



# Colleges Placed at the Mercy of the States They Are In: How State Laws Can Strip Host Cities of NCAA Tournament Games and Affect Athletic Programs

September 19, 2016

Every year colleges and universities bid to host National Collegiate Athletic Association (“NCAA”) tournament games. Hosting these games attracts incoming students, boosts school pride, increases alumni contributions, and provides free marketing and advertising for the host college on a national scale. A recent NCAA decision, however, should put colleges on notice that the laws of their state may affect their ability to host these profitable games and operate successful athletic programs.

The University of North Carolina (“UNC”), Duke University (“Duke”), Elon University, and Wake Forest University have all benefited from North Carolina’s impressive hosting record. North Carolina has hosted more NCAA men’s basketball tournament games (251) than any other state and, in this century alone, there have been only four years that North Carolina has not hosted an NCAA tournament game in a given year. Last week, however, the NCAA stripped North Carolina of the seven championship events that it was scheduled to host this upcoming academic year. The reason: a recently passed state law known as House Bill 2 (“HB2”).

HB2 sets a statewide definition of classes of people who are protected against discrimination. This definition includes: race, religion, color, national origin, age, handicap, and biological sex as designated on a person’s birth certificate; gender identity and sexual orientation are not protected classes that qualify for anti-discrimination protections. Moreover, HB2 mandates that transgender people who have not taken surgical and legal steps to change the gender noted on their birth certificates have no legal right to use the public restrooms of the gender with which they identify. Cities and counties cannot establish different standards, although private businesses and universities can.

Historically, the NCAA has taken steps to ensure its championship environment is consistent with its long-standing core values of inclusion, fairness, and anti-discrimination. In the past, the NCAA has banned championship games in states where governments display the Confederate flag and/or authorize sports wagering, and at schools that use hostile and abusive Native American imagery. In rendering these decisions, the individual policies of the colleges and universities affected are irrelevant. Shortly after the NCAA announced its decision to pull all tournament games from North Carolina, Duke’s Athletic Director publicly stated:

“We agree with the NCAA’s decision. Our position has been clear on this matter, which is that this legislation is discriminatory, troubling and embarrassing. We deplore any efforts to deprive individuals, regardless of sexual orientation or gender identity, of legal protections and rights. We will always be committed to diversity and inclusion, and applaud any efforts to ensure that those values are protected and enacted at all times, and in places in the state of North Carolina.”

UNC’s Athletic Director also publicly supported the NCAA’s decision, stating:

“Carolina Athletics is steadfast in its commitment to fairness, inclusion, and ensuring that all who come to our campus for athletics events are welcome. We are disappointed for the people of this great state, the communities that are scheduled to play host to these championship events and to the students who may be denied the opportunity to compete for championships in their home state.”

These statements have had no impact on the NCAA’s decision.

Moreover, since HB2 was signed into law, New York, Minnesota, Washington, Vermont, and Connecticut have prohibited travel to North Carolina for public employees and representatives of public institutions. Duke lost a men’s basketball game from its schedule when the University of Albany backed out due to New York’s travel ban and UNC lost a game from its women’s basketball schedule when the University of Vermont refused to play in Chapel Hill due to Vermont’s travel ban.

All in all, anti-discrimination laws have the potential to significantly affect not only the institution’s ability to host NCAA tournament games and operate successful athletic programs but also the institution’s bottom line. The personnel policies and beliefs of the institution are irrelevant. The NCAA is not afraid to penalize schools in order to make a statement to the state as a whole and states are not afraid to enact travel bans which can deprive an institution of its ability to host regularly scheduled home games. In the wake of these recent events, institutions are advised to pay close attention to and be active in the legislative processes of their respective states.

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*Thank you to Cecilia Ehresman, a law clerk at Cullen and Dykman, for her assistance with this blog post.*