

## THOUGHT LEADERSHIP

LEGAL UPDATES

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## NCAA Eliminates National Letter of Intent Program

The NCAA adopted legislation that eliminated the 60-year-old National Letter of Intent (NLI) program. The resulting changes to financial aid, eligibility, recruiting, amateurism, and playing and practice season rules are effective immediately (see Proposal 2024-55). Below are the top five things institutional leaders and athletics department personnel should consider in connection with the changes.

**1. Key Dates Remain the Same:** Written offers of athletics aid are still prohibited before August 1 of a prospective student-athlete's senior year. The signing dates for various sports in Divisions I and II remain unchanged and are codified in NCAA Bylaw Article 13. Note: four-year transfer student-athletes may sign a financial aid agreement at any time, provided their names appear in the Transfer Portal.

**2. Survival of the “Recruiting Ban” but not the “Basic Penalty”:** The new legislation includes a recruiting prohibition similar to the NLI recruiting ban, which prohibits institutions from communicating with a prospect after they sign an aid agreement, but it does not have the same recruiting deterrent as the NLI. Specifically, per the NLI basic penalty provision, student-athletes could be deemed ineligible for competition if they did not attend the institution with which they signed the NLI, unless they were formally released. New legislation does not include any eligibility repercussions.

**3. Level III Impermissible Contact vs. Level II Tampering Violations:** It is important to distinguish impermissible contact with a prospect from impermissible contact with a current student-athlete. In Division I, impermissible contact with a signed prospect will be considered a Level III violation of Bylaw 13.1.1.2, which is the lowest violation category. Impermissible contact with a current four-year student-athlete is what most refer to as “tampering” and is a presumptive Level II violation of Bylaw

13.1.1.4, which carries substantially more severe penalties (see Bylaw 19.1.3). Despite public rhetoric questioning the NCAA's ability to self-govern, NCAA is still strongly enforcing the area of recruitment, especially tampering. Note: Division II maintains that impermissible contact with signed prospect is a violation; however, it does not specify presumptive Level II or Level III allegations.

**4. Institutional Obligations and New Student-Athlete Freedoms:** In addition to abiding by recruiting rules, institutions are required to honor athletics aid agreements and may reduce or cancel such agreements only in limited legislated circumstances. Prospects are also contractually bound by these aid agreements; however, with the elimination of "basic penalty" there is no longer an NCAA-legislated penalty that could be levied against student-athletes if they do not attend the institution with which they signed an aid agreement. Prospects can request a release from the aid agreement, but it is only a release from the contact prohibition. The NCAA was clear that releasing a signed prospect from the contact prohibition does not automatically allow an institution to reduce or cancel the prospect's aid agreement.

**5. Non-Athletically Related Conditions May Provide a Solution:** Although the legislated methods to hold student-athletes accountable to their recruiting commitments have been removed, institutions may be able to include non-athletically related conditions in their new athletics aid agreements that provide some relief. While colleges and universities do not have the authority to deem a student-athlete ineligible for competition at another institution, it may be possible that certain non-athletically related conditions could release an institution from its obligation to provide financial aid to a student-athlete who requests a release from the aid agreement. Institutions wishing to include language related to a cancellation of aid when granting a release from an athletics aid agreement should consult counsel to ensure compliance with NCAA Bylaws and conference rules and to mitigate legal risk.

### **What this means to you**

The elimination of the NLI program is a major change to the governing structures associated with collegiate athletics. All institutions that grant athletic scholarships and that participated in the NLI program should carefully review the new framework and adjust compliance processes accordingly.

### **Contact us**

If you have any questions regarding the elimination of the NLI program or other issues pertaining to collegiate athletics compliance, contact Jason Montgomery, TaRonda Randall, Kristina Minor, or your Husch Blackwell attorney.