



ENFORCEMENT: DIVISION II INTERNAL OPERATING PROCEDURES

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Introduction.

This document contains the Internal Operating Procedures of the NCAA enforcement department. The primary purpose of this document is to provide member institutions and involved individuals with basic information regarding the enforcement staff's investigation and processing functions in connection with alleged violations of NCAA bylaws. The provisions are designed to reflect the obligations of all parties to cooperate during investigations in order to discover accurate facts in a timely manner. This document does not articulate all of the enforcement staff's activities. The administrative procedures for Division II are contained in Article 32 of the Manual and the Division II Committee on Infractions Internal Operating Procedures.

These procedures are not contractual in nature, do not create any independent right, do not have the force of NCAA bylaws and may be amended in accordance with NCAA Bylaw 19.3. Current procedures and notice of amendments will be available on the NCAA website.

Chapter 1 – Investigations.

1-1. Information Gathering. If the enforcement staff receives or develops information indicating a potential NCAA violation and that information is believed to be reliable, the staff may conduct an investigation pursuant to Bylaws 32.2 and 32.3 and these procedures. The enforcement staff has a responsibility to gather information regarding possible violations. In doing so, the staff may employ the following investigative tools:

- (a) Letter of inquiry to the institution;
- (b) Interviews with prospective student-athletes, enrolled student-athletes, current and former institutional staff members, third parties or other individuals who may have relevant knowledge;
- (c) Document and records requests;
- (d) Review of publicly available information;
- (e) Observation of public places (on or off campus);
- (f) Research;
- (g) Communications between departments of the NCAA national office; and
- (h) Communications with sources.

If an enforcement staff member intends to use any other investigative tool, he or she shall first obtain written approval from the vice president of enforcement and the NCAA's general counsel, or their designees.

1-2. Sharing Information. There are instances when the enforcement staff has information that, if shared immediately with the institution or an involved individual, could compromise the integrity of the investigation, even without malicious intent by the institution or involved individual. In those instances, during an active investigation, and after consulting with the managing director of enforcement (investigations and processing) or the vice president of enforcement, the investigative team shall: (a) inform an institution



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that it has information it will not immediately share; and (b) share the information in a timely manner after concluding that disclosure will not materially jeopardize the investigation.

1-3. Document Request Deadlines. When the enforcement staff requests information from either a member institution or an individual who is subject to NCAA bylaws, the enforcement staff may identify a reasonable deadline for the submission of the requested materials. The enforcement staff may, in its discretion, seek agreement of the parties when identifying response deadlines.

1-4. Interview Attendance.

1-4-1. Presence of Parents, Legal Guardians or Institutionally Appointed Advisors during Interview. Bylaws 32.3.4.1 and 32.3.6 identify individuals who may be present during certain interviews. In addition, by request, a parent or legal guardian (duly appointed by a court of competent jurisdiction) of a prospective student-athlete or current student-athlete who is under the age of 18 may be present during the individual's interview with the enforcement staff or may participate by remote connection or through other available technologies. The enforcement staff reserves the ability to schedule the order of interviews if the parent or legal guardian is also interviewed or to decline the request of a parent or legal guardian to be present in order to, among other things, protect the integrity of the investigation, simplify logistics, preserve confidentiality and/or minimize scheduling conflicts. If a student-athlete's parent or legal guardian is not reasonably available, the student-athlete's institution may appoint from its staff an advisor to be present during the interview, regardless of the student-athlete's age.

1-4-2. Interview Participation. If the enforcement staff conducts an interview with an enrolled student-athlete or institutional staff member on the campus of an institution and the subject matter to be discussed in the interview does not relate to that institution or would not affect the interviewee's eligibility or employment at that institution, notification to the institution's president or chancellor is not necessary. However, in such a circumstance, the enforcement staff shall contact the athletics director to offer an opportunity to discuss procedures relating to the enforcement staff's visit to campus. In addition, if information is raised at any point during such an interview that relates to that institution or could affect the interviewee's eligibility or employment at that institution, the enforcement staff shall pause the interview. The enforcement staff shall notify the institution's athletics director, president or chancellor and allow the institution's involvement in the interview before the interview resumes or before any additional interviews are conducted on the institution's campus.

1-5. Time-Sensitive Investigations. All investigations shall be conducted as promptly and as efficiently as possible, without sacrificing fairness or accuracy. In instances where the eligibility of a student-athlete or a prospective student-athlete may be impacted, the



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enforcement staff shall work to complete as much of the investigation as reasonably possible 10 calendar days before the first competition of the season. If the staff cannot complete the investigation before the first competition, or if the investigation relates to in-season eligibility issues, the enforcement staff shall communicate with the institution about: (a) the status of the investigation; (b) the information still needed; and (c) the potential impact, if any, on the student-athlete's or the prospective student-athlete's eligibility.

1-6 Communications.

- 1-6-1. Communications with President or Chancellor.** After providing a notice of inquiry pursuant to Bylaw 32.5 and upon request, the enforcement staff will meet personally with the president or chancellor or a designated representative of the involved institution to discuss the investigation. Thereafter, the enforcement staff will be available as needed to discuss the investigation with the president, chancellor or designated representative of the institution. Unless the institution requests more frequent periodic updates, the staff shall provide an update every six months to a designated representative of the involved institution regarding the status of the investigation, its expected duration and any obstacles encountered during the course of the investigation per Bylaw 32.5.1.1.
- 1-6-2. Expansion of an Investigation.** If, after commencing an investigation, the enforcement staff obtains information indicating possible additional types of violations or prompting a significant change in the focus of the investigation, it shall give written or oral notice to the institution that it has expanded the investigation.
- 1-6-3. Contacting the Enforcement Staff.** Communications with the enforcement staff about a matter under investigation are encouraged and should first be directed to the lead investigator or the supervising director. Unresolved concerns, or communications about matters not assigned to an investigative team, may be presented to a managing director or the vice president of enforcement.
- 1-6-4. Disclosures.** The parties shall not disclose information about an investigation in violation of Bylaws 32.1.1, 32.1.3 or 32.3.9.1.4. If a party improperly discloses information, the enforcement staff may investigate the source of leaked or disclosed information and bring appropriate allegations if the Committee on Infractions could conclude from the information discovered that a party violated confidentiality legislation.
- 1-7. Projected Duration and Scheduling Conference.** When the enforcement staff begins an active investigation, it shall project the anticipated duration of the case (when a notice of allegations or summary disposition report will issue) based on, among other factors, the number of sports and the number of potential allegations identified. The staff shall notify the institution and any involved individual(s) of the projected duration and all parties shall work to satisfy the proposed timeline. The enforcement staff shall also notify the



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Committee on Infractions of active investigations as provided in ENF IOP 1-8. If the Notice of Allegations or initiation of the Summary Disposition process in a case is not completed within the projected timeline, the chair of the Committee on Infractions may, in his or her discretion pursuant to Bylaw 32.6.9, convene a scheduling conference to discuss why the timeline was not satisfied, a plan for completing the investigation and other matters designed to assure timely disposition of the case. The scheduling conference is not designed to address the merits of potential allegations or other substantive issues.

The parties may also request a conference with the committee chair approximately 30 calendar days before expiration of the anticipated timeline if it appears that timely resolution will be difficult. Should the chair agree to hold a conference, discussion would be limited to plans or strategies to keep the case moving expeditiously.

1-8. Case Readiness Report. The enforcement staff will provide to the committee a monthly report of active investigations that are likely to yield a Notice of Allegations or Summary Disposition Report. For each active investigation, the report will include, among other information, a summary of the potential infractions and the anticipated duration of the investigation.

1-9. Limited Immunity. Pursuant to Bylaw 32.3.8, limited immunity is an investigative tool that allows information to be elicited from a prospective, current or former student-athlete and a current or former institutional staff member ("individual") concerning his or her potential involvement in or knowledge of NCAA violations, with the understanding that the NCAA will not put the individual at-risk in the infractions process by bringing identified allegations against him or her.

1-9-1 When to Request. The enforcement staff may request limited immunity for an individual at any time during the pendency of an investigation or during the processing of the case.

1-9-2 Protections. If an individual satisfies all conditions prescribed by the NCAA Committee on Infractions, limited immunity means that the NCAA enforcement staff will not allege bylaw violations against the individual for disclosed conduct predating the grant of immunity. Limited immunity does not prevent the enforcement staff from alleging identified violations of NCAA legislation when:

- a. The grant of immunity has been revoked by the Committee on Infractions;
- b. The individual fails to report violations; or
- c. The individual commits future violations (including the provision of false or misleading information).

Additionally, limited immunity does not protect the individual from action taken by the institution or any other entity.



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1-9-3 Representation by Legal Counsel. Recipients of or candidates for limited immunity may be represented by personal legal counsel or another advisor throughout the process.

1-9-3-1 Student-Athletes. For recipients of or candidates for limited immunity who are student-athletes, when feasible, the enforcement staff will communicate with the institution where the student-athlete is enrolled about securing personal legal counsel or other advisor unaffiliated with the institution's athletics department, for the student-athlete.

1-9-3-2 Prospective Student-Athletes. For recipients of or candidates for limited immunity who are prospective student-athletes, when feasible, the enforcement staff will communicate with the prospective student-athlete about the opportunity to secure personal legal counsel or other advisor.

1-9-4 Factors to Consider. In determining whether to seek limited immunity, the enforcement staff may consider the following factors:

- a. Whether the individual is a prospective student-athlete, current or former student-athlete, or a current or former staff member.
- b. Whether the individual received limited immunity in the past, and if so, the value of the information reported to the enforcement staff.
- c. Whether the individual has information that will assist the investigation or otherwise support or refute allegations.
- d. The likelihood of obtaining relevant information with or without the grant of limited immunity.
- e. The nature of the potential allegations involved in the case.
- f. The position of the individual's institution on the request for limited immunity.
- g. The impact on the timeliness of an investigation.
- h. Any other circumstances supporting or refuting a grant of limited immunity.

1-9-5 Process for Requesting. Limited immunity may be requested only by the enforcement staff's vice president, managing director of enforcement for investigations and processing or the vice president's designee. The request for limited immunity shall be made in writing, addressed to the chair or vice chair of the Committee on Infractions and shall contain a brief summary of the relevant



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facts that support a grant of limited immunity. The request shall also identify the involved parties and state whether the involved parties are represented by legal counsel or other advisor.

- 1-9-6 Acknowledgement.** The enforcement staff shall prepare an appropriate document outlining the terms and conditions of the limited immunity agreement. The acknowledgment shall be signed by all parties subject to the limited immunity agreement, with a copy of the acknowledgment being provided to all signatories.
- 1-9-7 Record Keeping (Pertaining to Limited Immunity).** The enforcement staff shall maintain copies of approvals and denials of applications for limited immunity in the case file and make those records available to the appropriate parties via the secure filing system. The presumption is that all parties will have access to all approvals and denials of applications for limited immunity.
- 1-9-8 Revocation.** The enforcement staff will seek revocation of limited immunity only when it reasonably determines that the Committee on Infractions could conclude that an individual violated the terms of his/her limited immunity agreement.
- 1-9-9 Revocation Process.** The enforcement staff may request that a grant of limited immunity be revoked by submitting a petition to the chair of the NCAA Committee on Infractions, or if the chair is unavailable, the petition shall be submitted to the vice chair. The petition shall state the basis for the revocation and shall be forwarded to all appropriate parties.
- 1-9-10 Process Following Revocation.** If the Committee on Infractions revokes a grant of limited immunity, the enforcement staff may name the individual in the underlying allegation(s) pursuant to Bylaw 32.6 and, where appropriate, may also allege an unethical-conduct violation pursuant to Bylaw 10.1.

Chapter 2 - Processing of Violations.

- 2-1. Interpretation Requests.** If an institution and the enforcement staff cannot reach agreement on whether facts and circumstances constitute a violation of NCAA legislation, the institution and the enforcement staff may submit a joint statement of agreed-upon facts to the NCAA academic and membership affairs (AMA) staff for a formal interpretation. If the institution and the enforcement staff are unable to reach agreement on the facts, or if there is an unreasonable delay in reaching agreement on the facts, a party may submit an individual request for an interpretation. In either case, the AMA staff will render a decision based on the facts submitted and notify participating parties of the outcome. Participating parties may appeal a staff interpretation to a committee of representatives from member institutions as allowed by applicable legislation and AMA procedures.
- 2-2. AMA Audit.** When the enforcement staff substantially completes a Notice of Allegations (NOA), the investigative team submits the draft NOA to the AMA staff for an audit of the



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cited bylaws. One or more of the AMA enforcement staff liaisons, in consultation with the appropriate team(s), will review the NOA to determine whether: (1) the allegations, as drafted, support that a violation occurred; (2) the cited bylaws are appropriate; (3) the appropriate versions of the bylaws are cited; and (4) additional bylaws should be cited.

2-3. Summary Disposition.

2-3-1. Summary Disposition Report (SDR) Election. Decisions about whether to use the summary disposition process are made on a case-by-case basis. While use of the summary disposition process is generally encouraged, the following are elements that suggest a case may not be appropriate for summary disposition:

- a. The case involves an allegation of unethical conduct;
- b. The case involves an allegation of lack of institutional control;
- c. The case involves an alleged violation of the cooperative principle or related bylaws;
- d. The institution or an involved individual has been involved in a separate major violation within the past five years;
- e. The case involves significant disagreement on material facts, such that it may invite additional scrutiny by the Committee on Infractions;
- f. The case involves a significant recruiting or extra-benefit allegation;
- g. The case involves an academic misconduct allegation;
- h. There are any unique issues in the case or any particular instances that the committee has not reviewed in the last 10 years; or
- i. The case involves an allegation or instance of material enforcement staff misconduct.

2-3-2. Abandoning the Summary Disposition Process. At its discretion, any party may withdraw its consent to the summary disposition process. If any party withdraws its consent, the enforcement staff shall issue a notice of allegations pursuant to Bylaw 32.6.

2-3-3. Completion of Summary Disposition Report. Pursuant to Bylaw 32.7, the enforcement staff, institution and any involved individual may elect to process a major case through the use of a summary disposition report. To complete the report, the enforcement staff may provide to the institution and any involved individual a template to use, which could include sections that each of the parties is asked to complete. For the purpose of completing this report efficiently, the



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enforcement staff may require as a condition for using this process an agreement on reasonable deadlines for completion of the report. The expected duration of the process shall not exceed 90 calendar days from the day the parties reach agreement to pursue the process to the date the final report is submitted to the Committee on Infractions. Failure by a party to adhere to the deadlines may serve as a basis for the other parties to withdraw their consent to the summary disposition process. Additionally, the chair of the Committee on Infractions or his or her designee, pursuant to Bylaw 32.6.9, may in his or her discretion convene a scheduling conference to discuss why the report was not completed within the deadline and determine a plan for completing the processing of the case, which could include abandoning the summary disposition process and proceeding via a hearing.

- 2-4. Allegation Review Board.** Before finalizing a NOA, the investigative team shall submit the draft NOA to an Allegation Review Board unless the team, in consultation with the managing director for investigations and processing, concludes that additional review would prevent timely resolution of the matter. The investigative team will advise the institution in writing in advance of the date of the review board. The investigative team will also advise in writing any involved party in advance of the date of the review board, provided that the involved party's status has been determined by the enforcement staff at the time the review board is scheduled. The Review Board, consisting of enforcement staff members who were not part of the investigative team, shall be appointed by the managing director for investigations and processing to analyze the following:
- a. Information relied upon to support the allegation(s);
 - b. Information refuting the allegation(s);
 - c. Proper level (major or secondary) and bylaw citation(s) for each allegation;
 - d. Appropriateness of any matters not alleged to be violations; and
 - e. Other issues unique to the case.
- 2-5. Pre-Allegation Conference.** An institution or involved individual may request a conference with the enforcement staff before the staff issues an NOA. If requested, representatives of the enforcement staff shall allow the institution or involved individual to provide information or positions regarding potential allegations.
- 2-6. Submission Process.** The enforcement staff shall submit and share case materials electronically through the secure filing system, a secure website that serves as the principal platform for parties to electronically submit and access case information once a matter proceeds past investigation. The enforcement staff will provide instructions relating to the process for exchanging and submitting information electronically to involved individuals and institutions in a timely manner.



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- 2-6-1. Distribution of Process Documents.** Processing documents prepared by the enforcement staff (e.g., NOA, enforcement staff case summary) shall be shared with all parties unless, pursuant to Committee on Infractions IOP 4-6, there are portions of a processing document not pertinent to a party that are not shared.
- 2-6-2. Information that Refutes an Allegation.** The enforcement staff shall make available to the institution and any involved individual via the secure filing system any information of which it is aware that tends to refute an allegation pertaining to that party. If a party intends to rely on supplemental factual information (that is, information not identified by the enforcement staff as factual information), that party shall identify such information in its response's key record list with a hyperlink. If the enforcement staff is aware of information not identified by the parties that clearly refutes an allegation, the enforcement staff will make that information available to the Committee on Infractions.
- 2-6-3. Amending Allegations.** The enforcement staff may amend allegations consistent with Bylaw 32 and the operating procedures of the Committee on Infractions.
- 2-6-4. Key Record List and Hyperlinking.** Pursuant to Committee on Infractions IOP 3-1-3, a party, at the beginning of a written submission, shall identify the most pertinent factual information it intends to rely on in presenting the case in a key factual information list and index of authorities (past cases and interpretations) with hyperlinks to the secure filing system and the Legislative Services Database (LSDBi).
- 2-7. Access to Information through Secure Website.** In matters to be presented to the Committee on Infractions, the institution and involved individuals shall have access to pertinent case materials as described in Bylaw 32.6.4 as soon as feasible after the issuance of the NOA (or after the issuance of the draft summary disposition report in a summary-disposition case). The information will be accessible through the secure filing system. All information contained in the secure filing system is governed by the rules of confidentiality, as set forth in Article 32 and the secure filing system's terms of service. The enforcement staff may add pertinent factual information to the secure filing system after the NOA is issued and must provide prompt notice of the addition to the institution, involved individuals and the Committee on Infractions.
- 2-7-1. Access Restrictions.** Pursuant to Committee on Infractions IOP 4-6, the presumption is that all pertinent case information and submissions will be made available to all parties. A party may request the enforcement staff to not share information with another party when the information is not pertinent to that other party. If the enforcement staff grants the request, it will provide notice to the Committee on Infractions and any impacted parties.

Chapter 3 - Secondary Violations.



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- 3-1. Processing Secondary Violations.** Matters the enforcement staff believes to involve only secondary violations ordinarily will be submitted and reviewed electronically through the Requests and Self-Reports Online (RSRO) system. Appeals from staff determinations regarding secondary violations may be presented to the Committee on Infractions pursuant to Bylaws 19.6.1 and 32.4.3.