



NCAA MEMBER RESOURCE GUIDE

INVESTIGATING AND REPORTING BYLAW INFRACTIONS TO THE NCAA ENFORCEMENT STAFF



OVERVIEW AND DISCLAIMER

This information is intended to assist an NCAA member institution when investigating potential violations of NCAA legislation and preparing a report for the NCAA enforcement staff concerning the results of the inquiry. This resource guide includes basic information on how to conduct an on-campus investigation into potential NCAA rules violations and an outline to use when information is submitted to the enforcement staff for potential Level I, Level II or major violations.

This resource guide is prepared for general information purposes only and is intended to provide guidance to the membership on how to conduct investigations and report information to the enforcement staff. Member institutions should consult their own policies and contact the enforcement staff before commencing an investigation.

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I. Introduction.

The NCAA infractions process is a **cooperative undertaking** involving member institutions and the NCAA enforcement staff in the investigation and processing of potential NCAA rules violations. The enforcement staff is responsible for conducting investigations relative to an institution's failure to comply with NCAA legislation. However, an institution is often the first to learn of possible violations involving its athletics programs. After an institution contacts the enforcement staff about potential violations, it is not unusual for the enforcement staff to ask the institution to conduct a preliminary inquiry and report its findings. In other instances, the enforcement staff shares reported information with an institution and asks the institution to follow up. Consequently, it is important for schools to have an institutional investigative policy in place regarding the collection, review and reporting of information concerning possible rules violations. The following sections provide guidance on how to conduct an internal investigation, recommended procedures for submitting a self-report to the enforcement staff and answers to frequently asked questions.

II. How to Conduct an Investigation.

A. Launching an Investigation.

After an institution has reviewed its investigative policy, consulted with the NCAA enforcement staff and been given authorization to proceed with its own investigation, the institution should develop a case strategy. A case strategy is the institution's road map for conducting its investigation. At a minimum, it identifies potential NCAA violations, applicable NCAA legislation, potential interviewees and the order in which individuals will be interviewed, documents to be collected, the timing of collection and review, and a timeline for completing the investigation (set in consultation with the enforcement staff). The institution should pay particular attention to developing a strategy and timeline for communicating with individuals who may be involved, coaching staffs, students, administrators and other stakeholders.

At this stage, the institution also should determine whether to retain the services of outside legal or investigative consultants. This is obviously a decision made entirely by the institution.

B. Document Collection.

Identifying, preserving and gathering relevant documents is an important part of any successful investigation. Documents may come in either paper or electronic format. For instance, potentially relevant documents include, but are not limited to, computer records, bank statements, telephone records, correspondence, text messages, photographs, expense receipts, travel itineraries, academic transcripts, publicly available social media posts, vehicle registrations, etc. Some documents may already be in the institution's possession and readily available for review while others may require the institution to request them from a third party.

When requesting documents, consider the following:

1. Whether signed agreements are necessary to gain access to the information (and how to procure necessary consents).
2. Whether to submit the request for documents in writing.
3. Which individuals have information that may identify relevant documents.
4. Who will request the documents and the timing of the request(s), including follow-up or supplemental requests.
5. A timeline for production of the requested documents.
6. In what format the requested documents should be produced (native format, Word, .pdf, Excel, photocopies, etc.) and what information may be embedded in electronic materials.
7. Consequences for failure or refusal to produce requested documents in a timely manner.
8. How a request for documents from a third party might compromise the investigation.

C. Interviews.

1. Who should be interviewed?

Conducting effective interviews is an important way to gather information during an investigation. An institution should interview any individual with potential knowledge of and/or involvement in potential NCAA violations. This includes, but is not limited to, the source of information about alleged violations, institutional staff members, current and former student-athletes, and individuals whose eligibility or athletically related duties as an institutional staff member may be at risk due to their possible involvement in violations.

Some individuals have an obligation to cooperate, provide documents and respond to interview questions during an institution's internal investigation. These individuals are current and former institutional staff (athletics and nonathletics), student-athletes, and prospective student-athletes. Individuals who are not obligated under NCAA bylaws to cooperate with the institution's investigation may include those never employed by or associated with the institution, such as agents, boosters,

financial advisers, scholastic and nonscholastic coaches, and former student-athletes.

2. Order of interviews.

When determining the order of interviews, consider the following:

- a. Who has foundational information that may inform subsequent interviews or document requests?
- b. Who can corroborate and/or refute the information?
- c. Who is at risk for their involvement in potential rules violations?
- d. How can you best prevent/minimize a breach of confidentiality or leak of information in your investigation?
- e. Might an individual need to be interviewed again in light of later-discovered information?

Typically, when determining the order of interviews, it is helpful to work from the outside in. In other words, an investigator may opt to interview individuals most likely to be involved in the violations last. This allows the investigator time to develop sufficient information to confirm or refute their involvement.

3. Interview logistics.

In the institution's investigative policy, outline in detail how the institution will conduct its interviews. Specifically, identify who is responsible for conducting the interview, who may be present during the interview, where the interview should be conducted, who may know about the interview and how the interview should be performed (e.g., telephone, videoconference or in person).

To solicit candid and real-time responses, do not specify the substance of the interview with the interviewee in advance. Both before and at the beginning of the interview, the institutional representative should explain that the purpose of the interview is to determine whether the individual has any knowledge of or involvement in NCAA violations. Also, whenever possible, record every interview using a digital recorder; have the institutional representative state on the record the name of the person being interviewed, as well as the date, time, location and individuals present.

The representative should advise the interviewee on the record that he or she may have personal legal counsel present and of the interviewee's obligation (if applicable) to provide truthful and complete information (NCAA Bylaws 10.01 and 10.1). Explain the consequences of failing to provide truthful information or refusing to cooperate fully (Bylaw 10.4). In Division I, these consequences are also found in Bylaws 19.2.3.2 and 19.9.3-(e). Have the interviewee sign a Bylaw 10.1 statement memorializing his or her understanding of the obligation under NCAA legislation to cooperate and provide truthful information. Retain a copy of the signed statement with the investigative file. Discuss the interviewee's obligation to keep the inquiry confidential. Maintaining confidentiality and protecting the integrity of the investigation are key to accurate fact-finding efforts.

4. Interview techniques.

Conducting effective interviews during an internal investigation takes time, planning and execution. Planning includes performing research and gathering and reviewing all relevant documentation before the interview.

During the interview, ask open-ended questions (e.g., "Tell us about") to solicit as much information as possible, and avoid asking leading questions (e.g., "Isn't it true that ...?"). Avoid interrupting the interviewee when he or she is responding and ask specific questions to gather as many details as possible (e.g., dates, times, names, etc.). It is also important that the interviewer have the interviewee distinguish between firsthand information (direct knowledge) and secondhand information (indirect knowledge). If the interviewee does not have information or direct knowledge of the violation, ask the interviewee if he or she knows someone who may have information.

The interviewee should have the opportunity to share any desired information, but he or she must also answer all questions. If the interviewee is represented by legal counsel, the attorney's interruptions should be kept to a minimum, and coaching is not permitted. In order to facilitate gathering information relevant to violations of NCAA rules, the answers need to be those of the interviewee, not the attorney.

D. Analysis of Information.

Throughout the course of the investigation, review and analyze all information collected to determine whether additional interviews or document requests are necessary, or whether it may be necessary to revisit the scope of the inquiry. At the conclusion of the investigation, review the entire file and determine whether the factual information and relevant bylaws indicate that violations likely

occurred. The institutional investigative policy should identify the institutional staff responsible for analyzing the information and arriving at its findings.

At the conclusion of the investigation, contact the enforcement staff. If potential violations are uncovered, report the particulars as outlined below. Also consider whether there may be eligibility issues that require review by the NCAA student-athlete reinstatement staff.

The conclusion of the investigation is often a good time to assess the institution's compliance systems. Identify any potential breakdowns, implement meaningful corrective actions and, if necessary, revise and update the investigative policy. Reviewing department compliance procedures with the athletics staff and implementing improvements on a regular basis help prevent and/or mitigate future violations and is a sign that the institution takes compliance seriously.

E. Reporting Institutional Findings to the Enforcement Staff.

If the institution determines that Level I, Level II or major violations might have occurred, report the findings to the enforcement staff as soon as reasonably possible. Provide notice to the enforcement staff member who was assigned before starting the investigation. The enforcement staff will review the self-report and follow up with the institution to discuss any questions and next steps. If the institution believes the violations are Level III or secondary in nature, the violations may be reported through the requests self-reports online (RSRO) system.

III. Outline for an Institutional Self-Report.

After an institution concludes its investigation, it should present its findings and supporting documentation to the NCAA enforcement staff in a written report using the following outline:

A. Introduction.

1. Purpose of report.

- a. Acknowledgment of violations. State whether the institution is acknowledging violations.
- b. Level. State the institution's position on whether the case is Level I, II or III, or major or secondary.
- c. Restoration of eligibility. Indicate whether the eligibility of a prospective student-athlete or enrolled student-athlete was

impacted and whether it has been addressed with the NCAA student-athlete reinstatement staff.

2. Table of contents.

3. Case chronology.

- a. Provide an overview of the means by which the initial information became available to the institution and how the institution determined that an investigation was necessary.
- b. Dates of significance to the institution's investigation (e.g., investigation start date, initial contact with enforcement staff, etc.).
- c. Date report was submitted to conference (if applicable) and overview of any actions.
- d. Dates of interviews and other events that aid in understanding the progression of the case.

B. Summary of Factual Information and General Overview of Findings.

1. Summary of factual information. Provide a summary of the factual information supporting the violations identified as a result of the investigation.
2. Nature of violations. Identify the general types of violations (e.g., recruiting, extra benefits) and individual(s) involved (e.g., current or former student-athletes and coaching staff members).
3. Involved individual(s). Identify and provide titles of any and all involved individual(s) named in an allegation with biographical background about each individual. Include for all involved former and current coaching staff members the date(s) the individual began employment with the institution, number of years the individual was/has been employed, titles held and overview of duties. For student-athletes with eligibility remaining who are named in findings, provide the student-athlete's current eligibility status at the institution (or other NCAA member institution).

C. Overview of Institution's Investigation.

1. Institutional staff. Include the identities of the individual(s) who conducted the inquiry.
2. Length of investigation. Indicate the overall length of the institution's involvement, whether the institution encountered delays and the reasons for those delays.
3. Identify individuals interviewed and their relationship to the inquiry. Explain why these individuals were interviewed and their significance to the inquiry. If applicable, explain why certain individuals were not interviewed.

D. Specific Findings and Narrative. Provide a detailed summary and narrative for each finding of violation in the report.

1. Finding. Provide a paragraph stating the facts of the violations, including:
 - a. Citation of NCAA legislation violated. Provide a list of the citations of all NCAA legislation violated [e.g., NCAA Bylaws 13.2.2-(e) and 16.2.2.4].
 - b. Specific language of finding, including the following:
 - (1) Date and location of violation.
 - (2) Describe the actions that produced the violation, a description of the benefit or inducement (e.g., \$50 cash, impermissible tryout, exceeded permissible number of contests) and any additional information pertinent to understanding the violation.
 - (3) Identities of coaching staff members, student-athletes, representatives of the institution's athletics interests and other individuals involved in the violation.
2. Supporting narrative. Provide all necessary information to assist the enforcement staff in understanding the circumstances surrounding the violation.
 - a. Means by which the violation was discovered. Provide specific information relevant to each finding [e.g., the violation was discovered through interviews, individual(s) came forward, review of documents and newspaper articles].

- b. An overview of the information developed/reported in subparagraph 2-a. Provide a summary of the information that led to a conclusion that a violation occurred (e.g., summarize statements of individuals, including documents or other records of relevance).
 - c. Reasons the violation occurred and a description of mitigating/unique factors. Identify why and how the violation occurred.
 - d. Identification of any eligibility issues and the results of these issues. Identify the specific student-athlete and the results of any restoration requests. Include supporting documentation, correspondence and exhibits.
- E. Other Possible Violations. Include information about other possible violations that the institution reviewed but did not or could not substantiate. Provide an overview of the possible violations including:
 1. Citation of possible NCAA legislation violated.
 2. A review of the available information that supports or refutes that a violation occurred.
 3. A statement indicating reasons the institution does not believe a violation occurred.
- F. Corrective Actions and Penalties. Include corrective actions and penalties that have been or will be implemented by the institution.
 1. Corrective actions.
 - a. Identify actions that correct, eliminate or strengthen a specific area within the institution, its compliance program or the athletics department.
 - b. Reasons/rationale by the institution for corrective actions.
 2. Penalties.
 - a. List any penalties or actions imposed with regard to the institutional program, institutional employees or representatives of the institution's athletics interests.

- b. Explain the reasons the institution believes the penalties were appropriate.
- c. Penalties imposed by the conference (if applicable).
- d. Reasons for penalties imposed by the conference (if applicable).
- e. A statement indicating whether the institution is a repeat violator as noted in the provisions of NCAA Bylaw 19.5.2.3 (Repeat violator is applicable only in Divisions II and III).

G. Background Information on the Institution and Involved Individual(s).

- 1. NCAA division, conference alignment, number of sports sponsored and total number of athletics grants-in-aid awarded during the past academic year.
- 2. Type of academic calendar on which the institution operates (e.g., semester or quarter).
- 3. Overview of major infractions history of institution and involved individual(s).

H. Concluding Remarks.

I. Appendix (supporting documentation). The following is not an exhaustive list:

- 1. Individual contact information.
 - a. Names, addresses and telephone numbers of individuals interviewed.
 - b. Names, addresses and telephone numbers of individuals who refused to be interviewed.
 - c. Names of individuals who could not be located.
- 2. Correspondence.
 - a. Copy of correspondence between the institution and conference.
 - b. Copy of correspondence between the institution and involved individual(s).

3. Factual information (not an exhaustive list).
 - a. Interview recordings, transcripts and/or summaries.
 - b. Financial records.
 - c. Academic transcripts.
 - d. Telephone records.
 - e. Team rosters.
 - f. Travel and lodging records.
 - g. Emails and text messages.
 - h. Computer records.

Submitting a Self-Report

All supporting documentation should be submitted electronically with the institution's self-report to the enforcement staff.

The institution's report and supporting documentation should be named according to the naming convention worksheet provided by the enforcement staff. If an institution is unable to transmit the information by email due to file size limitations, it should contact the enforcement staff to determine another way to submit the information electronically.

IV. Frequently Asked Questions.

- 1. Should an institution contact the NCAA enforcement staff before commencing an internal investigation into potential Level I, Level II or major violations?**

Yes. Contact the enforcement staff before commencing an internal investigation into potential Level I, Level II or major violations. Notification of the enforcement staff gives the institution and enforcement staff the opportunity to coordinate efforts, avoid duplicating investigative work and discuss next steps. The enforcement staff may lead the investigation or ask the institution to proceed with its internal investigation.

The institution will be asked to share its plans for conducting an internal investigation and the anticipated deadline for completion. An enforcement staff member will be assigned to the case as a point of contact during the investigation.

- 2. What is an institutional investigative policy?**

An investigative policy contains the institution's guidelines and criteria for conducting an internal investigation. An investigative policy defines roles and responsibilities, outlines investigative resources and identifies procedures for reviewing and reporting institutional findings.

Having an investigative policy promotes consistency in investigations, provides for a timely and organized response to potential violations, and reduces inefficiencies.

- 3. Who should conduct the investigation for the institution?**

The institutional investigative policy should outline who is responsible for conducting the institution's investigation. Depending on an institution's size and resources, the director of compliance, institutional legal counsel and/or outside legal counsel may conduct the investigation. Individuals who may be involved in potential rules violations should not participate in conducting any part of the investigation.

- 4. What are some common errors in an internal investigation?**

Assuming that the institution has a policy, the most common error is not following it. The following are other common errors that may occur either during the internal investigation or in the preparation of the report to the NCAA:

- a. Failure to notify the student-athletes and institutional staff members of NCAA Bylaw 10.1 (i.e., providing false or misleading information to either the institution or the NCAA). Provide notification orally and in writing before any interview.
- b. Failure to recognize eligibility issues. If information arises about a current student-athlete who is competing, the institution must undertake an immediate review to determine the student-athlete's eligibility status. Even if all the facts are not established at that time, the institution should make a good-faith decision based on the available information. Document the reasons for the institution's position in the event new facts or questions arise later in the inquiry. Further, the institution's position may change on receipt of subsequent information.
- c. Failure to submit the necessary information. An outline for the type of information needed in a self-report is contained within this guide. Generally, the type of information needed for a description of a possible Level I, Level II or major violation is similar to the information needed for a Level III or secondary violation (e.g., the identities of involved student-athletes and staff members, the time period involved). Background information included in a self-report for a possible Level I, Level II or major violation is more encompassing.
- d. Failure to state specifically the violation the institution is acknowledging. State in specific terms the bylaws violated and the information supporting the violation. For example:
 - (1) [NCAA Bylaw 13.2.2]

On February 22, 2014, Nancy Dribble (Dribble), then assistant women's basketball coach, provided \$250 in cash to then women's basketball prospective student-athlete Speedy Hands (Hands), in Hand's hotel room at the Ace Hotel, when she was on campus for her official paid visit.
 - (2) [NCAA Bylaw 16.11.2.1]

On at least three occasions during the 2014-15 academic year, Robert Bigbucks (Bigbucks), a representative of the institution's athletics interests, purchased various articles of clothing for football student-athlete Bulk Muscles (Muscles) at the Big Guys Clothing Store. Specifically, (a) in September 2014, Bigbucks purchased two pairs of dress pants and a shirt, valued at \$175, in order for Muscles to have adequate clothing to travel to away games; (b) in December 2014, Bigbucks purchased a winter coat as

a Christmas gift, valued at \$100; and (c) in March 2015, immediately before spring vacation, Bigbucks purchased several swimsuits and shirts for Muscles' spring break vacation, valued at \$150.

- e. Failure to identify all relevant documentation. Documents to be identified include, among others, telephone records, travel vouchers, etc.
- f. Failure to include information reported from all parties who either corroborate or refute the allegations. Include not only information that supports the institution's position but include all other information, as well.

5. What is a self-report?

A self-report is material submitted by the institution to the enforcement staff detailing Level I, II or III, major or secondary violations in its athletics program. The report must be submitted in writing and be the result of a thorough review of information received by the institution about possible violations and the determination that violations occurred.

6. Why should an institution self-report violations?

Pursuant to NCAA Constitution 2.8 (The Principle of Rules Compliance), NCAA member institutions have a responsibility to comply with all rules and regulations of the Association and monitor their athletics programs to ensure compliance. This legislation specifically addresses an institution's responsibility to identify and report to the Association "instances in which compliance has not been achieved" and to take appropriate corrective actions.

7. Does an institution receive "credit" for self-reporting?

Pursuant to Constitution 2.8.1 and other provisions in the Manual, institutions have an affirmative obligation to review possible bylaw violations and report those to the NCAA in a timely manner. Self-reporting violations is an expectation and condition of membership.

Whether potential violations are self-reported or otherwise uncovered, the enforcement staff reviews information regarding the underlying conduct. At the conclusion of its review, the enforcement staff must decide whether to bring formal allegations. If allegations are appropriate, the enforcement staff must also make a preliminary determination regarding the severity of the allegations. The source of the underlying information is not a factor in the enforcement staff's analysis of potential allegations.

However, self-reporting of violations can be a factor in fashioning penalties. A hearing panel of the NCAA Division I Committee on Infractions or the NCAA Divisions II and III Committee on Infractions, not the enforcement staff, is responsible for prescribing penalties. Accordingly, the hearing panel/committee members may consider an institution's self-report or the institution's level of cooperation in an investigation when prescribing penalties.

8. Is an institution obligated to report to the NCAA if it cannot determine whether a violation occurred or believes a Level I, Level II or major violation did not occur?

If an institution is unable to determine whether a Level I, Level II or major violation occurred or concludes that no violations occurred, then the institution is encouraged to advise the enforcement staff of such information and keep a written record of the methodology used and results of its inquiry.

9. What information is needed in a self-report?

An outline of information to be included in a self-report to the enforcement staff is found within Section III of this guide. The amount of detailed, relevant information initially submitted by the institution may reduce the number of subsequent inquiries by the enforcement staff.

10. How should this information be submitted to the NCAA?

The institution's self-report should follow the outline contained within this guide and be submitted electronically to the enforcement staff member assigned to the case. The enforcement staff member will then review the institutional self-report and follow up with the institution to ask any questions and discuss next steps.