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August 5, 2011

President Mark Emmert
The National Collegiate Athletic Association
700 W. Washington Street Indianapolis,
Indiana 46206-6222

Via Email and U.S. Mail

Re: *NCAA Certification Process and Gender Equity*

Dear President Emmert,

We write to you today to request that the NCAA reconsider its recent two-year moratorium on the Certification process. This moratorium will only slow progress that is so important to achieving equity for women and minorities. While it is always appropriate to review programs and systems, the certification process need not be halted while this review takes place.

As members of the collegiate women's athletics community, it is our experience that the Certification process is a powerful tool to make real progress in achieving gender equity on individual campuses. The gender equity component of the Certification process is vital for women in collegiate athletics to make progress towards both federal law and the fulfillment of Operating Principle 3.1.

"An athletics program can be considered gender equitable when the participants in both the men's and the women's programs would accept as fair and equitable the overall program of the other gender."

The ability of the Certification process to effect change lies in two key design elements. First, the Certification process is largely a self-study, led by an institution's highest official, its president or chancellor. Self-studies on gender equity in athletics are comprehensive, requiring campus-wide participation. The Certification specifically requires measurable goals, the steps the institution will take to achieve those goals, persons responsible, and timetables for achieving institutional goals. These self-study committees most frequently survey the physical facilities, the locker rooms, and the offices of coaches and trainers. The process provides the motivation for athletics personnel to learn more about the law and attend NCAA-sponsored Title IX seminars. Without the NCAA Certification process, it is unlikely that a campus will engage in such a meaningful review of women's athletics, and the task will fall to those without ultimate institutional power: coaches, the senior women athletic administrators, the Title IX coordinators or student-athletes.

The Self-Study Manual requires each institution to:

3.1 Gender Issues.

- a. Have implemented its approved gender-equity plan from the previous self-study. If modified or not carried out fully, the institution shall provide an explanation from appropriate institutional authorities.
- b. Demonstrate that it is committed to, and has progressed toward, fair and equitable treatment of both male and female student-athletes and athletics department personnel.
- c. Formally adopt a written plan for the future for the intercollegiate athletics program that ensures the institution maintains a program, or continues progress toward a program, which is equitable for both genders. The plan shall include measurable goals the institution intends to achieve, steps the institution will take to achieve those goals, persons responsible and timetables.

The second aspect of the Certification process that yields real change for women is its effect on athletics departments over time. NCAA certification started in 1993 with an NCAA legislative mandate. With each successive self-study, an institution looks backwards at former self-studies to review their efforts, and is accountable for missed commitments. Currently, if a gender-equity plan is either modified or not carried out fully, the institution is answerable to the NCAA and must provide an explanation. The certification process is only starting to realize its power for women's athletics on campuses.

The Self-Study Manual specifically prohibits certain types of excuses for noncompletion of gender equity:

1. The committee will not accept the following explanations for partial completion or noncompletion:

1. The institution did not possess sufficient funds to implement the plan.
2. The institution has had personnel changes since the original development of the plan.
3. The institution does not have documentation of actions taken to implement the plan.

2. The committee will accept the following explanation for partial completion or noncompletion:

The institution has implemented a different plan(s) or taken a different action(s) to achieve or maintain progress towards the same goal outlined in its Cycle 2 gender-issues plan.

Many schools are approaching their third NCAA Certification. An institution's ability to delay necessary improvements due to short-term budget shortfalls on the women's side of the ledger is greatly reduced, if not eliminated. Without the Certification process, the gains that have been promised to all the women in the department by schools could be lost.

In addition, without this important vehicle, the onus on creating a gender equitable athletics department will revert to those willing to make great personal sacrifices. Student-athletes are often inexperienced and lack knowledge about the law or the totality of the athletics department and its budgeting process. If a coach, trainer or staff takes on the responsibility for an athletics department to comply with federal law, he or she is frequently subject to harassment and retaliation, in a battle where no one wins. Title IX lawsuits are contentious, expensive, and may only benefit the next generation of employees and female student-athletes rather than those experiencing the inequities. The Certification process, by contrast, makes institutional leadership squarely responsible for gender equity in athletics.

Gender equity in education is an institutional value across disciplines. Yet almost 40 years after the passage of Title IX, women in college are provided with just 42% of the sports opportunities, despite being 57% of the student body. Female athletes receive almost \$150 million less annually in athletic scholarship funds. Moreover, these inequities are likely greater than indicated in official reports, given the widespread deceptive counting practices recently uncovered in *Biediger v. Quinnipiac Univ.* 728 F. Supp. 2d 62 (D. Conn. 2010) and as described in the New York Times article, *College Teams, Relying on Deception, Undermine Gender Equity* (April 25th, 2011). The lawsuit and the article expose the fact that some schools purposefully undermine gender equity laws by engineering athletic opportunities for women that are unequal to the opportunities provided to men. In addition, the New York Times' most recent article, *Long Fights for Sports Equity, Even with a Law* (July 29th, 2011), highlights schools' recalcitrant ways. Without presidential involvement, there is little chance that gender equity will ever become an institutional focus.

Gender disparities in other areas of academics are not tolerated. The Certification process, led by the president or chancellor, assures that athletics departments are not operating as independent silos of the university, but instead are comporting with institutional values and the educational mission of athletics.

In the past, the NCAA has been an invaluable partner in support of strong Title IX policies and enforcement, and in promoting gender issues in higher education. We hope that we can count on the NCAA leadership to continue its support. We urge you to not impose a moratorium on Certification process while the review takes place. Even if the two-year moratorium on the entire Certification process is not lifted, we ask the NCAA to retain the gender equity and diversity portions of Certification, including the important planning requirements and operating principles. In this way, the NCAA will be doing its part to ensure that equity for women and minorities remains a point of emphasis for individual universities and the NCAA now and in the future.

Sincerely,



Kathryn Olson
CEO, Women's Sports Foundation

Judith M. Sweet

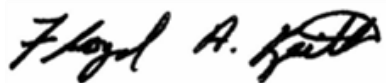
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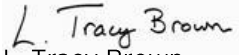
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Cc: NCAA Division I Board Members