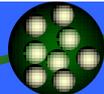




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Amateurism and Athletics Eligibility under the NCAA Rules

This is covered by Article 12 of the Bylaws set out in the NCAA Manual.

Lincoln A.C. Eatmon

November 7, 2015



Introduction



- 🐝 The participation of student athletes in intercollegiate competition in U.S. Colleges as well as the Penn Relays is dependent on their amateur status. Student athletes in Jamaica are exposed to sponsorship offers, commercial endorsements as well as offers of financial aid and other assistance. It is important that the student athlete, their parents, guardians, coaches, meet organizers and commercial entities be aware of the possible effects of entering into these arrangements on the maintenance of their amateur status. This presentation today will highlight only some of the rules which should be considered by all the stakeholders.
- 🐝 The majority of our student athletes will not be seeking to become professional athletes but hope to gain scholarships to US Colleges which are governed by the NCAA Rules. It is important therefore that their amateur status cannot be challenged.



Introduction



- 💡 At another level competing at the Penn Relays in the High School events is something that most Jamaican high school athletes aspire to. Their eligibility is also dependent upon the amateur status of the Student Athletes. In one recent case it was necessary for a Pennsylvania Court to determine the status of a Jamaican athlete. Fortunately the issue was resolved and the athlete was able to compete.
- 💡 In most cases the assistance being offered is well meaning but the parties should familiarize themselves with the applicable rules or seek advice before accepting any aid or entering into any arrangement with commercial entities.



1. General Principles



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- ✦ 1.1 **Eligibility for Intercollegiate Athletics.** Only an amateur student-athlete is eligible for inter-collegiate athletics participation in a particular sport.

- ✦ 1.2 **“Individual” vs. “Student-Athlete”.** NCAA amateur status may be lost as a result of activities prior to enrollment in college. If NCAA rules specify that an “individual” may or may not participate in certain activities, this term refers to a person prior to and after enrollment in a member institution. If NCAA rules specify a “student-athlete,” the legislation applies only to that person’s activities after enrollment.



2. Definitions and Applications.



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- ✦ 2.1 **Agent.** An agent is any individual who, directly or indirectly:
 - ✦ (a) Represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation for financial gain; or
 - ✦ (b) Seeks to obtain any type of financial gain or benefit from securing a prospective student-athlete's enrollment at an educational institution or from a student-athlete's potential earnings as a professional athlete.



2. Definitions and Applications.



- ✦ 2.2 **Actual and Necessary Expenses (these are allowable).** Actual and necessary expenses are limited to:
 - ✦ (a) Meals;
 - ✦ (b) Lodging;
 - ✦ (c) Apparel, equipment and supplies;
 - ✦ (d) Coaching and instruction;
 - ✦ (e) Health/medical insurance;
 - ✦ (f) Transportation (expenses to and from practice and competition, cost of transportation from home to training/practice site at the beginning of the season/preparation for an event and from training/practice/event site to home at the end of season/event);
 - ✦ (g) Medical treatment and physical therapy;
 - ✦ (h) Facility usage;
 - ✦ (i) Entry fees; and
 - ✦ (j) Other reasonable expenses.



2. Definitions and Applications.

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- 2.3 **Limited Benefit – Prior to Initial Full-Time Enrollment at an NCAA Institution - Expenses from a Permissible Source.** Prior to initial full-time enrollment at an NCAA institution, if an individual receives expenses from a permissible source (e.g. event sponsor, club team) that exceed his or her actual and necessary expenses by US\$300 or less, the eligibility of the individual shall not be affected.



2. Definitions and Applications.

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- 2.4 **Pay.** Pay is the receipt of funds, awards or benefits not permitted by the governing legislation of the Association for participation in athletics.
- 2.5 **Professional Athlete.** A professional athlete is one who receives any kind of payment, directly or indirectly, for athletics participation except as permitted by the governing legislation of the Association.

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Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual:

- ✿ (a) Uses his or her athletics skill (directly or indirectly) for pay in any form in that sport;
- ✿ (b) Accepts a promise of pay even if such pay is to be received following completion of intercollegiate athletics participation.
- ✿ (c) Signs a contract or commitment of any kind to play professional athletics, regardless of its legal enforceability or any consideration received, except as permitted in Bylaw 12.5.1 of the Rules. This allows for use by recognised entities, (such as member institutions of the NCAA member conferences, charitable and non-profit or educational agencies) of the students-athlete name, picture or appearance for the purpose of supporting charitable or educational activities subject to certain conditions being satisfied.

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Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual:

- ✦ (d) Receives, directly or indirectly, a salary, reimbursement of expenses or any other form of financial assistance from a professional sports organization based on athletics skill or participation, except as permitted by NCAA rules and regulations;
- ✦ (e) Competes on any professional athletics team per Bylaw 12.02.10, even if no pay or remuneration for expenses was received, except as permitted in Bylaw 12.2.3.21 (this allows student-athlete only actual and necessary expenses).
- ✦ (f) After initial full-time collegiate enrollment, enters into a professional draft (see Bylaw 12.2.4; or
- ✦ (g) Enters into an agreement with an agent.

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Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual:

🔦 **3.1 Educational Expenses or Services – Prior to Collegiate Enrollment**

🔦 A prospective student-athlete may receive educational expenses or services (e.g., tuition, fees, room and board, books, tutoring, standardized test preparatory classes) prior to collegiate enrollment from any individual or entity other than an agent, professional sports team/organization, member institution or a representative of an institution's athletics interests, provided the payment for such expenses or services is disbursed directly to the individual, organization or educational institution (e.g., high school, preparatory school) providing the educational expense or service.

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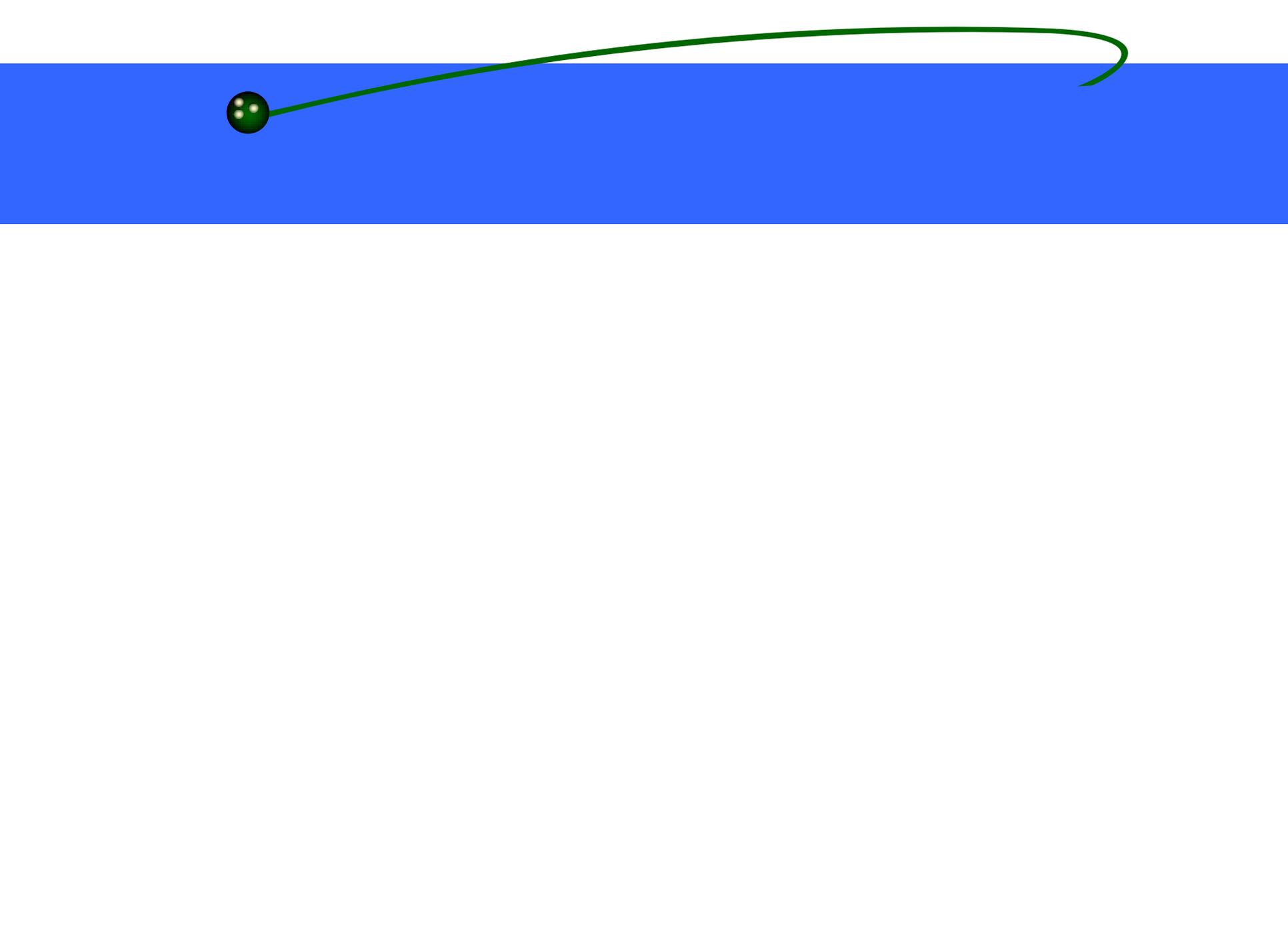
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Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual:

 **3.2 Payment Based on Performance. (Bylaw 12.1.2.1.5)**

Any payment conditioned on the individual's or team's place finish or performance or given on an incentive basis that exceeds actual and necessary expenses, or receipt of expenses in excess of the same reasonable amount for permissible expenses given to all individuals or team members involved in the competition is not allowed.

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4. Use of Agents



- ✦ **4.4 Who is Athletics Scholarship Agent.** Any individual, agency or organization that represents a prospective student-athlete for compensation in placing the prospective student-athlete in a collegiate institution as a recipient of institutional financial aid and shall be considered an agent or organization marketing the individual's athletics ability or reputation.



5. Employment



- ✦ **5.1 Criteria Governing Compensation to Student-Athletes.** Compensation may be paid to a student-athlete:
 - ✦ (a) Only for work actually performed; and
 - ✦ (b) At a rate commensurate with the going rate in that locality for similar services.

- ✦ **5.2 Athletics Reputation.** Such compensation may not include any remuneration for value or utility that the student-athlete may have for the employer because of the publicity.



5. Employment



5.3 **Athletics Equipment Sales.** A student-athlete may not be employed to sell equipment related to the student-athlete's sport if his or her name, picture or athletics reputation is used to advertise or promote the product, the job or the employer. If the student-athlete's name, picture or athletics reputation is not used for advertising or promotion, the student-athlete may be employed in a legitimate sales position, provided he or she is reimbursed at an hourly rate or set salary in the same manner as any nonathlete salesperson.



6. Continuation of Modeling and Other Nonathletically Related Promotional Activities After Enrollment.

- 
- If an individual accepts remuneration for or permits the use of his or her name or picture to advertise or promote the sale or use of a commercial product or service prior to enrollment in a member institution, continued remuneration for the use of the individual's name or picture (under the same or similar circumstances) after enrollment is permitted without jeopardizing his or her eligibility to participate in intercollegiate athletics only if all of the following conditions apply:



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6. Continuation of Modeling and Other Nonathletically Related Promotional Activities After Enrollment.

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- 💡 (a) The individual's involvement in this type of activity was initiated prior to his or her enrollment in a member institution;
 - 💡 (b) The individual became involved in such activities for reasons independent of athletics ability;
 - 💡 (c) No reference is made in these activities to the individuals' name or involvement in intercollegiate athletics;
 - 💡 (d) The individual does not endorse the commercial product; and
 - 💡 (e) The individual's remuneration under such circumstances is at a rate commensurate with the individual's skills and experience as a model or performer and is not based in any way upon the individual's athletics ability or reputation.



6. Continuation of Modeling and Other Nonathletically Related Promotional Activities After Enrollment.

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- ✦ 6.1 **Congratulatory Advertisement.** It is permissible for a student-athlete's name or picture, or the group picture of an institution's athletics squad, to appear in an advertisement of a particular business, commercial product or service, provided:
 - ✦ (a) The primary purpose of the advertisement is to publicize the sponsor's congratulations to the student-athlete or team;
 - ✦ (b) The advertisement does not include a reproduction of the product with which the business is associated or any other item or description identifying the business or service other than ITS NAME OR TRADEMARK;



6. Continuation of Modeling and Other Nonathletically Related Promotional Activities After Enrollment.

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- ✿ (c) There is no indication in the makeup or wording of the advertisement that the squad members, individually or collectively, or the institution endorses the product or service of the advertiser;
 - ✿ (d) The student-athlete has not signed a consent or release granting permission to use the student-athlete's name or picture in a manner inconsistent with the requirements of this section; and
 - ✿ (e) If the student-athlete has received a prize from a commercial sponsor in conjunction with participation in a promotional contest and the advertisement involves the announcement of receipt of the prize, the receipt of the prize is consistent with the provisions of Bylaw 12.5.2.33 and official interpretations. That is where he or she receives a prize for winning some promotional activity which is done through random drawing in which the general public or entire student body is eligible to participate.



6. Continuation of Modeling and Other Nonathletically Related Promotional Activities After Enrollment.



6.2 Nonpermissible



6.2.1 Advertisements and Promotions After Becoming a Student-Athlete. After becoming a student-athlete, an individual shall not be eligible for participation in intercollegiate athletics if the individual:

- 
- (a) Accepts any remuneration for or permits the use of his or her name or picture to advertise, recommend or promote directly the sale or use of a commercial product or service of any kind; or
- 
- (b) Receives remuneration for endorsing a commercial product or service through the individual's use of such product or service.

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6. Continuation of Modeling and Other Nonathletically Related Promotional Activities After Enrollment.

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- ✦ **6.2.2 Exceptions.** The individual's eligibility will not be affected, provided the individual participated in such activities prior to enrollment and the individual:
 - ✦ (a) Meets the conditions set forth in Bylaw 12.5.1.3 which covers continuation of modeling or other non athletically related promotional activities after enrolment that would permit continuation of such activities; or
 - ✦ (b) Takes appropriate steps upon becoming a student-athlete to retract permission for the use of his or her name or picture and ceases receipt of any remuneration for such an arrangement.



Eligibility for competition as a High School Athlete at the Penn Relays

✦ This is governed by the Eligibility Rules of the Pennsylvania Interscholastic Athletic Association (**the PIAA**)

✦ 1. Under the PIAA Rules, Amateur Status and eligibility is lost if the student athlete their parents or guardians receive money or property for or related to the student athletes athletic ability, participation, performance, services or training in a sport.

✦ **The student athlete may receive or be recognized**

✦ The student athlete may receive or be recognized and receive awards for their participation only from their school or school-affiliated booster club, the sponsor of an athletic event, a non-profit service organization approved by their school Principal, or the news media, Permissible awards include items of apparel, a blanket, watch, ring, scroll, carry-on or warm-up bag, photograph, medal, plaque, or similar award, which must bear appropriate institutional insignia or comparable identification. The fair market value of all of the items provided to you may not exceed US\$200. If they do, you must return the items in excess of US\$200.



Eligibility for competition as a High School Athlete at the Penn Relays



2. Under Article 11 of the Bylaws of the PIAA



AMATEUR STATUS AND AWARDS



Section 1. Amateur Status Required



To be eligible to participate in an Inter-School Practice, Scrimmage, and/or Contest, a student must be an amateur in the sport involved. An amateur student is one who engages in athletic competition solely for the educational, physical, mental, social, and pleasure benefits derived thereof.



Where the official rules for a sport provided for under ARTICLE XVIII of these By-Laws establish requirements for amateur status, such requirements shall govern to the extent inconsistent with this ARTICLE II.



Eligibility for competition as a High School Athlete at the Penn Relays



Section 2. Loss of Amateur Status.

- 
- A student loses amateur status in an interscholastic sport whenever:
- 
- A. The student or the student's parent(s) or guardian(s), receives compensation, other consideration, or an award not permitted under Section 3 hereof, for or related to the student's athletic ability, participation, performance, services, or training in a sport.
- 
- B. The student receives consideration for becoming a member of an athletic organization or school.
- 
- C. The student plays on a professional team or as an individual professional athlete in that sport.



Eligibility for competition as a High School Athlete at the Penn Relays

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- ✦ D. The student signs a contract whereby the student agrees to compete in any athletic competition for consideration. It is not a violation for a high school student to attend, and participate in a professional try-out camp, provided that (1) no compensation or expenses are paid to the student; (2) the try-out lasts no longer than forty-eight hours; and (3) if in the sport of baseball, the student's participation is otherwise in conformity with the National Federation Major-Minor League Agreement.
 - ✦ E. The student sells or pawns the student's athletic achievement awards.



Eligibility for competition as a High School Athlete at the Penn Relays



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⚡ **Section 3. Permissible Awards.**

⚡ **A. Member Schools:** A student may accept, from the student's school, or a school-affiliated booster club, items of apparel, a blanket, watch, ring, scroll, carry-on or warm-up bag, photograph, medal, plaque, or similar award, with appropriate institutional insignia or comparable identification, upon completion of a season of participation on a Team and/or for earning the official school letter or award.

⚡ **B. Sponsors of Athletic Events:** A student may accept, from the sponsor or sponsors of an athletic event or group of athletic events, items of apparel, a blanket, watch, ring, scroll, carry-on or warm-up bag, photograph, medal, plaque, or similar award, with appropriate institutional insignia or comparable identification, if the student participated in the athletic event and/or earned an award for an athletic event or events.



Eligibility for competition as a High School Athlete at the Penn Relays

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- ✦ The fair market value of items provided to any such student may not exceed US\$500. Such sponsor or sponsors may also pay the expenses for a student to participate in educational programs, tours, and field trips provided by the sponsor or sponsors in connection with the athletic event or events.
 - ✦ **C. Media and Other Public Recognition:** A student may accept, from a non-profit service organization approved by the Principal of the student's school, or the news media, items of apparel, a blanket, watch, ring, scroll, carry-on or warm-up bag, photograph, medal, plaque, or similar award, with appropriate institutional insignia or comparable identification in recognition of the student's athletic ability or performance, and present the same at a time appropriate to such recognition. The fair market value of items provided to any such student may not exceed US\$500.



Eligibility for competition as a High School Athlete at the Penn Relays

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- ✦ **D. Banquets:** Students may also attend without charge of admission, athletic banquets sponsored by the institutions listed above in this Section 3.
 - ✦ **E. Participation expenses.** A student may accept, from a school, and/or the sponsor of an athletic event or group of athletic events, the reasonable and necessary expenses for transportation, lodging, and/or meals incurred by the student and/or the student's Team for participation in an athletic event or events. A school affiliated booster club may pay the reasonable and necessary expenses for their school students to attend a camp or clinic.
 - ✦ **F. Participation Fees:** Schools charging fees for students to participate in interscholastic athletics may reduce or waive such fees under the following circumstances: (1) the Principal may approve a reduction or waiver of the fee for an individual student who demonstrates financial need; (2) the Principal may accept a donation of all or part of the fee from a school-affiliated booster club for an individual student who demonstrates financial need; and/or (3) the Principal may accept donations from any party which are to be applied pro rata to all students participating in interscholastic athletics or to all students on a particular Team. Under no circumstance can any reduction or waiver be tied into the athletic ability of such students.



Eligibility for competition as a High School Athlete at the Penn Relays

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- ✦ **G. Donations of Athletic Equipment and/or Product and/or Payments to Schools:** Nothing in this Section should be deemed to prohibit a donor of athletic equipment and/or product and/or the sponsor of any athletic event or group of athletic events from providing to a school any consideration, provided that such consideration is not made with the assurance or understanding that all or some of such consideration is to be then conveyed by the school to any individual student-athletes.
 - ✦ **H. College Recruiting:** A student may accept from an institution of higher education which the student visits in connection with the student's prospective or possible attendance there as a college student, reasonable expenses necessitated by such visit, and free admission to home athletic events of such institution which occur during such visit.
 - ✦ **I. Operation Gold:** Consistent with NFHS policy, a student may accept monies under this program, which provides monetary rewards to athletes who place in the Olympic Games and/or World Championships in designated sports.



Eligibility for competition as a High School Athlete at the Penn Relays



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Section 4. How Amateur Status Can be Regained.

- ✦ A student who has lost amateur status may be reinstated by the suspending body after a period of one year from the date of suspension, providing that the student refrains from all activity prohibited by Section 2 hereof during that year.
- ✦ A student who has lost amateur status pursuant to Section 2A and/or B hereof may be reinstated by the suspending body effective upon the student's return to the provider of the consideration item or items which caused such loss of amateur status.



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- ✦ **The Roles and Responsibilities of Coaches and other Athletes Support Personnel in Anti-Doping**
- ✦ 1. In their preparation for competition all athletes have to rely on the support of persons who will assist them to reach and maintain their optimal performance.
- ✦ 2. The WADA Code defines Athlete Support Personnel (ASP) as “any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other person working with treating or assisting an athlete participating in or preparing for Sports Competitions”. This is a very wide definition and would cover many persons such as alumni who actively participate in the management and administration of school teams and mentor athletes.
- ✦ 3. Because of the influence and opportunity Athlete Support Personnel may have, it is very important that coaches and managers and especially in the case of minors, schools and parents exercise care in selecting members of support staff for athletes and teams.



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- 4. Article 21.2 of the WADA Code outlines the Roles and Responsibilities of Athlete Support Personnel as follows:
 - (1) To be knowledgeable of and comply with all anti-doping policies and rules adopted pursuant to the Code and which are applicable them or the Athletes they support.
 - (2) To cooperate with the Athletes Testing program.
 - (3) To use his or her influence on Athlete's values and behaviour to foster anti-doping attitudes.



TITLE



- ✦ (4) To disclose to his or her National Anti-Doping Organization and International Federation any decision or finding that he or she committed an anti-doping violation within the previous ten (10) years.

- ✦ (5) Cooperate with anti-Doping Organizations investigating anti-doping rule violations.

- ✦ (6) Not use or possess any Prohibited Substance or Prohibited Method without valid justification (possible justification according to the Code is an example of a team doctor carrying a Prohibited Substance for dealing with acute emergency situations).



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- 5. The comment to Article 21 is that Coaches and other ASPs are often role models for Athletes. They should not be engaging in personal conduct which conflicts with their responsibilities to encourage their athletes not to dope.
- 6. Some of the doping violations which can apply to ASPs are:
 - (a) Possession of any Prohibited Substance or any Prohibited Method (Article 2.6.2).
 - (b) Trafficking or attempted trafficking in any Prohibited Substances or Prohibited Method (Article 2.7).
 - (c) Administration or attempted administration to any athlete of any Prohibited Substance or Prohibited Method (Article 2.8).



TITLE



- ✦ (d) Complicity in assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation or attempted rule violation (Article 2.9).

- ✦ (e) Prohibited Association in a professional or sport related capacity with an ASP who is serving a period of ineligibility or has been convicted or found in a criminal disciplinary or professional proceeding to have engaged in conduct which would have constituted an anti-doping violation (Article 2.10) or serving as a front for the above persons.



TITLE



7. Some examples which have been given by the United States Anti-Doping Agency (USADA) relating to prohibited association include obtaining training, nutrition or medical advice and/or allowing the prohibited individual to serve as an agent or representative. It has been suggested that National Anti-Doping Organizations should warn athletes before taking action if they become aware of a prohibited association as the athlete may not be aware.

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8. As stated earlier it is the influence that many ASPs especially coaches have over athletes that creates the responsibilities set out in Code. In a recent decision arising from the Tyson Gay doping violation, USADA took action against his coach Jon Drummond based upon information provided by this athlete. A USADA panel in December of 2014 held that the coach was guilty of the following anti-doping violations:

- (1) Possession of DHEA
- (2) Trafficking of DHEA
- (3) Administration of DHEA
- (4) Attempted administration of HGH and/or testosterone by assisting, encouraging, aiding, abetting, covering up and other complicity involving one or more anti-doping rule violations or attempted anti-doping rules violations



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- 9. The Panel stated that:
- “The Panel is of the opinion that Drummond failed to act in the manner expected of a coach of athletes in the Olympic movement. A coach cannot lead an athlete into the danger of using prohibited substances. A coach cannot simply take the word of a person who recommends crèmes whose labels identify prohibited substances but who says that the labels don’t mean what they say. A coach must be a watchdog when it comes to prohibited substances.” (USADA v Jon Drummond AAA 01-14-0000-6146).



TITLE



- 10. It is clear from this decision that coaches are being held to a high standard although mere negligence may not be enough to make them liable.
- 11. All ASPs, clubs, teams and administrators should be made aware of the roles and responsibilities of ASP's in order to ensure that our sportsmen and sportswomen do not cross the line.



QUESTIONS ?

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