



THOMAS MORE COLLEGE
PUBLIC INFRACTIONS DECISION
NOVEMBER 15, 2016

I. INTRODUCTION

The NCAA Division III Committee on Infractions is an independent administrative body of the NCAA comprised of individuals from the Division III membership and the public. The committee decides infractions cases involving member institutions and their staffs. This case involved the women's basketball program at Thomas More College.¹ It included multiple allegations stemming from one impermissible arrangement - \$5,000 of impermissible housing, meals and the brief use of a vehicle provided by a now former assistant coach to a student-athlete. The student-athlete was an elite member of the national championship women's basketball team. All parties agreed to the underlying facts and that violations occurred. The institution, however, disputed one allegation and the nature of another.

All parties agreed that beginning in April 2014 and continuing for the rest of the calendar year, a women's basketball student-athlete lived cost-free with a former assistant coach and his family. The student-athlete knew the former assistant coach from her youth. The former assistant coach also provided her meals and brief use his personal automobile while she lived with him. The arrangement began after she suffered a knee injury in March 2014. At different points during the arrangement, the head coach and the director of athletics became aware of the situation and assumed it to be permissible. The institution later acknowledged that the arrangement violated NCAA benefit legislation. The institution also agreed it impermissibly permitted the student-athlete to participate in its undefeated 2014-15 national championship season while ineligible and failed to monitor and address the arrangement. The institution failed to monitor largely because it failed to educate, identify and react to the impermissible arrangement. The parties agreed that those violations were major. The committee agrees.

The institution and head coach also agreed that he violated head coach responsibility legislation. The head coach failed to monitor the former assistant coach and, once he knew of the arrangement, further explore its permissibility. He also failed to promote an atmosphere for compliance within his program. However, the institution and head coach asserted his failure was a secondary violation. The committee disagrees and concludes that the violation is major.

Based on the violations in this case, the committee adopts and prescribes the following principle penalties: two years of probation, a financial penalty, an outside audit, required attendance at

¹ A member of the Presidents' Athletic Conference, the institution has an approximate enrollment of 900 undergraduate students. The institution sponsors 10 men's and 11 women's sports. This is the institution's first major infractions case.

NCAA Regional Rules Seminars, a vacation of all games in which the student-athlete participated while ineligible and administrative reporting requirements.

II. CASE HISTORY

This case began in late February 2015 when a confidential source reported potential extra benefit violations involving a student-athlete and the head coach to the NCAA enforcement staff. In June 2015, a confidential source provided additional information. Two months later, the NCAA enforcement staff contacted the institution about the potential violations. On September 24, 2015, the institution submitted a written response reporting a former assistant coach had provided lodging, meals and the use of his automobile to a student-athlete.

On November 10, 2015, the enforcement staff issued a notice of inquiry, and the parties initiated an investigation into the matter. On November 18, 2015, the institution declared the student-athlete ineligible and sought her reinstatement.² On March 27, 2016, the enforcement staff issued a notice of allegations (NOA) to the parties. On June 5, 2016, the institution, former assistant coach and head coach responded to the NOA. On August 4, 2016, the enforcement staff submitted its case summary. Prior to the hearing, the institution and former assistant coach submitted supplemental responses to the NOA. On September 25, 2016, the Division III Committee on Infractions conducted an in-person infractions hearing.

III. FINDINGS OF FACT

This case centers on one of the institution's most successful women's basketball student-athletes (student-athlete) and a previous assistant basketball coach (former assistant coach). The two met when the student-athlete was in seventh grade, after the former assistant coach met her grandfather. At that time, the former assistant coach coached an Amateur Athletic Union (AAU) team in the Cincinnati area. The student-athlete played for an AAU team that practiced against his team. The student-athlete did not have a relationship with her father. Her grandfather, with whom she had a relationship, lived out of the state. As the student-athlete and the former assistant coach developed their friendship, the former assistant coach reported he tried to be a father figure for her. The two had similar social backgrounds, talked about life and often played videogames at the former assistant coach's house.

In the summer prior to the student-athlete's eighth grade year, she began playing on the former assistant coach's AAU team. Their friendship continued to grow. The former assistant coach drove the student-athlete to practice once or twice a week. She would ride with the former assistant coach and his family to local and out-of-state tournaments. She also continued to visit his home to "hang out," have dinner with his family and play videogames. The former assistant coach and his wife considered the student-athlete a "big sister" for their son.

² The NCAA student-athlete reinstatement staff reinstated the student-athlete with conditions. The student-athlete reinstatement process is separate and apart from the infractions process.

By middle school, the student-athlete had created a name for herself in the basketball community. She began playing high school varsity basketball as early as her sixth or seventh grade year. When interviewed, the institution's head women's basketball coach (head coach) acknowledged that the student-athlete was a well-known talent.³ Her prominence continued to grow over the coming years. She became an elite Division I prospect and won her state's "Miss Basketball" award.

During her high school years, the former assistant coach became less involved. Shortly before the student-athlete began high school, the former assistant coach's family moved to California. The two stayed in touch via social media. Although the former assistant coach moved back to the locale during the student-athlete's junior and senior years of high school, their communication generally consisted of phone conversations and interacting through social media.

In the student-athlete's senior year, the former assistant coach became a volunteer assistant at the institution. He never recruited the student-athlete and she signed a National Letter of Intent to attend a Division I institution. The two had little contact during her freshman year of college. During her freshman year, she earned postseason conference honors and was named to the Women's National Invitational Tournament all-tournament team.

Despite her initial athletics success, the student-athlete decided to transfer closer to home. The student-athlete contacted two student-athletes, whom she knew from high school, and inquired about their experiences at the institution. After the institution received a release from her Division I institution, the head coach and the student-athlete began discussing the possibility of transferring. During her recruitment, the head coach specifically asked the former assistant coach not to contact the student-athlete. In his interviews, response and at the infractions hearing, the head coach indicated that he wanted the student-athlete to make her own decision without outside influence. He also, however, admitted he actively recruited her.

The student-athlete enrolled in the institution for the 2013-14 academic year. She resumed her friendship with the former assistant coach and his family. They interacted at practice. She occasionally visited the former assistant coach's home.

In the 2013-14 NCAA Women's Basketball Tournament, the student-athlete suffered a knee injury and underwent reconstructive surgery. The student-athlete lived alone.⁴ In their interviews, both the student-athlete and the former assistant coach indicated they had concerns about her physical limitations. They were also worried about the safety of the neighborhood where she lived. The former assistant coach invited the student-athlete to live with his family until she fully recovered. In late April 2014, she moved in.

³ From approximately 2004 through 2006, the head coach coached at a local high school. He would coach at another high school for approximately two years before becoming an assistant coach at an NCAA Division I Member institution for three years. Thomas More College named him head coach in June 2011.

⁴ The student-athlete's mother briefly stayed with her for about a week after her surgery. The student-athlete also briefly stayed with a friend before returning to her upstairs, off-campus apartment.

The former assistant coach reported that, in spring 2014, he informed the head coach of the arrangement. He indicated the conversation occurred while the student-athlete was in the processing of moving into his home. In his interview, the former assistant coach indicated he informed the head coach that the student-athlete was moving in with his family and offered to step down from his position. He further reported the head coach told him he did not have to resign because he knew her and was not doing anything wrong. The head coach reported he did not recall the spring 2014 conversation. At the infractions hearing, however, he acknowledged that if his former assistant coach asserted it occurred, then he had no reason to doubt it happened.

The head coach recalled another conversation in August 2014. After hearing from the student-athlete that she was living with the former assistant coach, he called the former assistant coach to inquire whether the student-athlete was paying him or babysitting for his family. In his interview, the head coach said he was concerned whether the arrangement was free, but he did not believe it violated legislation because of their pre-existing relationship. The head coach further acknowledged he never raised the arrangement to anyone in the athletic department. At the hearing, the director of athletics indicated that it was institutional protocol to bring all compliance questions to him. If he did not know the answer, he would contact the NCAA.

The student-athlete continued to live in the former assistant coach's home for the remainder of the calendar year. While there, she received cost-free housing and meals. Both the student-athlete and the former assistant coach indicated that she frequently babysat for the former assistant coach's family and was not compensated. The institution calculated the value of the full room and board to be \$4,948.⁵ Further, the former assistant coach permitted her to use his personal vehicle to travel out of state in December 2014. The value of using the car was \$98. Having recovered from her knee surgery, the student-athlete returned to competition in fall 2014.

The housing arrangement ended on January 1, 2015, when the student-athlete moved out. Concerned about the perception of a female student-athlete living with a male coach, the director of athletics required the student-athlete to move out. A few days earlier, the institution's director of athletics (director of athletics) learned of the housing arrangement in a conversation with the head coach. The institution's compliance officer also learned of the arrangement in late December 2014. Neither considered this to be an NCAA compliance issue because both believed the arrangement was permissible based on the former assistant coach's and student-athlete's pre-existing relationship. Although she moved out, the student-athlete continued to compete for the institution and receive actual and necessary travel expenses. Prior to the 2015-16 season, the student-athlete was declared ineligible and reinstated.

None of the athletics staff members relied on any specific NCAA legislation, official interpretations or consulted with the conference or national office when reaching the on-campus conclusion that the arrangement was permissible. As articulated at the infractions hearing, individuals relied on "folklore" surrounding pre-existing relationships. Later, in September 2015, the institution supported its earlier conclusion that the arrangement was permissible based

⁵ The NCAA student-athlete reinstatement staff calculated the value of the student-athlete's babysitting services to be \$3,400.

on its application of a January 29, 2001, official interpretation on NCAA Bylaw 12.⁶ In its response, the institution acknowledged it did not provide adequate rules education.

IV. ANALYSIS

The violations in this case centered on an extra benefit in the women's basketball program. The institution agreed that the athletics department learned of the arrangement and failed to withhold the student-athlete from competition. The head coach failed to fulfill his head coach responsibility. And the institution failed to fulfill its monitoring responsibilities. The institution agreed major violations occurred but, along with the head coach, believed the head coach responsibility violation was secondary in nature. The committee agrees the violations occurred and concludes that all violations are major.

A. EXTRA BENEFIT [NCAA Bylaw 16.02.3 (2013-14 and 2014-15 Division III Manual)]

For eight months, the former assistant coach provided a student-athlete with an impermissible arrangement. He provided her with cost-free room and board. He also allowed her to use his personal vehicle to drive home. The enforcement staff, institution and former assistant coach agreed to the underlying facts and that a major violation occurred. The committee agrees.

1. NCAA legislation relating to extra benefits.

16.02.3 Extra Benefit. An extra benefit is any special arrangement by an institutional employee or a representative of the institution's athletics interests to provide a student-athlete or the student-athlete's relative or friend a benefit not expressly authorized by NCAA legislation. Receipt of a benefit by student-athletes or their relatives or friends is not a violation of NCAA legislation if it is demonstrated that the same benefit is generally available to the institution's students or their relatives or friends or to a particular segment of the student body determined on a basis unrelated to athletics ability.

2. From April 2014 through the remainder of the calendar year, the student-athlete received approximately \$5,000 in extra benefits when she lived with the former assistant coach and his family, received meals and used his personal car to drive home.

From April 21, 2014, until January 1, 2015, the student-athlete lived cost-free with the former assistant coach. While there, she also received free meals and used the former assistant coach's personal car to travel home in December 2014. Although the two knew each other from the

⁶ The NCAA enforcement staff had brought the Official Interpretation (Benefits Resulting from an Established Relationship (III)) to the institution's attention at the time it inquired into potential violations. The institution conceded that it did not review the interpretation until after the enforcement staff provided it to them. At that time, the institution convened a group of athletics administrators to review the factual circumstances under the interpretation and believed the conduct was permissible.

student-athlete's youth basketball career, their arrangement was not permissible under NCAA legislation. The arrangement violated NCAA Bylaw 16.

NCAA Bylaw 16.02.3 prohibits extra benefits. An extra benefit is any special arrangement by an institutional employee or representative of the institution's athletics interest to provide a student-athlete or their family with a benefit not expressly authorized by NCAA legislation.

Recently, the committee has concluded that special arrangements violate extra benefit legislation and constitute major violations. See *College of Staten Island* (2013) (concluding that major extra benefit violations occurred when the former head coach was involved in student-athletes receiving falsified documents to ensure visas, reduced-cost lifeguard certification classes and co-signed lease agreements) and *Kean University* (2012) (concluding that major extra benefit violations occurred when a former head coach arranged for exclusive classes for the women's basketball team on their foreign tour, the institution impermissibly provided a student-athlete with a grade change and the former head coach provided a loan and cash to student-athletes). While each case has unique facts and circumstances, the same principles hold true in this case.

Neither the living arrangement, meals nor use of a personal automobile was expressly authorized under NCAA legislation. As a result, each provision constituted an extra benefit. The former assistant coach was an employee of the institution. Therefore, he could not provide a student-athlete with cost-free benefits.⁷ He may have believed he was continuing to act in the same manner he had years earlier, but his conduct still violated one of the most well-known NCAA rules. The circumstances surrounding the arrangement (e.g., their prior relationship, the student-athlete's recent knee surgery, the former assistant coach's volunteer status and his apparent lack of NCAA rules education) are all factors that explain why the former assistant coach believed he could provide cost-free housing, meals and use of his car to the student-athlete. While the institution acknowledged that it did not provide adequate rules education to the former assistant coach, that does not excuse the violation.

Because the arrangement involved roughly \$5,000 in impermissible benefits, the committee concludes that the violation provided the student-athlete with a substantial benefit. Similarly, because it occurred for roughly eight months, the committee concludes that it was neither isolated nor limited. Therefore, the committee concludes that the violation is major.

⁷ When first discussing the arrangement with the head coach, the former assistant coach offered to resign so that the student-athlete could stay with him. However, the arrangement would still have violated NCAA legislation.

B. FAILURE TO WITHHOLD AN INELIGIBLE STUDENT-ATHLETE FROM COMPETITION & IMPERMISSIBLE TRAVEL EXPENSES [NCAA Bylaws 14.9.4.1, 16.8.1.2 and 31.2.2.1 (2013-14 and 2014-15 Division III Manual)]⁸

The institution failed to withhold the student-athlete from participating in the 2014-15 women's basketball season after she received impermissible room and board from the former assistant coach. The institution also permitted her to receive actual and necessary travel expenses. The enforcement staff and institution agreed that major violation of NCAA legislation occurred. The committee agrees.

1. NCAA legislation relating to ineligible competition and travel expenses.

14.9.4.1 Loss of Eligibility. A student-athlete shall be denied eligibility for intercollegiate competition in a sport if he or she participates in intercollegiate competition in that sport while ineligible under this bylaw or other applicable NCAA legislation. The certifying institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility if it concludes that the circumstances warrant restoration (see Bylaw 14.11).

16.8.1.2 Competition While Representing Institution. An institution may provide actual and necessary travel expenses (e.g., transportation, lodging and meals) for a student-athlete to represent the institution in competition, provided the student-athlete is eligible for intercollegiate competition.

31.2.2.1 Eligibility Requirements. A member institution shall not enter a student-athlete as an individual or as a member of a team in an NCAA championship unless the student-athlete satisfies the relevant eligibility requirements of Bylaw 14.

2. On three occasions, institutional staff members were aware of the arrangement between the former assistant coach and the student-athlete and did not recognize it as impermissible, later allowing the student-athlete to compete and receive travel expenses while ineligible.

Between April and December 2014, three athletics staff members participated in or knew about the arrangement between the former assistant coach and the student-athlete, yet did not identify the arrangement as impermissible, nor seek clarification on its rules interpretation. As a result, the institution permitted the student-athlete to compete while ineligible and receive actual and necessary expenses. These failures violated NCAA Bylaws 14, 16 and 31.

Under NCAA Bylaw 14.9.4.1, student-athletes are denied eligibility for intercollegiate competition if they have previously competed while ineligible in that sport without being

⁸ Originally, the enforcement staff also alleged the institution violated NCAA Bylaws 31.2.2.3 and 31.2.2.4. However, the committee notes that those bylaws specifically identify the committee's authority to address circumstances where a student-athlete has participated in championship competition and subsequently been declared ineligible. As a result, the committee does not include those in the list of bylaws violated by the student-athlete's ineligible participation.

reinstated. NCAA Bylaw 16.8.1.2 allows institutions to provide actual and necessary travel expenses for eligible student-athletes competing for the institution. Finally, NCAA Bylaw 31.2.2.1 prohibits institutions from allowing ineligible student-athletes to participate in NCAA championship competition.

During the time the student-athlete stayed with the former assistant coach, three institutional staff members became aware of the arrangement and did not stop it. None identified the arrangement as an NCAA issue. Later, and despite knowing that the student-athlete lived with the former assistant coach cost-free, the institution permitted the student-athlete to participate in the entire 2014-15 women's basketball season.

The former assistant coach invited the student-athlete to come live with his family without checking with his supervisor and/or other institutional administrators. The former assistant coach acknowledged that, during the process of the student-athlete moving in with his family, he informed the head coach of the arrangement. During that conversation, he offered to resign so that she could stay there. He was misinformed that he was not doing anything wrong.

The head coach asserted that he did not recall the April 2014 conversation, but he conceded that if the former assistant coach suggested it occurred, it likely did. Notwithstanding that conversation, the head coach did recall learning of the arrangement in August 2014. The head coach claimed that he believed the arrangement was permissible because of the longstanding relationship between the former assistant coach and the student-athlete. The head coach did not raise the issue to any other athletics staff members after either conversation. It did, however, come up in conversation with the director of athletics four months later.

In December 2014, the director of athletics learned of the arrangement in a conversation with the head coach. The director of athletics was uncomfortable with the perception of a female student-athlete living with a male coach, but indicated that he did not believe the arrangement violated extra benefit legislation. Like the other two, he was wrong and also failed to seek additional clarification.

Because the three institutional staff members failed to recognize the arrangement as an extra benefit, the institution failed to declare the student-athlete ineligible and permitted her to participate in the entire 2014-15 women's basketball season, including the postseason. As a result, the student-athlete participated while ineligible and received actual and necessary travel expenses, in violation of NCAA Bylaws 14.9.4.1, 16.8.1.2 and 31.2.2.1. The student-athlete competed the entire season while ineligible and the institution received a substantial advantage. Therefore, the committee concludes that a major violation occurred.

C. HEAD COACH RESPONSIBILITY [NCAA Bylaw 11.1.2.1 (2014-15 Division III Manual)]

The head coach failed to fulfill his head coaching responsibilities when he failed to monitor his former assistant coach and promote an atmosphere for compliance in the women's basketball program. The enforcement staff, institution and head coach agreed that the head coach violated

head coach responsibility legislation. The institution and head coach, however, believed the violation was secondary. The committee disagrees and concludes the violation is major.

1. NCAA legislation relating to head coach responsibility.

11.1.2.1 Responsibility of Head Coach. It shall be the responsibility of an institution's head coach to promote an atmosphere for compliance within the program supervised by the coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.

2. The head coach failed to fulfill his responsibilities as the head coach of a program when he failed to monitor the former assistant coach's interaction with a student-athlete and failed to promote an atmosphere for compliance when he learned of the student-athlete's cost-free living arrangement and failed to raise its permissibility with athletics administration and permitted it to continue.

As early as April 2014, the head coach learned that his student-athlete was living cost-free with the former assistant coach and did nothing about the arrangement. The head coach inaccurately believed that the arrangement was permissible. The head coach failed to fulfill his responsibilities under NCAA Bylaw 11.

Head coaches are regulated by NCAA Bylaw 11. Specifically, NCAA Bylaw 11.1.2.1 requires all head coaches to promote an atmosphere for compliance within their programs and monitor the activities regarding compliance of all assistant coaches and administrators who report directly or indirectly to the head coach.

The committee has previously emphasized that head coaches must fulfill their obligations under NCAA Bylaw 11. See *College of Staten Island* (2013) (concluding that, among other violations, the former head swimming coach committed a major head coach responsibility violation when he provided inducement and benefits, including impermissible housing, to student-athletes); *Occidental College* (2013) (concluding that the former head volleyball coach committed a major head coach responsibility violation when he failed to ensure that his program abided by basic NCAA legislation); *Illinois College* (2012) (concluding that the former head football coach committed a major head coach responsibility violation when he and two of his former assistant coaches knowingly sent over 500 impermissible text messages); and *Kean College* (2012) (concluding that the former head women's basketball coach committed a major head coach responsibility violation when she, among other things, failed to involve or consult the athletics department on matters concerning the women's basketball team, which led to impermissible extra benefits).⁹

⁹ The two assistant coaches in *Illinois College* were also head coaches in other sport programs. The committee also concluded that they individually failed to promote an atmosphere for compliance and violated NCAA Bylaw 11.1.2.1.

Here, the head coach failed to fulfill his head coach responsibilities. With respect to monitoring, the head coach was unaware of the living situation of one of his transfer student-athletes who just had knee surgery. He only found out about the situation when the former assistant brought it to his attention. At the earliest, the head coach learned of the arrangement in April 2014, when the former assistant coach informed him that the student-athlete was moving in with his family. Regardless of whether he found out in April or August, the head coach approved of the arrangement and permitted it to continue until the director of athletics ended it in December 2014. In his interviews, his response and at the hearing, the head coach has consistently stated that he believed the arrangement to be permissible. But he arrived at the decision without first raising the issue with his director of athletics or compliance officer. At the hearing, the director of athletics indicated that the protocol in the department was for head coaches to seek guidance from him on compliance questions. That protocol was not followed here.

Head coaches have the ultimate responsibility for compliance within their program, but they also have resources available to them. Like the head coach in *Kean College*, the head coach failed to consult with any athletics department staff members on a key issue. This issue involved a student-athlete who was receiving cost-free room and board. Based on those circumstances, the head coach should have exercised even more caution and communicated with his athletics leadership and compliance officer as soon as he learned of the arrangement. While the director of athletics ultimately did not believe, the arrangement was impermissible, the head coach did not know that at the time. The head coach should have, at the very least, informed his superior about the situation rather than making the decision independently.

With respect to promoting an atmosphere for compliance, once the head coach found out about the arrangement, he did nothing. He failed to follow department protocol and seek clarification from his director of athletics. Instead, he relied on "folklore" surrounding pre-existing relationships and independently determined the arrangement was permissible. He was wrong. He expressly approved of the student-athlete living cost-free with his former assistant coach. While it does not appear that the arrangement was widely known, he implicitly indicated that the arrangement was appropriate to his team and staff. The arrangement was impermissible and resulted in a significant extra benefit to the student-athlete. The head coach's actions also could have suggested that his staff did not need to consult institutional staff members on compliance-related issues. Therefore, although he initially believed the arrangement to be permissible, the head coach failed to promote an atmosphere for compliance within his program.

The head coach's failure to further inquire about the facts, circumstances and permissibility over an eight-month period demonstrates that he failed to monitor the former assistant coach and failed to promote an atmosphere for compliance within his program. These failures failed to fulfill the obligations set forth in NCAA Bylaw 11.1.2.1. As a result of these failures, the student-athlete received a significant extra benefit, became ineligible, and then competed and received travel expenses during the 2014-15 season without being reinstated. Therefore, the committee determines that the head coach's violation is major.

D. FAILURE TO MONITOR [NCAA Constitution 2.8.1 (2013-14 and 2014-15 Division III Manual)]

The institution failed to monitor its women's basketball program. It failed to provide adequate rules education to staff members. It also failed to identify and report an impermissible arrangement involving a coach and a student-athlete and later permitted the ineligible student-athlete to compete and receive travel expenses. The enforcement staff and institution agreed to the facts and that a major violation occurred. The committee agrees.

1. NCAA legislation relating to institution's monitoring responsibilities.

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

2. The institution failed to fulfill its obligations under the NCAA constitution when it failed to proactively provide adequate rules education, identify an impermissible arrangement and withhold an ineligible student-athlete from competition.

Throughout the entire process, individuals at the institution misunderstood NCAA legislation and believed the cost-free arrangement between the former assistant coach and the student-athlete to be permissible. Those misunderstandings stemmed from the institution's failure to educate, identify and react. Those failures violated NCAA Constitution 2.

NCAA Constitution 2.8.1 requires member institutions to monitor their athletics programs to assure compliance with NCAA rules and regulations. It also requires institutions to identify rules violations and report any violations to the Association.

The committee has consistently concluded that mistaken application or a lack of understanding of NCAA legislation does not excuse an institution's obligations under the NCAA Constitution. *See Kalamazoo College (2016)* (concluding that, although the institution mistakenly believed that so long as all prospective students were treated the same it complied with the DIII philosophy and NCAA bylaws, the institution failed to monitor its financial aid process); *Rose-Hulman Institute of Technology (2015)* (concluding that the institution failed to monitor its financial aid process despite the fact that the institution did not intend for the violations to occur and mistakenly believed that its financial aid process complied with the DIII philosophy and NCAA bylaws); and *Denison University (2014)* (concluding that among other failures, the institution's failure to educate appropriate staff members on applicable legislation, which led to their inability to recognize impermissible financial aid packages, violated the institution's

monitoring responsibilities under NCAA Constitution 2.8.1). The committee recognizes that the cited cases generally involve institutions' failures to identify and educate on financial aid legislation. The underlying principles and obligations under NCAA Bylaw 2.8.1, however, are the same regardless of the underlying violations.

The institution failed to educate staff members, who subsequently did not recognize the arrangement as impermissible. In its response and at the hearing, the institution admitted that it failed to monitor. Specifically, it admitted that it failed to provide its athletics staff, including the former assistant coach, the head coach and the director of athletics with the proper education. The lack of education, in part, led to the institution's failure to identify a potential issue and promptly investigate it. That failure led to the impermissible arrangement continuing for months and the institution permitting an ineligible student-athlete to participate in the entire 2014-15 women's basketball season.

Based on the lack of education, staff members were unable to recognize that the cost-free arrangement was impermissible under NCAA legislation. Although the institution and the involved individuals emphasized the pre-existing relationship, institutional and women's basketball staff members should have, at the very least, recognized that further questions needed to be asked when they learned of the arrangement. The only staff member who raised the issue to a superior was the former assistant coach. Further, the head coach knew that the former assistant coach's prior relationship with the student-athlete could pose issues with respect to her recruitment. The head coach did not permit the former assistant coach to be involved. This same relationship should have served as a point of caution for all future dealings between the former assistant coach and the student-athlete. The institution operated under assumptions and reliance, rather than caution.

Finally, the institution failed to react once it identified the arrangement. On multiple occasions, staff members made independent determinations that the permissibility of the relationship without identifying a potential issue for superiors. For example, the head coach failed to inquire about the permissibility of the relationship from both his director of athletics and compliance officer. Likewise, when the director of athletics and compliance officer learned of the arrangement, neither sought additional clarification from the conference or national office. As a result, the institution failed to react, permitting an impermissible arrangement to continue for eight months and an ineligible student-athlete to compete and receive travel expenses.

The institution failed to monitor, assure compliance and identify and report an instance of noncompliance. That failure is a major violation because of the time over which the violation occurred and the fact that it resulted in an elite student-athlete participating in an entire season while ineligible.

V. VIOLATIONS NOT DEMONSTRATED

The enforcement staff alleged that the former assistant coach committed unethical conduct by providing the student-athlete with approximately \$5,000 of impermissible benefits. The

committee does not conclude that an unethical conduct violation occurred. Each case is unique to its facts and circumstances. There may be instances in which the provision of a \$5,000 benefit supports an NCAA Bylaw 10.1 violation. That, however, did not happen in this case.

At the time, the former assistant coach was a part-time volunteer coach, working limited hours at the institution. The institution acknowledged that it did not provide the former assistant coach with adequate rules education and that failure, at least in part, led to his belief that he could provide the student-athlete with cost-free housing, meals and the use of his car. Further, and consistent with the expectations of the committee, the former assistant coach did what he was expected to do. He raised the issue with his superior. While it is not apparent that the former assistant coach was asking whether it was permissible, he was assured that he would not need to resign, that he was not doing anything wrong and, for eight months, was not informed of anything to the contrary. The former assistant coach had both express and implicit approval of the arrangement and continued to operate under that direction. Therefore, based on the initial step taken by the former assistant coach to notify his superior and his reasonable reliance on the head coach's direction, the committee does not conclude he violated NCAA Bylaw 10.1.

VI. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the committee concludes that this case involved four major violations of NCAA legislation. All four violations stemmed from the impermissible cost-free housing, meals and use of a personal automobile the former assistant coach provided to the student-athlete. To a large degree, the violations occurred because of institutional staff members' reliance on a general principle of a pre-existing relationship without seeking additional interpretative help. That reliance permitted the violation to continue undetected and resulted in ineligible participation.

In prescribing the penalties, the committee considers the institution's cooperation in the processing of this case. NCAA Bylaws 19.01.3 and 32.1.4 address cooperation during the infractions process. The committee concludes that the cooperation exhibited by the institution was consistent with its obligation under the bylaws.

The committee prescribes the following penalties. The institution's self-imposed penalties are specifically identified. The institution's corrective actions are contained in the Appendix.

Penalties, Disciplinary Measures and Corrective Actions (NCAA Bylaw 19.5.2)

1. Public reprimand and censure.
2. Two years of probation from November 15, 2016, to November 14, 2018.¹⁰

¹⁰ Periods of probation always commence with the release of the infractions decision. The institution proposed a one-year probationary term. The authority to prescribe NCAA probation, however, rests solely with the committee.

3. Pursuant to NCAA Bylaws 19.5.2-(g) and 31.2.2.3, the institution shall vacate all regular season and conference tournament wins in which the student-athlete competed from the time she became ineligible through the time she was reinstated as eligible for competition. Further, if she competed in the NCAA Division III Women's Basketball Championships at any time she was ineligible, the institution's participation in the championship shall be vacated. Individual records of the ineligible student-athlete shall also be vacated. However, the individual records and any awards for all eligible student-athletes will be retained. Further, the institution's records regarding its athletics program, as well as the records of all head coaches, will reflect the vacated records and will be recorded in all publications in which records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media plus institutional, conference and NCAA archives. Any institution that may subsequently hire the affected head coach with vacated wins on his record may not count the vacated wins to attain specific honors or victory "milestones" such as 100th, 200th or 500th career victories. Any public reference to the vacated contests shall be removed from athletics department stationary, banners displayed in public areas and any other forum in which they appear (e.g., signature blocks, etc.). Any trophies awarded by the NCAA in women's basketball shall be returned to the Association.

Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publications and archives the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA Media Coordination and Statistics office and appropriate conference officials to identify the specific student-athlete and contests impacted by the penalties. In addition, the institution must provide the NCAA Media Coordination and Statistics office with a written report, detailing those discussions. The document will be maintained in the permanent files of the NCAA Media Coordination and Statistics office. This written report must be delivered to the office no later than 45 days following the release of this decision. The sports information director (or designee) must also inform the office of the Committees on Infractions of its submission to the NCAA Media Coordination and Statistics office.

4. The institution shall pay a \$2,500 fine. (Institution imposed.)
5. During the first six months, the institution's athletics department shall undergo a comprehensive compliance review by an outside agency with athletics compliance expertise. The results of this compliance review shall be included in the institution's first annual compliance report, and any recommendations made as a result of this compliance review shall be implemented as soon as possible, but no later than the conclusion of the second year of probation. (Institution imposed.)
6. The institution indicated that multiple college representatives attended the 2016 NCAA Regional Rules Seminar. (Institution imposed.) Additionally, in each year of probation, the institution shall send the head women's basketball coach, director of athletics and athletics compliance officer to the NCAA Regional Rules Seminars.

7. During probation, the institution shall:

- a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes' eligibility for admission, financial aid, practice or competition;
- b. Submit a preliminary report to the Office of the Committees on Infractions by January 15, 2017, setting forth a schedule for establishing this compliance and educational program;
- c. File with the Office of the Committees on Infractions an annual compliance report during each year of probation indicating the progress made with this program by October 1 of each year during the period of probation. Particular emphasis should be placed on enhanced rules education and communication policies and procedures between athletics administration and coaches. The report must include documentation of the institution's compliance with the penalties adopted and prescribed by the committee;
- d. Inform all prospective student-athletes in the sport of women's basketball that the institution is on probation for two years and explain the violations committed. The information must be provided in writing and for the full term of probation. The institution must provide this information as soon as practicable after the prospective student-athlete is recruited pursuant to NCAA Bylaw 13.02.8 and, in all instances, before the prospective student-athlete signs a financial aid agreement or initially enrolls at the institution, whichever is earlier; and
- e. For the full term of probation, publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement including the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions decision located on the athletic department's main or "landing" webpage. The information shall also be included in an alumni publication. The statement must: (i) clearly describe the infractions; (ii) include the length of probation associated with the major infractions case; and (iii) give members of the general public a clear indication of what happened in the major infractions case to allow the public (particularly prospective student-athletes and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.

10. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.
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As required by NCAA legislation for any institution involved in a major infractions case, Thomas More College shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, November 15, 2016. Further, the committee advises the institution that it should take every precaution to ensure that it observes the terms of the penalties. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations will cause the committee to consider extending the institution's probationary period, prescribing more severe penalties, or may result in additional allegations violations.

NCAA DIVISION III COMMITTEE ON INFRACTIONS

Amy Hackett, chair
Effel Harper
Tracey Hathaway
Gerald Houlihan
Gerald Young

APPENDIX

**CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S JUNE 5, 2016,
RESPONSE TO THE NOTICE OF ALLEGATIONS.**

1. At the president's direction, during the 2015-16 women's basketball season, the College did not fill the third women's basketball assistant coach position vacated by the former assistant coach's departure.
2. The president assigned the assistant general counsel as a liaison and resource for the athletics department.
3. Before the start of the 2015-16 women's basketball season, the College declared the student-athlete ineligible and withheld her from competition until she completed the student-athlete reinstatement process.
4. The president personally attended enforcement staff presentations at the 2016 NCAA convention.
5. Monthly athletics department staff meeting began incorporating a mandatory "compliance moment" into the meetings.
6. The president will address the College's student-athletes specifically about the importance of NCAA rules compliance at the beginning of each academic year.
7. The president will address the College's fulltime athletics staff specifically about the importance of NCAA rules compliance at the beginning of each academic year, and copies of his remarks will be provided to any athletic staff members (including part-time and volunteer staff members) unable to attend the address.
8. The compliance coordinator will distribute a weekly email regarding a compliance topic to all athletics department staff (including part-time or volunteer staff).
9. At the beginning of each academic year, student-athletes will be required to complete a housing information form which solicits information about where each student-athlete lives and whether any College athletics department staff member or booster helped arrange the student-athlete's housing.
10. At the beginning of each academic year, student-athletes will be required to complete a vehicle information form which solicits information about any vehicle owned or regularly driven by each student-athlete and whether any College athletics department staff member or booster helped purchase or provide the vehicle.

11. Throughout any period of probation, at least the president or the director of athletics, will attend enforcement staff presentations at the annual NCAA conventions.