

# CORONAVIRUS INFORMATION & UPDATES

May 22, 2020

## COVID-19 and the Challenges of Remotely Running a College Athletics Department

The COVID-19 pandemic is causing all of us to radically change how we live and work. College athletics programs have not been immune to these changes and, in fact, have been forced to rethink how they can operate in this “new normal.” To date, the NCAA and conference commissioners have been stepping in to try to ensure that teams continue to operate on a level playing field. This article identifies some of those changes and alerts athletic directors, coaches, and compliance officers to the accompanying compliance risks. Since the risks from COVID-19 may not be going away anytime soon, this article also addresses what may be long-term changes to recruitment, training, and employment efforts across the college sports landscape. When instituting changes to their athletics programs, coaches and athletic directors should be mindful of existing NCAA bylaws, as well as COVID-19 guidance published by the NCAA, to ensure continuing compliance throughout the pandemic.

### Background

On March 11, 2020, the NBA announced just prior to the start of a game between the Utah Jazz and Oklahoma City Thunder that it was canceling the game because a player had tested positive for COVID-19. The league subsequently announced that it was postponing the remainder of the season. This triggered a chain reaction throughout the sports world as other leagues began postponing and/or canceling events. The NCAA confronted this issue just as one of its marquee events – March Madness – was about to begin. On March 12, 2020, the NCAA announced that it was canceling the tournament and subsequently cancelled all remaining winter and spring events.

In light of the absence of a spring season, the NCAA instructed all divisions to enact legislation and provide waivers offering relief to student-athletes and schools impacted by the virus and further announced a recruiting dead period for Division I in-person recruiting through “at least April 15.”<sup>1</sup> The NCAA, with the support of many coaches and ADs, also recommended that schools suspend official and unofficial on-campus visits by prospective student-athletes during this period. However, the NCAA allowed coaches to continue electronic and written communications.

On April 1, the NCAA prolonged the recruiting dead period for Division I and Division II sports through May 31, explaining that the Division I Council Coordination Committee and the Division II Administrative Committee “will continue to be guided by experts to determine whether the date needs to be extended.”<sup>2</sup> The Division I Council

<sup>1</sup> NCAA, “Division I makes initial rule decisions in wake of COVID-19,” (Mar. 18, 2020), available at <http://www.ncaa.org/about/resources/media-center/news/division-i-makes-initial-rule-decisions-wake-covid-19>; CBSSports.com, “NCAA institutes dead period, suspending in-person recruiting through at least April 15,” (Mar. 13, 2020), available at <https://www.cbssports.com/college-football/news/ncaa-institutes-dead-period-suspending-in-person-recruiting-through-at-least-april-15/>.

<sup>2</sup> CBSSports.com, “NCAA extends recruiting dead period through May as coronavirus pandemic continues,” (Apr. 1, 2020), available at <https://www.cbssports.com/college-football/news/ncaa-extends-recruiting-dead-period-through-may-as-coronavirus-pandemic-continues/>.

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Coordination Committee has since prolonged the dead period through at least June 30.<sup>3</sup> The National Association of Basketball Coaches and the Women’s Basketball Coaches Association recommended an extension for basketball through July 31.<sup>4</sup> On May 27, the Division I Council Coordination Committee will discuss whether the date should be extended, taking into consideration guidance from medical experts and the NABC’s and WBCA’s recommendations.<sup>5</sup>

With in-person contact between recruits and coaches prohibited for the foreseeable future, and all sports considered out of season for the remainder of the academic year, coaches and athletic directors have relied on virtual communication and trainings to conduct their programs remotely. These changes likely will create some compliance challenges. On April 1, the NCAA released COVID-19 question and answer guidance, which has since been updated weekly, to address various issues. Described below is some of this guidance as well as key considerations for Division I coaches and athletic directors to keep in mind when adapting to these COVID-19-related changes.

## Considerations

### Recruitment

As mentioned above, the COVID-19 crisis has had a significant impact on recruiting. While “shelter in place” and social distancing rules are preventing in-person visits, coaches and enrolled student-athletes are still working hard on recruiting the next generation of student-athletes to their respective schools. Here are some rules to keep in mind.

With regard to prospective student-athletes specifically, coaches cannot have in-person contact, on or off-campus, during the recruiting dead period.<sup>6</sup> However, coaches can contact prospective student-athletes through electronic and written correspondence if the communications comply with NCAA recruiting restrictions, such as the first opportunity to contact.<sup>7</sup> For most sports, the first opportunity to contact rule prohibits communication between a coach and prospective student-athlete until June 15 following the student-athlete’s sophomore year of high school.<sup>8</sup> The rule also bars visits and off-campus contact until August 1 before a prospective student-athlete’s junior year of high school.<sup>9</sup> Acceptable electronic correspondence includes telephone calls, emails, text messages, and video calls (such as through Zoom, Skype, and Facetime) as long as the interactions are private between a coach and recruit.<sup>10</sup> In other words, an institution’s coach may not attend a high school’s virtual sports banquet through which he or she could engage with multiple uncommitted prospective student-athletes. However, a coach may video call a prospective student-athlete to provide a private virtual

<sup>3</sup> NCAA, “DI Council Coordination Committee extends dead period,” (May 14, 2020), *available at* <http://www.ncaa.org/about/resources/media-center/news/di-council-coordination-committee-extends-dead-period>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> NCAA, “Division I makes initial rule decision in wake of COVID-19,” (Mar. 18, 2020), *available at* <http://www.ncaa.org/about/resources/media-center/news/division-i-makes-initial-rule-decisions-wake-covid-19>.

<sup>7</sup> 2020 NCAA Division I Covid-19 Question and Answer Guide, p. 8, (last updated May 1, 2020), *available at* [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf); NCAA D1 Bylaw 13.1.3.1.

<sup>8</sup> NCAA, “D1 Council adopts rules to curb early recruiting,” (Apr. 19, 2019), *available at* <http://www.ncaa.org/about/resources/media-center/news/di-council-adopts-rules-curb-early-recruiting>.

<sup>9</sup> *Id.*

<sup>10</sup> 2020 NCAA Division I Covid-19 Question and Answer Guide, p. 8, (last updated May 1, 2020), *available at* [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf); NCAA D1 Bylaw 13.4.1.7.

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campus tour. Coaches and athletic directors should be aware that only the head or assistant coaches who count toward an institution's coaching limits can participate in these electronic recruiting activities.<sup>11</sup> Enrolled student-athletes can receive calls made by and at the expense of a prospective student-athlete but they cannot contact recruits if instructed to do so by a member of the coaching staff.<sup>12</sup>

Of course, different rules apply to committed student-athletes. The COVID-19 recruiting dead period does not apply to these students so a coach can engage in off-campus contact with them subject to COVID-19 governmental and public health directives.<sup>13</sup> Unlike prospective student-athletes, a coach can conduct a group video call with multiple committed student-athletes and also involve enrolled student-athletes.<sup>14</sup> However, committed student-athletes cannot virtually participate in athletically related activities, such as team-building exercises.<sup>15</sup> Enrolled student-athletes can participate in a telephone call with a committed student-athlete on their own or if instructed to do so by an institutional staff member.<sup>16</sup> These calls constitute athletically related activity for the player and therefore cannot take place during an enrolled student-athlete's required day off.<sup>17</sup>

With regard to recruiting efforts via social media, coaches and athletic directors can engage in such efforts if their posts are for a general audience and not specific to, or personalized for, any individual prospective student-athletes. For example, an institution's coach can post general information requesting prospective student-athletes contact them during the dead period.<sup>18</sup> An institution's strength and conditioning coach can also share examples of workouts on social media if his or her social media account is open to the public and the workout is not designed for any individual prospective student-athlete.<sup>19</sup>

## Training

Coaches and athletic directors must pay particular attention to NCAA bylaws and guidance concerning training limitations and season schedules when adapting their virtual training programs. For example, all sports are out of season for the rest of the 2019-2020 academic year.<sup>20</sup> Accordingly, all trainings, even those conducted virtually or remotely,

<sup>11</sup> NCAA D1 Bylaw 13.1.3.4.1.

<sup>12</sup> NCAA D1 Bylaws 13.1.3.5.2; 13.1.2.7(c).

<sup>13</sup> 2020 NCAA Division I Covid-19 Question and Answer Guide, p. 11, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

<sup>14</sup> 2020 NCAA Division I Covid-19 Question and Answer Guide, p. 10, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

<sup>15</sup> 2020 NCAA Division I Covid-19 Question and Answer Guide, p. 9, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf); NCAA Bylaw 14.2.1.1.1.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> 2020 NCAA Division I Covid-19 Question and Answer Guide, p. 14, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

<sup>19</sup> *Id.*

<sup>20</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 31, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).



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must follow applicable legislative, policy and institutional requirements for out-of-season countable athletically related activities to avoid risks of noncompliance.

Important limitations apply to virtual and remote training programs. For example, the NCAA bylaws require that an institutional staff member with current certification in CPR and AED be present whenever a student-athlete engages in physical, countable athletically related activity.<sup>21</sup> Because this requirement cannot be met when trainings occur via video conference, no physical, countable athletically related training activity can be conducted virtually. In fact, the requirement that a sports-safety certified staff member be present during physical athletics activities means that all required physical athletics activities are prohibited at this time.<sup>22</sup>

However, the Division I Council Coordination Committee voted to allow teams across all sports to require up to eight hours each week of virtual, nonphysical countable activities between April 20 and May 31.<sup>23</sup> Examples of these activities include film review, chalk talk, and team meetings. Moreover, an institutional strength and conditioning coach or coaching staff member can provide workouts for student-athletes to use voluntarily if the necessary athletics or medical professionals approve such workouts and they otherwise satisfy legislative, policy, and institutional requirements.<sup>24</sup> Athletics departments should be aware that an institution cannot take an action of approval, such as by liking, favoriting, tweeting, or commenting on a student-athlete's social media post of himself or herself engaging in voluntary athletically related activity.<sup>25</sup>

In addition, the NCAA's rules concerning finals schedules continue to apply to remote programs. For Division I sports, all countable athletically related activities outside a playing season must pause one week before an institution's final examination period begins and cannot resume until after the academic term ends.<sup>26</sup> Though the only required countable athletically related activities permitted at this time are virtual, nonphysical countable activities, coaches and athletic directors should ensure that these activities pause a week prior to their institution's final exam period. Institutions must also continue to provide student-athletes with at least one day off per week, as mandated by the Council Coordination Committee action.<sup>27</sup>

<sup>21</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 30, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf); NCAA D1 Bylaw 17.1.6.

<sup>22</sup> NCAA, "All DI sports allowed to hold team meetings, other nonphysical activities," (Apr. 16, 2020), available at <http://www.ncaa.org/about/resources/media-center/news/all-di-sports-allowed-hold-team-meetings-other-nonphysical-activities>.

<sup>23</sup> *Id.*

<sup>24</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 32, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

<sup>25</sup> *Id.*

<sup>26</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 31, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

<sup>27</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 33, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

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## Employment of Athletics Personnel

The NCAA has made clear a number of rules regarding reassigning, compensating, and retaining coaches during COVID-19.

For example, an institution cannot temporarily reassign a volunteer coach to a paid position in the athletics department in response to the virus.<sup>28</sup> An institution likewise cannot pay a volunteer coach for work not performed even if the coach had been planning to work upcoming camps and clinics canceled due to the virus.<sup>29</sup> The NCAA explained that an institution can allow a furloughed coach to remain involved in recruitment activities and to maintain contact with current student-athletes if the institution's policies, and the applicable federal, state, and local laws, allow such behavior.<sup>30</sup> Furloughed coaches must comply with all Association legislation.<sup>31</sup>

A student assistant coach who lost the chance to participate in the spring 2020 schedule is eligible for a one-year extension of his or her five-year clock.<sup>32</sup> The same extension applies to spring-sport student-athletes deprived of a competition season.<sup>33</sup> However, the NCAA did not mandate this eligibility extension, but announced that it will allow schools to self-apply season-of-competition waivers.<sup>34</sup>

Athletics departments have had to adapt to shelter-in-place orders and other related public health directives when conducting coaching searches. Some athletic directors have conducted phone and video interviews rather than typical in-person meetings. Others have avoided shaking hands when meeting candidates in person. Jared Benko, incoming athletic director at Georgia Southern, conducted a search for a new basketball coach that began on March 20.<sup>35</sup> For what he said is "probably the only time in [his] career," he hired a coach without meeting him first.<sup>36</sup> Benko explained that he spent extra time speaking over the phone to get to know the candidate, discussed the candidate with the search committee, and asked follow-up questions.<sup>37</sup> Loyola Marymount athletic director Craig Pintens described conducting a search during a pandemic as "crazy" and something he "wouldn't recommend doing."<sup>38</sup> Some athletics departments, like basketball

<sup>28</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 3, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf)

<sup>29</sup> *Id.*

<sup>30</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 4, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

<sup>31</sup> *Id.*

<sup>32</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 3, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

<sup>33</sup> NCAA, "Division I Council extends eligibility for student-athletes impacted by COVID-19," (Mar. 30, 2020), available at <http://www.ncaa.org/about/resources/media-center/news/division-i-council-extends-eligibility-student-athletes-impacted-covid-19>.

<sup>34</sup> 2020 NCAA Division I COVID-19 Question and Answer Guide, p. 6, (last updated May 1, 2020), available at [https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV\\_COVID-19QAGuide.pdf](https://ncaaorg.s3.amazonaws.com/compliance/d1/D1GOV_COVID-19QAGuide.pdf).

<sup>35</sup> *Sports Illustrated*, "What It's Like Conducting a Coaching Search When Sports Are Shut Down," (Mar. 31, 2020), available at <https://www.si.com/college/2020/03/31/ncaa-coaching-changes-searches-coronavirus>.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

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programs at the seven major conferences, have avoided the challenges of doing so by not opening up job positions this spring.<sup>39</sup>

## Next Steps

College athletics programs have transformed in light of the COVID-19 pandemic. Fortunately, coaches and athletic directors can continue their recruitment, training, and employment efforts by developing remote programs that adapt to changed circumstances. In developing and running these programs, it is essential that coaches and athletic directors monitor NCAA responsive measures and adhere to existing NCAA bylaws, which continue to apply to all athletics programs, whether conducted remotely, virtually, or otherwise.

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<sup>39</sup> *Id.*