



RECOMMENDATIONS TO THE COMMISSION ON COLLEGE BASKETBALL
FROM THE BIG EAST CONFERENCE
MARCH 21, 2018

College basketball is at a crossroads. The BIG EAST Conference applauds the NCAA's intent to use the sobering developments of the past few months to re-shape a sport that is woven into the fabric of colleges and universities around the country. We have reviewed the October 2017 charge of the Commission on College Basketball ("CBC") and appreciate the opportunity to submit the following recommendations for the CBC's consideration.

We believe that the men's college basketball criminal investigation announced by the U.S. Attorney for the Southern District of New York in September 2017 and subsequent revelations about agent practices present the NCAA with three fundamental questions:

- What steps can be taken to eliminate or minimize impermissible practices in the process of recruiting student-athletes in men's college basketball? This question should be central to the CBC's inquiry, as any change to the existing recruiting rules will be of limited use if the rules remain unenforceable or easily broken. (Although the federal criminal case centered on corrupt practices at the high school recruiting level, similar concerns regarding third party influences also exist in the NCAA basketball transfer environment and should be incorporated into the current reform analysis or any subsequent review.)
- How can the pathway for elite players in men's basketball in the United States be improved so that the interests of the players, NCAA schools and NBA teams are best served? The current pathway is a byproduct of decades of evolution and is ripe for overhaul.
- How can the overall U.S. youth (i.e., pre-collegiate) basketball landscape be re-organized and regulated for the betterment of the sport? This question presents complex structural issues and is likely beyond the scope of the CBC's current inquiry but would benefit from any direction the CBC might offer.

As discussed below, we believe that the linchpin of reform is modification of the NBA draft eligibility rule in order to allow elite players to bypass NCAA basketball and move directly to the professional level after high school. There is no question in our minds that were this to occur, certain third party influences that are at the heart of the criminal investigation would be re-directed away from college programs, and at least some of the problems the sport

faces today would be eliminated. The NCAA would still be left with other challenges with respect to ethical conduct in the recruiting area, but the impact of a draft eligibility change would be immediate and substantial. If the NBA and the National Basketball Players Association, who together control draft eligibility, do not agree to make a change, we believe it will be very difficult to bring about meaningful reform at the highest levels of college basketball. Accordingly, we urge the NCAA to devote whatever efforts and resources are needed to publicly and privately persuade those two entities that their interests and the interests of the sport would be best served by such a move.

A. MANAGEMENT AND OVERSIGHT STRUCTURE

UNDERLYING PREMISE. In order to better address the areas highlighted by the CBC’s charge and the overall needs of men’s college basketball, the governance and management of the sport should be modified. The two current NCAA men’s basketball governance bodies (i.e., the Men’s Basketball Committee and the Men’s Basketball Oversight Committee) are serving critical needs and should be maintained, but we recommend the creation of a separate management entity (to be called the “Elite Player Unit” or “EPU”) that would focus solely on recruiting and the unique circumstances and needs of elite players with realistic aspirations of playing in the NBA.

The EPU’s functions would include the following:

1. **Pre-collegiate guidance.** Establishing and overseeing an advisory service modeled after the NCAA’s First Team program (discontinued in 2009) to provide guidance to selected pre-collegiate prospects (i.e., 8th to 12th grade) and their families about their future options in the sport.
2. **Recruiting events.** Managing the evaluation process for prospective student-athletes through a reconstituted, centrally controlled summer recruiting event structure to be created and run by the NCAA with support from other key stakeholders.
3. **Agent regulation.** Serving as the home of a new agent services division that would advise current student-athletes on their professional basketball options. The agents who would be part of the division would be subject to different and more stringent certification standards than those imposed by the NBPA on agents affiliated with the NBA.
4. **Rules.** Serving as liaison to the NCAA’s Academic and Membership Affairs division with respect to NCAA legislation that bears directly on men’s basketball recruiting (e.g., individuals associated with a prospect, contact parameters, etc.) and the administration of any additional reporting requirements put forward by the CBC (possible examples are set forth below).

5. Apparel companies. Overseeing the NCAA's relationships with apparel companies and monitoring their activities in the travel team environment.
6. Ethics. Building on the work of the NCAA Ethics Coalition by developing a strengthened code of conduct for head and assistant coaches and promoting broadly the importance of ethical practices in the recruiting and transfer environments.
7. Branding and communications. Overseeing the development of a comprehensive branding strategy so that the positive attributes of college basketball and the benefits of the basketball student-athlete experience are publicly highlighted.

The EPU should be made up of staff members who are separate from the current NCAA men's basketball department (which would continue to manage the NCAA tournament, officiating and other important sport administration functions) and headed by a high-level and respected college basketball executive. We suggest that the unit be overseen for the first two years by a seven-member board to include selected members of the CBC, who would also approve an appropriate budget.

B. RELATIONSHIP WITH APPAREL COMPANIES

UNDERLYING PREMISE: Apparel companies (together with agents and travel team operators) cannot be eliminated from the lives of elite players and should be accepted as a fact of life within the men's college basketball recruiting and transfer environments. The CBC should strive to construct a controlled system in which the negative impact these entities exert can be lessened and the value and benefits they bring can be harnessed and used to the NCAA's and the players' advantage.

1. Reconstitute the summer basketball recruiting landscape.

SHORT-TERM. The NCAA should increase its presence at recruiting events scheduled for the summer of 2018 by assigning teams of observers to comprehensively assess the current landscape.

LONG-TERM. Create a new summer recruiting model to be launched in the summer of 2019 and managed by the NCAA in collaboration with the National Federation of High School Associations, the NABC, the AAU and USA Basketball. The three major apparel companies in the college sports space (Nike, Under Armour and Adidas) should be included in the effort using incentives and parameters to be determined.

- Purpose: To allow for centralized control and efficient evaluation of pre-collegiate prospects through a mix of game competition, practices, and position skill assessment.
- Structure: Ten (10) four-day events spread over the July evaluation period at the following regional sites: California, Florida, Georgia, Illinois, Indiana, Las Vegas, North Carolina, Pennsylvania, South Carolina and Texas. In order to attract both highly-rated prospects and prominent college coaches, the events should include: (1) low/no cost for participating players; (2) high quality competition and instruction; (3) first-rate facilities; and (4) other added value. NCAA coaches will not be permitted to attend any events that do not meet these standards.
- Coaches: All recruiting event coaches must be USAB-certified.
- Funding: To be determined.

2. Modify relationship between NCAA coaches and apparel companies.

- Mandate that apparel company contracts that provide for athletics-related outside income for coaches and administrators be negotiated through the university, with any such funds to be paid to the coaches by the university rather than by the apparel companies directly.

3. Devise conditions that must be satisfied before an apparel company can enter into an athletics-related agreement with an NCAA institution.

- Mandate that apparel companies wishing to enter into an agreement with any NCAA institution provide annually to the NCAA the following: (1) a statement detailing their associations with travel team operators (including the extent of their funding of any such teams); (2) a list of the schools with whom they have contractual relationships and their key contacts at each school; and (3) a list of their primary executives assigned to work on college or pre-collegiate basketball matters. In addition, the CEO of each apparel company should be required to attest annually that neither the company nor any of its executives have made payments, extended loans or provided excessive benefits to any prospective student-athlete who is enrolled at an NCAA institution (or to a family member of any such prospect) or to any NCAA head or assistant coach.

C. NON-SCHOLASTIC BASKETBALL

UNDERLYING PREMISE: The pre-collegiate, non-scholastic basketball world is largely comprised of loosely connected or unconnected teams operating on their own without formal regulation. Over the past decade, efforts have been made by USA Basketball, under its authority as the U.S. national governing body for basketball per the Amateur Sports Act of 1976, to offer services to youth basketball operators in the form of coaching training and certification, clinics, skill development camps and tournaments.

However, at present, neither USAB nor any other body currently exercises direct regulatory authority over travel teams, which serve as the principal pipeline for elite players who have aspirations to play at major college programs and/or the NBA. In an ideal world, these operators would be subject to organization and regulation by a nationally accepted oversight entity in order to ensure that the interests of the players are best served and to minimize corruptive influences on NCAA programs.

We believe that USA Basketball is the appropriate entity to assume the oversight function. However, we recognize that the large (and potentially unwieldy) number of non-scholastic basketball organizations in the U.S. and their presumed reluctance to voluntarily consent to supervision by any authority represent major obstacles in achieving this objective. Accordingly, we recommend that this topic be studied further for possible future action. In the meantime, we recommend the following:

1. The NCAA should reassess the conditions that must be satisfied before NCAA coaches are permitted to attend travel team events for evaluation purposes (including mandatory disclosure of travel team funding sources so as to reduce or eliminate the possibility of funding by agents or by institutional boosters to obtain a recruiting advantage). USAB can assist in the process of auditing and certifying such events.
2. The NCAA, in conjunction with the NABC, should conduct an annual summit to discuss pre-collegiate basketball issues and concerns. The summit should include (a) an information session for travel team operators to discuss NCAA recruiting rules, the importance of ethical conduct and the needs of young players; (b) an information session with parents and/or family members of young players to discuss relevant concerns; and (c) a forum with the NFHS to discuss the state of high school basketball and the ongoing role of high school coaches. We note that high school programs continue to offer significant benefits to young basketball players and that high school basketball coaches are subject to more rigorous oversight than travel team operators and coaches due to the involvement of athletics directors, principals, superintendents, school districts and state associations, which creates controls that do not exist with travel teams.

3. The current programs, services and events offered and/or staged by USA Basketball should also be explained regularly and in more detail to the NCAA membership, so that schools and conferences have a greater understanding of USAB's role in the pre-collegiate landscape. We note that USAB executives have made presentations in recent years to the Men's Basketball Oversight Committee and other selected groups within the membership, but we believe much more can be done to foster awareness and coordination.

D. NCAA RULES RE: AGENTS AND ADVISORS

UNDERLYING PREMISE: As recent events have shown, the influence of agents, who are currently operating underground, is significant. In addition to their attempts to establish relationships with current student-athletes, agents in some cases are funding travel teams in order to establish ties with players before they leave high school. We believe that agents and advisors, with oversight, can offer benefits to young players and see a restructuring of the agent/advisor role as a necessary component of any reform package.

We see advisors falling into two categories: (1) those offering general counsel to elite players in grades 8-11 (and their families) who are beginning to form ideas about their basketball futures, including information about the travel team landscape, opportunities on the USAB national team program, the benefits of attending college, and the process of entering the NBA draft; and (2) those guiding elite players in 12th grade and current NCAA student-athletes who can benefit from quality and disinterested advice as they weigh specifically whether to enter the NBA draft.

- For category (1) players, we recommend that the NCAA create and oversee an advisory service modeled after the First Team program (which was discontinued by the NCAA in 2009) to provide cost-free guidance to younger-age prospects and their families about their future options in the sport.
- For category (2) players, we recommend that the NCAA enact rules comparable to those now in effect in baseball and ice hockey and allow basketball student-athletes to formally retain agents to provide guidance prior to entering the NBA draft, under stringent certification standards to be determined. (We note that current NBPA agent certification rules require only a four-year college degree, a background check, a \$100 application fee, payment of annual dues (currently \$1,250) and completion of a proctored written exam).
- In order to lessen the possibility that student-athletes or their families will receive payments from agents while in college, we recommend that schools more aggressively communicate to student-athletes that such practices could lead to NCAA ineligibility and potentially carry criminal penalties.

E. RELATIONSHIP WITH NBA

UNDERLYING PREMISE: As noted above, the NBA's draft eligibility rule has a major impact on the recruiting landscape for top NCAA programs, and a change would have a direct effect on the behavior of coaches, agents, travel team operators and apparel companies. Because the fate of this rule is exclusively in the hands of the NBA and NBPA, the NCAA should consider how best to influence and incentivize both of those organizations to agree to a rule modification. The CBC's recommendations should address the actions that may or should be taken by the NCAA if no change to the NBA rule is made.

1. Eliminate the "one-and-done" rule for high school seniors.

- In order to create a pathway to professional basketball for young players who do not see value in playing at the collegiate level, we recommend that the CBC encourage the NBA and NBPA in the strongest terms to change their existing NBA draft eligibility rule to allow players to declare and enter the draft directly out of high school. An immediate benefit of this rule change would be to lessen the influence of apparel companies and agents in the college game, as the players most likely to qualify as potential future endorsers and/or clients would be part of this category (meaning third parties could be expected to trail them to the NBA instead of infiltrating college programs). We have studied historical data detailing the careers of high school players who have moved directly and successfully to the NBA (i.e., prior the establishment of the current "one and done" rule), and we are confident that future players in this category would similarly thrive with an earlier entry date.
- One way to effect this rule change and provide a service to elite high school players would be to require players most likely to move directly to the pro game to declare in non-binding fashion their interest in the NBA draft at the beginning of 12th grade. At that point, the EPU would assign each such player a mentor, who would be responsible for providing support and guidance during the school year leading into the draft the following spring. Individuals named as mentors could include well-regarded former players or former coaches who are no longer tied to a college program.
- In order to provide 12th graders with the best possible advice about their draft prospects, the reformed draft eligibility model should allow players to: (1) use the services of NCAA-certified agents as described above; (2) apply to the NBA's Undergraduate Advisory Committee (made up of NBA team and league personnel) for feedback and a realistic assessment of their draft prospects; and (3) be invited to attend NBA team workouts and the NBA draft combine to receive additional feedback about draft potential.

- Consider mandating that high school players who enter the draft and subsequently go undrafted must permanently forfeit their collegiate eligibility. This alternative is designed to ensure that high school players give very careful consideration to the decision to enter the professional track and to reserve the collegiate opportunity for players who see the merits in playing basketball in a campus setting. High school players who enter the draft but are undrafted would become NBA free agents who are able to devote their full-time energies to opportunities at the NBA, G-League or international club basketball levels. For any player who chooses this pathway, we recommend that a program be developed collaboratively among the NBA, the NCAA and the NBPA to allow that player to enroll in college (as a student only) so that he continues to have access to the benefits of higher education.
- Alternatively, the NCAA could consider allowing any player who enters the draft and subsequently goes undrafted to join a college program, but he would be ineligible to play in his first year of competition. This option would offer more flexibility to players while reinforcing the need for careful thought with respect to the decision to test the NBA waters.

2. Adopt a “none-or-two” draft eligibility rule for NCAA student-athletes.

- Players who decide to attend college and become part of an NCAA program will be required to remain for a minimum of two (2) years before they are eligible to declare for the NBA draft. This proposal would reduce roster disruption for NCAA programs and provide an expanded window for NBA teams to evaluate student-athletes with borderline professional prospects. The players who choose this pathway would be able to hone their basketball skills in the collegiate setting and have the benefit of additional time for academic, social and physical maturation.
- After two years (minimum) of college basketball, student-athletes will be permitted to declare for and remain in the NBA draft and, if undrafted, return to collegiate competition. This proposed change is in keeping with the NCAA’s focus on student-athlete welfare, as it would afford basketball student-athletes a broader range of options and address the scenario where a prospect misjudges his draft potential and winds up in a basketball “no-man’s land.” To avoid NCAA roster disruption in mid-season, the NBA and NBPA would need to agree that NBA teams would be prohibited from signing undrafted student-athletes (who under current rules are considered rookie free agents who could be signed at any time by an NBA team) for at least one college basketball season.

3. Rationale to NBA and NBPA to change the eligibility rule. A “none or two” rule would work to the advantage of both the NBA and the NBPA, as each would gain a benefit from the change. For the NBPA, immediate eligibility following high school would open up the professional pathway a year earlier to players who have no interest in attending

college and, importantly, accelerate the completion of their rookie scale contracts. For the NBA, a mandatory two-year college commitment would allow more time for NBA teams to assess the draft potential of less mature prospects and enhance their visibility before they take the NBA stage.

4. Recourse in the event of the status quo. If the NBA and the NBPA do not change their draft eligibility rule, we believe that the problems exposed by the criminal probe (particularly the influences of third parties) will be very difficult to eradicate. We acknowledge that some in the membership, perhaps to address this scenario, have proposed that freshman basketball student-athletes serve a year in residency before they are eligible to compete in NCAA competition. We suspect that the primary goals of this requirement would be: (a) to incentivize players who have no interest in pursuing a formal education following high school to immediately declare their eligibility for the G-League or pursue professional opportunities overseas; and (b) to allow first-year basketball student-athletes additional time to adjust to college life. We recognize that such a requirement is likely to prove unworkable by the NCAA membership and that additional study on recourse in the event of the status quo will be required.

F. NCAA RULES ENFORCEMENT

UNDERLYING PREMISES: Given the importance of competitive success in college basketball and the ease with which detection of (and penalties for) unethical conduct can be avoided, we believe that certain individuals involved with the sport will continue to be tempted to bend or break the NCAA's recruiting rules in order to attract the best student-athlete talent possible. The possibility of rules-breaking will exist no matter what new structure may be adopted: for example, even if the most talented high school players are allowed to move directly to the NBA, schools will still be vying (possibly illicitly) for players who are part of the "next level down." Accordingly, we believe that improvement of the NCAA's rules enforcement effectiveness is one of the most important components of any set of reform recommendations.

While not entirely analogous, we note that the NBA and NHL have developed mechanisms to minimize cheating by their teams in player acquisition (e.g., through circumvention of salary cap rules, which place limits on compensation which can be paid to free agents) by enacting very strong penalties for rules-breakers, such as substantial fines and the loss of future draft picks. We recommend that the NCAA adopt a similar hardline approach with its penalty structure.

We also believe much more can be done to promote the importance of ethical conduct by current head and assistant coaches and to break down the "code of silence" which prevents coaches and others from bringing unethical practices to the attention of NCAA enforcement authorities.

Our recommendations in this area fall into three categories: (1) process; (2) penalties; and (3) ethical standards.

1. Create a more effective investigative and enforcement process for men's basketball.

- Beef up the NCAA staff dedicated to men's basketball enforcement to allow for greater focus on corrupt recruiting practices in the sport. In the alternative, outsource this function to a third party entity made up of former criminal prosecutors and/or others trained in investigatory practices. The U.S. Anti-Doping Agency (USADA), an independent non-profit created in 2000 to bring credibility to the "clean sports" effort in the U.S., can serve as a model.
- Develop a mechanism to allow NCAA enforcement staff (or the outside enforcement entity) to compel individuals to provide information in cases where there is evidence of significant rules violations (e.g., subpoena powers).
- Create a separate investigative and adjudication path for "hot cases" (e.g., Penn State, University of North Carolina, Louisville, etc.).
- Create an ombudsman function within the NABC and/or NCAA to facilitate self-reporting of rules violations and/or to anonymously report unethical conduct.

2. Enact significantly enhanced penalties for recruiting violations.

- Impose an NCAA lifetime ban on any coach (head or assistant) found to be in violation of an egregious recruiting violation.
- Impose much tougher penalties for institutions whose coaches are found to be in violation of the most egregious rules violations. Examples are: multi-million dollar financial penalties; multi-year NCAA tournament bans; and recruiting bans (i.e., require schools to conduct try-outs and use walk-on players for one or more years).
- Mandate that any institutional booster found to have funneled funds to a basketball recruit or his family be dissociated from intercollegiate athletics for a minimum of five years.
- Mandate that schools include "claw back" provisions in coaching contracts requiring reimbursement of any fine paid by a school as a penalty for an egregious recruiting violation.
- In addition to strengthening the penalty structure, develop an incentive model that rewards and creates an advantage for compliant/"clean" programs (i.e., programs which have not incurred Level I or II violations for a minimum of ten years).

Examples are: financial rewards, recruiting opportunities, preference for post-season play and/or an extra scholarship.

- Create and publish a list available to the public of outside individuals – including travel team coaches, family members, apparel company executives, agents, advisors and runners – who are found to have engaged in practices antithetical to NCAA rules and values.
- Strongly encourage the NBPA to withhold or withdraw certification for any agent found to have directed payments to a current student-athlete or his family.
- In order to optimize efficiencies with the enforcement function, reduce the penalties for trivial violations involving minor dollar amounts.

3. Promote ethical conduct in recruiting as a core NCAA value.

- Expand and publicize the good work of the NCAA Ethics Coalition, especially to first-time coaches. The conference offices should be charged with conducting annual meetings of conference basketball personnel to review the Coalition's guidelines. In addition, Division I institutional boards of directors/trustees should be required to review the Coalition's guidelines and receive annual recruiting ethics briefings.
- Any head or assistant coach under contract consideration with an NCAA school must submit to a comprehensive background check pursuant to guidelines established by the NCAA (e.g., criminal, academic, NCAA rules compliance, financial, etc.).
- Require every Division I head and assistant coach to sign a certification attesting to ethical conduct at the end of every season. The forms should be co-signed by the institution's CEO and Director of Athletics.

In closing, we are grateful to Dr. Rice and the Commission for their efforts in addressing critical issues in a sport that – as March Madness again proves – is embraced by universities and fans around the country. We understand that this review is only the start and that implementation of the Commission's final recommendations will take much effort, resources and conviction. The BIG EAST stands ready to support these efforts and looks forward to being a constructive participant as college basketball enters its next phase.