



State of West Virginia
Office of the Attorney General

John B. McCuskey
Attorney General

Phone: (304) 558-2021
Fax: (304) 558-0140

March 17, 2025

Scott Bearby
Sr. Vice President of Legal Affairs and General Counsel
National Collegiate Athletic Association
700 W. Washington Street
P.O. Box 7110
Indianapolis, Indiana 46206-6222

Dear Mr. Bearby:

We write concerning the recent NCAA men's basketball tournament selections.

The NCAA has been an important partner to West Virginia University. We appreciate the value that the NCAA brings in hosting "one of the premier sporting events in the country"¹—the NCAA tournament—an event that brings enormous attention and support to WVU and many other colleges and universities. For good reason, West Virginia's student-athletes and fans all look forward to March.

WVU's players and staff were excited to head to the tournament again this year, as the team had an incredible season by all accounts. The team's record speaks for itself: six wins over Quad 1 teams, six wins against the NET Top 15, 13 total wins against the NET Top 100, four wins against ranked teams, no losses outside the top two Quads, and one of the toughest schedules in the country. It's no surprise, then, that out of 111 expert bracket projections before Sunday's selection show, *every single one* placed WVU in the tournament.²

Yet the NCAA selection committee left WVU sitting at home. It's hard to see why, as the Mountaineers had as many Quad-1 wins as four of the last bubble teams to get in over them—

¹ *Worldwide Basketball & Sports Tours, Inc. v. Nat'l Collegiate Athletic Ass'n*, No. 2:00-CV-1439, 2002 WL 32137511, at *15 (S.D. Ohio July 19, 2002).

² Billy Heyen, *West Virginia snub has case as worst in NCAA Tournament history when compared to UNC, Xavier berths*, THE SPORTING NEWS (Mar. 16, 2025), <https://tinyurl.com/bpawz4ft>.

combined.³ Selection committee chair Bubba Cunningham suggested that the committee excluded WVU because of injured star Tucker DeVries.⁴ But DeVries played only eight games this season, hasn't been on the floor since December, and never played during the Big 12 schedule. The team had already shown it could win even without him.

So we write seeking answers on behalf of a State that's at a loss.

Given the major event that the tournament has become, everyone deserves to know how the selection committee makes its choices. For the teams, those criteria affect scheduling, lineup choices, and more. For the fans, transparent criteria ensure that the tournament they're enjoying is fair. And as we look ahead to another season, these student-athletes deserve to know the rules of the game and what they might be up against.

But some have raised questions. For all the NCAA's discussion of objective selection criteria, for instance, WVU's snub—and the reasons given for it—imply that the committee may be less focused on objective, quantitative criteria (like quadrant wins) than it has said before.⁵ We're not alone in that belief, as observers like Dick Vitale noted the same disconnect last night.⁶

Given the lack of clarity around how teams make the tournament, we're compelled to ask:

- What role do subjective assessments (like the effect of “player availability”) play in the selection committee's process? How do injuries by long-absent players affect the “player availability” criterion?
- What objective criteria has the committee considered and rejected for inclusion in its process? Why?
- How are the various criteria weighed against one another? For instance, does the committee have any consistent approach when it comes to total wins versus quality wins?
- Beyond those publicly listed, what other “observation, consultation and data resources”⁷ does the committee employ?
- How does the committee resolve any disagreements to reach a “consensus position”⁸?

Athletic directors with teams under active consideration (and on the bubble) also participate as members of the selection committee. There is a public perception, as noted by Fran Frischilla, that these kinds of decisions are driven by personalities instead of data. Frischilla, like many others last

³ Reice Shipley, *Pat McAfee sounds off about West Virginia's NCAA Tournament snub: 'Of course WVU got screwed'*, AWFUL ANNOUNCING (Mar. 16, 2025), <https://tinyurl.com/5n7bypmv>.

⁴ Blake Silverman, *'Heartbroken' West Virginia AD Releases Statement After NCAA Tournament Snub*, SPORTS ILLUSTRATED (Mar. 16, 2025), <https://tinyurl.com/ye24w24k>.

⁵ *Contra Explaining NCAA Tournament Selection Criteria*, NCAA (Mar. 5, 2025), <https://tinyurl.com/mr35ee5f>.

⁶ Dick Vitale (@DickieV), X.com (Mar. 16, 2025), <https://tinyurl.com/2j25te6j>.

⁷ NCAA, *supra*, note 5.

⁸ *Id.*

evening, deduced that selection “always comes down to who’s in the room with you deciding” and “[i]t’s always been that way.”⁹ Frischilla’s comments may even have some empirical support behind them, as problems of bias and conflicts of interest have been documented in at least one social-science study.¹⁰

Although we’re not suggesting anything untoward, we think the public deserves answers. How can you assure us that you have created a selection system that’s free from bias, conflicts of interest, or other improper personal influence? What specific measures does the Association use to reach that end?

We support the NCAA’s mission of providing the best athletic experience for players, coaches, and fans. We thank the Association for its willingness to work with us in the past to help make that happen. We can only hope you’ll work with us again. Although every sports season can bring highs and lows, we ultimately want to ensure that those results come through a fair and trustworthy process for all student-athletes. Transparency is the only way to ensure that happens.

We therefore look forward to receiving your answers as soon as possible.

Sincerely,

A handwritten signature in black ink, reading "John B. McCuskey". The signature is fluid and cursive, with the first name "John" being the most prominent part.

John B. McCuskey
Attorney General

⁹ Fran Frischilla (@franfrischilla), X.com (Mar. 16, 2025), <https://tinyurl.com/4bdn32ee>.

¹⁰ See, e.g., B.J. Coleman, *Evidence of bias in NCAA tournament selection and seeding*, 31 MANAGERIAL & DECISION ECON. 431 (2010).