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May 20, 2014

Mark A. Emmert
President
National Collegiate Athletic Association
700 W. Washington Street
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Dear Mr. Emmert:

We are writing to request information about the practices of the National Collegiate Athletic Association (NCAA) and the responsibilities of its member institutions of higher education to provide rigorous academic opportunities and instruction to its “student-athletes.”

One of the stated missions of the NCAA is to ensure that the “educational experience of the student-athlete is paramount.”¹ According to the NCAA Constitution, part of the organization’s purpose is to “promote and develop educational leadership.”² During a recent interview, you emphasized the need to ensure that student-athletes receive a “real, valid, and legitimate education.”³

Despite these laudable goals, public reports suggest that the NCAA oversees a system in which its member institutions may be requiring student-athletes, particularly in high-revenue sports, to sacrifice their educational goals for the financial interests of college athletics.

For example, in January, CNN reported that between 7% and 18% of student-athletes in the basketball and football programs of more than 20 NCAA member schools could read no

¹ National Collegiate Athletic Association, *Form 990* (2010) (online at www.wral.com/asset/news/local/wral_investigates/2013/02/04/12063338/ncaa_990.PDF).

² National Collegiate Athletic Association, *Division I Manual* (2013-2014) (online at http://grfx.cstv.com/photos/schools/usc/genrel/auto_pdf/2013-14/misc_non_event/ncaa-manual.pdf) (citing NCAA Constitution).

³ *Meet the Press*, NBC News (Mar. 23, 2014) (online at www.nbcnews.com/meet-the-press/meet-press-transcript-march-23-2014-n59966).

higher than at the eighth-grade level.⁴ One of the schools identified in this study was your alma mater, the University of Washington, where a *Seattle Times* report indicated that the football program “emphasized eligibility, not education.”⁵ According to a *Bloomberg BusinessWeek* report published earlier this year, student-athletes at the University of North Carolina were routinely enrolled in classes that never met and had their grades forged or changed without authorization.⁶

Although the NCAA may sanction member institutions for poor academic performance, critics argue that its standards are too low. Currently, the NCAA mandates that athletic programs maintain an Academic Progress Rate of 930, which is “equivalent to a 50 percent graduation rate.”⁷ Experts have proposed increasing this standard to at least 60 percent.⁸ A recent study also indicates that nearly half of the programs participating in the NCAA Men’s Division I tournament had a 20% disparity between the graduation rates of their African-American and white student-athletes.⁹

Our concerns are further heightened because the NCAA has relied on the designation of NCAA players as “student-athletes”—a term coined by the NCAA more than fifty years ago—to avoid potential financial liability.

In 1953, after a football player at the University of Denver sought relief in court under the state’s workman’s compensation statute for his football injuries, the NCAA opposed efforts to designate NCAA athletes as employees.¹⁰ Walter Byers, serving then as the NCAA’s Executive Director, explained that “student-athlete” became the preferred nomenclature because the “threat was the dreaded notion that NCAA athletes could be identified as employees by state industrial commissions and the courts.”¹¹

⁴ *CNN Analysis: Some College Athletes Play Like Adults, Read Like 5th-Graders*, CNN (Jan. 8, 2014) (online at www.cnn.com/2014/01/07/us/ncaa-athletes-reading-scores/).

⁵ *Linebacker Discovered Joy of Learning But Had to Buck Football Program that Emphasized Eligibility, Not Education*, *Seattle Times* (Jan. 30, 2008) (online at http://seattletimes.com/html/localnews/2004152847_rbkelley300.html).

⁶ *In Fake Classes Scandal, UNC Fails Its Athletes—and Whistle-Blower*, *Bloomberg BusinessWeek* (Feb. 27, 2014) (online at www.businessweek.com/articles/2014-02-27/in-fake-classes-scandal-unc-fails-its-athletes-whistle-blower).

⁷ *Study: 8 Teams Fall Below Standard*, *ESPN* (Mar. 17, 2014) (online at http://espn.go.com/mens-college-basketball/tournament/2014/story/_/id/10623731/eight-ncaa-tournament-teams-fall-graduation-standard-study-shows).

⁸ *Id.* (quoting Professor Richard Lapchick, University of Central Florida, Institute for Diversity and Ethics in Sport).

⁹ *Id.*

¹⁰ Robert A. McCormick and Amy Christian McCormick, *The Myth of the Student-Athlete: The College Athlete as Employee*, *Washington Law Review* (2006).

¹¹ *Id.*

Even more concerning is the official legal position asserted by the NCAA last year in a wrongful death suit filed by the family of a football player who died during practice. In a filing related to the suit, the NCAA stated: “The NCAA denies that it has a legal duty to protect student-athletes.”¹²

The onerous demands of NCAA athletic competition cause many student-athletes to make great sacrifices with respect to their education, while the schools and the NCAA reap huge financial windfalls. For example, in March and April of each year, the nation celebrates the end of the men’s and women’s college basketball season with tournaments in which 132 teams contend for two national championships. These student-athletes miss significant class time and academic preparation while the NCAA obtains substantial financial benefits. In 2011, the NCAA entered into a \$10.8 billion television contract to broadcast the Division I Men’s Basketball tournament.¹³

Although the NCAA distributes some of its incoming revenue to member schools, it appears that the vast majority of these funds go towards athletics rather than academics. For example, in the 2013-14 fiscal year, the NCAA reported distributing \$497.6 million to member schools, including \$193.5 million to Division I conferences based on their performance in the men’s basketball tournament.¹⁴ The NCAA reported designating approximately \$25 million for “Academic Enhancement” and \$29.8 million for “Educational Expenses,” but this is only a small fraction of the total amount distributed.¹⁵

College athletics offer wonderful opportunities for young men and women to obtain a quality education, but it also a \$16 billion industry.¹⁶ Indeed, you have received more than \$1.6 million in annual compensation as the president of this non-profit organization.¹⁷

In April, during a radio appearance, you indicated that the NCAA generates its revenue primarily “off one event really, and that’s the big revenue off the men’s basketball tournament; about \$800-900 million total revenue on an annualized basis.”¹⁸

¹² *Kristen L. Sheely v. The National Collegiate Athletic Association*, Case No. 380569V, 14 (Circuit Court Montgomery County, MD 2013).

¹³ National College Athletics Association, *CBS Sports, Turner Broadcasting, NCAA Reach 14-Year Agreement* (Jan. 11, 2011) (online at www.ncaa.com/news/basketball-men/2010-04-21/cbs-sports-turner-broadcasting-ncaa-reach-14-year-agreement).

¹⁴ National College Athletics Association, *2013-14 Division I Revenue Distribution Plan* (online at www.ncaa.org/sites/default/files/2013-14%20Revenue%20Distribution%20Plan.pdf).

¹⁵ *Id.*

¹⁶ *NCAA, Top Conferences Called a Cartel in Player Pay Suit*, Bloomberg News (Mar. 17, 2014) (online at www.bloomberg.com/news/2014-03-17/ncaa-top-conferences-called-a-cartel-in-player-pay-suit.html).

¹⁷ *Emmert Made \$1.7 Million, According to NCAA Tax Return*, USA Today (July 14, 2013) (online at www.usatoday.com/story/sports/college/2013/07/10/ncaa-mark-emmert-salary-million-tax-return/2505667/).

Later in the interview, while discussing the value of student-athletes to their institutions, and whether students were being treated appropriately by institutions, you said:

There's a lot of money in college sports right now. That money needs to be used more effectively to support student-athletes in a whole bunch of ways. Is a scholarship enough now, in this day and age? Well almost anybody that works in college athletics and who's been around it says, yeah, it is.¹⁹

Given the huge amounts of money received by the NCAA and its member institutions, we believe you have a solemn obligation to support the academic goals of students just as vigorously as their goals on the track, court, or field.

In order to assist us in further evaluating these issues, we request that you provide the following information by June 9, 2014:

- (1) During a recent interview on *Meet the Press*, you emphasized the need to ensure that student-athletes are receiving a "real, valid, and legitimate education."
 - a. How does the NCAA ensure that member institutions are providing its student athletes such an education?
 - b. What disciplinary procedures are enforced if an institution is not providing its student-athletes with such an education?
 - c. For each of the last five years, please provide a description of all NCAA investigations into the quality of education administered by member institutions and all enforcement or disciplinary actions initiated by the NCAA against member institutions or student-athletes for academic reasons.
 - d. How does the NCAA determine that member institutions are not allowing fraudulent classes, such as those detailed in the 2010 case at the University of North Carolina, with the sole intent of keeping student-athletes athletically eligible?
 - e. What steps is the NCAA taking to ensure that the problems identified at the University of North Carolina are not more widespread?
 - f. Please include any documentation demonstrating how the NCAA has determined that these infractions are unique to the University of North Carolina.
- (2) A 2008 *USA Today* study evaluated 142 NCAA member institutions and found that 83% had at least one team in which 25% or more of the student-athletes majored in the same subject. What steps does the NCAA take to ensure that student-athletes are being counseled appropriately about their academic goals and not solely to maintain eligibility by pursuing the easiest coursework?

¹⁸ *Mike and Mike in the Morning*, ESPN (Apr. 18, 2014).

¹⁹ *Id.*

- (3) University employed coaches and students that participate in other non-athletic activities are permitted to transfer between NCAA member institutions without sanction.
 - a. Why are NCAA student-athletes not allowed to transfer schools with equal ease?
 - b. Please provide a detailed explanation for the discrepancy between this treatment and how this benefits the academic goals of the student-athlete.

- (4) Many scholarship renewal decisions are made for NCAA student-athletes on an annual basis.
 - a. Are such decisions made by athletic coaches or academic personnel?
 - b. Please provide a detailed explanation of how these decisions are made, and who is involved in making such decisions.
 - c. Please provide current NCAA rules, regulations, or other guidance regarding policies for the withdrawal, termination, or failure to renew a student-athlete's scholarship for non-disciplinary reasons.
 - d. If the NCAA does not have such rules, regulations, or guidance, please provide this information from each NCAA member institution.
 - e. For each of the last five years, please provide a description of all instances in which an NCAA member institution has withdrawn, terminated, or failed to renew a student-athlete's scholarship for non-disciplinary reasons and by whom this decision was made.

- (5) The Collegiate Basketball post-season schedule requires student-athletes to miss significant amounts of instructional time away from campus in the midst of the spring academic session.
 - a. How does the NCAA ensure that these student-athletes are receiving the same academic preparation as students not participating in athletics?
 - b. For the previous academic school year, please provide the number of hours the average NCAA student-athlete spent training, meeting, traveling, or otherwise preparing for his or her sport during the academic year.
 - c. If the NCAA does not have this information, please explain the specific procedures used by the NCAA to monitor the amount of time spent by student-athletes in academic and athletic endeavors.

- (6) Does the NCAA keep track of metrics of academic outcomes that would assist in determining the quality of education received by student-athletes? If such metrics are recorded, please provide them.

- (7) Please provide current NCAA rules, regulations, or other guidance regarding the role of the NCAA clearinghouse to independently confirm the high school academic progress of student-athletes during the recruiting process. Please provide equivalent

information about the NCAA's role in monitoring the academic progress of student-athletes at the collegiate level.

- (8) The NCAA has stated in court filings that, "The NCAA denies that it has a legal duty to protect student-athletes" from injuries arising from their athletic participation. Please provide a detailed explanation for the basis of this legal position, including a detailed explanation of who the NCAA believes has the legal duty to protect student-athletes.
- (9) The NCAA has indicated that the primary benefit provided to student-athletes is their academic preparation, despite the fact that the NCAA and members institutions make tens of millions of dollars from the participation of student-athletes in collegiate sports.
 - a. Is the position of the NCAA that the exchange of academic preparation for collegiate athletic participation provides equivalent financial value to the NCAA and its student-athletes?
 - b. Please provide any data valuing the cost of academic scholarships compared to the value created by student-athletes to their institutions, aggregated by sports.
- (10) The NCAA has stated that it generates most of its revenue, \$800-900 million each year, primarily from the Division I Men's Basketball tournament.
 - a. With the financial health of the NCAA so inextricably tied to the success of this one tournament, how does the NCAA avoid conflicts of interest between its financial needs and the needs of its athletes?
 - b. How does the NCAA ensure that it provides equal oversight of all NCAA sports and athletes?
- (11) For the previous academic school year, please provide the total number of student-athletes at NCAA member institutions who received federal financial assistance, as well as the percentage of student-athletes at NCAA member institutions who received federal financial assistance. Please also provide this information for student-athletes who participate in the Football Bowl Subdivision and Division I Basketball programs.
- (12) For each of the last five years, please provide the total amount of incoming revenues received by the NCAA, the individual amounts of outgoing funds distributed to each member institution, and the specific conditions on the use of those outgoing funds by each member institution, whether for academic, athletic, or other purposes.
- (13) Please provide copies of the current compensation agreements for the top five NCAA executives, including the specific criteria on which compensation, bonuses,

Mr. Mark A. Emmert
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or other financial incentives are awarded, and whether those criteria relate to the academic performance of student-athletes at member institutions.

Thank you for your cooperation with this request. If you have any questions regarding this request, please contact our staff at (202) 225-5051.

Sincerely,



Elijah E. Cummings
Ranking Member



Tony Cárdenas
Member of Congress

cc: The Honorable Darrell E. Issa, Chairman