

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JASON WHITE, BRIAN POLAK, JOVAN HARRIS, AND CHRIS CRAIG, on behalf of themselves and all others similarly situated,) CASE NO. CV06-0999 VBF (MANx)
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)
)
) Plaintiffs,) Hon. Valerie B. Fairbank
)
) vs.)
)
) NATIONAL COLLEGIATE ATHLETIC)
ASSOCIATION,)
)
) Defendant.)
_____)

**NOTICE OF PENDENCY OF CLASS ACTION AND
PRIVACY NOTICE UNDER FERPA**

TO: ALL PERSONS WHO RECEIVED ATHLETIC-BASED GRANTS-IN-AID (“GIA’s”) FROM ANY OF THE:

(1) FOOTBALL PROGRAMS SPONSORED BY COLLEGES AND UNIVERSITIES INCLUDED IN NCAA DIVISION I-A (“MAJOR COLLEGE FOOTBALL”); OR

(2) MEN’S BASKETBALL PROGRAMS SPONSORED BY COLLEGES OR UNIVERSITIES IN THE ACC, BIG EAST, BIG 10, BIG 12, PAC-10, SEC, MOUNTAIN WEST, WAC, ATLANTIC 10, CONFERENCE USA, MID-AMERICAN, SUN BELT, WEST COAST, HORIZON LEAGUE, COLONIAL ATHLETIC ASSOCIATION, OR MISSOURI VALLEY CONFERENCES (“MAJOR COLLEGE BASKETBALL”) AT ANY TIME BETWEEN FEBRUARY 17, 2002 AND THE PRESENT.

THIS NOTICE MAY AFFECT YOUR RIGHTS.

Please Read This Court-Ordered Class Action Notice Carefully.

This notice is directed to you because your rights may be affected by a class action pending in the United States District Court for the Central District of California. The name of the lawsuit is *Jason White, et al. v. National Collegiate Athletic Association*, Case No. CV 06-0999-VBF (MANx) (“this Action”). This notice is to inform you of the certification of the Class, the nature of your claims, and your right to exclude yourself from the Class.

What is this case about?

The allegations against the National Collegiate Athletic Association (“NCAA”) are set forth in Plaintiffs’ Second Amended Complaint filed with the Court on September 8, 2006. Plaintiffs claim that the NCAA and its member institutions have violated the federal antitrust laws by entering into a horizontal agreement to limit the athletic-based aid awarded to student-athletes to an amount capped at the grant-in-aid (“GIA”). Under this GIA definition, member schools award certain student-athletes athletic-based aid for their tuition, room and board, and required books. Plaintiffs claim that this agreement harms competition because, absent any agreement, all major collegiate men’s basketball and football programs would compete with each other to offer student-athletes financial aid packages equal to their full cost of attendance (“COA”). Plaintiffs claim that this GIA cap has damaged plaintiffs and the members of the Class and unreasonably restrained

competition. Plaintiffs are seeking: (1) the recovery of treble damages for the difference between the student-athletes' actual cost of attendance and the amount of the GIA awarded; (2) an injunction prohibiting the NCAA from enforcing its alleged unlawful and anticompetitive agreement to cap athletic-based aid at an amount which does not cover the full cost of attendance.

What does the NCAA say about the lawsuit?

The NCAA denies Plaintiffs' allegations that it has in any way violated the antitrust laws. The NCAA asserts several defenses to Plaintiffs' claims, including that the NCAA's challenged actions are lawful, justified, and that those practices have benefited competition, consumers, students, and student-athletes, and have not harmed Plaintiffs or caused them any damages.

Class Certification Ruling

On October 19, 2006, the Court entered an order initially certifying the Action as a class action. The certification of the Class does not mean that Plaintiffs have prevailed or will prevail in this Action, or that money necessarily will be obtained for Class Members, because the Court has not yet addressed the merits of Plaintiffs' claims and there are many contested issues that have not yet been decided. Unless modified by the Court, the ruling does mean that any judgment in this case – whether favorable to Plaintiffs or to Defendant – will bind all Class members who do not timely elect to be excluded from the Class in the manner described below.

This Notice has been sent to you in the belief that you may be a member of the Class whose rights may be affected by this lawsuit. It should not be understood as an expression of any opinion by the Court concerning the merits of the Action. This Notice is intended merely to advise you of the pendency of the Action and of your rights with respect to it, including the right to exclude yourself from the Class.

Am I potentially affected by this Litigation?

You are if you are a member of the following Class certified by the Court: "The individuals who received athletic-based GIAs from colleges and universities that sponsor:

- i. Football programs included in NCAA Division I-A ("Major College Football" programs); or
- ii. Men's basketball programs sponsored by colleges and universities in the ACC, Big East, Big 10, Big 12, Pac-10, SEC, Mountain West, WAC, Atlantic 10, Conference USA, Mid-American, Sun Belt, West Coast, Horizon League, Colonial Athletic Association, or Missouri Valley Conferences ("Major College Basketball" programs), at any time between February 17, 2002 and the present."

What are My Rights as a Member of the Class?

If you wish to remain a member of the Class, you are not required to do anything at this time

If you do not exclude yourself, as a member of the Class, you will be bound by whatever happens in the lawsuit, and you will not be able to sue the NCAA on your own about the antitrust claims in this lawsuit. Court-appointed counsel will represent all members of the Class and will ask the Court to pay their fees and expenses out of any recovery they achieve for the Class. You may also hire your own attorney at your own cost to speak or appear on your behalf. In determining whether you want to remain in or be excluded from the Class, you may want to consult your own attorney.

If you remain a member of the Class:

- (A) The Class Representatives and Class Counsel will represent your interests in presenting the claims against Defendant. You will not be personally responsible for Plaintiffs' attorneys' fees

or costs, except to the extent that the Court may award such fees and costs to the attorneys which would be paid out of the recovery in this Action, if any. If you desire, you may appear by your own attorney at your own expense.

- (B) You will have the right to participate in any recovery that may be obtained from the Defendant in any judgment or settlement. If no recovery is obtained, you will be bound by that result, and you will not be permitted to seek any other recovery from Defendant for their conduct at issue in the Action.

If you do not wish to participate in the Class, you may choose to be excluded from the Class

By electing to be excluded from the Class:

- (A) You will not share in any damages recovery that the NCAA might pay as a result of a judgment or settlement favorable to Plaintiffs.
- (B) You will not be bound by any judgment favorable to Defendant.
- (C) You will have the right, at your own expense, to pursue any individual antitrust claims that you may have against Defendant by filing your own lawsuit.

If you want to be excluded from the Class, you must make a personally signed, written request for exclusion. The request should provide your name, address, and telephone number, and be signed by you. The request must be post-marked on or before October 1, 2007, and mailed to the Administrator at: White v. NCAA, c/o The Garden City Group, Inc., P.O. Box 9150, Dublin, OH 43017-4150.

Additional Information

All references in this Notice to pleadings, allegations, claims, defenses and Court orders are summaries. Complete copies of the pleadings, orders, and other publicly filed documents in this Action may be examined and copied at any time during regular office hours at the office of the Clerk of the Court, United States District Court for the Central District of California, 312 North Spring Street, Los Angeles, California 90012, under the file No. CV-06-0999 VBF (MANx). The pleadings and orders are also available on the NCAA website at www1.ncaa.org/eprise/main/administrator/white_v_ncaa/index.html.

Any questions you have concerning the matters raised in this Notice, or any corrections or change of name or address, should not be directed to the Court or the NCAA but should be directed to Counsel for Plaintiffs.

Counsel for Plaintiffs are Steven Sklaver, Susman Godfrey LLP, 1901 Avenue of the Stars, Suite 950, Los Angeles, CA 90067-6029, (Telephone number: (310) 789-3100), and Courtney Palko, Blecher & Collins, P.C., 515 South Figueroa Street, 17th Floor, Los Angeles, California 90071, (Telephone number: (213) 622-4222). Any requests for additional information about the case can be submitted to counsel in writing at either address listed above, in an envelope that bears the legend "Inquiry by Absent Class Member: White v. NCAA." You may, of course, seek the advice and guidance of your own attorney if you desire.

Counsel for the NCAA are Miller, Canfield, Paddock and Stone P.L.C., 101 North Main Street, 7th Floor, Ann Arbor, Michigan 48104-1400, and Bingham McCutchen LLP, Three Embarcadero Center, San Francisco, California 94111-4067.

What is FERPA and How Does This Lawsuit Affect My Privacy Rights?

The Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g; 34 CFR Part 99, is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights

with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students." Generally, schools must have written permission from the parents or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to comply with a judicial order or lawfully issued subpoena. (34 CFR § 99.31(a)(9)(i).) However, schools must make a reasonable effort to notify the parent or eligible student of the subpoena in advance of compliance, so that the parent or eligible student may seek protective action. Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance unless the student requests otherwise.

If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose in the action, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

Plaintiffs have issued subpoenas to the 180 NCAA member institutions which comprise the Class members' colleges and universities in order to identify Class members and to obtain financial aid information about these Class members. A copy of the subpoena is attached hereto as Exhibit A. You are hereby notified that this information has been requested and will be used for purposes of this litigation only although it may become part of the public record. It will facilitate matters if you consent to your school's disclosure of the information requested in the subpoena. Unless you respond to the contrary before August 22, 2007, your consent to the disclosure of this information will be implied.

For additional information about FERPA, you may call (202) 260-3887 or write to:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5920

This Notice has been approved by the Court.

EXCEPT AS SET FORTH IN THIS NOTICE, PLEASE DO NOT CONTACT THE COURT.

Dated: March 8, 2007

Hon. Valerie B. Fairbank

UNITED STATES DISTRICT JUDGE

EXHIBIT A

Instructions and Definitions:

1. By Order of the Court dated October 20, 2006, counsel serving this subpoena is counsel for the certified class of all individuals who received athletic-based GIA's from colleges and universities that sponsor (i) football programs included in NCAA Division I-A, and (ii) men's basketball programs sponsored by colleges and universities in the ACC, Big East, Big 10, Big 12, Pac-10, SEC, Mountain West, WAC, Atlantic 10, Conference USA, Mid-American, Sun Belt, West Coast, Horizon League, Colonial Athletic Association, or Missouri Valley Conferences at any time between February 17, 2002 and the present.

2. "Documents" shall mean, without limitation, all writings, including without limitation the following items, whether printed, recorded or reproduced by any other mechanical process or written or produced by hand and whether or not claimed to be privileged against discovery on any grounds: agreements, communications, contracts, model contracts, form contracts, notes, correspondence, records, reports, telegrams, telexes, computer print-outs, designs, photographs, illustrations, proposals, letters, opinions, memoranda, analysis, manuals, guidelines, work papers, diaries, calendars, journals, receipts, telephone logs and minutes of meetings, notebooks, summaries or records of conversations, statistical statements, drafts of any documents, stenographic or stenotype notes, voice recordings, computer data, non-paper information storage such as tapes, films, disks and computer memory devices and electronic mail.

If information responsive to a request is sufficiently included in data submitted to the NCAA through the Compliance Assistant Internet program ("CAI"), and you will authorize the NCAA to release CAI information to plaintiffs, please include such as your response to the specific document request.

3. "GIA" shall mean an athletics-based grant-in-aid that consists of tuition and fees, room and board, and/or required course-related books.

4. "COA" shall mean cost of attendance, defined by NCAA Bylaw 15.02.2, as the amount calculated by the financial aid office, using federal regulations, that includes the total cost of tuition and fees, room and board, books and supplies, transportation and other expenses related to attendance at the institution.

5. The time frame of documents requested in this subpoena is from the beginning of the 2001-02 academic year until the present.

Documents Requested:

1. Documents sufficient to identify the last known contact information, including the name, permanent home address, last known address, and telephone number, of every men's basketball and football player provided a GIA. Social security numbers may be redacted.

2. Squad lists, in electronic version if possible, sufficient to identify the student-athletes participating in your men's basketball and football programs for each academic year from 2005-07 through the present. Names and social security numbers may be redacted. Provide a legend defining all acronyms, abbreviations, and codes that appear on the squad lists.

3. Documents sufficient to identify the number, and financial value of GIA's provided to men's basketball and football players, including whether the GIA's were full or partial. The financial value of each GIA should be sub-divided into the following categories: (i) tuition and fees, (ii) room and board, and (iii) required course-related books.

4. For all GIA's provided to men's basketball or football players that were not full GIA's, documents sufficient to identify the reason each GIA was not a full GIA. If every GIA was a full GIA, please respond to this document request by stating so.

5. Documents sufficient to identify whether you provided the maximum number of GIA's permitted by NCAA rules to men's basketball and football players for each academic year and, if not, the reasons that you did not provide the maximum number of GIA's permitted by NCAA rules in any year.

6. Documents sufficient to calculate COA for student-athletes during the academic year, including any differentials in COA for in-state and out of state students; students living on or off campus; and students living at home. The COA amounts should be subdivided into (i) tuition and fees, (ii) room and board, (iii)

books and supplies, (iv) transportation, and (v) other expenses related to attendance at the institution, identifying and sub-dividing those other expenses (e.g., laundry, child care, etc.).

7. Documents sufficient to identify any additional athletic or non-athletic financial aid provided to student-athletes receiving GIA's for men's basketball or football, including information on the name of the financial aid (e.g., Pell Grant) and the basis for the aid (e.g., need, ethnicity, academics, etc.).

8. Documents sufficient to show the annual budget and annual financial results and performance of your athletic department and of men's basketball and football programs, including all revenues, expenses, and profits.

9. Documents sufficient to identify any categories of athletics-related revenues (e.g., trademark or licensing revenues, unallocated donations, donations to your institution's general fund or endowment) that are not included in your athletics department's budget and financial results.

10. Documents sufficient to show the accounting of expenditures on athletics recruiting, by sport, including budgets and actual expenditures.

11. Documents summarizing the full pay of men's football and basketball coaches (including assistants) and athletic director(s), dividing full pay between salary and benefits, and sub-dividing amongst specific benefits (e.g., health insurance, retirement, etc.).

12. Documents maintained in the Office of Financial Aid, the Office of the President, or the Athletic Department related to, discussing, praising, criticizing, or referencing the enactment or consequences of NCAA Bylaw 15.02.5.

13. Documents maintained in the Office of Financial Aid, the Office of the President, or the Athletic Department related to, discussing, praising, criticizing, advocating, or referencing increasing the value of GIAs.

14. Documents maintained in the Office of Financial Aid, the Office of the President, or the Athletic Department related to, discussing, praising, criticizing, advocating, or referencing the enactment or consequences of NCAA Bylaw 2.13.

15. Documents maintained in the Office of Financial Aid, the Office of the President, or the Athletic Department related to, discussing, praising, criticizing, advocating, or referencing increasing GIA's to cover COA.

This request includes, but is not limited to, documents related to, discussing, praising, criticizing, advocating, or referencing NCAA Present Myles Brand's position on increasing GIA's to cover COA.

- See, e.g., Myles Brand, "Welfare of Student-Athletes NCAA's Top Priority," Letter to the Editor, *Denver Post*, Aug. 17, 2003. ("Ideally, the value of an athletically related scholarship would be increased to cover the full-cost of attendance, calculated at between \$2000 and \$3000 more per year than is currently provided. I favor this approach of providing the full cost of attendance.")
- See, e.g., "Brand Addresses NASR Symposium Addresses Issues With College Sports," *New Orleans Times Picayune*, November 12, 2003. ("In fact, I would like to see, over time, the grant increased to cover the full cost of attendance, which would be another \$2,000 to \$3,000 a year for each full-scholarship student-athlete.") (quoting Myles Brand speech at the National Symposium for Athletics Reform).

16. Documents maintained in the Office of Financial Aid, the Office of the President, or the Athletic Department related to, discussing, praising, criticizing, or referencing this lawsuit.

17. Since January 1, 2003, documents sufficient to show the amount of money distributed to men's football and basketball players from the NCAA Student Athlete Opportunity Fund. The information should be broken down by (a) year, (b) sport, and (c) reason for use or distribution of the funds.

18. Since January 1, 2003, documents sufficient to show the amount of money distributed to men's football and basketball players from the NCAA Special Assistance Fund. The information should be broken down by (a) year, (b) sport, and (c) reason for use or distribution of the funds.