

November 13, 2006



The Honorable William Thomas  
Chairman, House Committee on Ways and Means  
U.S. House of Representatives  
1102 Longworth House Office Building  
Washington, D.C. 20515

P.O. Box 6222

Indianapolis, Indiana 46206

Telephone: 317/917-6222

Shipping/Overnight Address:

1802 Alonzo Watford Sr. Drive

Indianapolis, Indiana 46202

[www.ncaa.org](http://www.ncaa.org)

Dear Chairman Thomas:

Thank you for the opportunity to respond to your questions regarding how intercollegiate athletics furthers the educational, tax-exempt purpose of the NCAA and higher education. We have responded to your questions as completely as possible. In a few instances, we do not have certain data you requested, nor do we know of any group or agency that has the data. Occasionally, we have offered an undocumented estimate, but we have clearly labeled it as such. We have also attached to this letter, as Appendix A, a discussion that examines the tax law basis for the tax-exempt status of intercollegiate athletics under section 501(c)(3) of the Internal Revenue Code of 1986.

Before turning to the specific questions, I would like to offer a few general thoughts about the relationship of intercollegiate athletics to higher education and to inform you about certain initiatives underway to strengthen that relationship.

The linking of athletics with education is a uniquely American experience. No other country binds the two the way it is done at the scholastic and collegiate levels in this country. The relationship is both real and visceral. The passion that athletics can generate within a population, the loyalty of fans to specific teams, and the feelings of reconnection between alma mater and her alumni have all made college sports popular at every level and phenomenally popular at some levels. Athletics has also been the ticket for many student-athletes to attend college. Divisions I and II intercollegiate sports provide \$1.5 billion annually in athletics scholarships to help pay the cost of education – including for many low-income students who would otherwise have to forgo the college experience. The range and scale of intercollegiate athletics in America are as diverse as higher education itself. Often, the scale alone distorts perceptions about the purpose for which athletics are conducted by those who observe it, as well as – occasionally – those who are engaged in the enterprise.

As a university president for nearly 15 years and an academician for more than 40, I have observed, set policy for or provided leadership to intercollegiate athletics at a number of universities. I can attest with unqualified conviction that college sports makes a significant contribution to the university experience for all

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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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students and provides educational value to those specific students who participate. Today, more than 380,000 male and female student-athletes participate in as many as three dozen sports at many levels of competition at more than a thousand colleges and universities. Athletics can and does add to the knowledge and skills that develop young people into productive citizens in a wide range of careers beyond sports. Very few student-athletes become professional athletes. Many more become doctors, lawyers, engineers, teachers or even Members of Congress.

Intercollegiate athletics, of course, is not perfect. Like higher education generally, it requires careful management and persistent leadership. Fifteen years ago, the Knight Foundation Commission on Intercollegiate Athletics called for greater presidential control of college sports and recommended a certification process, similar to institutional accreditation that higher education has undergone for decades, that would provide periodic institutional scrutiny and peer review to ensure that program implementation is aligned with academic mission. Since the early 1990s, every Division I university has been through the certification process twice and some have undergone additional institutional self-studies. Further, the Association's governance structure has been reformed to ensure presidential control.

In the mid-1980s, the NCAA began collecting data on the academic performance of student-athletes. The question before the Association was simple enough: Were student-athletes achieving academically as well as their counterparts in the general student population? Clearly, some were not. On average, student-athletes in Division I trailed the rest of the student body in graduation rates. A series of initiatives were undertaken to correct the problem, and the results brought hope. Graduation rates rose and by the early 1990s surpassed the rate for students in general.<sup>1</sup>

The NCAA has developed a comprehensive national database on college student academic performance, beginning in the 1990s. The NCAA also provided analysis of the data that led to a three-pronged academic reform initiative two years ago that has and will significantly improve the academic success of student-athletes. (1) The requirements for high school academic preparation for incoming freshmen to participate in athletics have increased dramatically. The academic requirements for enrolled student-athletes to continue athletics participation have increased so that they are on track to graduate in five years rather than the six-year window anticipated by the U.S. Department of Education. (2) New metrics have been developed that measure progress year-by-year and provide more accurate graduation information. (3) Sanctions have been put in place by the NCAA that will penalize poor academic performance by a particular team.

Using the Graduation Success Rate (GSR), a new metric that counts transfer students (as well as students whose education takes place at only one institution) who both succeed and fail academi-

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<sup>1</sup> Note: According to NCAA data collected using the methods of the Integrated Postsecondary Education Data System (IPEDS) graduation rate survey, student-athletes who entered in 1984 graduated at a rate of 52 percent, one percentage point below the rate for the general student body. By 1992, the graduation rate for student-athletes, according to IPEDS, was 58 percent, two points above the rate for the general student body.

cally, the latest average graduation rate for student-athletes in Division I is 77 percent. There is no way to compare this figure to the federal rate, because the U.S. Department of Education does not track transfer students. However, even if the more inaccurate federal rates are used, student-athletes in Division I graduate at 63 percent, two points better than the general student population. Of note, African-American male student-athletes graduate 11 percentage points higher than African-American males in the student body, and African-American female student-athletes graduate at a rate 16 points higher than their counterparts in the general student population. Clearly, the reform measures of the last 15 years are working. [Note: A complete description of the academic reform initiative is also attached to this letter as Appendix B.]

Two weeks ago, we released the report of the NCAA Presidential Task Force on the Future of Division I Intercollegiate Athletics. The result of an 18-month examination by 50 college chancellors and presidents, the report, entitled *The Second-Century Imperatives: Presidential Leadership~Institutional Accountability*, challenges the Association's member colleges and universities to assume greater control of the financial underpinnings of athletics on a campus-by-campus basis. The Task Force developed improved and more transparent financial reporting procedures and created a number of "dashboard indicators" that will assist chancellors and presidents in achieving greater accountability. There is no crisis in athletics finances. Operating budgets for athletics represent a small percentage of overall higher education spending, 3.5 to 4<sup>2</sup> percent on average. The purpose of the Task Force initiative is to provide tools and recommend practices that will diminish the potential for financial stress and provide access to information that leads to better decision-making.

Your letter, Chairman Thomas, comes at an opportune time. Over the last 15 years, the NCAA and intercollegiate athletics have undergone careful self-study and implemented initiatives that will ensure intercollegiate athletics' continued purpose of educating student-athletes in a responsible way.

The following are responses to the questions you have posed:

### **Questions Relating to the NCAA's Educational Mission**

1. The annual return filed by the NCAA with the Internal Revenue Service states that the primary tax-exempt purpose of the NCAA is to "maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body." How does the NCAA accomplish its purpose of maintaining "the athlete as an integral part of the student body"?

The purpose of higher education is to develop the knowledge and skills in students so that they become productive members of society and good citizens. Much of that is done in the

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<sup>2</sup> Litan, Bob, and Orszag, Jon and Peter, "*The Empirical Effects of Collegiate Athletics*," 2003.

classroom, lecture hall and library; but not all of it. Higher education also imparts knowledge and skills in various other ways. Participation in a symphony orchestra, working on student newspapers and participation in theater productions are all examples of ways in which students go beyond the classroom to develop educational skills that will serve them throughout their lives in the same way as traditional classroom learning. Development of these skills is integral to the educational experience students take with them from the campus.

Participation in varsity athletics programs is another key way in which young men and women enrich their educational experience beyond the classroom. What they learn on the playing field or court is integral to their educational experience as well. Lessons on leadership and how to follow, on self-discipline and self-sacrifice, on teamwork and hard work, and learning to pursue excellence are all values imparted through participation in athletics. Although the vast majority of the more than 380,000 student-athletes who compete in college sports each year go “pro” in something other than sports, the words of Indianapolis Colts quarterback Peyton Manning are particularly appropriate. The former University of Tennessee, Knoxville, football Academic All-America was honored in 1998, at the NCAA Convention as one of Today’s Top VIII student-athletes, and in his response to the assembled delegates, he talked about being a student-athlete:

“It is popular today to ask if big-time college sports are even compatible with higher education.

“The critics ask if athletics are consistent with the educational missions of colleges and universities. Frankly, those people see the walls that limit us without seeing the spaces that allow us to expand. The reality is that collegiate sports have a lot more to do with learning than they do with winning.

“As student-athletes, we learn more than most people...the blessings of...camaraderie and shared sacrifice, collective responsibility and commitment to excellence, and time management and life management. It would have been easy to have been a football player and not a student, and conversely, it would be much easier to have been just a student and left football for some other day in time.

“But it wouldn’t have been as joyous, as rich or, quite candidly, as humbling to have been one without the other. I would bet you that each and every one of tonight’s honorees would say without hesitation that he or she is a better man or woman and a better leader because of those experiences.”

Mr. Manning’s comments on his and other student-athletes’ experiences as participants in intercollegiate athletics – as candid and unrehearsed as they were within their context – are

consistent with the tax law in this area that recognizes the educational value of athletics competition at the college and university level.<sup>3</sup>

Peter Likins, president emeritus of the University of Arizona, a former professor of engineering, and a Fellow of the American Institute of Aeronautics and Astronautics, is more succinct but no less eloquent or to the point in his comments about the educational value of being a collegiate wrestler at Stanford University: “As a university president and former professor of engineering, I have often said that I learned how to be a professor in the classroom, but I learned how to be a university president on the wrestling mat.”

2. The annual return also states that one of the NCAA’s purposes is to “retain a clear line of demarcation between intercollegiate athletics and professional sports.” Corporate sponsorships, multimillion dollar television deals, highly paid coaches with no academic duties, and the dedication of inordinate amounts of time by athletes to training lead many to believe that major college football and men’s basketball more closely resemble professional sports than amateur sports. The NCAA has no control over two of the differences between professional and amateur sports: the level of play and the tax exemption for college athletics revenue. Beyond rules prohibiting compensation for college athletes, what actions has the NCAA taken to “retain a clear line of demarcation” between major college sports and professional sports?

There are clear distinctions between the collegiate and professional models of athletics. Professional sports’ sole purposes are to entertain the public and make a profit for team owners. The purpose of the collegiate model is to enhance the educational development of student-athletes. Those who participate in professional athletics are employees, a commodity to be traded from team to team, often with little or no input from the participant. Those who participate in college sports are students and are not employed to play sports, nor are they traded from school to school. The teams in professional sports are aligned with a community only so long as the community provides facilities and support to keep the teams with them. The teams in collegiate sports are embedded within the college or university that sponsors the teams and cannot leave if they are not satisfied with the facilities or levels of support.

These points of difference are critical to the demarcation between college and professional sports beyond the amateur status of student-athletes. While intercollegiate athletics is very entertaining, entertainment is not the primary purpose of the enterprise. While football and men’s basketball at the Division I levels are enormously popular with the public and attractive to the entertainment media, they are as distinct from their professional counterparts as student musical groups are from professional symphonies. They are demarcated by their purpose and motivation rather than their scale of public or media fiscal support.

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<sup>3</sup> See Appendix A.

It is also incorrect to assume that the popularity of Division I football and men's basketball sets them apart from other sports on campus in terms of time and commitment for the student-athletes or from other divisions. Student-athletes and their coaches are extremely committed individuals regardless of their sport or the division in which they play. Coaches, themselves, are as committed to teaching the development skills learned through sports participation as faculty members are to importing academic knowledge. There are no differences in the expectations for practice or competition among the sports. Indeed, football student-athletes generally have less missed class time than any others on campus because they have only one game each week, at least half of which are at home. The most important point, again, is that all of the participants are students.

In addition, there are a series of rules designed by the member schools themselves that are intended to provide limits that support the mission of educating student-athletes. These rules include grant-in-aid limits, season limits, in-season and out-of-season practice limits, safety requirements, and academic-eligibility requirements for initial and continuing participation.

3. Some representatives from college athletic organizations have justified the tax-exempt status of college sports based on claims that high-visibility programs help sustain a large pool of student applicants and generous financial contributions. Neither of these arguments is valid from a Federal standpoint. Federal taxpayers have no interest in increasing applicant pools at one school opposed to another. Furthermore, if financial contributions to universities increase based on athletic success, contributions to other worthy charities may decline.

Before responding to your specific questions, we would like to point out the far-reaching implications of the statements made in the introduction to these questions. First, while federal taxpayers, in the abstract, may have no interest in increasing applicant pools at one school as opposed to another, individual taxpayers surely do. Presumably, this is one of the reasons that taxpayers, including many Members of Congress, support and contribute to their alma maters and to their local schools – to help the schools improve the quality and, in some cases, the quantity of their student bodies; to improve their physical plants; and for other purposes. Further, schools attempt to increase their visibility in many ways – by building new classrooms, libraries and performing arts centers; by recruiting renowned academicians and researchers; by adding timely subjects to their curriculums; and even by advertising. Of course, this activity is not limited to schools. Many nonprofits engage in activities designed to increase membership, visitors and revenues. Symphony orchestras schedule “old warhorses” that attract more patrons, visibility and contributions than less-“accessible” works. Similarly, art museums schedule “blockbuster” shows of popular artists or artistic movements designed to draw crowds, raise visibility and, again, to encourage membership and contributions. Many charitable organizations advertise in one form or another – on television, on radio, in the print media and by direct mail.

- a. From the standpoint of a Federal taxpayer, what benefits does the NCAA provide taxpayers in exchange for its exemption?

Those who represent the federal taxpayer, Members of Congress, have long recognized the educational value of athletics competition at the college or university level, and that income derived from intercollegiate athletics competition is substantially related to the educational functions of colleges and universities. In the Revenue Act of 1950, both the House and Senate agreed on this point. The Senate Report noted, "Athletic activities of schools are substantially related to their educational functions. For example, a university would not be taxable on income derived from a basketball tournament sponsored by it, even where the teams were composed of students of other schools." The House Report states, "Of course, income of an educational organization from charges for admissions to football games would not be deemed to be income from an unrelated business, since its athletic activities are substantially related to its educational program."<sup>4</sup>

More recently, the U.S. Supreme Court recognized the importance of the regulatory role of the NCAA in preserving amateurism in college sports. In *NCAA v. Board of Regents of the University of Oklahoma* 468 U.S. 85 (1984), the Supreme Court said:

"The NCAA plays a critical role in the maintenance of a revered tradition of amateurism in college sports. There can be no question but that it needs ample latitude to play that role, or that the preservation of the student-athlete in higher education adds richness and diversity to intercollegiate athletics and is entirely consistent with the goals of the Sherman Act."

Specifically, federal taxpayers through their representatives have recognized the educational value of athletics as a benefit to them and the regulatory role of the NCAA as important to the maintenance of that benefit.

- b. From the standpoint of a Federal taxpayer, why should the Federal government subsidize the athletic activities of educational institutions when that subsidy is being used to help pay for escalating coaches' salaries, costly chartered travel, and state-of-the-art athletic facilities?

It should be pointed out that colleges and universities apply the "tax subsidy" to offer a broad range of athletics participation opportunities for hundreds of thousands of young men and women at more than a thousand institutions.

Without trying to address every instance, coaches' compensation packages, especially those with seven-figure packages, include institutional salaries commensurate with other

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<sup>4</sup> See Appendix A.

highly paid and highly recruited faculty and staff. The salaries are negotiated at arm's length and are within the range of reasonable compensation as defined for federal tax purposes. Coaches also earn outside income from television programs, shoe and apparel endorsements, speaking engagements, and teaching camps. The majority of the total income of these highly compensated coaches does not come from an institution's tax-exempt dollars. This is exactly the same method that colleges and universities use to compete for top academicians in selected disciplines. The majority of their compensation packages, which in some cases exceed seven figures, is derived from income outside of the institution. In all cases, the institutions strive to maintain compensation at a level that is reasonable as that term is used for federal income tax purposes.<sup>5</sup>

Travel for athletics teams is a relatively modest portion of athletics operational budgets, on average around seven percent. Travel for teams is often made less expensive by chartering rather than using commercial flights and typically gets student-athletes back to the campus and in class sooner. Additionally, the size of the squad and staff makes the use of commercial air travel often impractical and frequently impossible.

Athletics facilities, state-of-the-art or otherwise, are necessary for the support of the activity for which there is a tax exemption. These facilities, often paid for through bonds or charitable contributions, also generate revenue that offsets the operational cost of athletics that might otherwise be provided through institutional funds.

4. Officials from the NCAA, athletic conferences, and universities have explained that college football and basketball should be tax-exempt because some universities generate a profit from these sports that is used for other university-sponsored sports. To be tax-exempt, however, the activity itself must contribute to the accomplishment of the university's educational purpose (other than through the production of income). How does playing major college football or men's basketball in a highly commercialized, profit-seeking, entertainment environment further the educational purpose of your member institutions?

The fact that some intercollegiate athletics programs at some schools generate revenues in excess of expenses is not inconsistent with the fact that such programs contribute to the schools' overall educational programs. The modern comprehensive university and, indeed, American higher education would not exist without the ability of some disciplines and activities to generate income that helps pay for other disciplines and activities. Not all disciplines and activities are in equal demand or enjoy the same appeal. Athletics and a few other activities are more interesting – and entertaining – to the general public and media than others. The ability of some to generate revenue is not insignificant to the rest of the campus. Higher education takes in revenue from all its sources and then redistributes those resources to meet its mission. For example, revenue from Psychology 101 classes (because of their

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<sup>5</sup> See Appendix A.

number and size) typically generates more revenue and, in effect, subsidizes philosophy classes, which cannot draw enough students to pay for themselves. This is the business model for higher education (and for other types of tax-exempt organizations), and intercollegiate athletics works the same way. Revenue from football and men's basketball is redistributed to pay for sports that generate little or no revenue.

Nonetheless, all of these activities have educational value. The scale of their popularity and the revenues they generate do not diminish the importance of their educational value. The lessons learned on the football field or men's basketball court are no less in value or importance to those student-athletes than the ones learned on the hockey rink or softball diamond – nor, for that matter, than those learned in theater, dance, music, journalism or other non-classroom environments. Indeed, if institutions could generate new revenue streams from the televising of large lectures or small seminar discussions and use the revenues to offset the cost of other classroom programs, they would be permitted and should do so.

The fundamental purpose of intercollegiate athletics is the education of student-athletes in both the classroom and on the field or court. The scale of the sport does not alter the fundamental purpose. And the most successful programs in terms of generating revenue share the same educational goals with the least successful. Unlike other campus activities of educational value, the visibility of athletics models developmental characteristics of sports to non-athletes, as well.

5. Educational institutions in other NCAA divisions spend a fraction of the amount Division I-A schools spend on their football and men's basketball programs. These higher expenditures are ostensibly for educational purposes. What additional educational value is received by participation in Division I-A athletics beyond that which is received by participation in other division or intramural athletics? If additional educational value is derived from participation in Division I-A athletics, does the additional educational value justify the higher expenditures?

Generally speaking, educational institutions in other NCAA divisions spend a fraction of the amount Division I-A schools spend on any of their other educational programs. For example, the budget for the mathematics department, as well as the athletics department, at Ohio State University is larger than the budget for the mathematics department, or athletics, at Defiance College in Ohio. Even though each institution has invested to a considerably different level, both are providing a quality educational experience and meeting the expectations of their students. In fact, because of higher amounts of outside revenue to support athletics at Ohio State, the athletics budget at Defiance – or any other Division II or III institution – is considerably higher as a percentage of institutional resources than at Division I schools.

Is the difference in the educational experience of students at a large public university quantitatively better than at a small private college? It may or may not be, but we generally

don't try to make that quantitative differentiation. We understand that there are different approaches for a variety of reasons and to accommodate a diversity of circumstances. A more robust athletics program is often identified as one of the advantages of attending a larger school.

The range and cost of programs – in athletics as well as in academics – are largely responsive to expectations of students, parents, alumni and others, as well as the financial circumstances of each institution and are difficult to quantify. Nonetheless, all NCAA member institutions conduct their athletics programs consistent with the academic missions of their respective campuses.

6. According to studies, incoming athletes at many universities have lower average SAT scores and high school grades than those of the general student body. Do the minimum initial eligibility standards currently in place adequately ensure that high school athletes can succeed academically at universities?

As noted earlier, the NCAA has collected and analyzed data for the last 20 years to observe the behavior of hundreds of thousands of successful student-athletes and modeled our standards on that behavior. Any studies that assume student-athletes enter Division I colleges and universities less well prepared than non-student-athletes are either out of date or erroneous. Data from 2004 entering freshmen, the latest available information, show that Division I scholarship student-athletes averaged a score of 1096 on the SAT. This is higher than the national average of 1026 for all college-bound test takers. Similarly, the athletes averaged a core grade point average (GPA) of 3.400, which exceeds the national average GPA of 3.280 reported by the College Board for all students.

7. In order for a high school student to become eligible to compete in intercollegiate athletics, the NCAA requires high school athletes to take a core curriculum of academic courses and earn a minimum grade-point average while in high school. Why does the NCAA not have similar requirements for athletes during their collegiate careers?

The NCAA does have minimum academic performance requirements for student-athletes during their college careers. Enrolled student-athletes must meet progress-toward-degree requirements on a term-by-term basis in order to maintain academic eligibility to compete in athletics. Under these requirements, each student-athlete must make specific, measurable progress (at least 20 percent per year) toward a declared degree at the institution in which he or she is enrolled. In addition, each student-athlete must annually acquire a predetermined percentage of the cumulative GPA toward graduation. These standards serve as a proxy for the “core curriculum” approach used for high school athletes.

8. In recent years, there have been many reports of athletes taking college courses that lack academic rigor. Several schools have reportedly steered athletes toward professors and academic majors that are less challenging.
- a. What actions has the NCAA taken to assess the substance of the courses athletes are taking and, more generally, the quality of the education athletes receive?

The NCAA is in the process of collecting survey data in two projects with both recently graduated student-athletes and those who have graduated over the last decade about what degrees they selected, why those degrees were selected and whether they were steered toward specific degree programs. Those data have not been fully compiled and will not be available until the spring of 2007.

It is important, however, to understand that the faculty of each college or university, rather than the NCAA, determines the courses that will be taught, the standards for instruction and the requirements for degrees. They are also responsible for monitoring against academic abuse or fraud, and they take these responsibilities seriously. It is unlikely that any intrusion by the NCAA into this realm would be either practical, successful or welcomed.

- b. Does the NCAA collect information from its member institutions to determine whether athletes are disproportionately taking certain professors, courses, or academic majors at individual schools?

Although the results are not available at the time of this writing, the NCAA is collecting data on the majors of student-athletes through our Academic Performance Program.

- c. Would requiring the public disclosure of the professors, courses, and academic majors of athletes help ensure that they receive a quality education?

Privacy provisions of the Family Education Right to Privacy Act (FERPA)<sup>6</sup> would prohibit such public disclosure, and it is not clear that such public disclosure would, in fact, ensure a better quality education. Likewise, if more student-athletes major in a specific discipline, it does not follow that such students receive an education of less quality or are subject to less rigorous academic standards, much less that there is academic fraud. As noted earlier in this letter, the standards for instruction and the integrity of academic offerings are the purview of the faculty and their responsibility, rather than the NCAA. Moreover, it would be contrary to the freedom of choice accorded all students to require that student-athletes take certain majors and not others.

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<sup>6</sup> Note: FERPA allows schools to release academic majors as directory information without the consent of the student. Only if the student affirmatively requests this information not be shared is the institution prohibited from giving it out.

9. At Division I-A schools, only 55 percent of football players and 38 percent of basketball players graduate - compared to 64 percent of the general student body. These figures understate the gap between the graduation rates of the general student body and athletes, since many regular students fail to graduate for financial reasons, which is not an issue for athletes on full scholarships.

a. Are the NCAA's member institutions accepting athletes who would not otherwise be admitted but for their athletic prowess?

It must be emphasized that "special admissions" are not limited to student-athletes. Most colleges and universities offer special admissions opportunities to a variety of students who have not met the academic standards generally applied to the student body. These special admissions are used to admit a small number of students, often low income non-athlete students with promise from disadvantaged educational environments. Special admission standards are also applied to admit some students with talents that offset their academic shortcomings; e.g., musicians, artists, dance and drama majors, and athletes. We do not know the exact numbers nor how many institutions offer such special admissions opportunities.

b. For twenty years, the Federal graduation rate for male basketball players has remained basically unchanged at about 40 percent. Why has the NCAA made no progress in ensuring that athletes who play on the court also graduate from the schools for which they are playing?

Male basketball student-athletes in Division I who entered universities in 1984 – the first year the Department of Education began requiring the collection of graduation data – graduated at a rate of 38 percent. The most recent data (for the cohort entering in 1999) show male basketball student-athletes in Division I graduating at a rate of 46 percent. Over the last two years, the NCAA has also collected data on transfer student-athletes who are not included in the federal rate (nearly 30,000 annually). Based on those data, the more accurate graduation rate for Division I male basketball student-athletes is 59 percent. The NCAA believes that when male basketball student-athletes who entered under the current and more rigorous academic standards graduate, the rates will be significantly higher. Nonetheless, graduation rates for male basketball and football student-athletes continue to be of concern and the focus of NCAA-led academic reform efforts.

c. The defending Division I-A national champion in football graduated 29 percent of its players compared to 74 percent of the university's student body for the class entering in 1998. Similar large differences in graduation rates exist at other colleges and universities. Considering this gap, how well is the NCAA accomplishing its tax-exempt purpose of maintaining "the athlete as an integral part of the student body"?

On average, Division I-A football student-athletes graduate at a federal rate of 55 percent, compared to 62 percent for the male student body. The more accurate Graduation Success Rate that includes transfers is 66 percent. Over the next few years as the new standards and sanctions take place<sup>7</sup>, teams in any sport must have a projected graduation rate of 60 percent or better or will not be permitted to compete in postseason championships. It is frustrating that there continue to be instances of low graduation rates for any teams, but progress on average is clearly being made and more will be.

- d. To improve the graduation rates of athletes, has the NCAA considered adopting a rule tying the number of grants-in-aid that can be awarded to a member institution's graduation rates?

Rather than tying grants-in-aid only to graduation rates that measure the academic success of student-athletes who enrolled six years earlier and are gone by the time we know the rates, the sanctions in fact in place tie grants-in-aid to year-by-year academic (not athletics) success of student-athletes. This standard is designed to achieve, at a minimum, a 60 percent graduation rate for all students in a specific sport.

10. The NCAA recently created the Academic Progress Rate to measure the cumulative progress made by athletic teams towards a degree. Based on the new measure, the NCAA will take away scholarships from teams that do not meet a threshold that is equivalent to a 50-percent graduation rate, which is an extremely low standard.

- a. Why is a team penalized only when more than half of its players fail to graduate?

There are two very important points to consider: (1) Penalties (and rewards) are tied to the performance of currently enrolled student-athletes – Academic Progress Rate (APR) – rather than those who did or did not graduate; and (2) the more accurate Graduation Success Rate (GSR), which includes transfer student-athletes, is 60 percent where penalties are applied. The goal of the NCAA academic reform initiatives is to change behavior and improve academic performance, with a target of 80 percent GSR on average for all Division I student-athletes. We are clearly making progress overall (77 percent is the current rate) and with each individual sport.

- b. Should athletes who are not advancing toward a degree be eligible to participate in college sports?

No, and they are not. Here are the specific requirements to remain eligible for athletics participation: (1) Student-athletes must successfully complete 24 hours of course work in

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<sup>7</sup> For fuller explanation, see Appendix B.

their first year to remain eligible; (2) student-athletes must achieve 40 percent of a specific degree requirement by the end of their second year, 60 percent by the end of their third year and 80 percent by the end of their fourth year (the average time required to earn a degree in higher education for all students currently is nearly five years); (3) student-athletes must achieve 90 percent of the cumulative grade point average required for graduation by the end of the first year, 95 percent by the end of the second year and 100 percent by the end of the third and fourth years; and (4) student-athletes must earn 18 semester or 27 quarter hours during the regular academic year, not including summer. If student-athletes do not meet these standards that move them toward a specific degree, they cannot compete.

These standards are based on data that show that student-athletes who satisfy these requirements are likely to graduate.

11. During the last few decades, the NCAA has increased the maximum number of football and men's basketball games that each member institution can play. This year, the NCAA changed the rules to allow schools to play an additional, twelfth football game. Also this year, the NCAA approved an increase in the maximum number of basketball games teams can play in a season and lengthened the season by one week. Including preseason and postseason tournaments, basketball teams can now play more than forty games in a season.
- a. Why did the NCAA make these rule changes?
  - b. How do these rule changes further the educational mission of the NCAA and your member institutions?
  - c. How do these proposals help athletes improve academic performance?
  - d. At what point does playing additional games have a detrimental impact on academic performance?

These are all fair and important questions to ask, and they are the same questions the NCAA membership must ask itself as it addresses issues around playing and practice seasons. It may be helpful to respond to these questions as a group rather than individually.

NCAA member colleges and universities clearly believe there is educational value to having athletics as part of the comprehensive campus experience. Previous responses address this belief specifically. As discussed in Appendix A, the Congress, the courts and the Internal Revenue Service also share this belief. Athletics contests are the laboratory for lessons taught in practice in the same way theatrical or musical performances provide practical application of the lessons taught in rehearsals. Since graduation rates and academic performance have continued to make steady progress over the last

two decades, there is little reason to believe that the current length of practice and playing seasons is detrimental to academic performance. In fact, graduation rates for both football and male basketball student-athletes have steadily risen over the last five years as the number of contests increased.

It is also true that the increase in the number of contests in football and men's basketball will grow revenue that helps support a broad range of sports that might not otherwise exist. Athletics, like every other department on campus, cannot operate without sufficient revenues to meet expectations. Increasing revenue, however, is not the only reason. Some but not all teams were already playing 12 games in football. Permitting a 12<sup>th</sup> game for all teams was more fair. The stabilization of games in basketball eliminated similar unfair practices in that sport.

The length of practice and playing seasons, however, will continue to be a carefully monitored subject for the leadership of intercollegiate athletics, and it was identified by the Presidential Task Force, noted earlier in this letter, as an issue for further review.

12. In 1973, the NCAA adopted a rule prohibiting financial aid from being awarded to an athlete for more than one academic year. This rule allows schools and coaches to withdraw financial assistance from athletes who do not perform well on the field, which may overemphasize athletics at the expense of academics.

a. Why did the NCAA adopt this rule?

The change was made to bring grants-in-aid for athletics in line with the way in which other financial aid is awarded or renewed. Most merit-based financial aid on campus – as well as many government-approved financial aid awards – have criteria for renewal and is awarded on a year-by-year basis. As is the case with other forms of institutional aid, the renewal is made by the financial aid office, rather than coaches. However, in the case of athletics when renewal is not approved, student-athletes are notified of their right to a hearing by an impartial committee independent of the athletics department.

b. How does this rule further the educational mission of the NCAA and your member institutions?

The term of athletically related financial aid continues to be a subject for discussion by various committees and at numerous levels within the Association's governance structure. The awarding of financial aid for athletics exactly mirrors the objective of financial aid awarded for other purposes within higher education, namely, to support the academic pursuits of student-athletes. Criteria for annual awarding of financial aid in other disciplines, from physics and philosophy to music and theater, are similarly merit

based. This is another instance in which intercollegiate athletics is fully integrated into the practices of higher education as a whole.

### **Questions Relating to NCAA Finances**

[Note: The source of financial data provided below is from institutional data provided to the NCAA by its member institutions. The institutional data have been reviewed by an independent third party in accordance with NCAA requirements.]

1. How much total revenue does college sports generate each year? How much do your member institutions spend each year on college sports?

Total annual operating revenues for all NCAA divisions are approximately \$7.8 billion. Of this amount, \$4.2 billion is generated from athletics sources such as ticket revenues, contributions and the like. The remaining \$3.6 billion are funds allocated by the institution, state or other governmental entities for the benefit of student-athletes.

Total annual operating expenses for all three divisions are approximately \$7.75 billion. Approximately \$1.5 billion of these dollars provide athletically related financial aid for Divisions I and II student-athletes. The average annual cost per student-athlete for the 380,000 who compete in all three divisions is approximately \$20,000.

Without the support of institutionally allocated funds to close the gap between athletics-generated revenue and total expenses, intercollegiate sports operates at an annual shortfall of approximately \$3.6 billion.

2. For Division I-A football programs, please provide the following information for the most recent year for which you have statistics:

- a. Total annual revenue;

In the 2004-05 academic year, the total operating revenue for the 117 Division I-A football programs was approximately \$1.6 billion, an average of \$14.1 million per institution. This includes monies generated by the athletics program as well as monies allocated by the university or other entities for athletics purposes.

- b. Largest amount of revenue generated by one school;

The largest amount of operating revenue reported by a Division I-A football program is \$53 million. The median operating revenue for Division I-A football programs is \$10 million.

c. Total annual expenditures; and,

Total annual operating expenditures for 2004-05 by Division I-A football programs were approximately \$1 billion, an average of \$8.7 million per institution.

d. Largest annual expenditure by one school.

The largest amount of annual operating expenditure by a Division I-A football program is \$26 million. The median operating expense amount for Division I-A programs is \$7.6 million.

Approximately 53 percent of Division I-A institutions reported operating revenues in excess of operating expenditures for football when allocated university funds are removed. These excess revenues are redistributed to support other sports programs that do not generate revenues sufficient to cover expenses in the same way revenues from some academic disciplines and services are redistributed to subsidize other academic programs and services that have insufficient revenues to meet expenses.

3. For Division I basketball programs, please provide the following information for the most recent year for which you have statistics:

a. Total annual revenue;

In the 2004-05 academic year, the 326 Division I men's basketball programs reported total operating revenues of approximately \$789 million, an average of \$2.42 million per institution. As in the case of football, this includes monies generated by the athletics program, as well as allocated funds from the university or other entities.

b. Largest amount of revenue generated by one school;

The largest reported amount of operating revenue reported by one school was \$18.5 million per institution. The median amount of operating revenue for Division I programs is \$1.1 million.

c. Total annual expenditures; and,

Total annual operating expenditures for the same reporting period were \$571 million, an average of \$1.75 million.

d. Largest annual expenditure by one school.

The single highest reported basketball program operating expenditure was \$9 million. The median amount of operating expenses for Division I programs is \$1.2 million.

Like football, only about 28 percent of all Division I basketball programs reported revenues in excess of expenses when university allocated funds are removed. Excess revenue from basketball is used to assist other, non-revenue sports including financial aid.

4. How many of your member institutions generate a net profit on the operations of their athletic departments (excluding university subsidies such as student fees or general school funds and services)? Of the institutions that generate a net profit, how many use the profit for purposes unrelated to the athletic department?

Intercollegiate athletics is not offered to generate a profit. That is the fundamental difference in purpose between intercollegiate athletics and professional sports. If profitability were the standard for college sports, only 23 Division I institutions (based on data reported for the 2004-05 academic year) would conduct athletics programs. Furthermore, if profit were the motive, even those 23 (of more than 1,000 member institutions) would likely only conduct football and men's basketball programs.

The data that identify these two dozen institutions with positive net revenues do so without accounting for depreciation. Under generally accepted accounting principles, however, depreciation of athletics facilities should be deducted to determine a true profit. While we do not have data to know the exact number that would still report net revenues if depreciation were included, we estimate it would be fewer than 10 institutions of more than 1,000 member colleges and universities.

5. At Division I-A schools, what is the average annual expense (including the cost of grants-in-aid):

- a. Per athlete?
- b. Per football player?
- c. Per men's basketball player?
- d. Per women's basketball player?

The cost of education for a student-athlete vary from sport to sport and institution to institution much in the same way they do for students in general. For example, the costs

for educating engineering or nursing students are substantially more than for educating students majoring in English or history. The costs associated with an athletics program are dependent on the specific sport and its related costs for equipment, facility needs or staffing, for example.

With that as background, the average expense for a Division I student-athlete is approximately \$39,000. Expenses for Division I-A football participation amount to approximately \$74,000 per student-athlete, while Division I (there is no Division I-A category) men's and women's basketball amount to approximately \$158,000 and \$75,000, respectively.

6. According to NCAA expenditure reports, public universities spent as much as \$600,000 per men's basketball player during the 2004-05 school year.
  - a. How does spending hundreds of thousands of dollars on each men's basketball player further the educational mission of universities?
  - b. How much money must be spent by athletic departments to ensure that athletes receive an educational benefit from the activity?

There is no unit-cost standard for providing a quality educational experience in higher education. The methodology used in the question to calculate the cost per student is significantly misleading because there is a failure to distinguish between fixed and variable costs. Institutions assume these fixed costs as a part of running any of their various programs, including intercollegiate athletics. To use such expenses in calculating a unit cost as exaggerated as the one cited in the question, it must be noted, distorts the facts. For example, according to data reported by the U.S. Department of Education for 2003-04, the average cost per student for education at the top five expensive schools in the country in 2003 was \$462,000. This figure, however, includes a number of variables that balloon the unit cost.

The same is true in athletics. The average cost per male basketball player in Division I is \$158,000; and, like in the case of academic departments, there are fixed and variable expenses that distort the unit cost. Are the figures in either academic or athletics appropriate amounts to spend to further the educational mission of either? Could these institutions meet their mission for less? The answer to both questions might be 'yes.' Each institution, however, will determine the level of excellence it will pursue in accordance with the expectations of those who choose their programs, taking into account the institution's available resources.

The scale of cost per student in academics is not the best determinant for whether educational mission is being met.

7. According to NCAA data, athletic department budgets are growing several times faster than the university budgets of your member institutions. In addition, athletic department expenses are increasing at a higher rate than athletic department revenues.
  - a. Why are athletic department budgets increasing faster than university budgets?
  - b. Why are athletic departments spending money at an increasing rate?
  - c. How does spending even more money on Division I-A football and men's basketball further the educational mission of universities?
  - d. What actions can the NCAA take to control rising spending?

Although it is true that total athletics spending has outpaced the rate of increases in university spending over the last four years, athletics spending has not exceeded athletics revenues. Over the last two decades, revenues have dramatically increased as a result of rising ticket revenues, demand for radio and television broadcasts (partly due to changes in technology; e.g., cable and satellite television) and related income streams. Costs have also risen significantly and have been led by increases in scholarship costs, additional personnel for compliance purposes, increased interest among students for participation opportunities, new training personnel to ensure better health and safety of student-athletes, rising travel and insurance costs and increased salaries. Many, but not all, of these factors are outside the control of the athletics department.

The ability of the NCAA to influence spending is limited. One court has found that the NCAA's attempt to cap certain costs (compensation of assistant coaches) violates the antitrust laws.<sup>8</sup> At the end of October, the NCAA unveiled a report from the NCAA Presidential Task Force on the Future of Division I Intercollegiate Athletics, entitled *The Second-Century Imperatives: Presidential Leadership~Institutional Accountability*. The focus of the 18-month task force initiative was the need to address fiscal responsibility in intercollegiate athletics on a campus-by-campus basis. To assist in this effort, the NCAA, with the help of the National Association of College and University Business Officers, has developed more consistent and clear definitions for reporting of financial data and requires an independent, third-party review of the data prior to submission. These data will be made available to presidents, along with aggregate peer group data, to assist universities in examining their spending behaviors and to improve campus decision-making. Also included in the reports will be new metrics that will alert presidents to areas in which their spending history may indicate abnormalities or risk. Moreover, these aggregate data, by category, will be made transparent to the public.

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<sup>8</sup> *Law v. NCAA*, 902 F. Supp. 1394 (D.Kan.) (1995)

8. The NCAA has entered into an agreement with CBS to televise the men's basketball tournament. According to the terms of the agreement, CBS will pay the NCAA an average of \$545 million per year in tax-free money. The president of CBS Sports was quoted as saying, "There is no more important event at CBS, not just CBS Sports, than the men's basketball championship."
  - a. How does the transformation of the NCAA men's basketball championship into commercialized entertainment further the educational purpose of the NCAA and its member institutions?
  - b. The NCAA receives 85 percent of its revenues from the sale of television rights. What is the influence of television networks on the NCAA's decisions? Please include a description of the influence television networks have on the scheduling of games and on the maximum number of games allowed to be played in a season.

The fact that television networks are interested in purchasing the rights to telecast college events is the result of the popularity of these events to American taxpayers. Television networks purchase the rights to meet a demand, and pay for the purchase with their own sale of advertising time on the telecasts to commercial entities. None of these circumstances makes the purpose of intercollegiate athletics anything other than educational in nature for those who participate. If the educational purpose of college basketball could only be preserved by denying the right to telecast the events, students, university faculty and staff, alumni, the institutions of higher education themselves, and even the American taxpayer would ultimately lose.

Furthermore, if the American public also had the same popular interest in French lectures or accounting classes as they do in athletics, television would be just as eager to telecast those events and to sell commercial time to pay the rights fees. Transforming those academic offerings into commercialized events would not undermine the educational purpose for which the offerings are made.

CBS and ESPN also purchased the right to telecast or otherwise distribute all of the NCAA's 88 championships – not just men's and women's basketball – and they sell commercial time to pay for their purchase. We assume it is not being suggested that the educational purpose and value of these sports and championships would be similarly jeopardized by their popularity to the public. The scale of popularity and the media attention given to football and men's basketball do not forfeit for those two sports the educational purpose for which they exist.

The sale of broadcast rights to CBS and ESPN brings with it no influence by those companies on NCAA decisions. Indeed, many decisions by the NCAA are contrary to the best interests of these networks, including limitations on the number and type of

advertising, the number of television timeouts, and on game times for championship events. There are no data on the degree of influence television has on the scheduling of games, but television networks have had no impact on the number of games allowed in a season.

9. Each year, the NCAA distributes more than \$100 million from its Basketball Fund to Division I institutions. These monies are distributed based on performance in the NCAA tournament; each tournament victory earns more money for the winning team's athletic conference. Rewarding athletic instead of academic performance seems to be contradictory to the NCAA's tax-exempt mission, and sends a message to member institutions and athletes that athletics is more important than academics. Why does the NCAA distribute more than \$100 million each year based on athletic rather than academic performance?

The NCAA's tax-exempt mission is, in part, to promote intercollegiate athletics competition, and it is entirely consistent with that mission for the NCAA to award funds to institutions on the basis of athletics performance. As discussed elsewhere, including in Appendix A, promoting athletics competition furthers tax-exempt purposes in section 501(c)(3). In furtherance of its tax-exempt mission, the NCAA sponsors 88 championships in 24 sports. It is in no way improper for the NCAA to distribute funds based on appearances in these championships.

Less than half of the funds from the Division I Men's Basketball Championship is distributed based on appearances in the tournament. Most of the funds are distributed based on the number of sports sponsored and the number of athletics scholarships awarded to all student-athletes on an institutional basis. More than three-quarters of a billion dollars will be distributed over the term of the CBS contract for direct support, including academic support, of student-athletes. A large portion of the three-quarters of a billion dollars to student-athletes is need-based, with some of the remainder distributed for academic support. Further, the dollars that are distributed through the conferences and based on appearances in the championship are distributed to all institutions, including those that do not appear in the tournament, and are used in various ways, including the academic support of student-athletes.

10. What percentage of NCAA revenue is spent by your member institutions on solely academic matters?

We do not collect data on expenditures for academic support by member schools in sufficient detail to respond to this question. However, we know that Division I institutions provide \$1.2 billion annually in scholarships to student-athletes to pay for their education. Additionally, over the life of the CBS contract, the NCAA will distribute \$750 million (Special Assistance Fund, Student-Athlete Opportunity Fund, Academic Enhancement Fund) to its member institutions that can be spent only on student-athletes.

11. Coaches' salaries account for one of the biggest expenses of Division I-A athletic departments. According to reports, more than 35 college coaches receive salaries of at least one million dollars per year. Sources of revenue to pay these rising salaries include student fees, corporate sponsorships, and television deals. Paying coaches excessive compensation also makes less revenue available for other sports, causes many athletic departments to operate at a net loss, and may call into question the priorities of educational institutions.

Compensation packages are negotiated at arm's length in a very competitive environment and should not be considered "excessive compensation" under tax law principles.<sup>9</sup> Further, it is incorrect to assume that the compensation packages of the three or four dozen football and men's basketball coaches that exceed a million dollars are the major contributors to their institutions' athletics budgets. Indeed, the average athletics budgets for the institutions with "million dollar coaches" is approximately \$50 million, in which the compensation package represents 3.1 percent of the budgets. In most cases, only a small percentage of the coaches' overall compensation packages are being paid by the institution. In addition to salaries, coaches earn income from television appearances, shoe and apparel contracts, endorsements, speaking engagements, and sports camps. This approach parallels the way in which many of the top faculty at these same institutions are compensated. There are likely to be as many as two dozen "million dollar faculty" members on each of these campuses who earn a relatively small salary from the institution with the balance coming in the form of clinical and private practices, patent royalties, consulting contracts, books, speaking engagements and other sources. It should be noted, however, that faculty members have the protection of tenure while coaches are employed at will and can be dismissed for lack luster win-loss records or the inappropriate behavior of 18- to 22-year olds.

- a. Several Division I-A schools pay their men's basketball coaches four to five times more than their women's basketball coaches. What additional educational benefit do men's basketball coaches provide beyond that which is provided by women's basketball coaches?

Coaches' compensation packages, like others within an institution's faculty, are driven by market forces. The competition for the top men's basketball coaches is intense. Similarly, the competition for top faculty in medicine, engineering, law and some other disciplines is also intense. Because of market demand, these faculty will be compensated considerably higher than faculty in the humanities. None of these salaries are quantified by the educational benefit they bring, but rather by the competitive market from which they are hired.

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<sup>9</sup> See discussion of Reasonable Compensation in Appendix A.

- b. What actions has the NCAA taken to encourage its member institutions to curb excessive compensation for college coaches?

Through speeches, articles and most recently through the work of the Presidential Task Force on the Future of Division I Intercollegiate Athletics, we have urged moderation in the growth rate of athletics budgets. However, the NCAA's ability to influence them is limited. One court found a cap on the compensation of assistant coaches to violate the antitrust laws.<sup>10</sup>

- c. In 2000, the NCAA repealed a rule requiring all athletics-related coaches' income to be reviewed and approved by the university. Why did the NCAA repeal this rule?

On the contrary, there was little change in the implementation of the requirement. Coaches and staff still must provide written detailed accounts annually of all outside income, and approval must be consistent with the institution's policy related to outside income and benefits applicable to all full-time or part-time employees. There is no change in the need for approval, but approval should conform to the policy already in place on each campus for other faculty or staff.

The rule was modified to better conform to common practice at member institutions for all employees.

12. Current law allows donors to deduct charitable contributions to educational institutions, including contributions to university athletic departments. If the donor receives the right to purchase tickets in exchange for a charitable contribution, current law allows the donor to deduct 80 percent of the amount of contribution.

- a. What percentage of athletic department revenue at Division I-A institutions comes from charitable donations, including donations given for the right to purchase tickets?

Donations and contributions represent 21 percent of total operating revenue for Division I-A athletics departments, as reported for 2004-05.

- b. How much money was donated to Division I-A athletic departments in 2005, including donations given for the right to purchase tickets?

The total donations and contributions to Division I-A athletics departments for 2004-05 were approximately \$845 million.

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<sup>10</sup> *Law v. NCAA*, 902 F. Supp. 1394 (D.Kan.) (1995)

13. In 1997, Congress passed a law exempting from taxes qualified corporate sponsorship payments received by tax-exempt organizations.

- a. How has this law affected the use of corporate sponsorships by the NCAA and your member institutions? Have corporate sponsorships become more prevalent?

Corporations have demonstrated over time an affinity for aligning with higher education, including intercollegiate athletics. The major impact of the 1997 tax law change was to discontinue, for those few institutions doing so, the use of sponsorships for promoting sponsors' products and services. A large majority of corporate sponsorships and contributions for colleges and universities are dedicated to programs other than athletics (business and bio-medicine, for example).<sup>11</sup>

- b. How much revenue do corporate sponsorships generate annually for your member institutions?

Corporate sponsorships generate approximately \$275 million in annual athletics revenues.

Thank you, again, Mr. Chairman, for the opportunity to respond.

Sincerely,

Myles Brand  
President

MB:ckr

Attachments

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<sup>11</sup> See Appendix A for further discussion of the corporate sponsorship rules.