



NCAA Division I Proposal No. 2015-66
Question and Answer Document
(Updated February 26, 2016)

The following questions and answers are designed to assist the NCAA Division I membership in understanding the application of Proposal No. 2015-66 Academic Eligibility – Academic Misconduct. Changes from the previous version of this document are shaded in gray.

Question No. 1: How does this proposal differ from the current application of existing academic misconduct legislation, interpretations and educational columns?

Answer: The adoption of NCAA Division I Proposal No. 2015-66 would:

1. Expand the application of academic misconduct legislation to any situation in which an institutional staff member is involved.
2. Replace the academic extra benefit analysis as it relates to academic assistance issues with a specific and limited definition of impermissible academic assistance.
3. Expressly require institutional policies and procedures regarding academic misconduct for the general student-body.
4. Expressly prohibit an individual from knowingly providing false or misleading NCAA Division I Academic Performance Program (APP) information.
5. Limit scope of definition of institutional staff member to exclude student employees from definition unless student employees meet certain criteria.

Question No. 2: What are the different types of academic integrity-related offenses that are considered to be NCAA violations?

Answer: There are four types of academic integrity-related offenses that are considered to be a violation of the proposed legislation:

1. Academic misconduct (as defined and limited by the legislation);
2. The provision or arrangement of impermissible academic assistance by a current or former institutional staff member or representative of athletics interests to a student-athlete;
3. A departure from academic misconduct policies and procedures in the investigation and adjudication of alleged academic misconduct involving a student-athlete; and

4. Pre-enrollment academic misconduct (as defined by NCAA legislation previously in NCAA Bylaw 10, moved to Bylaw 14).

Academic Misconduct Violations.

Question No. 3: Who determines whether certain conduct constitutes academic misconduct at a given institution?

Answer: The institution determines whether the conduct violated or breached its own policies and procedures regarding academic misconduct.

Question No. 4 If a student-athlete on my campus is suspected or accused of being involved in academic misconduct, must I immediately report the issue to the NCAA enforcement staff?

Answer: No. Before reporting, an institution has the responsibility and obligation to determine whether academic misconduct has occurred pursuant to institutional policies and procedures. However, it is not unusual for an institution to request assistance from the NCAA for interpretive or investigative issues.

Question No. 5: Once my institution has determined academic misconduct involving a student-athlete occurred, is my institution required to report each and every finding of academic misconduct to the NCAA?

Answer: No. Not every finding of institutional academic misconduct is a violation. An NCAA academic misconduct violation occurs when:

1. A student-athlete commits academic misconduct alone or in concert with another student(s) who is not an institutional staff member, and the academic misconduct results in:
 - a. The alteration or falsification of a student-athlete's transcript or academic record;
 - b. An erroneous declaration of eligibility to participate in intercollegiate athletics and the student-athlete subsequently competes while ineligible;

- c. An erroneous declaration of eligibility to receive financial aid and the student-athlete subsequently receives financial aid while ineligible; or
 - d. The erroneous awarding of an NCAA Division I Academic Progress Rate (APR) point.
2. A current or former institutional staff member or representative of athletics interests is involved in the academic misconduct involving a student-athlete, regardless of whether the misconduct involved alteration or falsification of a student-athlete's transcript or academic record or an erroneous declaration of eligibility.

Question No. 6: What is "alteration or falsification of a student-athlete's transcript or academic record"?

Answer: Alteration or falsification of a student-athlete's transcript or academic record is changing or doctoring transcripts or arranging to receive credit for a course in which a student-athlete did not enroll or complete (i.e., fraudulent academic credit).

Question No. 7: What is an "institutional staff member"?

Answer: An institutional staff member is any individual, excluding a student employee, who performs work for the institution or athletics department, regardless of whether the individual receives compensation for the work.

A student employee, however, is an institutional staff member if:

1. He or she has institutional responsibilities to provide academic services to student-athletes; or
2. He or she engages in academic misconduct or provides impermissible academic assistance at the direction of a nonstudent employee, a student employee who has institutional responsibilities to provide academic services to student-athletes or a representative of the institution's athletics interests.

Question No. 8: An institution's academic support services for student-athletes are provided by a unit that reports directly to the institution's provost, outside the athletics department. Would student tutors employed by this unit be considered

"institutional staff members" for purposes of the academic misconduct and impermissible academic assistance legislation?

Answer: Yes. Those student employees whose responsibilities include providing academic services to student-athletes (e.g., tutors) would be considered "institutional staff members" for purposes of the academic misconduct and impermissible academic assistance legislation regardless of whether the academic support services for student-athletes are provided by a unit that reports to a department outside athletics.

Question No. 9: An institution's athletics department directs all of its student-athletes to use the tutoring services made available through its general nonathletics student support services center. Would student tutors employed by this nonathletics student support services center be considered "institutional staff members" for purposes of the academic misconduct and impermissible academic assistance legislation?

Answer: Yes. If the institution directs all of its student-athletes to seek tutoring services from the nonathletics student support services unit, the student tutors would be considered "institutional staff members" for purposes of the academic misconduct and impermissible academic assistance legislation.

Question No. 10: Would a student employee who offers general tutoring to all first-year students be considered an "institutional staff member" for purposes of the academic misconduct and impermissible academic assistance legislation?

Answer: No. Unless the student employee's responsibilities specifically include the provision of tutoring services for student-athletes, a student employee whose tutoring services are generally available to all students would not be considered an "institutional staff member" for purposes of the academic misconduct and impermissible academic assistance legislation.

Question No. 11: What is a "former institutional staff member"?

Answer: A former institutional staff member is an institutional staff member who was employed by the institution at the time of the conduct in question but is now no longer employed at the institution.

Question No. 12: Is the definition of "representative of athletics interests" the same definition for purposes of this proposal as other NCAA legislation?

Answer: The definition of representative of athletics interests used in this proposal is the same as other areas of NCAA legislation.

Question No. 13: In determining whether a student is an institutional staff member, does the legislation apply differently to undergraduate and graduate students?

Answer: No. Application of the legislation to determine whether a student is an institutional staff member applies the same to both undergraduate and graduate students.

Question No. 14: Are student trainers, student managers and/or graduate student assistant coaches considered "institutional staff members"?

Answer: Provided that student trainers, student managers and graduate assistant coaches do not have institutional responsibilities to provide academic services to student-athletes, a student trainer, student manager and student graduate assistant coach would only be an institutional staff member for purposes of the academic misconduct and impermissible academic assistance legislation if the student engages in academic misconduct or provides impermissible academic assistance at the direction of a nonstudent employee, a student employee who has institutional responsibilities to provide academic services to student-athletes, or a representative of the institution's athletics interests.

Question No. 15: Must an individual who performs work for the institution or a student be paid in order to be an institutional staff member under the academic misconduct and impermissible benefits legislation?

Answer: No.

Question No. 16: Can academic misconduct between a student and student-athlete rise to the level of a violation under the academic misconduct legislation?

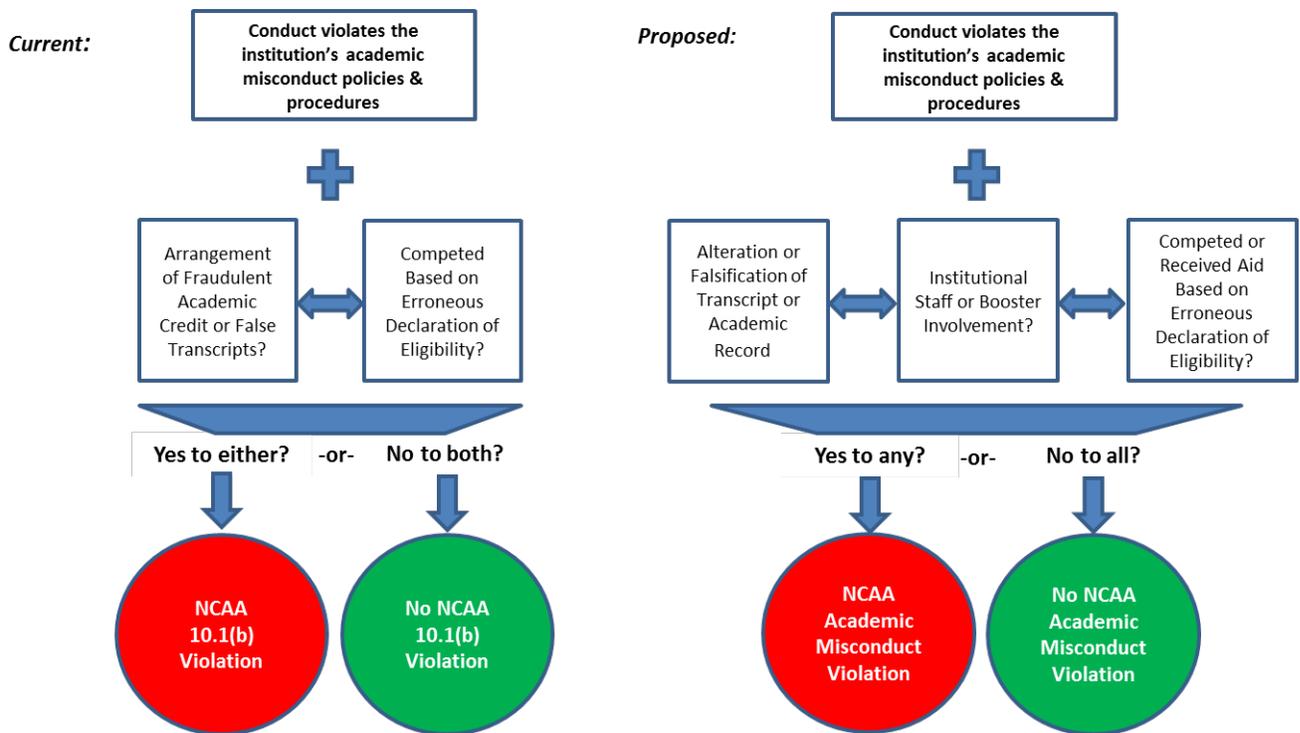
Answer: Yes, but only if the misconduct between the two students resulted in any of the following:

- a. An erroneous declaration of eligibility to participate in intercollegiate athletics and the student-athlete subsequently competes while ineligible;
- b. An erroneous declaration of eligibility to receive financial aid and the student-athlete subsequently receives financial aid while ineligible; or

- c. The alteration or falsification of the student-athlete's transcript or academic record.

Question No. 17: How does the application of the proposal differ from the current legislation on academic misconduct?

Answer: The following charts shows the difference between the proposed legislative state and current legislative state on academic misconduct:



Impermissible Academic Assistance.

Question No. 18: If conduct does not violate or breach an institution's own policies and procedures regarding academic misconduct, may the conduct still constitute an impermissible academic assistance NCAA violation?

Answer: Yes, provided each of the following factors are present:

1. A current or former institutional staff member or representative of athletics interest provides the impermissible academic assistance;

2. The institution determines that academic misconduct has not occurred pursuant to its policies and procedures;
3. The academic assistance or academic exception provided is not generally available to the institution's student-body or students involved in the course;
4. The assistance is substantial;
5. The assistance is not permitted in Bylaw 16.3; and
6. The assistance leads to the certification of a student-athlete's eligibility to practice, compete, receive financial aid or earn an APR point.

Impermissible academic assistance is designed to identify when a student-athlete receives special treatment in the area of academics that would not otherwise be available to the general student. The impermissible academic assistance legislation requires a separate analysis from the academic misconduct legislation and is triggered when the institution determines that conduct did not violate its academic integrity policies and procedures... The impermissible academic assistance analysis focuses on whether student-athletes have been treated consistent with students generally; whereas, the academic misconduct analysis primarily focuses on whether conduct violates an institution's academic integrity policies and procedures.

Question No. 19: What is "substantial assistance"?

Answer: This determination is fact specific. Assistance such as proofreading, assisting a student with a problem on a math assignment or tutoring should not be considered substantial. Substantial assistance generally includes a considerable amount of assistance provided to the student-athlete that is of significant value to the student-athlete.

Question No. 20: What is permissible assistance under Bylaw 16.3?

Answer: Bylaw 16.3 permits an institution to make general academic counseling and tutoring services available to all student-athletes, which may be provided by the department of athletics or the institution's nonathletics student support services., An institution may also provide Other types of academic support,

career counseling and personal development services that support the success of student-athletes and a life skills program for student-athletes.

Question No. 21: Why is assistance that leads to the certification of a student-athlete's eligibility to practice, compete, receive financial aid or earn an APR point included in the analysis of impermissible academic assistance?

Answer: Generally, academic integrity issues are handled by an institution without involvement of the NCAA. For the purposes of intercollegiate athletics, the NCAA has established requirements that determine a student-athlete's eligibility for practice, competition and financial aid. One of the commitments for intercollegiate athletics adopted by the NCAA is fair competition. The commitment requires that all member institutions compete within the framework of the NCAA collegiate model of athletics in which athletics competition is an integral part of the student-athlete's effort to acquire a degree in higher education. A student-athlete's eligibility to practice, compete, receive financial aid or earn an APR point provides a common framework for impermissible academic assistance determinations for all member institutions.

Question No. 22: When does an institution assess whether alleged impermissible academic assistance "result[ed] in the certification of a student-athlete's eligibility to practice, compete, receive financial aid or earn an APR point"?

Answer: The assessment of whether impermissible academic assistance leads to the certification of eligibility begins when the alleged impermissible academic assistance occurred and ends after an institutional determination is made regarding the alleged impermissible academic assistance. At that juncture, the institution must determine whether the substantial academic assistance or academic exception enabled the student-athlete to be certified as eligible for purposes of athletics participation, financial aid or the awarding of an Academic Progress Rate point during the period of time (e.g., term or terms) between when the conduct occurred and the institutional determination was made.

Question No. 23: May the "results in the certification of a student-athlete's eligibility" analysis require the institution to look to a previous term or terms?

Answer: Yes, depending on the timing of when the conduct occurred.

Question No. 24: During the fall term, an institution determines that, in a spring course, a professor provided a basketball student-athlete with an academic exception that was not generally available to the student body. Pursuant to the institution's own policies and procedures, the academic exception provided by the professor did not constitute academic misconduct. Although the academic exception resulted in the student-athlete earning full credit for the spring course, the course was not necessary for the student-athlete to be certified as eligible for the fall term. Has an impermissible academic assistance violation occurred?

Answer: No, because the academic exception did not impact the student-athlete's eligibility between the times in which the exception was provided (previous spring term) and the institutional determination was made (end of fall term).

Question No. 25: If an academic exception did not impact a student-athlete's eligibility during the period of time between when the conduct occurred and the institutional determination was made, must an institution continue to monitor its future impact on the student-athlete's eligibility? For example, if the course in which a student-athlete received an academic exception that was not generally available to the student body becomes necessary to maintain an eligible grade-point average in subsequent academic certifications, would the conduct *then* constitute an impermissible academic violation?

Answer: No. An academic exception that had no impact on a student-athlete's eligibility during the period of time between when the conduct occurred and the institutional determination was made, does not need to be reassessed during the student-athletes future eligibility certifications.

Question No. 26: What potential scenarios may result in an institution determining, pursuant to its policies and procedures, that academic misconduct **has not occurred**?

Answer: The following are examples of situations in which an institution is considered to have determined that academic misconduct did not occur:

1. There is no institutional policy addressing the particular conduct that occurred;
2. The institution is unable to make a determination that misconduct occurred;

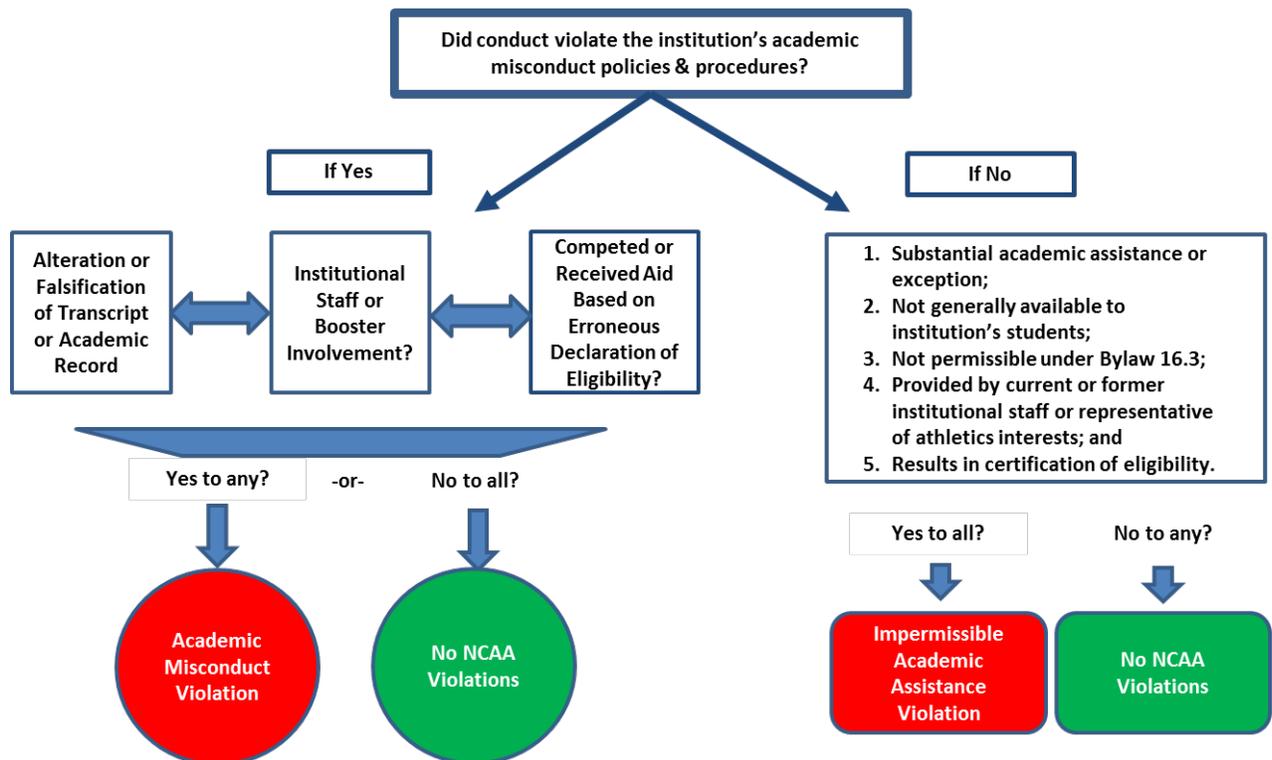
3. The institution does not conduct or complete its review of the alleged academic integrity issue for any reason (e.g., because the student-athlete departed the institution) ; or
4. The institution makes a specific determination that the conduct was **not** academic misconduct

Only a finding that academic misconduct **has occurred** pursuant to an institution's policies and procedures would preclude further analysis under the impermissible academic assistance legislation.

Question No. 27: Can the same conduct result in both an academic misconduct violation and an impermissible academic assistance violation?

Answer: No. An impermissible academic assistance violation may only potentially be found when the institution determines that specific conduct did not violate its own policies and procedures regarding academic misconduct.

The following chart shows the separate analyses for the proposed legislative states for academic misconduct and impermissible academic assistance violations:

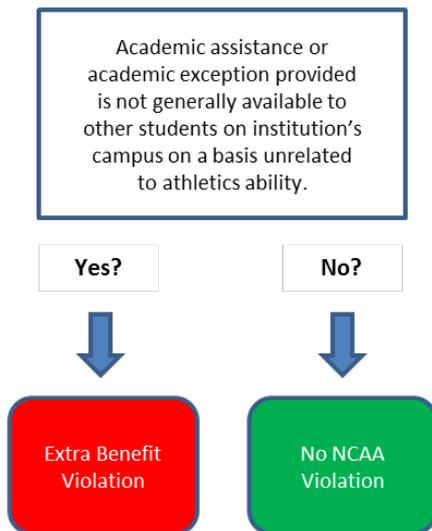


Question No. 28: How does application of the proposed impermissible academic assistance legislation differ from the current extra benefit legislation?

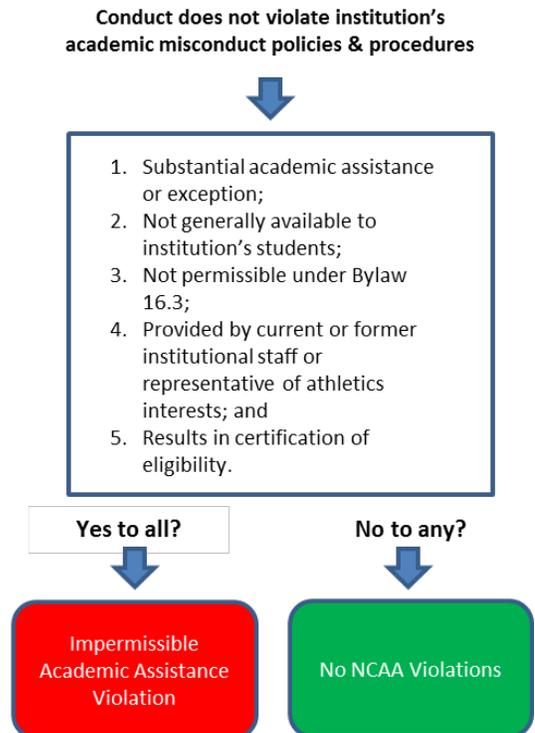
Answer: Currently, the extra benefit legislation applies when "academic benefits" are provided to student-athletes that are not generally available to the institution's students. Under the current legislation, institutions could be subject to both an academic misconduct violation and extra benefit violation., Additionally, an extra benefit violation could involve assistance between only students even when a student is not an institutional staff member, and the current legislation does not specify how much assistance could lead to an extra benefit violation. The impermissible academic assistance legislation replaces the application of the extra benefit analysis, providing necessary parameters and clarity to the treatment of academic benefits provided to student-athletes that are not generally available to an institution's student body.

The following chart shows the difference between the application of the impermissible academic assistance legislation and the current extra benefit legislation:

Current:



Proposed:



Question No. 29: The writing center coordinator at my institution provided proofreading and edited sentence structure on a student-athlete's paper. This type of assistance does not violate our institution's academic misconduct policies and procedures and similar services are available through the writing center to other students on campus. Would this constitute an "impermissible academic assistance" violation?

Answer: No. The assistance is generally available to the institution's students and it is likely "proofreading" would not be considered "substantial assistance."

Question No. 30: A math professor at my institution helped a student-athlete complete some of the math problems on a recent course assignment. The math professor has provided similar assistance to other students in the past in order to help students learn math. This type of assistance does not violate our institution's academic misconduct policies and procedures. Would this constitute an "impermissible academic assistance" violation?

Answer: No. Although the assistance provided by the professor may or may not have been substantial, similar assistance was available to students in the course generally.

Question No. 31: An English professor on my campus allowed a student-athlete to turn in a term paper two semesters after the course was completed for full credit. The professor did not allow any other student in the course to receive the exception and institutional policy does not address this type of issue. This type of exception does not violate our institution's academic misconduct policies and procedures. The exception resulted in the student-athlete receiving a passing grade in the course and, but for the grade, the student-athlete would not have been eligible to compete. Would this constitute an "impermissible academic assistance" violation?

Answer: Yes. The academic exception was not generally available to the institution's student-body or students in the involved course, the institution did not find academic misconduct pursuant to its policies and procedures, an institutional staff member was involved and the exception resulted in certification of eligibility for competition for the student-athlete.

Question No. 32: A booster arranged for a student employee in the dining hall to complete a term paper for a student-athlete, who was in his fourth year of enrollment. The paper was submitted to the professor and the student-athlete received a passing grade in the course, which subsequently kept the student-athlete

eligible for competition. After exhausting eligibility at the institution, the student-athlete withdrew from the institution. The institution investigated the issue but determined that its academic misconduct policies and procedures did not apply to this scenario, citing the student-athlete's withdrawal from the institution. Would this constitute an "impermissible academic assistance" violation?

Answer: Yes. While the institution determined that academic misconduct did not occur, the academic assistance provided was not generally available to the institution's student-body or students in the involved course. The assistance was substantial and not permitted in Bylaw 16.3. A booster and an institutional staff member were involved (due to the student working at the direction of a booster). Finally, the assistance resulted in certification of eligibility for competition for the student-athlete.

Institutional Academic Misconduct Policies and Procedures.

Question No. 33: Is the legislation prescriptive as to what the institutional academic misconduct policies must address?

Answer: No. Institutions are responsible for determining the substance of their institutional academic misconduct policies and procedures. The legislation, however, requires that the policies and procedures be in writing, applicable to the general student-body, including student-athletes, approved through the institution's normal process for approving such policies and kept on file or accessible on the institution's website.

Question No. 34: May an institution have separate policies and procedures for student-athletes?

Answer: No; however, an institution may establish a policy that permits an expedited investigation and adjudication of academic misconduct by a student-athlete, provided other applicable policies and procedures are observed and the policy for expedited review is approved through the institution's normal process for approving such policies, is approved by the institution's chancellor or president (or his or her designee) and kept on file or accessible on the institution's website.

Question No. 35: Is the failure to investigate and adjudicate alleged academic misconduct of a student-athlete in accordance with the institution's policies and procedures a violation?

Answer: Yes.

Submission of Erroneous Material Information to APP.

Question No. 36: Is the "mistaken" submission of erroneous material information a violation?

Answer: No. A violation occurs only when an institution knowingly submits erroneous material information to the APP. Institutions may mistakenly submit incorrect data on occasion and such information is generally corrected during the APP submission process.

Question No. 37: What does it mean to "knowingly" submit information?

Answer: An institution knowingly submits material information when the institution purposefully—as opposed to mistakenly—submits erroneous material information to the APP.

Question No. 38: What is "material" information?

Answer: Material information is information that could impact an institution's academic rate under the APP.

Pre-enrollment Academic Misconduct.

Question No. 39: Does the proposal change current pre-enrollment academic misconduct legislation?

Answer: No. The substance of pre-enrollment academic misconduct legislation remains the same. However, the proposal moves the pre-enrollment academic misconduct legislation from Bylaw 10 to Bylaw 14.

Enforcement: Institutional Staff Members and Impermissible Academic Assistance.

Question No. 40 How does the enforcement staff view its role in cases of academic misconduct?

Answer: Please see the following letter from vice president of enforcement, Jon Duncan.

MEMORANDUM

TO: NCAA Division I Membership.

FROM: Jonathan F. Duncan
Vice President of Enforcement.

SUBJECT: NCAA Division I Proposal 2015-66 (Academic integrity).

As the membership considers academic integrity rules, it is important to understand how the enforcement staff views its role in cases of academic misconduct. Accordingly, this memorandum will identify decisions that are best made by schools on the local level. It will also address two proposed rules that generate frequent questions and describe how the enforcement staff intends to apply them.

Decisions about teaching curriculum and course content are obviously made by campus officials. Similarly, policies and procedures regarding academic misconduct are prepared and owned by individual schools. The enforcement staff is not involved in those matters. Member schools have also been clear that questions of academic misconduct should be resolved by campus officials through campus procedures. The enforcement staff will not revisit those decisions.

Two provisions in the proposed rules have generated good questions from member schools. The enforcement staff wants its position on these provisions and its role in these cases to be clear.

1. Institutional staff member responsibility. One concept fundamental to the NCAA structure is that institutions are responsible for the conduct of their representatives (e.g., NCAA Bylaws 2.1.2 and 2.8.1). The same is true for acts of academic misconduct. Under current bylaws and in the proposed revisions, institutions are responsible for violations committed by staff members. However, not all staff members are similarly situated. For example, within an athletics department, some staff members are in leadership roles (like coaches, administrators and compliance officials), while others are further removed (like trainers and equipment managers). Outside of athletics, certain staff members are in closer proximity to sport programs and have greater responsibility than others.

Although a school is accountable for all its representatives, the enforcement staff will certainly consider the differences between and among staff members at a school. Misconduct by coaches, leaders and others nearest a sport program most negatively impacts the collegiate model. Accordingly, cases where those individuals engage in academic impropriety are more likely to be alleged as Level I [Bylaw 19.1.1-(b)].

Misconduct by individuals further removed from leadership positions and further removed from a sport program still constitutes a violation, but may be alleged by the enforcement staff at a lower level. For example, the enforcement staff will treat differently a case where a student teaching assistant acting on his or her own accord provides a student-athlete answers

to a quiz without the knowledge or involvement of any coach or administrator. Misconduct by this individual has a different impact on the collegiate model and might be processed as a Level III violation.

As always, the enforcement staff will consider the totality of circumstances, including the type of institutional representative involved, when drafting allegations of academic misconduct. The NCAA Division I Committee on Infractions also considers the full context of every case when determining the level of a violation and fashioning penalties. The committee provides a meaningful check of enforcement staff allegations in individual cases and also shares its analysis through written decisions.

2. Impermissible academic assistance. Some fear that the enforcement staff will overreach and allege violations when schools provide ordinary assistance to college athletes who need academic support. The enforcement staff is sensitive to this concern and has no interest in discouraging appropriate and generous academic support for college athletes.

To be very clear, the enforcement staff will not pursue allegations where appropriate personnel provide a college athlete counseling in course selection, assistance in enrolling or edits to a research paper. These and other similar supports advance the collegiate model and the educational interests of college athletes. The enforcement staff will not bring allegations in these instances.

In contrast, writing a paper for a college athlete or sharing exam answers are not acceptable supports and are not permitted by Bylaw 16.3. These are substantial benefits not generally available to students and do not serve the interests of the college athlete. They are also unfair to eligible competitors who work hard to comply with applicable educational requirements. Accordingly, after working with the school and considering all relevant facts, the enforcement staff would consider bringing an allegation in this context. The enforcement staff would also look carefully at the individuals involved and the impact of the misconduct when weighing whether the violation might be Level I, II or III. As always, the Committee on Infractions would conclude whether violations occurred and the appropriate level.

The enforcement staff understands the sensitivity and complexity of academic misconduct rules. It has no interest in overreaching in this area, or any other. Rather, the enforcement staff looks forward to working with member schools, governance committees and colleagues in other regulatory departments in advancing the educational interests of college athletes.

JFD:ajw