult with the chancellors to the end that our institutions support a strong national policy on drug testing and education.

E. High School Athletic Eligibility

The special committee notes with interest that the State Board of Education in North Carolina, as well as boards of education in other states like South Carolina and Texas, have recently adopted new regulations regarding eligibility in high school sports. These requirements stipulate that high school students must meet specified academic standards in order to participate in athletic competition. The Board of Governors find these eligibility standards to be helpful in re-emphasizing the primary purpose of educational institutions at all levels and commends the State Board of Education for establishing them.

F. Status of Coaches and Athletic Administrators

This report on intercollegiate athletics would be incomplete without reference to the employment status of coaches and athletic staff members in the University. The chancellors shall emphasize to the coaches and athletic administrators that their appointments and their continuation in their appointments are not conditioned upon the obligation merely to win games or to achieve national standings for our teams. Coaches and athletic administrators should also be evaluated on the integrity of their programs and on their relationships to the primary purpose of the University.

Adopted 08/25/89

POLICIES ON ATHLETICS

On August 25, 1989, the president of the University made a report to the Board of Governors concerning intercollegiate athletics at the constituent institutions. The Board of Governors adopted as policy the president's recommendations as follows:

1. The Board of Governors reaffirms the following basic policy decision it made in July 1972:

"Subject to such policies as may be prescribed by the Board of Governors or the Board of Trustees, the chancellor shall be responsible for the establishment and supervision of the institution's program of intercollegiate athletics."
2. The chancellors and the Board of Trustees shall insure that there is an effective faculty committee on athletics that reports annually to the faculty senate, or other appropriate office of faculty governance, on the operations of the athletic programs.
3. The chancellors shall separate the position of director of athletics from that of coach of any sport. This principle shall be in practice by July 1, 1990.
4. The president, in consultation with the chancellors, shall redesign the annual athletic survey report established in 1985 to assure that it contains those data that will permit an informed and detailed assessment of the consistency of athletic activities with the academic standards of the institution. Such redesigned reports shall be reviewed by the Board of Trustees and submitted to the Board of Governors.
5. No student athletes shall be admitted to a constituent institution unless, by the normal process of review and evaluation, the athlete is deemed to have the potential to complete the requirements for a baccalaureate degree.
6. The "Minimum Admissions Requirements" adopted by the Board of Governors shall apply to all students and there shall be no waiver for athletes.
7. The institutions shall insure that student athletes follow a coherent course of study that is designed not merely to retain academic eligibility but to insure reasonable progress toward a degree in the athlete's chosen major.
8. Coaches and athletic departments shall insist that their student athletes meet their academic obligations. Athletes who cut classes, or athletes who may be technically eligible but who are clearly headed for academic difficulties, shall not be allowed to continue as team players. Faculty shall be asked to keep attendance records of athletes, particularly in their freshman and sophomore years.
9. All foundations, clubs, and associations established primarily to raise money on behalf of a constituent institutions of the University shall be audited annually, and the audits shall be made available to the board of trustees and to the president and shall become public records. [See Policy in Chapter VI titled "Annual Financial Audits of University-Related Private Foundations."]
10. A mandatory drug-testing program for student athletes shall be developed by the chancellors of institutions that maintain intercollegiate athletic programs, to be in effect by the 1990 fall term.
11. The president shall meet with presidents of other Atlantic Coast Conference universities, and other conferences to which constituent institutions belong, and in consultation with the chancellors, the president will pursue an effective freshman ineligibility rule that will strengthen the provisions of NCAA Proposition 48.

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Adopted 05/11/90

APPROVAL OF HEAD COACHES' AND ATHLETIC DIRECTORS' CONTRACTS

Consistent with the requirements of Section I-A(2) of the 1972 resolution of Delegations of Duty and Authority to the Boards of Trustees, no contract of employment between an institution and a head athletic coach or an athletic director shall be valid unless and until all terms and conditions of the contracts have been approved by the Board of Trustees.

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Adopted 02/08/91

BOARD OF GOVERNORS GUIDANCE ON EMPLOYMENT CONTRACTS WITH HEAD ATHLETIC COACHES AND RELATED ISSUES

On October 13, 1989, the chairman of the Board of Governors referred questions about contractual commitments that had been made by some constituent institutions in connection with the employment of athletic coaches to the Committees on Personnel and Tenure and University Governance. Mr. William A. Dees, Jr., and Mr. Philip G. Carson were also named to the joint committee. The joint committee met a number of times and inquired at length into various questions of policy and law raised by the contracts. The committee examined the individual employment contracts of all the head coaches at Division I institutions, studied relevant NCAA regulations and had candid conversations and exchanges of ideas with chancellors from Division I institutions including Chancellors Hardin and Monteith. The joint committee and the separate committees also considered the questions raised with appropriate members of the staff of the general administration.

We determined that 15 of our institutions engage in some form of intercollegiate athletics and that among them they employ more than 150 head coaches. Our examination revealed, however, that the major areas of concern occur in connection with contracts with head coaches in revenue producing sports on Division I-A campuses. These sports include men's basketball and football at East Carolina University, North Carolina State University, and the University of North Carolina at Chapel Hill.

Our examination of the coaches' contracts disclosed that there have been contractual provisions in the area of buy-out clauses and the payment of damages, which have been particularly and painfully embarrassing to the institutions and to the University in the past.

The joint committee also found that the chancellors involved are acutely aware of the need for revision in their institutional policies and procedures for the hiring of athletic coaches if unwarranted expense and adverse consequences to the institutions are to be avoided in the future. We believe that the chancellors concur in our strong view that there is a necessity for a proper balance between the legitimate interest of a coach in job security and professional standing with the right of the institution to assure satisfactory job performance. Four specific areas of concern were identified as actual or potential sources of concern. These were:

1. The use of excessive buy-out and severance-payment clauses and an absence of specific provisions limiting the obligation of the institution by requiring the mitigation of damages if a coach is terminated. In this connection, there was also concern about the actual or apparent intrusion of booster clubs into the hiring, termination, and compensation of University employees.
2. The time length of coaches' contracts which sometimes include provisions for automatic roll-over extensions.
3. The absence in some cases of a requirement that a coach affirmatively assume the responsibility to reinforce and support the primacy of the institution's educational mission. In this connection, there was concern that there be no possible contractual questions or issues regarding the responsibility of the head coach for his or her compliance with University and NCAA policies and regulations.
4. The involvement of coaches with outside parties for compensated services or endorsements related to or dependent upon their status as an athletic coach at a constituent institution.

In May 1990, we reported to the Board of Governors on a preliminary conclusion we had reached in our deliberations and a remedy that we believed would help prevent future abuses. We found major differences in practices among our institutions in the procedures followed in developing and approving contracts with head athletic coaches, and particularly in the extent of the involvement of boards of trustees. Accordingly, we concluded that the University policy should be clarified. On our

recommendation, the board on May 11, 1990, adopted a resolution which explicitly defines and requires trustee participation. The resolution adopted by the Board of Governors was as follows:

Consistent with the requirements of Section I-A(2) of the 1972 resolution of Delegation of Duty and Authority to the Board of Trustees, no contract of employment between an institution and a head athletic coach or an athletic director shall be valid unless and until all terms and conditions of the contracts have been approved by the Board of Trustees.

Subsequent to adoption of the above resolution, we considered additional steps which we believe should now be taken in order to responsibly respond to the four areas of concern identified by our inquiry. We believe that the 1972 Delegation of Duty and Authority in respect to athletic matters to the institutions continues to be appropriate. Implicit in that continued delegation is, however, a requirement that the chancellors and boards of trustees of the institutions acknowledge by their future actions the existence of minimum contractual standards as a part of the policy of their institution. From our considerable deliberations and conversations, we believe that there is adequate foundation for these new standards enumerated by the Board of Governors in this report and that there has developed a collegial consensus in respect to the four standards which are broadly stated as follows:

1. **Buy-out clauses.** We believe that it is acknowledged that serious problems can result from contract terms that require the payment of substantial sums of money to a coach when an institution terminates his or her employment with or without cause. Any obligation to commit substantial institutional resources or to sanction payments by others may severely limit the capacity of the institution to make needed personnel changes. Such arrangements may also be rightly viewed by the university community and by the general public as an unwise expenditure of resources. This is particularly so when the amount of the payment required by such a clause bears no clearly discernible relationship to the actual financial loss that would likely be incurred by the coach. Therefore, consistent with the need to provide job security and to recognize the legitimate financial interests of a coach who is terminated prematurely, contractual provisions to define and limit the institution's liability are deemed to be wise and necessary. These would appear to clearly encompass a limitation of the institution's financial obligation to no more than the balance of the salary the coach would have earned had he or she remained employed with appropriate provisions requiring the coach to mitigate his or her damages. In no event should the university or any party related to the university have any obligation to a coach to replace the loss of any outside compensation.
2. **Length of contracts.** We believe that there is an understanding that contracts of excessive length may limit the capacity of the institution to make needed personnel changes. In particular, the so-called "roll-over" contract by which the term of a contract is automatically renewed on an annual basis appear to be contrary to sound personnel policies in place at all of the institutions. University policies have a clear intent that any renewal of any contract be advertent, based upon a deliberate assessment of performance by the appropriate officer of the institution, and not inadvertent or automatic.
3. **Academic values.** The policy of the institution in respect to the need to foster educational values and to maintain a program of integrity should be an integral part of the contracts of all coaches. In particular, the institution's policy in reference to the recruitment and retention of qualified student athletes and the necessity that athletes progress toward a degree in a defined academic program should be addressed. The coach should have a clear obligation to contribute to the academic progress of team members under his or her supervision. In addition, the contract should clearly acknowledge that the athletic program under the direction of the coach must comply with the policies of the institution and the NCAA and that the failure of the program to so comply may, at the option of the institution, be deemed a violation of the provisions of the coach's contract.

4. **Outside compensation.** Institutional interests can be affected significantly by the practice of head coaches contracting with outside parties for compensated services, especially those involving product endorsements. Employment contracts need to clearly define the rights and obligations of a coach who enters into some such outside agreements, while addressing the interests of the institution. We take note of the NCAA Bylaw 11.2.2, which provides:

11.2.2 Report of Athletically-Related Income.

Contractual agreements, including letters of appointment, between a full-time or part-time coach and an institution shall include the stipulation that the coach is required to report annually (in writing or orally) all athletically-related income and benefits from sources outside the institution through the athletic director to the institution's chief executive officer. Sources of such income shall include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits (including preferential housing arrangements);
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletic shoes, apparel or equipment manufactures.

We believe that this bylaw, if applied under the terms of the Board of Governors' Policy on External Professional Activities for Pay, gives satisfactory protection to institutional interests in this important area. This would mean that each request to take part in such activities as those listed above would require the coach to file a Notice of Intent. That notice should be filed with the chancellor and should require his approval. This will assure that the chancellor is in a position to monitor such activities.

In our efforts to address specific current concerns about intercollegiate athletic programs, we have not forgotten that the integrity of athletic programs depends not so much on the implication of specific rules and procedures as on the good faith of the people responsible for those programs. Without a strong and shared commitment to high standards by trustees, administrators, faculty, coaches, athletes, and others in the campus community, the policies, suggestions, and safeguards addressed by this report will be of limited benefit. Our recommendation that the delegation of responsibility for athletics be continued with the standards, enumerated by the Board of Governors in this report, is made with careful consideration given to the ultimate responsibility of the Board of Governors for the integrity of the University's athletic programs. We believe, however, that the commitment of those chancellors who are most directly involved and their unequivocal acceptance of the obligations to carry out their institutional and the board's policies and standard justifies the continued delegation of these responsibilities to all of the campuses.

In conclusion, we ask the Board of Governors to endorse these recommendations and request that the president transmit this report to each chancellor and to all members of the boards of trustees. We further recommend that the chancellors be requested to promptly forward to the president an informational copy of each contract entered into with a head coach at the time the contract is approved by the board of trustees. The chancellor should be encouraged to consult with the president and through the president with the Board of Governors should the chancellor have any question about or desire any clarification of this board's policy in respect to matters discussed in this report.

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