



December 18, 2023, Preliminary Injunction – Application Issues

Issued on December 18, 2023

The following guidance is designed to assist the NCAA membership in understanding implementation issues associated with the temporary restraining order (TRO) issued by Judge John Preston Bailey of the Northern District of West Virginia on December 13, 2023, which was converted to a preliminary injunction on December 18, 2023. Additional issues will be addressed as needed.

Question No. 1: What is the preliminary injunction and how long will it remain in effect?

Answer: The 14-day TRO that was converted to a preliminary injunction enjoins the NCAA from enforcing NCAA Division I Bylaw 14.5.5.1, insofar as it requires a transfer student-athlete to sit out for an academic year of residence. The order also enjoins the NCAA from taking any action against an institution in the interest of restitution according to Bylaw 12.11.4.2, as it relates to the athletics participation of a student-athlete resulting from the injunction. The preliminary injunction will remain in effect for the remainder of the 2023-24 NCAA championship seasons.

Question No. 2: Does the preliminary injunction impact postgraduate transfer student-athletes who did not satisfy either Bylaw 14.6.1 or the NCAA Division I Committee for Legislative Relief previously approved waiver checklist for postgraduate transfer eligibility?

Answer: No. Postgraduate transfer student-athletes are not subject to a year in residence and must continue to satisfy Bylaw 14.6.1 or the previously approved waiver checklist at the time of transfer to be eligible to use their remaining eligibility at another Division I institution.

Question No. 3: Does the preliminary injunction enjoin the NCAA from enforcing Bylaw 14.5.5.1, as it relates to an undergraduate fall sport student-athlete who transfers midyear (spring 2024), seeking confirmation of the student-athlete's participation opportunity for the fall 2024 season?

Answer: It is not certain at this time whether the preliminary injunction will remain in effect during the 2024-25 season; however, as long as the undergraduate student-athlete transfers to another Division I institution during the 2023-24 academic year, the student-athlete will not be subject to Bylaw 14.5.5.1 during the 2024-25 academic year. The student-athlete would still be subject to any academic eligibility standards required for competition that may be developed or modified for the 2024-25 academic year.

Question No. 4: Does a four-year undergraduate transfer student-athlete need to be academically eligible (e.g., meeting applicable academic and amateurism requirements) to compete during the preliminary injunction?

Answer: Yes.

Question No. 5: Does the season of competition legislation apply if a student-athlete competes during the preliminary injunction?

Answer: Yes. The preliminary injunction only enjoined Bylaw 14.5.5.1 and does not change the season of competition legislation.

Question No. 6: Will there be institutional repercussions or student-athlete reinstatement needed if a school chooses to allow a student-athlete who is subject to Bylaw 14.5.5.1 to compete during the preliminary injunction?

Answer: No, provided the student-athlete is otherwise eligible to compete (e.g., meeting applicable academic and amateurism requirements).

Question No. 7: Does the preliminary injunction impact other legislation that impacts undergraduate transfer student-athletes (e.g., notification of transfer – undergraduate student-athletes, competition in year of transfer, midyear enrollee – baseball, basketball and softball, receipt of athletically related financial aid in year of transfer – tennis, disciplinary suspension, two-year college transfer requirements or 4-2-4 requirements)?

Answer: No. The preliminary injunction only enjoins Bylaw 14.5.5.1. It does not change the application of other undergraduate transfer legislation.

Question No. 8: May a first-time, four-year undergraduate transfer student-athlete who is currently subject to the year in residence (Bylaw 14.5.5.1) because they provided written notification of transfer after the transfer window(s) for their sport closed during the 2022-23 academic year and prior to August 1, 2023, compete during the preliminary injunction?

Answer: Yes, provided the student-athlete meets all applicable academic and amateurism requirements.

Question No. 9: May a four-year undergraduate transfer student-athlete who is currently subject to a year in residence (Bylaw 14.5.5.1) because they did not leave their previous four-year institution academically eligible compete during the preliminary injunction?

Answer: Yes, a student-athlete who did not qualify for the one-time transfer exception for failing to satisfy Bylaw 14.5.5.2.10-(b) could be eligible to compete for the remainder of the 2023-24 NCAA championship season(s) under the preliminary injunction provided the student-athlete is now meeting all applicable academic and amateurism requirements at their current institution (e.g., progress-toward-degree requirements).

Question No. 10: If an institution submitted an undergraduate legislative relief waiver that did not have a staff or committee decision as of December 18, 2023, will that legislative relief request be cancelled?

Answer: Student-athletes who were not eligible for competition due to Bylaw 14.5.5.1 are no longer subject to a year in residence that would have otherwise been served during the 2023-24 academic year. Any legislative relief waivers that only request legislative relief of Bylaw 14.5.5.1 may be withdrawn by the institution. On January 2, 2024, any submitted cases requesting relief of only Bylaw 14.5.5.1 will be cancelled by the NCAA staff case manager.