

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

UNIVERSITY OF PITTSBURGH – OF THE
COMMONWEALTH SYSTEM OF HIGHER
EDUCATION;

Plaintiff,

v.

THE BIG EAST CONFERENCE,

Defendant.

CIVIL DIVISION

No. **GD12-8412**

Issue No.:

Code: 010--Assumpsit

COMPLAINT

Filed on behalf of University of Pittsburgh—
Of the Commonwealth System of Higher
Education

Counsel of Record on Behalf
of This Party:

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2012 MAY 11 PM 3:42
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DEPT. OF COURT RECORDS
CIVIL FAMILY DIVISION
ALLEGHENY COUNTY PA

Court of Common Pleas Civil Cover Sheet

ALLEGHENY

County

For Prothonotary Use Only:

Docket No:

GD12-8412

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition ☐ Notice of Appeal
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name: University of Pittsburgh-of
the Commonwealth System of Higher Education

Lead Defendant's Name:
The Big East Conference

☐ Check here if you are a Self-Represented (Pro Se) Litigant

Michael E. Lowenstein, Esq.

Name of Plaintiff/Appellant's Attorney: Reed Smith LLP, 225 Fifth Ave., Pgh., PA 15222

Are money damages requested? : ☒ Yes ☐ No

Dollar Amount Requested: _____ within arbitration limits
(Check one) - ☒ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

- ☐ Employment Dispute:
Discrimination
☐ Employment Dispute: Other

- ☒ Other:
Contract Disputes

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure
☐ Partition
☐ Quiet Title

☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Zoning Board
☐ Statutory Appeal: Other

Judicial Appeals

- ☐ MDJ - Landlord/Tenant
☐ MDJ - Money Judgment
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin

☐ Other:

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NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

Lawyer Referral Service
The Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

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COMPLAINT

Plaintiff The University of Pittsburgh – Of the Commonwealth System of Higher Education (“Plaintiff” or “Pittsburgh”), by and through its undersigned counsel, hereby files its Complaint against Defendant The Big East Conference (“Defendant” or “the Conference” or “The Big East”), as follows:

Parties

1. Plaintiff is a nonprofit institution of higher education organized under the laws of the Commonwealth of Pennsylvania whose main campus is located in Pittsburgh, Allegheny County, Pennsylvania.

2. Defendant is a nonprofit corporation organized under the laws of the District of Columbia.

Jurisdiction and Venue

3. This Court has jurisdiction over this action pursuant to the Declaratory Judgments Act, 42 Pa. C.S.A. §§ 7531 *et seq.*, and pursuant to 42 Pa. C.S.A. §§ 931(a), 5301(a)(2)(iii), 5322(a)(1), 5322(a)(2) and 5322(a)(4).

4. This Court has general and specific jurisdiction over the parties as the parties have systematic and continuous contacts in this jurisdiction, have carried on a continuous and systematic part of their activities in this Commonwealth, and a substantial part of the acts and omissions giving rise to causes of action herein arose in this jurisdiction. The parties also formed a contract to continuously perform services for each other that are performed in this Commonwealth. As set forth herein, Defendant engaged in conduct with the knowledge that such conduct would harm Plaintiff in this jurisdiction and county, which harm has occurred.

5. Venue is proper in this Court pursuant to 42 Pa. C.S.A. § 931(c) and Pa. R. Civ. P. 1006(a)(1) because causes of action herein arose in this county, and transactions and occurrences took place in this county out of which causes of action set forth herein arose.

6. The amount in controversy exceeds Twenty-Five Thousand Dollars (\$25,000), exclusive of interest and costs.

Factual Allegations

7. The Big East is a collegiate athletic conference that was formed in 1979.

8. Pittsburgh currently is a member of The Big East and has been since 1982.

9. In September 2011, Pittsburgh announced that it was withdrawing from The Big East.

10. Under Section 11.02 of the Conference by-laws that were in effect at the time Pittsburgh announced that it was withdrawing from The Big East, dated March 12, 2008 and attached hereto as Exhibit 1 (the "By-Laws"), a school that withdrew from the Conference was required to pay a withdrawal fee in the amount of \$5 million and provide

a written notice of withdrawal (“Withdrawal Notice”) “specifying an effective date of withdrawal which must be (a) the first day of a Conference calendar year, which is currently July 1 [“(Conference year”)], and (b) at least twenty-seven months after the date that the Withdrawal Notice is received by the Commissioner of the Conference.”

11. On September 26, 2011, in accordance with the By-Laws, Pittsburgh provided a Withdrawal Notice, effective July 1, 2014, and made the initial withdrawal fee payment to The Big East of \$2.5 million. The By-Laws provide that the remaining \$2.5 million of the withdrawal fee shall be due and payable by Pittsburgh upon the effective date of the withdrawal and may be deducted by the Conference from Pittsburgh’s share of revenue distributed by the Conference that otherwise would be paid to Pittsburgh.

12. Under the By-Laws, upon delivery of its Withdrawal Notice, Pittsburgh ceased to have the right to vote on any Conference matter, and Pittsburgh did not vote on or participate in the Conference’s decisions with respect to Texas Christian University (“TCU”) and West Virginia University (“WVU”) made after Pittsburgh’s September 26, 2011 Withdrawal Notice that are discussed below.

13. In September 2011, after Pittsburgh sent the Withdrawal Notice, The Big East advised Pittsburgh that Pittsburgh would no longer participate in conference governance. At the same time, The Big East assured Pittsburgh that the Conference would continue to provide services to Pittsburgh and that “the standards by which the Conference staff adheres to in terms of objectivity and equitable treatment of all of our members and their constituencies continues business as usual.”

14. In 2010, TCU agreed to join The Big East as an all-sports member beginning with the 2012-2013 Conference year.

15. TCU was scheduled to play a football game as a member of The Big East at Pittsburgh in 2012. This was an extremely attractive and valuable game to Pittsburgh as TCU had won the Rose Bowl in 2011. At the request of The Big East, Pittsburgh bought out its contract with another scheduled opponent, at a cost of \$250,000, in order to clear a date for the home football game against TCU in 2012.

16. However, on or about October 10, 2011, TCU announced that it would not be joining The Big East. Despite TCU's agreement to join The Big East, The Big East did not require TCU to provide twenty-seven months' notice of withdrawal. This meant, *inter alia*, that Pittsburgh would be deprived of its valuable home football game with TCU in 2012. Upon information and belief, TCU is being required to make, and has indicated that it will make, a \$5 million payment to The Big East during the 2011-2012 Conference Year.

17. By failing to require TCU to provide twenty-seven months' notice of withdrawal, The Big East knowingly and intentionally waived any right to enforce a twenty-seven month withdrawal period.

18. By failing to require TCU to provide twenty-seven months' notice of withdrawal, The Big East acknowledged that it would not be irreparably harmed by a school not providing the Conference with twenty-seven months' notice of withdrawal.

19. As The Big East knew when it waived the requirement that TCU provide twenty-seven months' notice of withdrawal, Pittsburgh, *inter alia*, lost the value of TCU as a very attractive and valuable home football opponent that would draw a large crowd and would enhance season ticket sales.

20. As The Big East also knew, Pittsburgh had paid a \$250,000 buyout fee to the school it originally was scheduled to play in order to clear the date to play TCU (subject to a \$50,000 savings as to the game fee paid to the visiting team). To obtain a replacement game after The Big East waived the requirement that TCU provide twenty-seven months' notice of withdrawal, Pittsburgh also has had to pay a game fee to the replacement opponent that is \$320,000 larger than the game fee it would have had to pay to TCU. Thus, just as to buyout fees and game fees, Pittsburgh has lost \$520,000 as a result of The Big East's conduct with respect to TCU.

21. Pittsburgh's replacement game for the 2012 home football game against TCU will be against an opponent from a lower division of the NCAA that will not be nearly as attractive an opponent to Pittsburgh's fans as TCU would have been. The very short notice The Big East provided that TCU would not be joining the Conference and that Pittsburgh would not be playing a home football game against TCU in 2012 prevented Pittsburgh from obtaining a more attractive opponent and this, in turn, has made it harder for Pitt to sell tickets to the replacement game and season tickets for the 2012 football season.

22. On or about October 28, 2011, WVU announced that it was withdrawing from The Big East Conference and would be joining The Big XII Conference.

23. WVU was scheduled to play a football game at Pittsburgh in 2012. This was an extremely attractive and valuable game to Pittsburgh. Pittsburgh and WVU have one of the oldest and most well-known rivalries in college athletics, known around the country as the "Backyard Brawl." Additionally, WVU won the Orange Bowl in 2012.

24. In February, 2012, however, as it had with TCU, The Big East allowed WVU to leave the Conference without providing twenty-seven months' notice of withdrawal. As a result, and as The Big East knew when it allowed WVU to leave the Conference without providing twenty-seven months' notice of withdrawal, Pittsburgh will lose its extremely valuable home football game with West Virginia in 2012. The loss of the WVU home football game also compounds the harm to Pittsburgh caused by the Big East's failure to require TCU to provide twenty-seven months' notice of withdrawal by, *inter alia*, removing two extremely attractive opponents from Pittsburgh's 2012 football season ticket package.

25. Upon information and belief, multi-million dollar payments to The Big East have been or will be made by or on behalf of WVU during the 2011-2012 Conference year. Upon information and belief, WVU also agreed not to receive millions of dollars in revenue distributions from the Conference to which WVU otherwise would be entitled for the 2011-2012 Conference year, which revenue distributions are available for distribution to other members of the Conference.

26. By failing to require WVU to provide twenty-seven months' notice of withdrawal, The Big East knowingly and intentionally waived any right to enforce a twenty-seven month withdrawal period.

27. By failing to require WVU to provide twenty-seven months' notice of withdrawal, The Big East acknowledged that it would not be irreparably harmed by a school leaving the Conference without providing twenty-seven months' notice of withdrawal.

28. In practice, The Big East has never required any school to provide twenty-seven months' notice of withdrawal from the Conference.

29. Pittsburgh will remain in The Big East for the 2012-2013 Conference year and has notified The Big East that it seeks to withdraw from the Conference at the end of the 2012-2013 Conference year. If Pittsburgh withdraws from the Conference after the 2012-2013 Conference year, it will have provided the Big East with over 21 months to address the impact of Pittsburgh's withdrawal and will have competed in the Conference for essentially two full Conference years after providing notice of withdrawal.

30. In fact, The Big East already has addressed the impact of Pittsburgh's withdrawal from the Conference. The Big East will be adding a number of schools as full members or football-only members. One school will be added for the 2012-2013 Conference year and six more schools will be added for the 2013-2014 Conference year. Thus, even without Pittsburgh, The Big East will have more full members and more football members in the 2013-2014 Conference year than it did when Pittsburgh gave its Withdrawal Notice.

31. The Conference's course of conduct under the By-Laws is and has been to annually distribute to its members revenue received by the Conference during that Conference year, including members who have provided notice of withdrawal, and, in so doing, to treat such withdrawing members the same as members of the Conference that are not withdrawing. The Conference is obligated to comply with this course of conduct.

32. Upon information and belief, The Big East will have more revenue to distribute to the other members of the Conference for the 2013-2014 Conference year if

Pittsburgh leaves after the 2012-2013 Conference year and the Conference does not have to pay Pittsburgh its share of revenues for the 2013-2014 Conference year.

33. Nevertheless, the Conference has indicated that it will insist that Pittsburgh provide twenty-seven months' notice of withdrawal and remain in the Conference for the 2013-2014 Conference year, and has not agreed to allow Pittsburgh to leave the Conference after the 2012-2013 Conference year, even after it did not require TCU and WVU to provide such notice.

34. The Big East, through its Commissioner at that time, also would not commit to pay Pittsburgh its share of the revenue paid by TCU and WVU to the Conference during the 2011-2012 Conference Year. Such revenue is properly distributed to the members of the Conference during such Conference year and, as a member of The Big East in the 2011-2012 Conference year, Pittsburgh is entitled to its share of such revenue.

Count I—Declaratory Judgment

35. Plaintiff incorporates each of the preceding paragraphs hereof by reference as if fully set forth herein.

36. By not requiring TCU and WVU to provide twenty-seven months' notice of withdrawal, The Big East has knowingly and intentionally relinquished and waived any requirement that a school withdrawing from the Conference provide twenty-seven months' notice of withdrawal.

37. Pittsburgh may withdraw from The Big East at the end of the 2012-2013 Conference year without violation of the By-Laws or any other claimed right of the Conference.

38. The Big East would not be irreparably harmed if Pittsburgh is not in the Conference for the 2013-2014 Conference year. By failing to require TCU and WVU to provide twenty-seven months' notice of withdrawal, The Big East acknowledged that it would not be irreparably harmed by a school not providing the Conference with twenty-seven months' notice of withdrawal and that any claimed harm to The Big East of an earlier withdrawal is compensable in money damages.

39. Because The Big East cannot show either a right to relief against Pittsburgh based on any claim, and also because The Big East cannot show irreparable harm, The Big East cannot meet the elements for either preliminary or permanent injunctive relief and cannot enjoin Pittsburgh from withdrawing from The Big East at the end of the 2012-2013 Conference year.

40. Because Pittsburgh is a member of the Conference for the 2011-2012 Conference year, Pittsburgh is entitled to receive its share of revenue received by the Conference during the 2011-2012 Conference year, including revenue received from TCU and WVU.

41. Pittsburgh seeks a declaratory judgment that The Big East has knowingly and intentionally relinquished and waived any requirement that a school withdrawing from the Conference provide twenty-seven months' notice of withdrawal.

42. Pittsburgh additionally seeks a declaratory judgment that it may withdraw from The Big East at the end of the 2012-2013 Conference year without violation of the By-Laws or any other claimed right of the Conference.

43. Pittsburgh additionally seeks a declaratory judgment that The Big East cannot enjoin Pittsburgh from withdrawing from The Big East at the end of the 2012-2013 Conference year.

44. Pittsburgh additionally seeks a declaratory judgment that it is entitled to receive its share of revenue received by the Conference during the 2011-2012 Conference year, including revenue received from TCU and WVU.

45. There exists a genuine and bona fide dispute and an actual controversy and disagreement between the parties concerning the rights and obligations of the parties under the By-Laws. The interests of the parties concerning the enforceability of contracts to which they are parties are real and adverse, and the issue is ripe for adjudication. Entry of a declaratory judgment will resolve and end such present and actual controversy.

WHEREFORE, Plaintiff respectfully requests that the Court enter a declaratory judgment in its favor and against Defendant:

a) That Defendant has knowingly and intentionally waived any obligation that a school withdrawing from the Conference must provide twenty-seven months' notice of withdrawal;

b) That Pittsburgh may withdraw from the Conference at the end of the 2012-2013 Conference year without violation of the By-Laws or any other claimed right of the Conference;

c) That The Big East is not entitled to injunctive relief preventing Pittsburgh from withdrawing from the Conference at the end of the 2012-2013 Conference year;

e) That The Big East is enjoined from seeking to prevent Pittsburgh from withdrawing from the Conference at the end of the 2012-2013 Conference year;

f) That Pittsburgh is entitled to receive its share of revenue received by the Conference during the 2011-2012 Conference year, including revenue received from TCU and WVU, in accordance with the Conference's course of conduct.

g) Awarding the costs, expenses and disbursements of suit; and

h) Granting such other relief as the Court deems just and proper.

Count II—Promissory Estoppel

46. Plaintiff incorporates each of the preceding paragraphs hereof by reference as if fully set forth herein.

47. The Big East promised Pittsburgh that TCU would be joining The Big East and that Pittsburgh would have a home football game against TCU in 2012.

48. The Big East knew that Pittsburgh would rely, and intended that Pittsburgh would rely, on its promises that TCU would be joining The Big East and that Pittsburgh would have a home football game against TCU in 2012. The Conference specifically sought to have Pittsburgh make arrangements and financial commitments necessary to permit a home football game with TCU in 2012.

49. As set forth above, Pittsburgh did reasonably rely on such promises by The Big East to its detriment, including making a \$250,000 payment to buy out a contract with an existing opponent to provide room on its schedule for its 2012 home football game with TCU.

50. As a direct and proximate cause of The Big East's promises and Pittsburgh's reasonable reliance thereon, Pittsburgh has sustained injuries and incurred

damages as set forth above including, without limitation: (a) the \$250,000 amount paid to buy out a contract with an existing opponent to provide room on its schedule for the 2012 home football game with TCU (subject to a \$50,000 savings in game fees); (b) the \$320,000 amount in game fees paid to obtain a replacement opponent for TCU which amount is in excess of the amount Pittsburgh would have paid to TCU; and, (c) the impact on Pittsburgh's game-ticket sales for the replacement game, season-ticket sales for the 2012 football season and other revenue caused by having to obtain a less attractive and valuable opponent from a lower division as a result of loss of the TCU game on short notice.

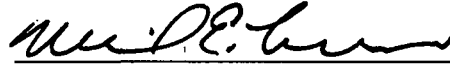
51. These injuries and damages were uniquely experienced by Pittsburgh. Compensating Pittsburgh for the injuries it sustained and damages it has incurred as a result of its reasonable reliance on The Big East's promises that Pittsburgh would have a home football game against TCU in 2012 is necessary to avoid injustice.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor and against Defendant:

- a) That Defendant is liable to Plaintiff on Plaintiff's claim for promissory estoppel and awarding Plaintiff all damages sustained by Plaintiff resulting therefrom, in an amount exceeding \$25,000, exclusive of interest and costs;
- b) Awarding the costs, expenses and disbursements of suit; and
- c) Granting such other relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Pittsburgh hereby demands a jury trial as to all issues triable by jury.



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Dated: May 11, 2012

Counsel for Plaintiff University of
Pittsburgh—Of the Commonwealth
System of Higher Education

EXHIBIT 1

THE BIG EAST CONFERENCE
AMENDED AND RESTATED BYLAWS
AS OF MARCH 12, 2008

ARTICLE I - NAME, LEGAL ORGANIZATION AND PURPOSE

1.01 Name and Legal Organization. The name of the organization is The Big East Conference (the "Conference"). The Conference is a nonprofit corporation organized under the laws of the District of Columbia.

1.02 Purposes. The Conference is organized exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") to assist its Members in the administration of intercollegiate athletics programs in accordance with the highest standards of education, sportsmanship and healthy athletic competition compatible with resource allocation while allowing a degree of institutional flexibility. The Conference aims to:

- (a) Provide its Members with a jointly governed body for sponsoring, supervising and regulating intercollegiate athletics as a conference member of the National Collegiate Athletic Association ("NCAA"), in accordance with the principles, policies, constitution and bylaws of the NCAA;
- (b) Assist its Members in funding and promoting their intercollegiate athletics programs;
- (c) Enhance the opportunities for participation in, and the level of competition of, men's and women's intercollegiate athletics on an equitable basis;
- (d) Effectuate such other or additional purposes as may, from time to time, be adopted by the Conference; and
- (e) Take any and all actions necessary to effectuate the above purposes.

ARTICLE II - CONFERENCE GOVERNANCE

2.01 Conference Governance. The Conference shall be governed and administered in accordance with the Amended and Restated Articles of Incorporation of the Conference ("Articles"), these Bylaws and resolutions adopted from time to time by the Board of Directors of the Conference ("Board") in accordance with these Bylaws.

ARTICLE III - DEFINITIONS

3.01 Certain Definitions. In addition to terms defined elsewhere in these Bylaws, the following definitions shall apply to these Bylaws:

"Athletics Director" or "A.D." of a Member shall mean the Member's chief athletics officer, which, where relevant, may be an individual in an acting or interim position.

"Board of Directors" of the Conference shall mean the body composed of the CEOs (who shall be sometimes referred to herein as "Directors") of the Members, and which body is charged with the responsibility of governing and managing the business and affairs of the Conference.

"D.C. Act" means the District of Columbia Nonprofit Corporation Act.

"Football Action" means any matter or action which relates specifically to any participation in NCAA Division I-A football by Division I-A Schools and "Football Affiliates," as that term is defined in Section 14.01(b), including, but not limited to: broadcast agreements for NCAA Division I-A football; the distribution and/or receipt of all revenues (including but not limited to television and other broadcast revenues) with respect to and/or from participation in NCAA Division I-A football; and any issues involving the Bowl Championship Series or any comparable arrangement. Notwithstanding any provision in these Bylaws to the contrary, any vote on a matter constituting a Football Action shall be passed by majority vote of all Division I-A School Directors only, or, where applicable, by majority vote of all Division I-A School Athletic Directors only, and no amendment to this definition of "Football Action" shall be passed without the vote of a majority of all the Division I-A School Directors, in addition to the voting requirements of Article XV.

"Non-Division I-A School" means a Member of the Conference which does not participate in NCAA Division I-A Football within the Conference.

"Non-Division I-A School Director" shall mean a Director who is the CEO of a Non-Division I-A School.

"Division I-A School" means each Member of the Conference which participates in NCAA Division I-A Football within the Conference. The term "Division I-A School" shall not include a Football Affiliate for purposes of these Bylaws. The term "Division I-A School" shall not include the University of Notre Dame.

"Division I-A School Director" shall mean a Director who is the CEO of a Division I-A School.

"CEO" of a Member shall mean the president, chancellor or other chief executive officer of the Member institution which, where relevant, may be an individual serving in an acting or interim position.

"2001 Constitution" means the Amended and Restated Constitution of The Big East Conference, dated as of April 16, 2001, as amended.

"Withdrawing Member" means a Member which shall have furnished or shall have purported to furnish a Withdrawal Notice.

ARTICLE IV - MEMBERS

4.01 Members.

- (a) All members of the Conference ("Members") shall be colleges or universities holding Division I membership in the NCAA. Each Member shall meet all applicable NCAA rules and regulations regarding institution-specific and conference-specific sports sponsorship, Division I classification and, in the case of the Division I-A Members, Division I-A football classification and the "Big East Football Conference Membership Criteria", as revised from time to time by the Division I-A School Directors.
- (b) Each Member shall compete within the Conference in each varsity sport sponsored by the Conference for which the Member has a Division I team, unless that participation is waived in accordance with the Big East Conference Strategic Plan adopted by the CEO's

in 1999. Any Member competing outside the Conference in any varsity sport sponsored by the Conference immediately prior to the adoption of these Bylaws shall be deemed to have received a waiver in compliance with this Section 4.01(b).

4.02 New Members. An institution which meets the qualifications for membership set forth in these Bylaws may be admitted into the Conference as a new Member by a vote of at least three-fourths of all the Directors on the Board ("Directors"), under the terms and conditions established by that vote; provided however in extraordinary circumstances the 1-A Directors may add a Member(s) as a football action. In the event: (i) new Member(s) are added because of extraordinary circumstances and (ii) there is a vote in which all Division 1-A Schools vote one way and all the Non-Division 1-A Schools vote another way, such vote shall be deemed a tie, notwithstanding the number of schools voting. The Division 1-A Schools and the Non-Division 1-A Schools shall work in good faith to address any other issues raised by this expansion.

4.03 Membership.

- (a) Membership in the Conference is by institution and all rights and duties inherent in membership may be exercised by, and enforced against, such Member institutions only. The Conference does not, by merit of institutional membership, have any direct jurisdiction over or responsibility for the actions of any student, employee or officer of a Member and no student, employee or officer of a Member shall have any membership, third party beneficiary or other rights in the Conference.
- (b) The Members do not have voting rights in their capacity as Members and all voting rights with respect to the Conference shall reside in the Board.

4.04 Membership Responsibility and Covenants. By acceptance of membership in the Conference, each Member institution covenants to adhere to these Bylaws and the rules, regulations and policies adopted by the Board. In addition, each Member covenants that:

- (a) It will fulfill its obligations to provide for the financial support of the Conference, its programs and employees, by paying assessments in such an amount and under such terms as are approved by at least three-fourths of all Directors present and eligible to vote. Such assessments may, in appropriate circumstances, be based upon the costs associated with the sport or sports in which each Member participates;
- (b) It hereby transfers and assigns to the Conference any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing, of all Member competitions for all Conference sanctioned sports involving Member teams as to all intra-Conference events and those inter-Conference events where the participating Member controls audio and video rights, except: (i) each Member retains its right to exploit its locally originated radio broadcast rights, however disseminated, including, without limitation, by radio, satellite radio and/or internet (but not national radio broadcast rights, however disseminated, including, without limitation, by radio, satellite radio and/or internet, which remain with the Conference), until such time as the Members agree that such rights are to be transferred to the Conference by a majority vote of the Directors present and eligible to vote, each such contract granting such rights to allow for termination of said contract(s) by the Member without penalty in the event of such vote and (ii) the Members may return other rights to the Members as otherwise agreed to by a majority vote of the Directors present and eligible to vote;

- (c) It will participate in all television and broadcast events and arrangements, and in all post-season events, in accordance with the terms of all contracts and agreements, including, without limitation, bowl agreements, as shall be entered into by the Conference pursuant to these Bylaws, and will otherwise perform and comply with all obligations under such agreements.
- (d) It will conduct its athletic programs in accordance with NCAA rules and regulations and applicable state and federal laws.

ARTICLE V – BOARD OF DIRECTORS

5.01 Composition and Authority of Board of Directors.

- (a) The business and affairs of the Conference shall be managed by its Board, which shall consist of the Directors of the Members, subject to Section 5.01(b). No further election or appointment of Directors shall be required or permitted. The Board shall act from time to time by resolution adopted in accordance with these Bylaws.
- (b) Effective on the date that a Member delivers notice to the Conference of its intent to withdraw from the Conference, whether under these Bylaws or the 2001 Constitution, as applicable, the CEO of the Withdrawing Member shall automatically cease to be a Director and shall cease to have the right to vote on any matter.
- (c) The Board shall exercise all of the powers of the Conference and do all such lawful acts and things, whether required or permitted by statute, the Articles or these Bylaws, which are to be exercised by the Board.
- (d) The Board shall elect, by a majority of Directors present and eligible to vote, a Chair and Vice Chair from among the Directors, each of whom will serve a two year term. The Chair and Vice Chair shall alternate each term between the Division I-A School Directors and Non-Division I-A School Directors, and the Chair and Vice Chair in office at any time shall not be from the same group of Directors. It is contemplated but not required that in the ordinary course of business the Vice Chair will be elected Chair at the end of his or her term as Vice Chair. The Vice Chair shall preside at meetings at which the Chair is not present. The Chair and Vice Chair shall not, by reason of their positions as such, lose their full voting rights as Directors. If a Chair or Vice Chair ceases to be a Director under Section 5.01(b) or for any other reason, the Board shall elect by majority vote of those present and eligible to vote a Director from the same group of Directors as the departing Director to serve out the remaining term of the Chair or Vice Chair.
- (e) Without limitation, the following matters shall require approval by the Board pursuant to the requirements of Section 5.02: (i) appointment of a Commissioner, and the terms and conditions of the Commissioner's employment; (ii) approval of Conference budgets; and (iii) expansion of the Conference beyond eight Division I-A School Members and eight non-Division I-A School Members.

5.02 Meetings of Board of Directors.

- (a) The Board shall meet at least two times each year at times and places to be arranged by the Chair, who shall provide at least 90 days written notice of such meetings ("Regular Meetings"). Special meetings may be called at any time upon initiative of the Chair or Commissioner, or by the request of at least three Directors, in each case upon at least three days' written notice, which shall state the reasons for the special meeting, unless notice is waived by all Directors. Any or all of the Directors may participate in any Board

or committee meeting by telephone or video conferencing, so long as all Directors are able to hear one another.

- (b) A majority of all of the Directors shall constitute a quorum for the transaction of business. For the purpose of taking any Football Action (including an expansion due to extraordinary circumstances pursuant to Section 4.02), a majority of all the Division I-A School Directors shall constitute a quorum.
- (c) Before or at any meeting of the Board, any Director may, in writing, waive notice of that meeting, and the waiver shall be deemed equivalent to the receipt of notice for that meeting. Any Director who attends any meeting without objection to sufficiency of notice shall be deemed to have waived notice. If all Directors are present at a meeting of the Board and no objection is made as to notice, notice shall not be required and any business authorized under these Bylaws or the Articles may be transacted at the meeting. Any lawful action of the Board may be taken without a meeting if all the Directors provide written, signed consent to that action, in which case the consents shall be filed with the minutes of the Board.
- (d) Voting by proxy is not permitted.
- (e) The Commissioner of the Conference, the Athletic Directors of the respective Members and the Secretary of the Conference shall be invited to attend each meeting of the Board, but shall not be entitled to vote. The Board, at the request of any Director, may meet in executive session, in which case the Commissioner, Athletic Directors and Secretary shall not be invited to attend unless the Chair determines otherwise.
- (f) The Regular Meeting of the Board occurring in the autumn of the calendar year shall constitute the Annual Meeting of Directors and shall also constitute, unless the Chair shall designate otherwise, the Annual Meeting of the Members. At the Annual Meeting of Directors, the Commissioner shall (i) submit the audited financial statements of the Conference for the fiscal year ended the prior June 30 and (ii) submit a current year-to-date report as to the financial condition of the Conference.
- (g) The agenda for each Regular Meeting of the Board shall include all items submitted by any Director to the Commissioner at least ten days before such Meeting. The Commissioner shall be responsible for preparing the agenda and distributing it to the Directors at least five days before the Regular Meeting. Except for amendments to these Bylaws, additional items may be added to the agenda at the meeting by majority vote of those Directors present and eligible to vote. The Secretary shall cause minutes of each meeting of the Board and copies of all reports submitted at such meetings to be distributed to the Directors.

5.03 Certain Provisions Regarding Duties of Directors. In performing his or her duties as a Director, each Director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, prepared by any of the following:

- (a) One or more officers or employees of the Conference whom the Director reasonably believes to be reliable and competent in the matters presented;
- (b) Counsel to the Conference, public accountants of the Conference or other persons as to matters which the Director reasonably believes to be within the professional or expert competence of such person; or

- (c) A committee of the Board upon which the Director does not serve, as to matters within its designated authority.

To the fullest extent that the laws of the District of Columbia, as now in effect or as hereafter amended, permit elimination or limitation of the liability of directors, no Director of the Conference shall be personally liable for monetary damages for any action taken, or any failure to take any action, as a Director, unless the Director has breached or failed to perform the duties of office and the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness. The provisions of this Section 5.03 shall not apply either to the responsibility or liability of a Director pursuant to any criminal statute or to the liability of a Director for the payment of taxes pursuant to local, state or Federal law.

ARTICLE VI - COMMITTEES OF THE BOARD

6.01 Board Executive Committee.

- (a) The Board Executive Committee shall consist of the Board Chair, the Board Vice Chair and four other members, two of whom shall be Division I-A School Directors selected by a majority of all Division I-A School Directors and the other two of whom shall be Non-Division I-A School Directors selected by a majority of all Non-Division I-A School Directors. Any action taken by the Board Executive Committee shall require the vote of at least three-fourths of all Board Executive Committee members.
- (b) The Board Executive Committee, between Board meetings at the request of the Chair, shall have the authority to take any action on behalf of the full Board that could have been taken by affirmative vote of a simple majority of the Directors at a meeting with a quorum, excluding changes to the terms and conditions of the Commissioner's employment, changes to the Big East Policy Manual, Football Actions, designation of Sports Affiliates and approval of the budget. The Board Executive Committee shall not have the authority to take any action on behalf of the full Board that would require an affirmative vote of more than a simple majority of the Directors at a meeting under these Bylaws.

6.02 Audit Committee.

- (a) The Audit Committee shall consist of four members, two of whom shall each be Division I-A School Directors selected by a majority of Division I-A School Directors present and eligible to vote, and the other two of whom shall be Non-Division I-A School Directors selected by a majority of Non-Division I-A School Directors present and eligible to vote. Any action taken by the Audit Committee shall require the majority vote of all Audit Committee members.
- (b) The Audit Committee shall approve the selection of outside auditors for the Conference and review and recommend to the Board action on final audit reports submitted for approval.

6.03 Other Committees. The Board may from time to time, by majority vote of all Directors present and eligible to vote, establish other standing or temporary committees, whose composition may include individuals who are not Directors, and each of which shall have such composition and such authority as the Board may determine. The establishment or disbanding of any Board committee, other than the Executive Committee or Audit Committee shall not require an amendment of these Bylaws, and shall instead be accomplished by majority votes of all Directors present and eligible to vote.

ARTICLE VII - CONFERENCE OFFICERS; ATHLETICS DIRECTORS AND NON-BOARD COMMITTEES

7.01 The Commissioner.

- (a) The Board shall appoint one person to serve as the chief executive officer and President of the Conference, who shall have the title of Commissioner. A vote of at least three-fourths of all Directors present and eligible to vote shall be necessary to authorize the appointment of the Commissioner.
- (b) The Commissioner and the Conference shall enter into a written employment contract for a minimum of one year and the contract shall be renewable by a vote of at least three-fourths of all Directors present and eligible to vote. The Commissioner shall report to and be subject to the direction and supervision of the Board.
- (c) The Commissioner shall direct the activities of the Conference and shall have the authority, duty, and responsibility to do the following, subject to Board direction, the Articles and these Bylaws:
 - (i) sign documents on behalf of the Conference;
 - (ii) receive, collect, and disburse the income received by the Conference;
 - (iii) engage assistants and employees and fix their compensation within the limits of approved budgets;
 - (iv) work with the Finance Committee to prepare annually a budget covering all of the proposed activities of the Conference and submit the same to the Board for approval;
 - (v) authorize and make expenditures in accordance with the terms of the budget approved by the Board and make further disbursements in an amount not to exceed five hundred thousand dollars (\$500,000.00) or as authorized by the Board;
 - (vi) report and provide an accounting to the Board at least annually on the activities of the Conference, including but not limited to financial activities, and such additional matters as may be requested by the Board;
 - (vii) prepare the agenda of business and proceedings for Board and committee meetings;
 - (viii) secure adequate bonding to insure the financial operations conducted by the officers and employees of the Conference;
 - (ix) supervise Conference scheduling, in-season competition, and Conference championship meets and tournaments; act as a Conference representative and liaison with the NCAA in all matters concerning Conference business; and review eligibility and certifications of institutional sponsorship forms for all recognized Conference sports;
 - (x) promote the prestige and success of the Conference through public relations and marketing efforts among the general public, intercollegiate institutions, athletic associations, media and other entities;

- (xi) negotiate agreements on behalf of the Conference with sponsors, television networks, bowl game representatives, sports arenas and others as appropriate;
- (xii) maintain Conference records, including without limitation athletic records; and
- (xiii) exercise such other powers and perform such other duties as may be determined by the Board from time to time.

7.02 Other Officers and Conference Representatives.

- (a) The Board, by majority vote of the Directors present and eligible to vote, shall appoint one person (who shall not be the Commissioner) to serve as the Secretary of the Conference under the supervision of the Board. The Secretary shall attend all meetings of the Board and Members and act as clerk thereof, record all the votes of the Board and prepare minutes of all its transactions in a book to be kept for that purpose; and shall perform like duties for all committees of the Board when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members and the Board, and shall perform such other duties as may be prescribed by the Board. The Secretary shall keep in safe custody the corporate seal of the Conference and, when authorized by the Board, affix the same to any instrument requiring it.
- (b) The Board, by majority vote of the Directors present and eligible to vote, shall appoint one person (who may be the Commissioner) to serve as the Treasurer of the Conference. The Treasurer shall have custody of the Conference funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Conference, and shall keep the moneys of the Conference in one or more separate accounts to the credit of the Conference. The Treasurer shall disburse the funds of the Conference as may be ordered by the Board or Commissioner, taking proper vouchers for such disbursements, and shall render to the Chair, the Vice Chair and the Board, at the regular meetings of the Board, or whenever they may require it, an account of all transactions as Treasurer and of the financial condition of the Conference.
- (c) The Board, by majority vote of all Directors present and eligible to vote, shall elect the Conference's representative to the NCAA Board of Directors, who shall be a Division I-A School Director.

7.03 The Athletics Directors Committee.

- (a) The Conference shall maintain a standing committee consisting of the Athletics Directors of all Members, with the Commissioner as an ex-officio member. Any action taken or recommendation made by the Athletics Directors Committee shall require the vote of a majority of the Athletics Directors present and eligible to vote.
- (b) The Athletics Directors Committee shall have only such authority and responsibility as is granted to it by vote of a majority of the Directors present and eligible to vote. Except as set forth in these Bylaws or as otherwise determined by the Board, the Athletics Directors Committee shall have the authority and responsibility to work with the Commissioner and Conference staff to perform the day-to-day operational functions of the Conference.
- (c) A majority of all of the Athletics Directors shall constitute a quorum for the transaction of business. For the purpose of any Football Action, a majority of all the Division I-A School Athletics Directors shall constitute a quorum. Any or all of the A.D.s may participate in any Athletics Directors Committee meeting, or any other A.D. standing

committee meeting, by telephone or video conferencing, so long as all A.D.s are able to hear one another.

- (d) Before or at any meeting of the Athletics Directors Committee, any Athletics Director may, in writing, waive notice of that meeting, and the waiver shall be deemed equivalent to the receipt of notice for that meeting. Any Athletics Director who attends any meeting without objection to sufficiency of notice shall be deemed to have waived notice. If all Athletics Directors are present at a meeting of the Athletics Directors Committee and no objection is made as to notice, notice shall not be required and any business authorized under these Bylaws or the Articles may be transacted at the meeting. Any lawful action of the Athletics Directors Committee may be taken without a meeting if all the Athletics Directors provide written, signed consent to that action, in which case the consents shall be filed with the minutes of the Athletics Directors Committee.
- (e) Voting by proxy is not permitted.
- (f) Subject to approval of the Board, the Athletic Directors Committee shall elect (i) the Conference's representative to the NCAA Leadership Council who shall be either an Athletic Director from a Division I-A School or an executive officer of the Conference, and (ii) the Conference's representatives to the NCAA Legislative Council and the NCAA Championships and Sports Management Cabinet, which such representatives shall be from either a Division I-A School or from a Non-Division I-A School or an executive officer of the Conference. The Athletic Directors Committee shall also elect the Conference's representatives to the NCAA Administrative Cabinet, NCAA Academics Cabinet, NCAA Student-Athlete Awards, Benefits and Financial Aid Cabinet, NCAA Amateurism Cabinet, and the NCAA Recruiting Cabinet, which such representatives shall be from either a Division I-A School or from a Non-Division I-A School or an executive officer of the Conference.

7.04 The Athletics Directors Executive Committee.

- (a) The Athletics Directors Executive Committee shall consist of six members, three of whom shall be Athletics Directors of Division I-A Schools selected by a majority of Division I-A School Directors present and eligible to vote and the other three of whom shall be Athletics Directors of Non-Division I-A Schools selected by a majority of Non-Division I-A School Directors present and eligible to vote. Any action taken by the Athletics Directors Executive Committee shall require the vote of at least three-fourths of all Athletics Directors Executive Committee members.
- (b) The Athletics Directors Executive Committee, between Athletics Directors Committee meetings at the request of the Commissioner, shall have the authority to take any action or make any recommendation on behalf of the full Athletics Directors Committee that could have been taken by the Athletic Directors Committee at a meeting with a quorum, excluding Football Actions. The Athletics Directors Executive Committee shall work with the Commissioner to prepare agendas, to act on matters requiring immediate action which arise between scheduled meetings of the Athletics Directors Committee and to render decisions under Conference rules and regulations as to winners of Conference championships in designated sports.

7.05 The Finance Committee.

- (a) The Finance Committee shall consist of four members, two of whom shall be Athletics Directors of Division I-A Schools selected by a majority of Division I-A School Directors present and eligible to vote and the other two of whom shall be Athletics

Directors of Non-Division I-A Schools selected by a majority of Non-Division I-A School Directors present and eligible to vote. Any action taken by the Finance Committee shall require the majority vote of all Finance Committee members.

- (b) The Finance Committee shall assist and advise the Conference in all financial matters, including without limitation matters related to budgets, internal audits and revenue sharing policies.

7.06 Other Non-Director Committees. The Board may from time to time, by a majority vote of Directors present and eligible to vote, establish other standing or temporary committees the composition of which may include individuals who are not Directors, each of which committees shall have such composition and such authority or responsibility as the Board may determine by majority vote of Directors present and eligible to vote.

7.07 Administrative Appointments. If the Athletics Directors Executive Committee, Finance Committee, or any other standing committee whose membership consists entirely of Athletics Directors does not have at least one woman as a member, the Directors shall appoint to any such committee a senior woman administrator ("SWA") from among the Members to be a voting member of any such standing committee in addition to the standing committee voting members specified in these Bylaws. Each SWA shall be appointed for a two year term beginning and ending as of the Annual Meeting of Directors. Each SWA appointed shall be from a Member not then represented by its Athletics Director on that particular standing committee. If any Athletics Director is subsequently appointed to any standing committee with a SWA member from the same Member institution, the SWA shall be replaced by another SWA from a Member not represented on that committee.

ARTICLE VIII – REVENUES

8.01 Revenues. The revenues of the Conference shall be allocated by the Board by majority vote of Directors present and eligible to vote, provided, however, that revenues attributable to football shall be allocated solely to the Division I-A Schools, as determined by majority vote of the Division I-A School Directors present and eligible to vote.

ARTICLE IX – POLICY MANUAL

9.01. Policy Manual. The Board shall, by a majority vote of all Directors present and eligible to vote, adopt a policies and procedures manual (the "Big East Policy Manual"), which shall include but not be limited to Conference championship rules and regulations. In the event of any inconsistency between the Big East Policy Manual and these Bylaws or the Articles, these Bylaws or the Articles shall control. The Big East Policy Manual may be amended by a majority of Directors present and eligible to vote. Notwithstanding the foregoing, policies and procedures contained in the Big East Policy Manual relating to Football Actions shall be approved by a majority of Division I-A School Directors present and eligible to vote.

ARTICLE X – PERIODIC SELF-STUDY AND EVALUATION

Beginning in June 2008 and periodically thereafter, the Conference shall undergo an internal comprehensive self study and evaluation inclusive of but not limited to Conference structure, membership, revenue distribution, championships and governance to assure that the Conference is meeting minimum established goals, objectives, NCAA Division I-A and BCS membership criteria. The "Directors" by consensus shall identify the minimum goals and objectives by which the Conference will be evaluated and appoint a subcommittee(s) of the "Directors" and ADs to conduct the review. The subcommittee(s) shall present a report of its findings to the Board.

ARTICLE XI – TERMINATION, SUSPENSION, PROBATION AND WITHDRAWAL OF MEMBERS

11.01 Termination, Suspension or Probation.

- (a) A Member may be placed on probation or suspension, or have its membership in the Conference terminated, by a vote of at least three-fourths of the Directors present and eligible to vote (excluding the Member which is the subject of the vote), for one or more of the following reasons:
 - (i) Withdrawing or attempting to withdraw from the Conference without complying with Section 11.02 of these Bylaws;
 - (ii) Materially violating the standards and requirements of the Conference, as set forth in these Bylaws or in the rules, regulations and policies adopted by the Board; or
 - (iii) Becoming ineligible for active membership in Division I or Division I-A of the NCAA, as applicable, by a written determination of the NCAA.

No such vote shall take place unless the alleged offending Member has been notified in writing by the Chair or the Commissioner of the alleged offense and has been given an opportunity to be heard at a special or regular meeting of the Board. After such opportunity to be heard has been completed, the Directors may, by majority vote of Directors present and eligible to vote (excluding the Member which is the subject of the vote), enter into executive session without the Director or other representative of the Member which is the subject of the vote in order to discuss and vote on termination, probation or suspension.

- (b) All of a terminated Member's rights of membership in the Conference and in the Conference's assets shall cease as of the effective date of termination, including without limitation any right to revenues attributable to any NCAA or Conference tournament and any contracts entered into by or on behalf of the Conference.
- (c) Suspension means a severance from the Conference in one or more sports, whether for a stated period of time or indefinitely. Whenever a Member is under consideration for suspension from less than all Conference sports in which the Member participates, only the Directors of those Members which compete in the Conference in a sport under consideration shall be allowed to vote on suspension from that sport. All of a suspended Member's rights of membership in the Conference and in the Conference's assets which are conferred by participation in the sport or sports from which the Member is suspended shall cease during the term of the suspension, including without limitation any rights to revenues attributable to any NCAA or Conference tournament and any contracts entered into by or on behalf of the Conference in connection with the sport or sports. In the event of the suspension of a Member with respect to all sports in which such Member participates, all rights of such suspended Member in the Conference and in all rights and assets of the Conference shall cease during the term of the suspension.
- (d) During any period of suspension, the Director for the suspended Member may, with the consent of the Chair, attend meetings of the Board but may not vote on matters directly relating to the sport or sports as to which its participation was suspended. The determination of the matters upon which the Director of such suspended Member may

vote shall be neither appealable nor subject to review by any body of the Conference or any other body or court.

- (e) Probation means that a Member institution has been informed by the Conference that continuation or recurrence of the non-compliance, failure or ineligibility identified pursuant to Section 11.01(a) will be grounds for suspension or termination.
- (f) Any suspension or probation of a Member may be ended by a vote of at least three-fourths of all Directors present and eligible to vote.
- (g) All determinations made by the Board related to termination, suspension and probation shall be final and shall be neither appealable nor subject to review by any body of the Conference or any arbitrator, other body or court.

11.02 Withdrawal from Membership.

- (a) A Member may unilaterally withdraw from the Conference by meeting all of the following requirements:
 - (i) The Member must provide to the Commissioner, with a copy to each of the other Members, a written notice of withdrawal (the "Withdrawal Notice") specifying an effective date of withdrawal which must be (a) the first day of a Conference calendar year, which is currently July 1, and (b) at least twenty-seven months after the date that the Withdrawal Notice is received by the Commissioner.
 - (ii) The Withdrawing Member must pay a withdrawal fee to the Conference in the amount of five million dollars (\$5,000,000.00) (the "Withdrawal Fee"). The Withdrawal Fee shall be payable as follows:
 - a) A portion of the Withdrawal Fee equal to two million, five hundred thousand dollars (\$2,500,000) shall be due and payable by the Withdrawing Member to the Conference upon the first delivery of the Withdrawal Notice to the Commissioner; and
 - b) A portion of the Withdrawal Fee equal to two million, five hundred thousand dollars (\$2,500,000) shall be due and payable by the Withdrawing Member to the Conference upon the effective date of the withdrawal.
 - (iii) During the pendency of the withdrawal, the Withdrawing Member must play all athletic competitions included in the Conference schedules until the effective date of the withdrawal.
- (b) Any attempted withdrawal of a Member without full compliance with Section 11.02 would cause irreparable harm to the Conference and to the non-withdrawing Members for which there is no adequate remedy at law. Therefore, if a Member attempts or purports to withdraw from the Conference without complying with Section 11.02, the Conference shall be entitled to seek and obtain equitable relief, including but not limited to an injunction requiring such Member to comply fully with Section 11.02, to fulfill all of its obligations as a Member, and to remain in the Conference until the earliest possible date upon which the Member could have, under the circumstances, withdrawn in accordance with these withdrawal procedures. If a Member's failure to comply with Section 11.02 causes the Conference to initiate any injunction or other such proceedings, the Member shall be obligated to pay the Conference's costs, including reasonable attorneys' fees of

counsel of the Conference's choosing, with respect to such proceedings. Such equitable relief shall be in addition to any other relief, in law or equity, to which the Conference or any of its Members may be entitled.

- (c) All rights of a Withdrawing Member in the Conference and in the assets and revenues of the Conference shall cease as of the effective date of its withdrawal, including without limitation any rights to distributions which would otherwise become due after such effective date, even if such distributions are based on matters that occurred prior to such effective date. During the pendency of a Withdrawing Member's withdrawal, the Withdrawing Member's share of revenue distributed by the Conference that would otherwise be paid to such Member shall first be credited towards any amounts which are or will be payable by the Withdrawing Member to the Conference until those amounts are fully satisfied. The Director, Athletic Director and any other agent of a Withdrawing Member shall be automatically removed from any Committee membership or any other position in which they are serving as a representative of the Conference, immediately upon the receipt by the Conference of the Member's Withdrawal Notice.
- (d) Notwithstanding any provision of this Article XI to the contrary, any Member which downgrades its NCAA athletic participation classification from Division I to Division II or lesser competitive classification or moves from Division I-AA to Division I-AAA shall not be required to pay the withdrawal fee specified in Section 11.02(a)(ii). Any Member who so elects shall give notice to the Conference as soon as it makes such election, and will not be required to meet the notice requirements specified in section 11.02(a)(i) of these bylaws.

ARTICLE XII - DISSOLUTION

12.01 Dissolution. The Conference may be dissolved upon a vote of at least two-thirds of all Directors. In the event of dissolution of the Conference, the Board, by a vote of a majority of all Directors present and eligible to vote, shall determine the basis for liquidation of Conference assets, if any, and the allocation, following the satisfaction of all Conference obligations, of net assets, as provided for in the Articles.

ARTICLE XIII - INDEMNIFICATION

13.01 Indemnification. Each person who at any time is, or shall have been, a President, Chancellor, CEO, Director, Athletics Director, Commissioner, officer, employee or agent of the Conference, and is threatened to be or is made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he or she is, or was, a President, Chancellor, CEO, Director, Athletic Director, Commissioner, officer, employee or agent of the Conference, shall be indemnified against losses, expenses (including attorneys' fees), judgments, penalties, fines, settlements and reasonable expenses paid in settlement, in each case actually and reasonably incurred in connection with any such action, suit or proceeding. The foregoing right of indemnification shall be in no way exclusive of any other rights of indemnification to which such President, Chancellor, CEO, Director, Athletics Director, Commissioner, officer, employee or agent may otherwise be entitled (and no indemnified person shall be required to first pursue such other right) and shall inure to the benefit of the heirs, executors and administrators of such indemnified person. The Conference shall at all times maintain comprehensive general liability insurance and CEOs', Athletics Directors' and officers' errors and omissions insurance in such amounts as the CEOs shall from time to time determine. Notwithstanding any other provision of these Bylaws, the Conference shall be under no obligation to provide indemnification for any matter (including any counterclaim or third party claim) brought against the Conference by a party seeking indemnification or brought by or on behalf of the Conference against a party seeking

indemnification, or for any matter in which it is determined that the party seeking indemnification was liable as a result of that party's gross negligence or misconduct.

ARTICLE XIV - SPORTS AFFILIATES

14.01 Sports Affiliates.

- (a) An institution which is not a Member may be designated as a Sports Affiliate of the Conference ("Sports Affiliate") for one or more sports sponsored by the Conference in accordance with the Big East Conference Strategic Plan adopted by the CEO's in 1999.
- (b) Each Sports Affiliate shall be a college or university holding Division I and, in the case of a Sports Affiliate playing football within the Conference ("Football Affiliate"), Division I-A membership, in the NCAA and shall agree in writing to fulfill the NCAA sports sponsorship rules and regulations necessary for Division I classification in the sport in question.
- (c) Except as otherwise approved by the Board by at least three-fourths of all Directors present and eligible to vote, no Sports Affiliate shall be allocated any revenue of the Conference except revenue attributable to the sport or sports in which the Sports Affiliate plays within the Conference. Any such Sports Affiliate shall not have any rights as a Member of the Conference other than to play such sport or sports and receive allocation of revenue from such sport or sports according to the terms and conditions established under Section 14.01(a). The CEO of a Sports Affiliate shall not be a Director of the Conference.
- (d) If a Football Affiliate is required to be a "member" of the Conference in order to comply with NCAA rules and regulations, or to meet eligibility requirements of the Bowl Championship Series or any comparable arrangement, the Members, at the request of a majority of the Division I-A Schools, shall enter into or approve such agreements and documents, if any, including amendments to these Bylaws, as are necessary to confirm the limited membership in the Conference described in this subsection 14.01(d).

ARTICLE XV - AMENDMENTS TO BYLAWS; AMENDMENTS TO ARTICLES

15.01 Procedure for Amendment of Bylaws. Amendments to these Bylaws shall be adopted by the Board by a vote of at least three-fourths of all Directors present and eligible to vote. An amendment to these Bylaws shall become effective immediately upon adoption unless otherwise specified in the amendment and it shall not be necessary for the Members to sign any amendment to these Bylaws in order for such amendment to be effective.

15.02 Agreement with respect to Amendment of Articles. Notwithstanding the provisions of Section 29-301.35 of the D.C. Act, the Members agree that any amendment to the Articles shall require a vote of at least three-fourths of all Directors present and eligible to vote.

ARTICLE XVI - MISCELLANEOUS PROVISIONS

16.01 Fiscal Year. The fiscal year of the Conference shall be July 1 through June 30 of each year, or such other fiscal year as the Board may adopt by resolution.

16.02 Checks, Drafts and Notes. All checks, drafts, or other orders for the payment of money and all notes or other evidences of indebtedness issued in the name of the Conference shall be signed by such officer or officers or agent or agents as shall from time to time be designated by resolution of the Board.

16.03 Gifts. The Commissioner may accept on behalf of the Conference, any contribution, gift, bequest or devise for the general purpose or for any special purpose of the Conference.

16.04 Charitable, Nonprofit Purposes. Consistent with the nonprofit, charitable purposes for which the Conference is organized:

- (a) No part of the net earnings or other assets of the Conference shall inure to the benefit of, or be distributable to, any Director, Athletics Director, officer, contributor or other private person, except that the Conference shall be authorized and empowered to pay reasonable compensation for services rendered, to reimburse expenses of Directors, Athletics Directors, officers and employees of the Conference and other persons in connection with Conference matters, and to make payments and distributions in accordance with the purposes of the Conference;
- (b) The Conference shall not, as a substantial part of its activities, carry on propaganda, or otherwise attempt to influence local, state or federal legislation, and the Conference shall not participate in, or intervene in (including the publishing and distributions of statements) any political campaign on behalf of (or in opposition to) any candidate for public office, except as authorized under the Code; and
- (c) Notwithstanding any other provisions of the Articles, these Bylaws or the rules, regulations and policies adopted by the Board, the Conference shall not carry on any activities not permitted to be carried on (a) by an organization exempt from federal income tax under Section 501(c)(3) of the Code, or (b) by an organization contributions to which are deductible under Sections 170(c)(1) or (2) of the Code.

16.05 Corporate Seal. The Board may prescribe the form of a suitable corporate seal.

16.06 Severability. The provisions of these Bylaws are severable and any provision of these Bylaws that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

ARTICLE XVII – BYLAWS

17.01 Bylaws; Amendment of 2001 Constitution.

- (a) These Bylaws amend and restate, and replace, the 2001 Constitution, except as provided in Section 17.01(h).
- (b) The provisions of the 2001 Constitution relating to "withdrawing Members" (as such term is used in the 2001 Constitution) shall remain in effect with respect to any Member which sent a notice under the 2001 Constitution, prior to the adoption of these Bylaws, of its intention to withdraw from the Conference. Without limiting the generality of the foregoing, Sections 3.05 and 3.06 of the 2001 Constitution shall continue in effect with respect to any such Member. These Bylaws, excluding Section 11.02, shall apply to any such Member as an amendment to and restatement of the 2001 Constitution. To the extent that any provision of these Bylaws is held by a court not to be applicable to any such Member, the comparable provision of the 2001 Constitution shall remain applicable to such Member as if such comparable provision of the 2001 Constitution had not been amended and restated. These Bylaws and the Articles are not intended to and do not amend, modify or terminate the agreement set forth in the agreement dated January 31, 2000, as modified by letters dated May 8, 2000, June 21, 2000, and February 10, 2004 by which Virginia Polytechnical Institute and State University ("VI") became a "full

(C) See Hygiene Hygiene Administered Respected Hygiene & Hygiene

VERIFICATION

I, Amy K. Marsh, as Chief Investment Officer and Treasurer of Plaintiff The University of Pittsburgh—Of the Commonwealth System of Higher Education, verify, on behalf of the Plaintiff, that based on my personal knowledge or on information and belief, the statements made in the foregoing Complaint are true and correct.

I understand that false statements herein are subject to the penalties 18 Pa. Cons. Stat. § 4904 relating to unsworn falsification to authorities.

Executed on this 11th day of May, 2012.

A. K. Marsh