Proposal Number: 2018-13

Title: INFRACTIONS PROGRAM -- PENALTIES -- AGGRAVATING FACTORS, FINANCIAL PENALTIES AND PENALTY GUIDELINES

Intent: To specify that (a) If an institution employs an athletics department staff member who is subject to a show-cause order and during the period of the show-cause order, that individual's conduct, or for a director of athletics and/or head coach, conduct involving any program which he or she has oversight, results in an institutional Level I or Level II violation, the employment is considered an aggravating factor; and (b) Financial penalties may include the loss of all revenue sharing in postseason competition (including the NCAA Division I Men’s Basketball Championship) for the entire period of a postseason ban. Further, to increase penalty guidelines, as specified.

Bylaws: Amend 19, as follows:

19 Infractions Program.
[19.01 through 19.8 unchanged.]
19.9 Penalties.
[19.9.1 through 19.9.2 unchanged.]

19.9.3 Aggravating Factors. Aggravating factors are circumstances that warrant a higher range of penalties for a particular party. A hearing panel of the Committee on Infractions determines whether aggravating factors are present in a case and the weight assigned to each factor. Examples of aggravating factors include, but are not limited, to the following:

[19.9.3-(a) through 19.9.3-(l) unchanged.]

(m) Intentional, willful or blatant disregard for the NCAA constitution and bylaws;

(n) The institution employs an athletics department staff member who is subject to a show-cause order and during the period of the show-cause order that individual's conduct, or for a director of athletics and/or head coach, conduct involving any program which he or she has oversight, results in an institutional Level I or Level II violation in the case; or

[19.9.3-(n) relettered as 19.9.3-(o), unchanged.]

[19.9.4 unchanged.]

19.9.5 Core Penalties for Level I and Level II Violations. If a hearing panel concludes that an institution or involved individual committed one or more Level I or Level II violations, and after determining the appropriate classification based on aggravating and mitigating factors, the hearing panel shall prescribe core penalties from the ranges set forth in Figure 19-1 and described below. The panel may depart from the core penalties only as set forth in Bylaw 19.9.6.

[19.9.5.1 unchanged.]

19.9.5.2 Financial Penalties. Financial penalties may include requirements that an institution pay a fine, return revenue received from a specific athletics event or series of events, or face reduction in or elimination of monetary distribution by the Association or lose all revenue sharing in postseason competition (including the NCAA Division I Men’s Basketball Championship) for the entire period of a postseason ban.

[19.9.5.3 through 19.9.5.7 unchanged.]

[19.9.6 through 19.9.11 unchanged.]

[19.10 through 19.12 unchanged.]

Figure 19-1 Penalty Guidelines
### FIGURE 19-1
Penalty Guidelines

<table>
<thead>
<tr>
<th>Violation Level I</th>
<th>Violation Level II</th>
<th>Competition Penalties: Postseason Ban</th>
<th>Financial Penalties: Fine (Percent of total budget for sport program)</th>
<th>Financial Penalties: Negate revenue from sport program for years in which violations occurred</th>
<th>Financial Penalties: Reduce or eliminate NCAA monetary distribution for sports sponsorship and/or grants-in-aid</th>
<th>Financial Penalties: Loss of all revenue sharing in postseason competition (including NCAA Men's Basketball Tournament) for entire period of postseason ban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggravation</td>
<td></td>
<td>*Competition penalties may be used singularly or in combination</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard</td>
<td>Aggravation</td>
<td>1 to 4 years</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation</td>
<td>Standard</td>
<td>0 to 1 year</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Violation Level I</th>
<th>Violation Level II</th>
<th>Financial Penalties: $5,000 plus 3 to 5%</th>
<th>Aggravation 10 to 25% Scholarship Reductions of Involved Sport(s) Program(s)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggravation</td>
<td></td>
<td>$5,000 plus 3 to 5%</td>
<td>* For cases in which financial aid overages have occurred, a minimum 2-for-1 reduction in financial aid awards shall apply to at least 20% of the team financial aid limit.</td>
</tr>
</tbody>
</table>

* A minimum $5,000 financial penalty will be imposed to ensure the penalty will be at least as significant as the fine imposed for a Level III violation.
<table>
<thead>
<tr>
<th>Violation Level I</th>
<th>Violation Level II</th>
<th>Show-Cause Order</th>
<th>Restrictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggravation</td>
<td>3 years to 10 years lifetime</td>
<td>All athletically related duties</td>
<td></td>
</tr>
<tr>
<td>Standard</td>
<td>2 to 5 years</td>
<td>All or partial coaching and recruiting duties (including game suspensions)</td>
<td></td>
</tr>
<tr>
<td>Mitigation</td>
<td>0 to 2 years</td>
<td>All or partial coaching and recruiting duties (including game suspensions)</td>
<td></td>
</tr>
<tr>
<td>Mitigation</td>
<td>0 to 1 years</td>
<td>All or partial coaching and recruiting duties (including game suspensions)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Violation Level I</th>
<th>Violation Level II</th>
<th>Head Coach Restrictions (game suspensions via show cause for Bylaw 11.1.1.1)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggravation</td>
<td>50 to 100% of season plus % of additional seasons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard</td>
<td>30 to 50% of season</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation</td>
<td>0 to 30% of season</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation</td>
<td>0 to 10% of season</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Violation Level I</th>
<th>Violation Level II</th>
<th>Recruiting Visit Restrictions</th>
<th>Recruiting Communication Restrictions</th>
<th>Off-Campus Recruiting Restrictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggravation</td>
<td>25 to 50% cuts in official paid visits (based on the average number provided during the previous 4 years) 25 to 50% 14- to 26-week ban on communication with all prospective student-athletes</td>
<td>25 to 50% Sports with no limits: 14- to 26-week ban on all contacts and evaluations 25 to 50% cuts in Recruiting Person Days (RPD) or Evaluation Days (ED) Men’s Basketball: 33 to 65 (RPD) Women’s Basketball: 28 to 56 (RPD) Football: 11 to 21 Fall; 42 to 84 Spring (ED) Women’s Beach Volleyball: 13 to 25 (ED) Women’s Volleyball: 20 to 40 (ED) Men’s Golf: 12 to 23 (ED)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violation Level I</td>
<td>Violation Level II</td>
<td>Recruiting Visit Restrictions</td>
<td>Recruiting Communication Restrictions</td>
<td>Off-Campus Recruiting Restrictions</td>
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<tr>
<td>------------------</td>
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</tr>
<tr>
<td>Standard</td>
<td>Aggravation</td>
<td>12.5 to 25%</td>
<td>12.5 to 25%</td>
<td>12.5 to 25% No-limit sports: 7-13 week ban</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7- to 13-week ban on unofficial visits (no scheduled unofficial visits and no complimentary tickets)</td>
<td>7- to 13-week ban</td>
<td>7- to 13-week ban</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12.5 to 25% cuts in official paid visits (based on the average number provided during the previous 4 years)</td>
<td>12.5 to 25% cuts in RPD or ED Men's Basketball: 17 to 33 (RPD)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Football: 7 to 14 visits (need to account for unused visits from the previous year, if any) Basketball: 2 to 3 visits (need to account for rolling two-year period) Baseball: 4 to 7 visits</td>
<td>Women's Basketball: 14 to 28 (RPD) Football: 6 to 11 Fall; 21 to 42 Spring (ED)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Off-Campus Recruiting Restrictions</td>
<td></td>
<td>Women's Beach Volleyball: 7 to 13 (ED) Women's Volleyball: 10 to 20 (ED) Men's Golf: 6 to 12 (ED)</td>
</tr>
<tr>
<td>Mitigation</td>
<td>Standard</td>
<td>0 to 12.5%</td>
<td>0 to 12.5%</td>
<td>0 to 12.5% No-limit sports: 0 to 6-week ban</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0 to 6-week ban on unofficial visits (no scheduled unofficial visits and no complimentary tickets)</td>
<td>0 to 6-week ban</td>
<td>0 to 6-week ban</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0 to 12.5% cuts in official paid visits (based on the average number provided during the previous 4 years)</td>
<td>0 to 12.5% cuts in RPD or ED Men's Basketball: 0 to 17 (RPD)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Football: 0 to 7 visits (need to account for unused visits from the previous year, if any) Basketball: 0 to 2 visits (need to account for rolling two-year period) Baseball: 0 to 4 visits</td>
<td>Women's Basketball: 0 to 14 (RPD) Football: 0 to 6 Fall; 0 to 21 Spring (ED)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Off-Campus Recruiting Restrictions</td>
<td></td>
<td>Women's Beach Volleyball: 0 to 7 (ED) Women's Volleyball: 0 to 10 (ED) Men's Golf: 0 to 6 (ED)</td>
</tr>
<tr>
<td>Mitigation</td>
<td>Mitigation</td>
<td>0 to 5%</td>
<td>0 to 5%</td>
<td>0 to 5% No-limit sports: 0 to 3-week ban</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0 to 3-week ban on unofficial visits (no scheduled unofficial visits and no complimentary tickets)</td>
<td>0 to 3-week ban</td>
<td>0 to 3-week ban</td>
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<tr>
<td></td>
<td></td>
<td>0 to 5% cuts in official paid visits (based on the average number provided during the previous 4 years)</td>
<td>0 to 5% cuts in RPD or ED Men's Basketball: 0 to 7 (RPD)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Football: 0 to 3 visits Basketball: 0 to 1 visits (need to account for rolling two-year period) Baseball: 0 to 2 visits</td>
<td>Women's Basketball: 0 to 6 (RPD) Football: 0 to 3 Fall; 0 to 9 Spring (ED)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Off-Campus Recruiting Restrictions</td>
<td></td>
<td>Women's Beach Volleyball: 0 to 3 (ED) Women's Volleyball: 0 to 4 (ED) Men's Golf: 0 to 3 (ED)</td>
</tr>
<tr>
<td>Violation Level I</td>
<td>Violation Level II</td>
<td>Proportion</td>
<td></td>
<td></td>
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<tr>
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<td></td>
<td></td>
</tr>
<tr>
<td>Aggravation</td>
<td></td>
<td>4 to 10 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard</td>
<td>Aggravation</td>
<td>3 to 6 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation</td>
<td>Standard</td>
<td>2 to 4 years</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Mitigation</td>
<td>0 to 2 years</td>
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</table>
Source: NCAA Division I Board of Directors (Commission on College Basketball Enforcement and Infractions Working Group)

Effective Date: Immediate

Category: Amendment

Topical Area: Infractions Program

Rationale: The Commission on College Basketball recommended that existing core penalties be significantly increased for institutions and individuals who violate legislation. The Commission specifically noted that many institutions consider the rewards of violations to outweigh the risks. Likewise, the Commission recognized that employing an athletics department staff member under a show-cause order carries substantial risk. Significantly increasing core penalties available for the most severe violations will deter violations and help reverse the calculation that the rewards of violations outweigh the risk. In addition, subjecting an institution to increased penalties for institutional Level I and Level II violations resulting from the conduct of athletics staff members employed while subject to a show-cause order, and the conduct involving any program in which a director of athletics or head coach who is subject to a show-cause order has oversight, puts an institution on notice of the risk of employing an individual under a show-cause order.

Budget Impact: None.

Time Impact: None.

History:

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Proposal Number: 2018-14

Title: INFRACTIONS PROGRAM -- REVIEW AND INVESTIGATION OF ALLEGED VIOLATIONS -- NEGOTIATED RESOLUTION

Intent: To establish a negotiated resolution process to allow the enforcement staff to negotiate a resolution with an institution or involved individual about alleged violations and proposed penalties, subject to the review and approval of the Committee on Infractions, as specified.

A. Bylaws: Amend 19.3, as follows:

19.3 Committee on Infractions.

[19.3.1 through 19.3.5 unchanged.]

19.3.6 Authority and Duties of Committee. Disciplinary or corrective actions other than suspension or termination of membership may be prescribed by members of hearing panels of the Committee on Infractions present and voting at any duly called hearing thereof, provided the call of such a hearing shall have contained notice of the situation presenting the disciplinary problem. Actions of panels in cases involving Level I or Level II violations, however, may be subject to review by the Infractions Appeals Committee. The penalties prescribed by a panel are separate and apart from any penalties prescribed as part of the Academic Performance Program by the Committee on Academics. The Committee on Infractions shall:

[19.3.6-(a) through 19.3.6-(f) unchanged.]

(g) Formulate and revise internal operating procedures and revise investigative guidelines. Committee amendments to the procedures and guidelines shall be effective immediately and subject to review and approval by the Board of Directors; and

(h) Review negotiated resolutions (see Bylaw 19.5.12); and

[19.3.6-(h) relettered as 19.3.6-(i), unchanged.]

[19.3.7 through 19.3.8 unchanged.]

B. Bylaws: Amend 19.5, as follows:

19.5 Review and Investigation of Alleged Violations.

[19.5.1 through 19.5.11 unchanged.]

19.5.12 Negotiated Resolution. The enforcement staff may negotiate a resolution with an institution or involved individual about alleged violations and proposed penalties. The negotiated resolution is subject to approval by a hearing panel and must resolve all known violations for which the agreeing party may be subject to penalty pursuant to Bylaw 19.9.

19.5.12.1 Written Agreement. If all involved parties in a case reach agreement on resolution of the case, they shall submit a written report of their negotiated resolution to the the chair of the Committee on Infractions or the chief hearing officer, if assigned, for hearing panel review and approval. If some, but not all, involved parties reach agreement on resolution of the case, the enforcement staff shall include a written report of any negotiated resolution in the notice of allegations or summary disposition report submitted in connection with parties who are not included in the negotiated resolution. Any report of a negotiated resolution shall contain the following:

(a) A brief description of the case, including the involvement of the agreeing parties;

(b) The agreed-upon violation(s);

(c) Other violations the enforcement staff considered and agreed or opted not to allege;

(d) The level of agreed-upon violation(s);

(e) The agreed-upon penalties, including all aggravating and mitigating factors;
(f) The nature of any participation or cooperation provided by a party pursuant to the negotiated resolution, and consequences for a party’s failure or refusal to strictly adhere to the agreed-upon participation and cooperation conditions;

(g) Waiver of appellate opportunities; and

(h) Other material terms of the agreement.

19.5.12.2 Negotiated Resolution Approval. If the hearing panel approves the negotiated resolution, the panel shall forward the approval to the enforcement staff and the agreeing parties, and publicly announce the resolution of the case. The approval shall be final and have no precedential value.

19.5.12.3 Negotiated Resolution Rejection. If the hearing panel does not approve the negotiated resolution, the panel shall establish a deadline for submission for the notice of allegations or summary disposition report.

Source: NCAA Division I Board of Directors (Commission on College Basketball Enforcement and Infractions Working Group)

Effective Date: Immediate

Category: Amendment

Topical Area: Infractions Program

Rationale: The Commission on College Basketball recommended changes to the current NCAA infractions process to create efficiencies in the investigation and resolution of cases. Presently, there is no mechanism for the enforcement staff to settle a matter with an institution or involved individual. The staff has and exercises discretion in alleging violations, but does not negotiate with parties, make allegation deals or recommend penalties. This often frustrates cooperating member institutions who seek to negotiate a resolution in favor of a more expeditious investigative process. Beyond membership frustration, the inability to negotiate resolutions taxes the resources of the infractions process and forgoes an opportunity to secure assistance from institutions or individuals who have useful information. This proposal would establish a process by which the enforcement staff may negotiate a resolution with an institution or involved individual, subject to Committee on Infractions review and approval.

Budget Impact: None.

Time Impact: None.

History:

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Proposal Number: 2018-15

Title: INFRACTIONS PROGRAM -- NOTICE OF ALLEGATIONS AND OPPORTUNITY TO RESPOND -- COMMITTEE HEARINGS -- BASIS OF DECISION -- IMPORTATION

Intent: To specify that: (a) Facts established by a decision or judgment of a court, agency, accrediting body or other administrative tribunal of competent jurisdiction, or by a commission, or similar review of comparable independence, authorized by a member institution or the institution’s university system’s board of trustees, may be accepted as true in concluding whether an institution or individual violated NCAA legislation; and (b) Evidence submitted and positions taken in such a matter may be considered in the infractions process.

Bylaws: Amend 19.7, as follows:

19.7 Notice of Allegations and Opportunity to Respond.

[19.7.1 through 19.7.8 unchanged.]

19.7.8.3 Basis of Decision. The hearing panel shall base its decision on information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs.

19.7.8.3.1 Importation of Facts. Facts established by a decision or judgment of a court, agency, accrediting body, or other administrative tribunal of competent jurisdiction, which is not under appeal, or by a commission, or similar review of comparable independence, authorized by a member institution or the institution’s university system’s board of trustees and regardless of whether the facts are accepted by the institution or the institution’s university system’s board of trustees, may be accepted as true in the infractions process in concluding whether an institution or individual participating in the previous matter violated NCAA legislation. Evidence submitted and positions taken in such a matter may be considered in the infractions process.

[19.7.8.4 unchanged.]

Source: NCAA Division I Board of Directors (Commission on College Basketball Enforcement and Infractions Working Group)

Effective Date: Immediate

Category: Amendment

Topical Area: Infractions Program

Rationale: The Commission on College Basketball recommended that the NCAA authorize its investigators and advocates to submit and rely on evidence admitted in judicial and administrative tribunals and on the decisions of those tribunals. Current NCAA legislation does not expressly permit the Committee on Infractions to accept as true facts established by decisions or judgments from courts, agencies, accrediting bodies or other administrative tribunals, or by a commission, or similar review of comparable independence, authorized by an institution or the institution’s university system’s board of trustees. Likewise, the legislation does not expressly permit the Committee on Infractions to consider evidence submitted and positions taken in such matters. Investigators and advocates should be authorized to rely on such facts and information in their review of an infractions case. These modifications will clarify the acceptable use of such information and increase efficiency in the infractions process by saving the process time and resources. In addition, the modifications will help the enforcement staff close the gap between known and processed violations of legislation.

Budget Impact: None.

Time Impact: None.

History:
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Proposal Number: 2018-16

Title: ATHLETICS PERSONNEL AND INFRACTIONS PROGRAM -- CONTRACTUAL AGREEMENTS AND EXPECTATIONS AND SHARED RESPONSIBILITY -- RESPONSIBILITY TO COOPERATE

Intent: To: (a) Require that contractual agreements or appointments between an institution and a president or chancellor, director of athletics and any contracted or appointed athletics department staff member include a stipulation that the individual cooperate fully in the infractions process and be subject to investigation, adjudication and penalties, up to and including discharge; (b) Further define full cooperation in the infractions process; (c) Authorize the Committee on Infractions to prescribe penalties during the investigation for failure to cooperate; (d) Establish that a hearing panel may infer that failure or refusal to produce requested materials supports an alleged violation; (e) Establish that a hearing panel may view that failure or refusal to participate in an interview supports an alleged violation; (f) Protect a "whistleblower" who voluntarily reports information about a potential violation; (g) Expand the mitigating factor of affirmative steps to expedite final resolution of the matter to include the timely submission of a summary disposition report; and (h) Confirm that information upon which a hearing panel bases its decision could be information that both directly and circumstantially supports an alleged violation.

A. Bylaws: Amend 11.2, as follows: (Immediate: for contracts or appointments executed on or after 8/8/18.)

11.2 Contractual Agreements.

11.2.1 Stipulation That NCAA Enforcement Provisions Apply. Contractual agreements or appointments between a coach, president or chancellor, director of athletics or any contracted or appointed athletics department staff member and an institution shall include the stipulation that:

(a) The individual has an affirmative obligation to cooperate fully in the infractions process, including the investigation and adjudication of a case (see Bylaw 19.2.3); and

(b) An individual who is found in violation of NCAA regulations shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA infractions process (see Bylaw 19), including suspension without pay or termination of employment for significant or repetitive violations.

B. Bylaws: Amend 19, as follows: (Immediate)

19 Infractions Program.

[19.01 through 19.1 unchanged.]

19.2 Expectations and Shared Responsibility.

[19.2.1 through 19.2.2 unchanged.]

19.2.3 Responsibility to Cooperate. Current and former institutional staff members or prospective or enrolled student-athletes of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Committee on Infractions and the Infractions Appeals Committee to further the objectives of the Association and its infractions program. The responsibility to cooperate requires institutions and individuals to protect the integrity of investigations and to make a full and complete disclosure of any relevant information, including any information requested by the enforcement staff or relevant committees. Current and former institutional staff members or prospective or enrolled student-athletes of member institutions have an affirmative obligation to report instances of noncompliance to the Association in a timely manner and assist in developing full information to determine whether a possible violation has occurred and the details thereof. Full cooperation includes, but is not limited to:

(a) Affirmatively reporting instances of noncompliance to the Association in a timely manner and assisting in developing full information to determine whether a possible violation has occurred and the details thereof;

(b) Timely participation in interviews and providing complete and truthful responses;
(c) Making a full and complete disclosure of relevant information, including timely production of materials or information requested, and in the format requested;

(d) Disclosing and providing access to all electronic devices used in any way for business purposes;

(e) Providing access to all social media, messaging and other applications that are or may be relevant to the investigation; and

(f) Preserving the integrity of an investigation and abiding by all applicable confidentiality rules and instructions.

[19.2.3 unchanged.]

19.2.3.1 Exemplary Cooperation. Exemplary cooperation by an institution or involved individual may constitute a mitigating factor for purposes of determining a penalty for a violation. Institutions or involved individuals may demonstrate exemplary cooperation while denying some or all of the alleged violations and otherwise acting in furtherance of their independent interests.

[19.2.3.2 unchanged.]

19.2.3.3 Protection for Cooperation. An institution shall not retaliate against a current or former institutional staff member or prospective or enrolled student-athlete who voluntarily reports information about potential violations to his or her conference, member institution and/or the Association.

[19.2.3.3 renumbered as 19.2.3.4, unchanged.]

[19.3 through 19.6 unchanged.]

19.7 Notice of Allegations and Opportunity to Respond.

19.7.1 through 19.7.7 unchanged.

19.7.8 Posthearing Committee Deliberations. After all presentations have been made and the hearing has been concluded, the hearing panel shall excuse the parties and deliberate in private.

19.7.8.1 through 19.7.8.2 unchanged.

19.7.8.3 Basis of Decision. The hearing panel shall base its decision on information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs. The information upon which the panel bases its decision may be information that directly or circumstantially supports the alleged violation.

19.7.8.3 through 19.7.8.4 unchanged.

19.8 unchanged.

19.9 Penalties.

19.9.1 through 19.9.3 unchanged.

19.9.4 Mitigating Factors. Mitigating factors are circumstances that warrant a lower range of penalties for a particular party. A hearing panel of the Committee on Infractions determines whether mitigating factors are present in a case and the weight assigned to each factor. Examples of mitigating factors include, but are not limited to, the following:

19.9.4-(a) through 19.9.4-(b) unchanged.

19.9.4-(c) Affirmative steps to expedite final resolution of the matter, including timely submission of a summary disposition report pursuant to Bylaw 19.6.2

19.9.4-(d) through 19.9.4-(i) unchanged.

19.9.4 through 19.9.11 unchanged.

19.10 through 19.12 unchanged.
C. Bylaws: Amend 19.2.3.2, as follows: (February 1, 2019)

19.2.3.2 Failure to Cooperate. Failing to satisfy the responsibility to cooperate may result in an independent allegation and/or be considered an aggravating factor for purposes of determining a penalty. Institutional representatives and the involved individual may be requested to appear before a hearing panel of the Committee on Infractions at the time the allegation is considered.

19.2.3.2.1 Failure or Refusal to Produce Materials. If an institution or individual fails or refuses to produce materials requested by the enforcement staff during an investigation, the hearing panel may infer that the requested materials would support an alleged violation for which the party may be subject to penalty pursuant to Bylaw 19.9 (see Bylaw 19.7.8.3.1).

19.2.3.2.2 Failure or Refusal to Participate in Interview. If an individual fails or refuses to participate in an interview requested by the enforcement staff, and he or she is later deemed to be an involved individual, the hearing panel may view the failure or refusal as an admission that an alleged violation, for which the individual may be subject to penalty pursuant to Bylaw 19.9, occurred (see Bylaw 19.7.8.3.2).

19.2.3.2.3 Immediate Penalties for Failure to Cooperate. The chair of the Committee on Infractions or the chief hearing officer, if assigned, shall have the authority to prescribe penalties during the investigation if an institution or individual fails to satisfy the responsibility to cooperate, including, when appropriate, loss of the right to participate in postseason competition and other NCAA events and loss of associated revenues.

D. Bylaws: Amend 19.3.6, as follows: (February 1, 2019)

19.3.6 Authority and Duties of Committee. Disciplinary or corrective actions other than suspension or termination of membership may be prescribed by members of hearing panels of the Committee on Infractions present and voting at any duly called hearing thereof, provided the call of such a hearing shall have contained notice of the situation presenting the disciplinary problem. Actions of panels in cases involving Level I or Level II violations, however, may be subject to review by the Infractions Appeals Committee. The penalties prescribed by a panel are separate and apart from any penalties prescribed as part of the Academic Performance Program by the Committee on Academics. The Committee on Infractions shall:

[19.3.6-(a) through 19.3.6-(g) unchanged.]

(h) Review negotiated resolutions (see Bylaw 19.5.12); and

(i) Prescribe penalties during the investigation if an institution or individual fails to satisfy the responsibility to cooperate (see Bylaw 19.2.3.2.3); and

[19.3.6-(i) relettered as 19.3.6-(j), unchanged.]

E. Bylaws: Amend 19.7.8.3, as follows: (February 1, 2019)

19.7.8.3 Basis of Decision. The hearing panel shall base its decision on information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs.

[19.7.8.3.1 unchanged.]

19.7.8.3.2 Materials Not Produced. The hearing panel may infer that materials requested during an investigation by the enforcement staff but not produced by an institution or individual would support an alleged violation for which the party may be subject to penalty pursuant to Bylaw 19.9.

19.7.8.3.3 Failure or Refusal to Participate in Interview. The hearing panel may view the failure or refusal to participate in an interview requested by the enforcement staff as an admission that an alleged violation, for which the individual may be subject to penalty pursuant to Bylaw 19.9, occurred.

19.7.8.3.4 Failure to Submit Timely Response to Notice of Allegations. The hearing panel may view the failure by an institution or individual to submit a timely response to a notice of allegations as an
admission that an alleged violation, for which the party may be subject to penalty pursuant to Bylaw 19.9, occurred.

**Source:** NCAA Division I Board of Directors (Commission on College Basketball Enforcement and Infractions Working Group)

**Effective Date:**
Section A: Immediate; for contracts or appointments executed on or after 8/8/18.
Section B: Immediate
Sections C, D, E: February 1, 2019

**Category:** Amendment

**Topical Area:** Athletics Personnel

**Rationale:** The Commission on College Basketball recommended that the NCAA require institutions to include in contracts with presidents or chancellors, athletics administrators and coaches the obligation to cooperate fully with the infractions process and submit to investigation, adjudication and penalties. Relatedly, the Commission recommended that the failure to promptly respond to investigators' requests should have significant consequences and that "whistleblowers" be protected. The Commission further recommended that the infractions process be modified to provide investigators and adjudicators with the necessary tools and authority, respectively, to effectively investigate and adjudicate violations. Requiring institutions to include in contracts with presidents or chancellors and all athletics department staff members a stipulation to fully cooperate in the infractions process and submit to investigation, adjudication and penalties, giving hearing panels the authority to prescribe penalties during an investigation for failure to cooperate and protecting "whistleblowers" will significantly strengthen the infractions process. Likewise, enhancing the tools available to the enforcement staff and Complex Case Unit through further defining full cooperation, as well as extending the authority in decision-making available to hearing panels, will create efficiency in the investigation and adjudication of cases.

**Budget Impact:** None.

**Time Impact:** None.

**History:**

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Proposal Number: 2018-17

Title: ATHLETICS PERSONNEL -- CONTRACTUAL AGREEMENTS -- ATHLETICALLY RELATED INCOME AND BENEFITS

Intent: To require that: (a) Contractual agreements, including letters of appointment, between a full-time or part-time athletics department staff member and an institution shall include the stipulation that an athletics department staff member who receives athletically related income or benefits from a source outside the institution must report such earnings to the president or chancellor on an annual basis, as specified; and (b) A full-time or part-time athletics department staff member who receives athletically related income or benefits from a source outside the institution must report such earnings to the president or chancellor on an annual basis.

Bylaws: Amend 11, as follows:

11 Conduct and Employment of Athletics Personnel
[11.01 through 11.1 unchanged.]

11.2 Contractual Agreements.
[11.2.1 unchanged.]

11.2.2 Athletically Related Income and Benefits. Contractual agreements, including letters of appointment, between a full-time or part-time athletics department staff member and an institution shall include the stipulation that an athletics department staff member who receives athletically related income or benefits from a source outside the institution (e.g., income from endorsement or consultation contracts with apparel companies, equipment manufacturers, television and radio programs; income from ownership, control or management of a foundation, organization or other entities; etc.) must report such earnings [other than cash or cash equivalent (as opposed to tangible items) if the total amount received is $600 or less] to the president or chancellor on an annual basis. (See Bylaw 11.2.2.1.)

11.3 Compensation and Remuneration.
[11.3.1 unchanged.]

11.3.2 Income in Addition to Institutional Salary.

11.3.2.1 Bona Fide Outside Employment. A staff member may earn income and receive benefits in addition to the institutional salary by performing services for outside groups consistent with the institution’s policy related to outside income and benefits applicable to all full-time or part-time employees. The approval of such income and benefits shall be consistent with the institution’s policy.

11.3.2.1.1 Noninstitutional Income and Benefits Disclosure. A full-time or part-time athletics department staff member who receives athletically related income or benefits from a source outside the institution (e.g., income from endorsement or consultation contracts with apparel companies, equipment manufacturers, television and radio programs; income from ownership, control or management of a foundation, organization or other entities; etc.) must report such earnings to the president or chancellor on an annual basis; however, the athletics staff member is not required to report any cash or cash equivalent (as opposed to tangible items) if the total amount received is $600 or less. (See Bylaw 11.2.2.)

[11.3.2.2 through 11.3.2.8 unchanged.]

[11.4 through 11.7 unchanged.]

Source: NCAA Division I Board of Directors (Commission on College Basketball Apparel Companies Topical Working Group)

Effective Date: Immediate

Category: Amendment
**Topical Area:** Athletics Personnel

**Rationale:** The Commission on College Basketball noted that efforts to reform the nonscholastic basketball culture must include increased financial transparency and greater individual accountability for institutional athletics personnel who enter into agreements with outside entities. The Commission noted that these agreements may negatively impact the collegiate enterprise and can result in NCAA rules violations. Requiring athletics department staff to provide a written account of all athletically related income and benefits received from sources outside the institution will increase institutional control of athletics department personnel and promote increased transparency and accountability between NCAA institutions and outside entities. This requirement will ensure that all athletically related outside income and benefits receive appropriate institutional review and encourage adherence to NCAA rules. The exception applicable to outside income (cash and cash equivalents) less than $600 is consistent with Internal Revenue Service reporting requirements.

**Budget Impact:** None.

**Time Impact:** None.

**History:**

- Jul 30, 2018  In Progress
- Aug 8, 2018  Adopted Final  Adopted by the Board of Directors