

College Athlete Protection (CAP) Guarantee Agreement – Compliance-Related Concerns

Recently, the National College Players Association, a non-NCAA entity, has developed an editable template titled “College Athlete Protection” (CAP) Guarantee (Attachment) encouraging NCAA student-athletes and prospective student-athletes to enter into negotiations with member institutions to secure financial protections and benefits, many of which are currently permissible, but not mandated, under current NCAA rules. It is unclear how many student-athletes and prospective student-athletes will elect to engage in such a process. Although the proposed CAP agreement includes a statement that the student-athlete shall relinquish any benefit provided pursuant to this agreement found to violate applicable NCAA or conference rules, the proposed agreement as constructed raises a number of NCAA compliance-related concerns.

- Promises or guarantees of Student-Athlete Opportunity Fund (SAOF) benefits. (See sections 3 and 6 of the CAP).
- Offer of athletically related aid prior to first permissible date (See instructions section of CAP).
- Incorrect application of bylaw related to cancellation of athletics aid (See introductory page, possible protections/benefits section).
- Incorrect bylaw citations.
- Section 11 (Governing Law/Dispute Resolution) indicates that the agreement shall be governed by the laws of the state in which the student-athlete most recently attended high school. The NCAA is not in a position to comment on the accuracy of such a statement should a legal dispute arise between the parties.

Finally, it is clear that the CAP Agreement was developed primarily for elite level Division I football/basketball student-athletes, many of whom will already receive these expenses/benefits as part of their college experience.

Please consult with your financial aid office, compliance personnel, and general counsel’s office to review for consistency with other conference, school athletics, legal, and financial policies and considerations.

COLLEGE ATHLETE PROTECTION GUARANTEE

A FAIR DEAL FOR YOU AND YOUR SCHOOL

With the College Athlete Protection (CAP) Guarantee, you can request and secure legally binding protections/benefits worth over \$100,000 dollars beyond a minimum scholarship without breaking NCAA rules. You need transparency on protections and benefits because coaches too often break verbal promises. Coaches themselves don't rely on verbal promises from their college and neither should you. Use the CAP Guarantee to gain key physical, academic, and financial protections.

*Walk-Ons: Any promises of future financial aid, medical expenses, transfer releases, and the freedom to participate in various employment/activities can be secured using this document.

Possible Protections/Benefits

Guaranteed Scholarship Money

- Multi-year scholarships (instead of the NCAA's minimum 1-year scholarship that coaches can refuse to renew for any reason i.e. injury, new coach wants to give your scholarship away, etc.)*
- Summer school scholarships (not included in the NCAA's minimum scholarship)
- Degree completion scholarships (if you exhaust your athletic eligibility/enter a professional draft before you graduate and wish to complete your undergraduate degree)
- Scholarships for graduate school (college can give you a scholarship beyond athletic eligibility)

Stipend Money

- Typically ranges between \$2000-\$5000/year and covers your out-of-pocket educational-related expenses that even the NCAA "full" athletic scholarship does not cover

Reimbursement Money

- The NCAA gives colleges funds to reimburse some of your out-of-pocket expenses i.e. cell phone bill, parking fees, etc.
- For family to attend NCAA basketball championship tournament games and football bowl games

Medical Expenses

- 100% of sports-related medical expenses i.e. deductibles/copays (NCAA does not require colleges to pay for your sports-injuries and players are too often stuck with bills)
- 100% of insurance premiums (may save \$1000-\$2000/year in premiums you/your parent(s) may otherwise have to pay through a parent's employer or for the college's student health insurance)

Transfer Release

- Transfer freedom without college-imposed conditions or restrictions on which schools can contact you and provide you with an athletic scholarship should you wish to transfer**

Off-Season and Free Time Activities

- Employment and activity freedom outside of academic and athletic requirements

Disability Insurance

- Colleges can pay for insurance that may pay you in case you are determined to have a high chance of playing top-level pro sports and are injured during college sports

SEE NEXT PAGE FOR INSTRUCTIONS ON HOW TO USE THE CAP GUARANTEE

CAP Guarantee vs. Letter of Intent

The CAP Agreement is NOT the same as a Letter of Intent... the CAP Guarantee is much better. A Letter of Intent does NOT require a college to provide you a scholarship or any protections/benefits, but it does bind your athletic participation to the college under threat of penalty. This is unfair. The good news is that you DO NOT have to sign a Letter of Intent to commit to a college and receive an athletic scholarship – it IS NOT required by the NCAA.

CAP Guarantee Instructions

*You and your parent(s)/guardian(s) can negotiate directly with prospective colleges for various protections and benefits. However, if a 3rd party negotiates directly with a college on your behalf, it may violate NCAA rules and harm your athletic eligibility and scholarship opportunities.

Steps:

1. Plan to use the CAP Guarantee instead of a Letter of Intent. If a college insists you sign a Letter of Intent and you still want to play for the college, use both the CAP Guarantee and Letter of Intent.
2. Edit/complete the Cap Guarantee with the protections and benefits that you want colleges to provide.
CHANGING THE LANGUAGE OF THE CAP GUARANTEE MAY RESULT IN FEWER BENEFITS/PROTECTIONS AND/OR REDUCE THE LEGAL ENFORCEABILITY OF THE AGREEMENT.
3. Send your completed CAP Guarantee WITHOUT YOUR SIGNATURE to the colleges you are considering attending. Each college may accept/reject or ask to modify various parts of the CAP Agreement so keep careful track of how each college responds.
4. Ask each college to provide you with their best offer as early as August 1 going into your senior year in high school by using a pdf copy of the completed CAP Guarantee as a written scholarship offer (the offer cannot be signed and dated until the signing day designated by NCAA rules).
5. On signing day, ask the college to send you a signed and dated copy of the same CAP Guarantee it used for your written scholarship offer and read it for accuracy. Sign, date, and return the completed CAP Guarantee. If you use the optional Letter of Intent at all, do not sign and submit it before getting a CAP Guarantee signed and dated by the college representative or you risk having no CAP Guarantee protections.

*Big Ten and Pac-12 Conference “policies” provide athletes with four-year scholarships, and the Pac-12 has a policy that its colleges provide medical expenses for up to four years after eligibility. However, the degree to which these conferences’ colleges abide by these policies is questionable. By signing an agreement like the one that is attached, you can make a four-year scholarship and medical expenses legally binding guarantees instead of just “policies” that may be ignored or changed at any time. The remaining schools in the Power Five conferences that do not have policies of providing four-year scholarships can provide multi-year scholarships if they choose. A guaranteed, multi-year scholarship is one that a school cannot decline to renew for reasons related to athletic performance or injury. (See Bylaws 15.3.3 and 15.3.5.3)

**If a college agrees to transfer freedoms, NCAA and/or Conference rules may still require you to sit out for one year (known as a “year in residence”) at the school to which you transfer, with exceptions. Those rules can only be waived by the NCAA and/or Conference, not the college.

COLLEGE ATHLETE PROTECTION GUARANTEE

(NCAA rules allow the College to provide the Athlete with this AGREEMENT as a written offer as early as August 1 of the Athlete's high school senior year. NCAA rules do not permit either party to sign this AGREEMENT until the earliest date allowed by the NCAA which is _____ for the sport of _____)

The following AGREEMENT is made between:

_____ (the "College")

and

_____ (the "Athlete").

In consideration for Athlete's enrollment at the College and participation on its varsity athletic team in the sport(s) of _____, the College agrees to guarantee Athlete admission as long as Athlete meets the minimum admission requirements including any special admissions accommodations provided to athletes in similar circumstances; and provide the Athlete with the following consideration, all of which are in compliance with applicable NCAA and Conference rules and regulations concerning Athlete's eligibility for participation in NCAA-sanctioned athletics:

1. Financial Aid: The College agrees to provide Athlete with the financial aid outlined below as a percentage of Room, Board, Fees, Tuition, Books, and Other/Stipend for each academic school year and summer session as defined by NCAA rules:

Academic School Year: _____, Identical aid for summer session? Check Yes No
_____% Room, ____% Board, ____% Fees, ____% Tuition, ____% Books ____% Other/Stipend

Academic School Year: _____, Identical aid for summer session? Check Yes No
_____% Room, ____% Board, ____% Fees, ____% Tuition, ____% Books ____% Other/Stipend

Academic School Year: _____, Identical aid for summer session? Check Yes No
_____% Room, ____% Board, ____% Fees, ____% Tuition, ____% Books ____% Other/Stipend

Academic School Year: _____, Identical aid for summer session? Check Yes No
_____% Room, ____% Board, ____% Fees, ____% Tuition, ____% Books ____% Other/Stipend

Academic School Year: _____, Identical aid for summer session? Check Yes No
_____% Room, ____% Board, ____% Fees, ____% Tuition, ____% Books ____% Other/Stipend

The College will not cancel, reduce, or fail to renew the financial aid award as long as Athlete meets NCAA and College academic and disciplinary standards. For example, the College agrees that it will not cancel, reduce, or fail to renew the financial aid award due to injury or athletic performance.

The College agrees to notify Athlete of any decision to reduce or not renew an award in accordance with the written notification requirements of NCAA Bylaw 15.6.2.4. Such notice must be provided by March 15 prior to the academic year in which the reduction or nonrenewal is to be effective. This deadline will supersede any conflicting deadline set in NCAA Bylaw 15.6.2.4.

2. Medical Expenses: The College agrees to pay ____% of the premiums for a comprehensive year-round medical insurance policy for Athlete, which includes coverage for all sports-related injuries, during each year of his/her enrollment at the College while receiving the financial aid described in this Agreement.

The College agrees to pay _____% of Athlete's out-of-pocket expenses not covered by the medical insurance policy, including any applicable deductibles and co-payments, for sport-related injuries during each year of his/her enrollment at the College while receiving the financial aid described in this Agreement, other than expenses covered by existing policies or funds, such as the NCAA's catastrophic insurance plan and **the** NCAA championship supplemental insurance plan. The College also agrees to provide such payments for up to _____ years after Athlete's athletic eligibility ends.

The College agrees to pay for ____% of Athlete's expenses for seeking a second medical opinion from a medical professional of his/her choice, including one not affiliated with the College, regarding all sports-related injuries, medical conditions, and diagnoses, including all necessary medical testing, including X-ray, MRI, and CAT scans. The College agrees to promptly provide such medical professional(s) copies of any or all of Athlete's medical records upon request, with Athlete's consent in accordance with privacy laws.

3. Disability Insurance: The College agrees to pay _____% of an Exceptional Athlete Disability Insurance policy consistent with NCAA rules, if Athlete becomes eligible for such policy at any point during his or her enrolment at the College and participation in its varsity athletics program. The policy shall cover the maximum available future loss of earnings benefit based on market rates at the time Athlete qualifies for the policy.

4. Degree Completion Financial Aid: The College agrees to provide Athlete with _____% of a full grant-in-aid, including ____% of the full Cost of Attendance, as defined by NCAA rules, for up to _____ academic years, including summer terms, to complete his or her undergraduate degree following expiration of the athlete's athletic eligibility, so long as the Athlete remains in good standing at the College and follows a written, full-time degree completion plan developed by a College academic advisor unaffiliated with the College's athletic program.

If Athlete enters a professional draft and ceases to be eligible for college athletics, then the College will continue to provide Athlete with financial aid up to the equivalent of the unused portion of financial aid outlined in this Agreement when Athlete takes classes as a student at the College.

5. Graduate Program Scholarship: The College agrees to provide Athlete with ____% of a full grant-in-aid, including ____% of the full Cost of Attendance, as defined by NCAA rules, for up to ____ academic years upon Athlete's completion of an undergraduate degree and enrollment into a graduate program at the College.

6. Reimbursements: The College agrees that it will provide athlete with a minimum of \$_____ for qualifying expenses or reimbursements under the Student Assistance Fund and equal access to funds for all other qualifying expenses beyond such amount for each year that Athlete receives the undergraduate financial aid provided for in this Agreement.

7. Family benefits: Consistent with the continuation or extension of the 2015 NCAA expense pilot program, the College agrees to provide _____ members of Athlete's immediate family with transportation and lodging up to \$_____ each for each post-season contest in which the College participates during Athlete's participation on the team, except for family members who live within 100 miles of the contest location, or reimbursement for the same.

8. Off-Season and Free Time Activities: The College agrees that it will approve all Athlete employment and internships during the off-season that do not interfere with class time or countable athletically-related activities, as defined and allowed under NCAA rules.

The College agrees that it will allow Athlete to participate in student organizations and campus activities that do not interfere with class time or countable athletically-related activities, as defined under NCAA rules.

The College, including all athletic staff members and coaches, agrees to not interfere with or discourage such off-season employment/internships, and participation in student organizations and campus activities.

9. Transfer Release: The College

(mark one box)

[] agrees

[] does not agree

to comply with any request by Athlete for transfer releases and permission to contact authorization and to not restrict the ability of Athlete to transfer to any other collegiate institution.

10. Scope of Agreement/Breach:

The parties' intention is to provide Athlete with benefits that are permitted by current NCAA and Conference rules and do not adversely impact Athlete's eligibility for participation in NCAA-sanctioned athletics. If any benefit provided pursuant to this Agreement is found to violate applicable NCAA or Conference rules, then the Athlete shall relinquish such benefit to cure the violation and the remainder of this Agreement will remain in full force and effect.

Nothing in this Agreement shall limit the College from providing Athlete with greater or additional benefits than set forth above, consistent with NCAA, Conference, or College rules, including in light of any rule changes following executing of this Agreement.

If Athlete fails to meet minimum academic, athletic, or disciplinary standards, the College's recourse shall be limited to termination of the Athlete's disability policy and/or financial aid if such termination is permitted by NCAA and Conference rules. Under no circumstances will the College be entitled to any form of money damages whatsoever for the Athlete's failure to meet minimum academic, athletic, or disciplinary standards. Nor will the College be entitled to terminate the Athlete's medical-related benefits under this Agreement.

The Agreement constitutes the entire agreement and understanding between the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement may be amended only in writing signed by both parties.

To the extent the College and Athlete have entered into, or in the future enter into, any other agreement that is inconsistent with the terms of this Agreement, the College and Athlete agree that the terms of this Agreement shall control unless *this* Agreement is *expressly* modified *by written addendum to this Agreement*. For example, if the College and Athlete have entered into, or in the future enter into, any other financial aid agreement or National Letter of Intent that is inconsistent with this Agreement, then the terms of this Agreement shall prevail in the absence of an addendum to this document signed by both parties.

11. Governing Law/Dispute Resolution: This Agreement shall be governed by the laws of the state in which Athlete most recently attended high school. The parties agree that any dispute arising out of or relating to this Agreement may be submitted to arbitration or to a court at the discretion of the party bringing the action. The place of litigation or arbitration shall be the state in which Athlete most recently attended high school. Any arbitration shall be conducted pursuant to AAA Labor Arbitration Rules and conducted by a single, neutral arbitrator affiliated with the AAA and with experience in sports arbitration.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement on the date(s) indicated below:

College Representative Signature: _____ Date: _____

College Representative Name: _____

College Representative Title: _____

Athlete Signature: _____ Date: _____

Athlete Name: _____

If UNDER 18, Parent/Guardian Signature: _____ Date: _____

Parent/Guardian Name: _____

Disclaimer

The College Athlete Player Guarantee (“CAP Guarantee”) is an editable template created by the National College Players Association (“NCPA”).

The resources and information in the Cap Guarantee does not constitute legal advice or guarantees from the NCPA. Moreover, such general information is not necessarily complete or up-to-date, the law varies and may evolve from jurisdiction-to-jurisdiction, athletic association and conference rules are subject to change, and each individual’s circumstances may be different, so these documents should not be treated as a substitute for the advice or services of an attorney. While current or prospective college athletes may directly secure written guarantees from colleges, they may lose their athletic eligibility if they secure an attorney, agent, or other third party to negotiate individual guarantees with a college.

The NCPA is not responsible for decisions about which educational institution to attend or play sports for – that decision is up to each individual. Users may want to gather information from a wide variety of sources when making such decisions. The NCPA is not responsible for the status of financial aid or athletic participation offers related to an athlete’s use of the CAP Agreement.

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