



UNIVERSITY OF ARKANSAS AT PINE BLUFF
PUBLIC INFRACTIONS DECISION
NOVEMBER 5, 2014

I. INTRODUCTION

The NCAA Division I Committee on Infractions is an independent administrative body of the NCAA comprised of individuals from the NCAA Division I membership and the public charged with deciding infractions cases involving member institutions and their staffs.¹ This case involves the University of Arkansas at Pine Bluff.² The institution and the enforcement staff are the only parties in this case. A six-member panel of the committee initially considered this case through the cooperative summary disposition process in which all parties agreed to the primary facts, violations and violation levels, as fully set forth in the summary disposition report (SDR).³ The underlying violations are not in dispute. After the panel's review of the SDR, the institution contested two of the panel's proposed penalties at an expedited hearing. Following the hearing, the panel modified one of those penalties and upheld the other. As a result, the institution has the opportunity to appeal those penalties.

This case centers on the institution's erroneous certification of student-athletes as eligible for competition. Specifically, over five academic years, the institution erroneously certified 124 student-athletes for competition when it failed to apply NCAA Bylaw 14 progress-toward-degree, degree credit hours, nonqualifier status and two-year transfer requirements. As a result, the institution permitted ineligible student-athletes to practice and compete. A majority of those student-athletes received impermissible travel expenses. In addition to failing to apply NCAA Bylaw 14 requirements, the institution permitted nine student-athletes to practice, compete and receive travel expenses prior to the NCAA Eligibility Center certifying their amateur status.⁴

¹ Infractions cases are decided by hearing panels comprised of NCAA Division I Committee on Infractions members. Decisions issued by hearing panels are made on behalf of the Committee on Infractions.

² A member of the Southwestern Athletic Conference (SWAC), the institution's total enrollment is approximately 2,300. The institution sponsors eight men's and eight women's sports. This is the institution's first major infractions case.

³ Originally, the panel consisted of seven members but one member was excused when he could not participate due to a scheduling conflict. Pursuant to NCAA Bylaw 19.3.3, a six-member panel considers this case.

⁴ The nine student-athletes were not certified in the sport noted in the allegation. However, five of these student-athletes participated in other sports and completed the required NCAA amateurism certification for those sports. The four other student-athletes were never certified in any sport.

Further, during the 2007-08 through 2009-10 academic years, the institution failed to maintain complete and accurate squad lists. This failure resulted in 19 student-athletes competing on teams despite their names not appearing on the squad lists. During the same time period, the institution permitted 15 student-athletes, who did not receive a book scholarship, to receive books, an extra benefit.

Finally and as result of the widespread, systematic violations, the institution failed to exert control and monitoring in the conduct and administration of its athletics program because it failed to: (1) provide rules education and training to those responsible for certifying eligibility; (2) establish a proper system for ensuring compliance with eligibility requirements; (3) maintain complete and accurate squad lists; and (4) monitor and review the bookstore records and distributions.

The institution's severe violations were widespread, systematic failures to abide by the bylaws and expectations associated with NCAA Division I membership. Because the violations occurred before and after the implementation of the new penalty structure, the panel had to determine which penalty structure was more lenient. After weighing the aggravating and mitigating factors in the case and reviewing past cases for guidance, the panel applied the old penalty structure. The panel adopted the institution's self-imposed vacation of records and scholarship reductions and proposed principle core and administrative penalties to the institution. Of the proposed additional penalties, the institution accepted a comprehensive compliance audit, an appearance before a panel of the committee and other standard administrative reporting and publication requirements. Those penalties remain unchanged and are incorporated into this decision. Following the expedited hearing, the panel prescribes a five-year probationary period and a one-year postseason ban in four sport programs.

II. CASE HISTORY

In April 2011, the NCAA Academic and Membership Affairs (AMA) staff began a review of the institution's 2007-08 through 2009-10 Academic Performance Program (APP) data and discovered significant discrepancies. The AMA staff conducted a further review on campus in October 2011, and submitted Preliminary Findings from the NCAA Division I Committee on Academic Performance (CAP) regarding the APP data to the institution the following month. Subsequently, the AMA staff alerted the enforcement staff to potential violations within the institution's athletics program and provided corresponding documents. The enforcement staff issued a verbal notice of inquiry on February 12, 2012.

During the investigation, the enforcement staff requested that the institution conduct two independent outside audits. First, in July 2012, the enforcement staff requested that the

institution conduct an independent outside compliance audit on student-athletes' continuing eligibility, financial aid, squad lists and book lists for all varsity sports sponsored by the institution for the 2007-08 through 2009-10 academic years. The institution retained an outside entity to conduct the audit and provided the enforcement staff with the results on December 11, 2012. The institution continued to provide the enforcement staff with updates on the data over the following three months. Next, in January 2013, the enforcement staff requested that the institution conduct a second outside audit on student-athletes' initial eligibility and amateurism certification for all varsity sport programs over the same academic years. The institution provided the enforcement staff with the results from that audit in March 2013.

In the summer of 2013, the institution received further CAP Data Review Preliminary Findings for the men's basketball program for the 2009-10 through 2011-12 academic years. The institution forwarded those results to the enforcement staff, acknowledging additional ineligible student-athletes.

On February 20, 2014, the enforcement staff submitted the proposed facts and violations to the institution. Subsequently, the institution agreed to use the summary disposition process, and three months later the parties jointly submitted the SDR. A panel reviewed the SDR on June 25, 2014, and at the conclusion of its review, requested some clarifying information regarding the number of involved ineligible student-athletes and bylaw citations contained in the SDR. The panel communicated that request in a letter dated June 26, 2014. The parties responded with clarifying information three days later. The panel determined that penalties, in addition to those self-imposed by the institution, were warranted. The panel proposed the additional, as well as standard administrative penalties, in a July 16 letter.

On July 24, 2014, the institution notified the Office of the Committees on Infractions that it did not accept the proposed additional penalties. In the July 24, 2014, letter and a subsequent August 15, 2014, letter, the institution requested an in-person expedited hearing on the penalties as soon as possible. On August 21, 2014, the panel set a hearing date for mid-October.

On September 30, 2014, the institutions submitted a written position regarding the proposed two-year postseason ban in all sports and the five-year probationary period. The institution supplemented this letter on October 13, 2014, to correct an omission. The panel held an in-person expedited hearing on the penalties on October 17, 2014. At the expedited hearing, the institution claimed that the panel's penalties were excessive. After the expedited hearing, the panel modified the two-year postseason ban in all sports to a one-year postseason ban in specific sport programs and upheld the proposed five-year probationary period.

III. PARTIES' AGREEMENTS

A. PARTIES' AGREED-UPON FACTUAL BASIS, VIOLATIONS OF NCAA LEGISLATION AND VIOLATION LEVELS

The parties jointly submitted a SDR that identifies an agreed-upon factual basis and violations of NCAA legislation. The SDR identifies:

1. **[NCAA Division I Manuals 12.1.1.1.3 (2007-08 through 2009-10); 14.4.3.1-(a) (2007-08, 2009-10 and 2010-11); 14.4.3.2, 14.10.1 and 16.8.1.2, (2007-08 through 2011-12); 14.3.2.1.1, and 14.5.4.2-(b) (2008-09); 14.5.4.1-(c) and 15.01.5 (2008-09 and 2009-10); 14.4.3.1-(b) and 14.5.4.2-(a) (2009-10); and 14.4.3.1-(c) (2009-10 and 2010-11)] (Level I)**

The NCAA enforcement staff and institution agree that during the 2007-08 through 2011-12 academic years, 124 student-athletes were permitted to practice, compete or receive athletics aid while ineligible, and a majority of the student-athletes also received impermissible travel expenses.⁵ In addition, some of those student-athletes competed in subsequent years while academically eligible, but before the institution became aware of and sought reinstatement of their eligibility from the NCAA student-athlete reinstatement staff for the previous year or years when they competed while ineligible. Specifically:

- a. Regarding fulfillment of percentage-of-degree requirements, the institution erroneously used remedial courses; improperly rounded up the student-athletes' percentage-of-degree requirements completed; misapplied transfer hours; or failed to adequately verify available information to determine whether student-athletes entering his or her third, fourth or fifth year of collegiate enrollment had successfully completed 40, 60 or 80 percent, respectively, of the course requirements in the students' specific degree programs. As a result, 110 student-athletes competed while ineligible and a majority of those student-athletes also received impermissible travel expenses. [NCAA Bylaw 14.4.3.2, 14.10.1⁶ and 16.8.1.2 (2007-08 through 2011-12)]

⁵ The total number of student-athletes who were erroneously certified as eligible for competition was 124. Eight of those student-athletes were erroneously certified under multiple components of NCAA Bylaws 12 and 14, and therefore may appear more than once throughout.

⁶ In 2008-09 through 2011-12, the following language was added to the bylaw: "A violation of this bylaw in which the institution fails to certify a student-athlete's eligibility prior to allowing him or her to represent the institution in intercollegiate competition shall be considered an institutional violations per Constitution 2.8.1; however, such violation shall not affect the student-athlete's

- b. Regarding fulfillment of credit-hour requirements, the institution failed to ensure that student-athletes satisfactorily completed (a) 24-semester hours of academic credit prior to the start of the student-athlete's second year of enrollment, (b) 18-semester hours of academic credit since the beginning of the previous fall term or preceding two semesters and/or (c) six-semester hours of academic credit during the preceding academic term. As a result, seven student-athletes competed while ineligible and received impermissible travel expenses. [NCAA Bylaws 14.4.3.1-(a) and 16.8.1.2 (2007-08, 2009-10 and 2010-11); 14.4.3.1-(b) (2009-10); and 14.4.3.1-(c) (2009-10 and 2010-11)]
- c. Regarding nonqualifier status, during the 2008-09 academic year, the institution permitted two student-athletes who were incoming nonqualifiers to practice, compete and/or receive impermissible travel expenses and athletically related financial aid during their initial year of residency at the institution. [NCAA Bylaws 14.3.2.1.1 and 16.8.1.2 (2008-09)]
- d. Regarding two-year college transfer requirements, during the 2008-09 through 2009-10 academic years, the institution permitted four student-athletes to practice, compete, receive impermissible travel expenses and/or receive athletically related financial [aid] even though the student-athletes did not meet transfer requirements and had not completed an academic year of residence. [NCAA Bylaws 14.5.4.2-(b) 2008-09); 14.5.4.1-(c), 15.01.5 and 16.8.1.2 (2008-09 and 2009-10); and 14.5.4.2-(a) (2009-10)]
- e. Regarding amateur status, during the 2007-08 through 2009-10 academic years, the institution permitted nine student-athletes to practice, compete and receive travel expenses prior to the institution certifying their amateurism status with the NCAA Eligibility Center. [NCAA Bylaw 12.1.1.1.3 (2007-08 through 2009-10)]

2. [NCAA Division I Manual Bylaws 15.5.10.1 (2007-08), 14.10.2 (2007-08 through 2009-10) and 15.5.11.1 (2008-09 and 2009-10)] (Level II)

The NCAA enforcement staff and institution agree that during the 2007-08 through 2009-10 academic years, the institution failed to maintain complete and accurate squad lists for the sports of baseball, football, men's and women's track and field, women's basketball, women's tennis, women's volleyball and softball, which resulted in 19 student-athletes competing, even

though they were not on their team's squad list. (The student-athletes were otherwise eligible for competition)

3. [NCAA Division I Manuals Bylaws 15.2.3 and 16.11.2.1 (2007-08 and 2009-10)] (Level II)

The NCAA enforcement staff and institution agree that during the 2007-08 and 2009-10 academic years, 15 student-athletes, whose athletics financial aid award did not include books, received impermissible extra benefits when either the athletics department book inventory room or campus bookstore staff provided them books ranging in value from \$56.15 to \$700.

4. [NCAA Division I Manuals Constitution 2.1.1, 2.8.1 and 6.01.1 (2007-08 through 2011-12)] (Level I)

The NCAA enforcement staff and institution agree that from 2007-08 through 2011-12 academic years, the scope and nature of the violations detailed in Finding Nos. 1 through 3 demonstrate that the institution failed to exert appropriate institutional control and monitoring in the conduct and administration of its athletics program in that it failed to (a) provide adequate NCAA rules education and training to individuals responsible for certifying student-athletes' eligibility, (b) establish a proper system for ensuring compliance with NCAA eligibility requirements, (c) maintain complete and accurate squad lists for eight sports programs and (d) adequately monitor and review the bookstore records or distribution of books to student-athletes. Specifically:

- a. During the 2007-08 through 2011-12 academic years, the institution failed to provide adequate NCAA rules education and training to many of the individuals responsible for certifying the eligibility of student-athletes, including chairpersons and faculty academic advisors. Partly as a result, many of the violations in Finding No. 1 occurred. [NCAA Constitution 2.1.1, 2.8.1 and 6.01.1 (2007-08 through 2011-12)]
- b. During the 2007-08 through 2011-12 academic years, the institution failed to establish a proper system to ensure compliance with NCAA eligibility requirements. Partly as a result, 124 student-athletes were permitted to participate in practice and/or competition while ineligible, some received impermissible travel expenses and some received impermissible athletically related financial aid, as detailed in Finding No. 1. [NCAA Constitution 2.1.1, 2.8.1 and 6.01.1 (2007-08 through 2011-12)]

- c. During the 2007-08 through 2009-10 academic years, the institution failed to maintain and monitor the squad lists of eight sports programs, which resulted in 19 student-athletes participating in competition, even though they were not included on the institution's squad lists, as detailed in Finding No. 2. [NCAA Constitution 2.1.1, 2.8.1 and 6.01.1 (2007-08 through 2011-12)]
- d. During the 2007-08 and 2009-10 academic years, the institution failed to monitor and review the campus bookstore records pertaining to the distribution of books to student-athletes. Partly as a result, 15 student-athletes, whose athletics financial aid award did not include books, received an impermissible extra benefit when either the athletics department book inventory room or the campus bookstore staff provided them books, as detailed in Finding No. 3. [NCAA Constitution 2.1.1, 2.8.1 and 6.01.1 (2007-08 through 2011-12)]

5. [NCAA Division I Manuals Bylaws 14.4.3.1.5 and 16.11.1.13 (2007-08) and 15.5.5.2 (2009-10)] (Level III)]

The NCAA enforcement staff and institution agree that during the 2007-08 and 2009-10 academic years, the institution committed several breaches of conduct (Level III violations) of NCAA legislation. Specifically:

- a. During the 2007-08 academic year, a men's basketball student-athlete received \$2,090.25 from the Student-Athlete Opportunity Fund (SAOF) even though the funds were intended to finance his grant-in-aid, while he still had eligibility remaining. [NCAA Bylaw 16.11.1.13]
- b. During the 2007-08 academic year, two football student-athletes failed to designate a program of studies leading toward a specific baccalaureate degree prior to participating in competition that occurs during or before the third year (fifth semester) of enrollment. [NCAA Bylaw 14.4.3.1.5]
- c. During the 2009-10 academic year, the women's basketball program exceeded its annual limit of 15 in total number of counters by one. Specifically, a women's basketball student-athlete, who was not awarded athletically related aid, received one book from the athletics department book inventory room, resulting in an athletics award being provided to 16 student-athletes. [NCAA Bylaw 15.5.5.2]

B. PARTIES' AGREED-UPON AGGRAVATING AND MITIGATING FACTORS

Pursuant to NCAA Bylaw 19.6.2-(g), the parties have agreed to the following aggravating and mitigating factors:

1. **Agreed-upon aggravating and mitigating factors. [NCAA Bylaws 19.9.2 and 19.9.4]**

a. Aggravating factors

Institution

- (1) Lack of institutional control. [Bylaw 19.9.3-(c)]

If the committee finds that the institution lacked institutional control, as outlined in Finding No. 4, Bylaw 19.9.3-(c) would apply.

- (2) Multiple Level I and II violations by the institution. [Bylaw 19.9.3-(g)]

As outlined in Finding Nos. 1, 2 and 3, this case involves a significant number of Level I and II violations pertaining to ineligible competition, impermissible financial aid and impermissible benefits.

b. Mitigating factors

Institution

- (1) Prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties. [Bylaw 19.9.4-(b)]

The institution retained [an outside firm] to conduct the independent audit. When [the outside firm] completed the audit, the institution acknowledged the violations. The institution has imposed significant punitive and corrective actions. Further, during the inquiry, the institution requested a compliance review that was conducted by [the outside firm] through the efforts of the Southwestern Athletic Conference. Also, soon after the hiring of

the director of athletics, and the senior woman administrator, the compliance office was reorganized and a new director of compliance was hired. Also, a director of student-athlete academic services was hired in November 2013, who also will assist in identifying potential student-athlete academic issues. Most importantly, the director of athletics began to develop a culture of compliance with shared compliance responsibilities among athletics department staff members and other institutional personnel.

- (2) Implementation of a system of compliance methods designed to ensure compliance and satisfaction of institutional and coaches' control standards. [Bylaw 19.9.4-(e)]

Current senior athletic department officials were not present during the vast majority of the violations that occurred in this case. Upon their arrival, they began to implement significant corrective actions in the institution's rules education monitoring, and procedural areas. Also, soon after the hiring of the director of athletics and the senior woman administrator, the compliance office was reorganized and a new director of compliance was hired. Also, a director of student-athlete academic services was hired in November 2013, who also will assist in identifying potential student-athlete academic issues. Most importantly, the director of athletics began to develop a culture of compliance with shared compliance responsibilities among athletics department staff members and other institutional personnel.

- (3) Expediting substantial institutional resources to expedite the referral and the collection and disclosure of information. [Bylaw 19.9.4-(f)-(2)]

The institution retained [an outside firm] to do the independent audit. After the audit discovered violations in the initial and continuing eligibility certification processes, the institution retained [the outside firm] to assist it in the processing of this infractions case. While the use of outside assistance was a substantial use of institutional resources, the institution believes it was beneficial to ensure that a thorough collection of information was obtained and [the outside firm's] expertise in establishing compliance systems was used.

IV. REVIEW OF CASE

The submitted SDR fully details the parties' positions in the infractions case and includes the agreed-upon primary facts, violations, violation levels and aggravating and mitigating factors. After reviewing the parties' principal factual agreements and the respective explanations surrounding those agreements, the panel accepts the parties' SDR and concludes that those facts constitute Level I, II and III violations.

Level I violations include, among others, violations that seriously undermine the NCAA Collegiate Model and any violation that provides or is intended to provide a substantial or extensive competitive advantage. These Level I violations represent the institution's significant breach of conduct because student-athlete eligibility is a core NCAA principal for competition and when the institution permitted 124 student-athletes to cumulatively participate in hundreds of intercollegiate competitions, it seriously undermined and threatened the integrity of the NCAA Collegiate model and the institution received a substantial advantage. Finally, this case involved a lack of institutional control.

The institution committed Level I violations that contributed to a lack of institutional control when numerous ineligible student-athletes practiced, competed and a majority received impermissible travel benefits when they did not meet NCAA eligibility or amateurism certification requirements. Generally, NCAA Bylaw 14 establishes the requirements for student-athlete eligibility. Among others, these include percentage-of-degree, credit hour, initial and transfer eligibility requirements. Additionally, NCAA Bylaw 16.8.1.2 permits institutions to provide travel expenses to eligible student-athletes when they represent the institution in competition. Finally, NCAA Bylaw 12.1.1.1.3 requires that all student-athletes receive final amateur certification status prior to engaging in practice or competition.

From the 2007-08 through 2011-12 academic years, the institution permitted 124 student-athletes to practice and compete while ineligible, and a majority of those student-athletes received impermissible travel expenses. When the institution certified these student-athletes as eligible and allowed them to practice, compete and, in some instances, receive travel expenses, the institution violated multiple provisions of NCAA Bylaws 14 and 16.8.1.2. Further, when the institution permitted nine student-athletes to compete prior to the student-athletes receiving final amateurism certification, the institution violated NCAA Bylaw 12.1.1.1.3. The panel notes that the institution became aware of deficiencies in its eligibility certification process in 2009 when a law firm conducted a review of the athletics program. Despite this awareness, the institution permitted ineligible student-athletes to compete on behalf of the institution until 2012.

The institution also failed to adhere to fundamental bylaw requirements when over three academic years, the institution failed to maintain complete and accurate squad lists in

eight sport programs. NCAA Bylaws 15.5.11.1 and 14.10.2 require that the institution's athletics director compile a form for each of the institution's sport programs identifying the teams' respective squad members.⁷ A student-athlete's name must be on the official squad list in order to be eligible for intercollegiate competition. During the 2007-08 through 2009-10 academic years, the institution permitted 19 student-athletes to compete when they did not appear on official squad lists. Because these student-athletes did not appear on squad lists and the institution permitted them to compete, the institution violated NCAA Bylaws 15.5.11.1 and 14.10.2.

Additionally, the institution failed to observe financial aid legislation when it permitted student-athletes to receive benefits that exceeded the bylaw limits on their financial aid packages. NCAA Bylaw 15.2 identifies the permissible elements of financial aid. NCAA Bylaw 15.2.3 specifically permits institutions to cover the actual costs of required course-related books. Further, NCAA Bylaw 16.11.2.1 defines extra benefits. During the 2007-08 through 2009-10 academic years, the institution permitted 15 student-athletes to receive books when their financial aid packages did not include books. When these student-athletes received books that were not part of their financial aid packages, the institution violated NCAA Bylaw 15.2.3, and the provision of those books equated extra benefits, as defined by NCAA Bylaw 16.11.2.1.

The institution's agreed-upon failures demonstrate that it failed to adhere to basic bylaw requirements and exert proper controls over its athletics department. Generally, NCAA Constitution 2.1.1, 2.8.1 and 6.01.1 require that each member institution comply with all rules and regulations of the Association, monitor its programs to ensure compliance and mandates that the institution's administration or faculty, or a combination of the two, exercise control and responsibility over the conduct of intercollegiate athletics. The institution agrees that over the course of five academic years, it did not exercise institutional control over its athletics program. Specifically, the institution did not provide rules education to many individuals responsible for certifying student-athlete eligibility. The lack of education and training contributed to the institution's failure to properly certify student-athletes over the course of five academic years and resulted in ineligible student-athletes participating in hundreds of intercollegiate athletics contests, violating a foundation principal of the NCAA collegiate model. The institution's additional failures to maintain complete and accurate squad lists and monitor the campus bookstore provided further support that the institution lacked control over its athletics program. Cumulatively, these failures violated the NCAA Constitution and establish a lack of institutional control.

The panel notes that the institution did not meet the expectations of Division I membership and failed to carry out the basic principle of intercollegiate competition –

⁷ The bylaw citation number changed from NCAA Bylaw 15.5.10.1 in 2007-08 to NCAA Bylaw 15.5.11.1 starting in 2008-09.

eligible participation. To disregard or not designate effective resources to ensure that proper controls, requirements and foundational principles are upheld does not meet the expectations associated with administering an athletics program at the Division I level. This is particularly true after an institution becomes aware of deficiencies in its certification process, as occurred in this case. Institutions must be committed to expending the resources associated with the benefits of Division I membership. The panel notes that commitment to the expenditure of such resources begins with a serious discussion at the institution's governing board, but the panel takes no position as to the outcome of those conversations and commitments. Rather, on behalf of the Division I Committee on Infractions and Division I membership, the panel reiterates and emphasizes the expectations of Division I membership.

Contested Penalties

The institution did not accept the panel's proposed two-year postseason ban for all of the institution's sport programs and the five-year probationary period. At the expedited hearing, the institution's arguments primarily focused on the postseason ban, but indicated that it believed the same arguments warranted reducing the proposed probation by one year. The institution argued that the penalties deviated from past cases. It also claimed that unintentional violations did not warrant a postseason ban. According to the institution, some sport programs involved a small number of ineligible student-athletes and this was the institution's first "major" infractions case.⁸

The panel, in part, agrees with the institution's arguments, but notes that this case involves more than just ineligible participation. For example, this case involved five agreed-upon violations, including the institution's agreed-upon lack of institutional control. It also involves the institution's awareness of systemic deficiencies in its eligibility certification process and the institution's failure to take immediate action. This failure permitted significant ineligible competition to continue for additional years after an audit revealed the problem. Through the SDR, the institution agrees that it committed severe breaches in conduct. The facts and context of this case warrant severe penalties and probation monitoring to address those severe breaches in conduct. Therefore, the panel reduces the postseason ban to one year in a targeted group of the most affected sports but believes the five-year probation period is warranted to monitor the institution's continual commitment to complying with NCAA requirements and demonstrated success in remedying the issues presented in this case.

With regard to the institution's claim of precedent that should control this case, the institution asserted that its case is "on all-fours" with the committee's decision in *Southeastern Louisiana University*, Case No. 184673 (2013). In considering the

⁸ The panel notes that "major" violations are now defined as Level I and Level II violations. See *NCAA Division I Manual Bylaw 19*.

institution's claim, the panel notes that past cases do provide some guidance, but each case stands on its own facts. While it is true that in the *Southeastern Louisiana* case, 137 ineligible student-athletes competed over a five-year period and the committee did not prescribe a postseason ban, isolating one factor does not capture the full context of the case. Even though the number of involved student-athletes and the duration may be comparable, this case involves an audit that identified the very eligibility issues that continued for multiple years after the audit took place. Southeastern Louisiana officials, conversely, did not become aware of issues and continued to permit violations to occur. Further, the violations in *Southeastern Louisiana* were limited to failure in eligibility certification, the provision of impermissible travel expenses associated with competition and a lack of institutional control. This case involved similar violations but also included additional squad list and financial aid violations. Based on the facts and full context of this case, the panel believes a five-year probationary period is warranted to continue to monitor the institution's progress towards establishing proper institutional controls.

The institution also argued that because its violations were systematic and not intentional, its violations did not warrant a postseason ban. The institution noted previous cases that involved postseason ban penalties and included intentional violations as part of the case. See *Jackson State University*, Case No. M151 (2000); *University of Alabama*, Case No. M173 (2002); *University of Southern California*, Case No. M295 (2010) and *Texas Southern University*, Case No. M343 (2012). The panel disagrees that a postseason ban is unwarranted because this case involved "unintentional systematic" violations rather than intentional violations. The panel notes the cited cases are distinguishable in that their intentional violations were outside the scope of certifying student-athletes as eligible for competition – a core principle of the collegiate model. When the institution became aware of significant problems in 2009, it failed to act. It ignored the identified deficiencies and permitted student-athlete certification to continue under an ineffective system. That failure strikes at the heart of accountability and student-athlete academic monitoring and success under the collegiate model. Therefore, while the institution did not purposely certify ineligible student-athletes as eligible for competition, it was aware that its policies had that result. Armed with the knowledge that its system previously permitted ineligible student-athletes to compete, the institution failed to act and permitted an insufficient system to continue to erroneously certify many of its student-athletes. To address the violations, the panel modifies the postseason ban but maintains the five-year probationary period to ensure that the institution continues to enhance identified deficiencies and build effective compliance systems.

The panel, in part, agrees with the argument that the number of student-athletes who competed while ineligible in some sport programs was relatively small. For example, during the five-year period the institution's women's tennis program only had two ineligible student-athletes participate. The panel agrees and modifies the proposed two-year postseason ban accordingly. The panel, however, believes that postseason bans are

warranted for the institution's sport programs that permitted a high quantity and/or percentage of ineligible student-athletes to compete over the five-year period. For example, the institution's football, men's and women's basketball and baseball programs, had a significant number of ineligible student-athletes compete during the years of violations, a significant percentage of ineligible student-athletes participate in a given year and/or ineligible participation in every year in which violations occurred. Therefore, the panel appropriately maintains a postseason ban in these sports, but reduces the postseason ban to one year.

The NCAA Division I Committee on Infractions is charged with holding member institutions accountable for their actions. The panel is aware that this is the institution's first infractions case. The panel also acknowledges that the institution's senior leadership has changed from the time of the violations. The president and senior staff articulated a commitment to enhancing its policies, procedures and culture of compliance. But the fact that the institution has not had a major case before does not render the modified postseason ban or five-year probationary period inappropriate.

Eligible student-athlete participation is a bedrock principle and requirement for NCAA intercollegiate competition. In this case, the certification violations were systemic and severe, especially in light of not heeding the 2009 study and remedying the problems with the systems and education of campus personnel. The violations continued for several years. The case also involved squad list, financial aid and some Level III violations. Most notably, this case involved a lack of institutional control. The institution disputes none of these violations. These facts warrant the modified postseason ban and the five-year probation period for the institution to demonstrate its commitment to compliance with NCAA requirements and success in remedying its past deficiencies.

V. PENALTIES

For the reasons set forth in Sections III and IV of this report, the panel concludes that this case involved violations of NCAA legislation. Because violations occurred after October 30, 2012, the effective date for new NCAA Bylaw 19, the panel processed the case in accordance with that new bylaw.

The panel then conducted a separate analysis and made a separate determination as to whether to prescribe penalties under the former or current NCAA Bylaw 19 penalty guidelines. Because the violations occurred before the effective date, the panel reviewed whether the new penalty guidelines or former penalty structure were more lenient. In considering the penalties under the new penalty structure, the panel utilized Figure 19-1. In considering penalties under the former penalty structure, the panel used past cases as guidance and former NCAA Bylaw 19.5.2. Given this case involved

systemic severe breaches of conduct and the institution's lack of control over its athletics department, the panel determined that former NCAA Bylaw 19 provided the institution with more lenient penalties.

Because the institution agreed to the facts, violations and Penalties Nos. V-1, -3, and -5 through -10, the institution does not have the opportunity to appeal those penalties. Conversely, the institution contested Penalty Nos. 2 and 4 in an expedited hearing. After the institution's presentation at the expedited hearing, the panel maintained Penalty No. 4 and modified Penalty No. 2. The institution has the opportunity to appeal these penalties.

With respect to Penalty No. 4 – the postseason ban – the panel originally prescribed a two-year postseason ban on all sports. Based on the magnitude and length of violations, as well as the competitive advantage realized, the panel determines that a postseason ban is still warranted. In determining the specifics of the postseason ban, the panel reviewed and weighed the total quantity of ineligible student-athletes in each sport program from 2007-08 through 2011-12, the quantity of ineligible student-athletes per sport program per year and the percentage of ineligible student-athletes in each sport program per year. Based on these factors, the panel determines that the institution's football, men's basketball, women's basketball and baseball programs realized a competitive advantage based on ineligible student-athletes participating in competition. The panel modifies the original proposed penalty and prescribes a one-year postseason ban on those sport programs. The Appendix contains the institution's corrective actions.

All of the penalties prescribed in this case are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of postseason ineligibility, historical penalties or other penalties. After considering all information relevant to the case, the committee prescribes the following:

General Administrative Penalties:

1. Public reprimand and censure;
2. Five years of probation from November 5, 2014, through November 4, 2019;⁹

Institutional Penalties Prescribed by the Panel

3. Within the next six months, the institution's athletics department shall undergo a comprehensive compliance review by an outside agency with athletics compliance expertise. The results of this compliance review shall be included in

⁹ Periods of probation always commence with the release of the infractions decision.

the institution's first annual compliance report, and any recommendations made as a result of this compliance review shall be implemented as soon as possible, but no later than the conclusion of the second year of probation;

4. The institution's football, men's basketball, women's basketball and baseball programs shall end their 2014-15 academic year seasons with the playing of their last regularly scheduled in-season contest and shall not be eligible to participate in any postseason competition, including any foreign tours and conference and/or NCAA tournaments or championships.

In accordance with NCAA Bylaw 14.7.2-(c), the Committee on Infractions recommends to the Division I Legislative Council Subcommittee for Legislative Relief (SLR) that SLR waive the one-year residency requirements for student-athletes whose institution was placed on probation which included a post-season ban penalty.

5. Pursuant to NCAA Bylaws 19.9.5.7 and 19.9.7-(l) (2013-14 Division I Manual), at the conclusion of the first year of probation and after the committee or a panel of the committee has reviewed the institution's first annual compliance report, the institution shall appear before the committee or a panel of the committee to discuss the institution's compliance with the panel's prescribed penalties and corrective measures, the institution's progress during the first year of probation and the institution's overall culture of compliance.

Institutional Penalties and Corrective Measures Self-Imposed by the Institution

6. Pursuant to NCAA Bylaws 19.9.7-(g) and 31.2.2.3, the institution will vacate all wins from the academic years 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12 in which ineligible student-athletes competed. This order of vacation includes all regular season competition, conference tournaments and NCAA postseason competition. The individual records of the ineligible student-athletes shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes will be retained. Further, the institution's records regarding its athletics program, as well as the records of all head coaches, will reflect the vacated records and will be recorded in all publications in which such records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media plus institutional, conference and NCAA archives. Any institution which may subsequently hire any of the affected head coaches shall similarly reflect the vacated wins in his or her career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins to attain specific honors or victory "milestones" such as 100th, 200th or 500th career

victories. Any public reference to the vacated contests shall be removed from athletics department stationary, banners displayed in public areas and any other forum in which they may appear.

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

7. The institution reported that it will cut the number of athletically related aid awarded by the institution in the affected sports for the 2013-14 and 2014-15 academic years.

In equivalency sports, the institution reported that it will reduce the annual total amount of athletic aid awarded by five percent of the institution's previous four-year averages. The institution reported that it will limit equivalencies in the affected sports to the following:

Baseball: A limit of 6.35 equivalencies;

Men's Track and Field: A limit of 3.57 equivalencies;

Softball: A limit of 5.64 equivalencies;

Women's Soccer: A limit of 7.79 equivalencies;

Women's Track and Field: A limit of 5.91 equivalencies; and

Men's Golf: A limit of 3.12 equivalencies

In head count sports, the institution reported that it will reduce the number of student-athletes who receive athletics aid by one or two from the institution's previous four-year average. The institution reported that it will reduce the number of student-athletes receiving athletics aid in the affected sports by the following:

Women's Volleyball: Reduce from the number of student-athletes receiving athletics aid by one;

Women's Basketball: Reduce the number of student-athletes receiving athletics aid by two;

Men's Basketball: Reduce the number of student-athletes receiving athletics aid by two; and

Women's Tennis: Reduce the number of student-athletes receiving athletics aid by one.

In the sport of football, the institution reported that it will reduce the number of student-athletes receiving athletics aid and the annual total amount of athletics aid by 10 percent. The institution reported that it will reduce the number of student-athletes receiving aid and limit the total amount of aid in football to the following:

Football: Reduce the number of student-athletes receiving athletics aid from 59 to 53 and a limit of 33.2 equivalencies.

Other Administrative Penalties and Measures

8. During this period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes eligibility for admission, financial aid, practice or competition;
 - b. Submit a preliminary report to the Office of the Committees on Infractions by January 15, 2015. Setting forth a schedule for establishing this compliance and educational program;
 - c. File with the Office of the Committees on Infractions annual compliance reports indicating the progress made with this program by August 1 of each year during the probationary period. Particular emphasis should be placed on establishing a campus-wide system of athletics compliance, the certification of initial, continuing, and transfer eligibility of student-athletes and rules education administered by trained and competent personnel. The reports must also include documentation of the

institution's compliance with the penalties adopted and prescribed by the committee.

9. During the period of probation, the institution shall:
 - a. Inform prospective student-athletes in all sports that the institution is on probation for five years and explain the violations committed. If a prospective student-athlete takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospective student-athlete signs a National Letter of Intent.
 - b. Publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions decision located on the athletic department's main webpage. The information shall also be included in institutional media guides and in an alumni publication. The institution's statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the major infractions case; and (iii) give members of the general public a clear indication of what happened in the major infractions case to allow the public (particularly prospective student-athletes and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient. The institution may meet its responsibility in a variety of ways.
 10. At the conclusions of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.
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The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Greg Christopher (Chief Hearing Officer)

John Black

Thomas Hill

Joel Maturi

Jim O'Fallon

Greg Sankey

APPENDIX

The University of Arkansas at Pine Bluff has put in place corrective actions and penalties in response to this matter. The following details these actions:

1. Revised the continuing eligibility certification processes (see attached) to include:
 - i. Ensuring adequate checks and balances. Continuing Eligibility Certification procedures were approved by the athletics director and faculty athletics representative (FAR). The procedures were also approved by the APR Data Review Team. Significant emphasis was placed on ensuring checks and balances within the processes;
 - ii. Developing a list of prospects by sport that includes columns for the "Eligibility Center Status" and the "Admission Status" to the institution that would be sent by the admissions office weekly beginning in the spring. The purpose is for the admissions staff to update the compliance office on admission status who then could respond to questions from coaching staff members about the admission status of their prospects. The prospect list will begin in April 2014 for incoming freshman and transfer student-athletes.
 - iii. Provide weekly to coaching staff members an eligibility update list during the period of early June to the first week of fall classes that lists the current eligibility status for practice and competition for each student-athlete. Starting in 2013, head coaches receive an eligibility report for all continuing student-athletes. Any student-athlete needing summer school is identified and notified. If the student-athlete attends summer school at UAPB, their eligibility status is continuously monitored. Effective in 2014, fall sports will be certified in July. A certification calendar will be developed annually by the compliance office and the registrar's office;
 - iv. Increasing the education of the academic advisors in each of the departments regarding progress-toward-degree requirements. In August 2013, the department of athletics held an educational session during the faculty/staff orientation week. The session provided detailed information on progress-towards-degree and related NCAA rules and regulations. During the month of April, the institution's registrar and compliance director will begin conducting training sessions for academic faculty who have student advisement responsibilities. These sessions have been deemed mandatory sessions by the interim vice-chancellor for academic affairs;
 - v. Requiring the academic advisor to return to the compliance office not only the memorandum listing whether the student-athlete met the percentage toward

degree requirement but also the student-athlete's degree audit plan, which should be attached to the memorandum. In the revised procedures, the documents used to determine eligibility include the degree audit and transcript. Each student-athlete has a copy of both documents placed in their compliance file during the certification process;

- vi. Requiring the compliance office to retain a copy of the memorandum from the academic advisor and the audit plan for all student-athletes for five years. The office of compliance will maintain a certification folder for all student-athletes. The folder will contain the degree audit and transcript for the certification period. Additionally, the NCAA documents will be filed in the folder. For academic year 2013-14, all documents will be scanned to athletics shared drive. Data from previous academic years will be filed and archived on this shared drive as well;
 - vii. Identifying the primary and back-up liaisons in the registrar's office for the certification process and ensuring adequate training exists. These individuals should attend NCAA Regional Rules Seminars at least every other year or other professional or conference seminars. For those years in which such attendance is not possible, a review of the PowerPoint presentations from the NCAA Regional Rules Seminar, which are available on the NCAA website, will be undertaken. Also, ensure that the job descriptions for the primary and back-up liaisons include their NCAA responsibilities. The office of the registrar has advertised for a position which will serve as the backup liaison in that office. Once the eligibility specialist position is created, that individual would also be a backup for the registrar. The registrar's job description is currently being updated to include NCAA responsibilities. A representative from the financial aid office, chair of the athletics council, and the FAR attended the Regional Rules Seminar in 2013. (Several coaching staff members also attended).
 - viii. Committing to writing the existing eligibility certification procedures in the registrar's office. These procedures have been approved by the athletics director and FAR. The procedures have also been shared with registrar and vice-chancellor for academic affairs; and
 - ix. Formalizing the role of the FAR in reviewing the SWAC eligibility list. The FAR has been involved in the process, although on a more informal basis. The FAR has been instrumental in reviewing eligibility discrepancies as they relate to certification and degree audits. This is being done on a case-by-case basis.
2. Undertook additional efforts to ensure that those entities outside of the athletics department at the institution, especially admissions, financial aid, and registrar, understood the important role that they play. Regular individual meetings have taken

place between the compliance director, director of admissions, financial aid director and registrar, emphasizing the vital roles that they play in helping the institution remain in compliance with NCAA rules and regulations.

3. Developing a compliance committee composed of the faculty athletics representative (FAR), compliance staff, and representatives of all other institution entities that have some NCAA compliance responsibilities. Besides financial aid, registrar, and admissions, this will include housing, academic counseling, advising, etc. A new compliance committee was formulated and approved during the summer of 2013.
4. Scheduling at least one meeting per semester between the chancellor and the compliance coordinator. Several meetings and teleconferences have occurred during the 2013-14 academic year involving the institution's compliance director and new chancellor.
5. Downloading information from Datatel to the CA in order to increase accuracy of information. The compliance director is currently in dialogue with the director of technology relative to downloading data from Datatel to CA.
6. Undertaking the following pertaining to the reorganization and structure of the compliance office and processes:
 - i. Developing a monthly compliance calendar that includes not only deadlines for the submission of certain institution and NCAA forms, but also rules education topics and those compliance tasks at the institution that need to be undertaken during that month; and
 - ii. Revised book loan policies and procedures.
7. Undertaking the following pertaining to monitoring academic progress and eligibility of student-athletes:
 - i. Hiring a full-time director of student-athlete academic services on November 1, 2013. That individual's primary roles are to ensure the management of all athletic academic programs, including monitoring of grades through Grades First, assessment of academic advising of student-athletes, reviewing of degree planning, progress-towards-degree and graduation requirements, and acting as liaison with faculty and staff regarding academic requirements and standards;
 - iii. Conducting structured study sessions during extended team travel (two-plus missed days away from campus). Beginning in the 2014 spring term, an athletics administrator traveled with the men and women's basketball teams to provide structured study sessions. The baseball and softball teams will also participate;

- iii. Voting the director of compliance as an ex-officio member of the faculty and Staff Senate Committee in an effort of being involved in issues as it relates to faculty and academics;
- iv. Improving student welfare issues by developing the following policies: Missed Class, Student-Athlete Pregnancy, and Denied Transfer Request;
- v. Facilitating workshops on academic development: utilizing the writing lab as a resource and preparing for midterms;
- vi. Expanding laptop program to include tablets and mobile hotspots for team travel;
- vii. Expanding study hall and tutoring sessions with daytime hours;
- viii. Developing incoming transfer review process for 2-4 and 4-4 transfers. This will reduce eligibility issues during the certification process;
- ix. Meeting with exhausted eligibility student-athletes from the fall sports to encourage degree completion;
- x. Conducting continued academic meetings will at-risk student-athletes;
- xi. Utilizing fully Grade First as early alert and monitoring and tracking study hall hours;
- xii. Providing head coaches with a mid-year certification/academic progress report. Similar report will be provided at the conclusion of the spring term;
- xiii. Having the compliance director, along with the director of student-athlete academic services, hold monthly meetings with head coaches;
- xiv. Engaging student-athletes by having SAAC representatives elect 2014 officers;
- xv. Holding a student-athlete assembly at the beginning of the spring term. It is the goal of the athletics department to hold this assembly at the beginning of each term. Pertinent NCAA as well as institutional information was shared with all student-athletes. This was a mandatory session;
- xvi. Creating Tutoring/Study Hall handbook;

- xvii. Distributing a new Student-Athlete Handbook to all student-athletes, coaches, athletics administrators, athletics committee members, and key campus constituents during the 2013fall term; and
- xviii. Establishing quarterly meetings of the athletics committee to discuss pertinent policy and procedures as it relates to athletics.