

Coaches and Enforcement: Working Together to Protect the Game

Jonathan Duncan, NCAA Vice President of Enforcement

Let's talk about you first, then me. Your job is a difficult one. Promoting your program to young players and the people around them is hard. Balancing competing interests of administrators, student-athletes, boosters, trustees, fans, reporters, apparel companies, donors and countless other interest groups is a complex exercise. Shaping young lives is rewarding, but also taxing. All this is complicated by rival institutions, unrealistic public expectations, finite resources and a thick book of NCAA rules. Your job is tough.

My job is to help you do yours. More specifically, if you've chosen to play by NCAA rules, the charge of enforcement is to make sure you aren't disadvantaged by that choice. That's our mission, handed to us by member schools, and it's one we take very seriously. It's our contribution to a broader effort to protect the game of basketball.

Along with a lofty mission, member schools also handed the NCAA staff a set of rules to enforce. Most of those well-known rules prohibit one type of behavior or another. Most of them identify unfair practices and then say "Thou shalt not." This is a familiar model in society, but not all NCAA rules are prohibitive.

At least one NCAA rule requires coaches to take proactive steps. It requires you to act. Specifically, Bylaw 11.1.1.1 (Responsibility of Head Coach) places an obligation on coaches to (1) create an atmosphere for compliance with NCAA rules and (2) monitor staff members. This is your legislated responsibility. If there are rule violations in a program, the enforcement staff's legislated responsibility is to investigate whether the head coach satisfied this obligation. Both responsibilities (yours and ours) were created by member schools. Both were designed to encourage compliance with NCAA rules and to protect schools and coaches who take that commitment seriously.

Contrary to popular belief, Bylaw 11.1.1.1 does not create so-called "strict liability." Instead, it creates a presumption of responsibility for violations which is overcome when a coach builds an atmosphere of compliance and monitors staff members. The rule was designed to set reasonable expectations and it does not require a head coach to be all-knowing or all-seeing. The enforcement staff understands this. Accordingly, in application, we don't automatically include allegations against a head coach every time a violation occurs. In fact, we bring Bylaw 11.1.1.1 allegations in a small number of cases.

Also contrary to popular belief, today's enforcement staff does not target specific coaches or individual programs. Nor does today's enforcement staff take pleasure in alleging that a coach violated the rules. However, handling infractions is an important part of our charge and we do it in careful compliance with procedural safeguards. When there are rule violations, we don't hesitate to bring allegations on behalf of the broader membership. Accountability is key to protecting the game, but the enforcement staff doesn't celebrate penalties. Instead, we'd rather prevent a violation than process one. We'd rather help you satisfy your obligations than investigate alleged failures. We think that's better for you, your school, student-athletes, our Association and the game of basketball. Accordingly, we're pleased to work together with the NABC and other groups to provide insight into how a coach can satisfy this responsibility.

First, Jim Haney's article in the last issue of this magazine contained helpful pointers and tips. I encourage you to read it and discuss it with your colleagues on campus. Second, the enforcement staff recently revised its guidance on head coach responsibility. The resource contains information about how to satisfy the obligations in Bylaw 11.1.1.1. It also contains scenarios where the enforcement staff brought allegations against a coach, and other examples where we opted not to bring allegations. We'll work with Jim and the NABC staff to circulate the revised resource. Third, our basketball staff is routinely on the road meeting with industry leaders and representatives. Led by Jeremy McCool, they are knowledgeable, approachable and professional. They will listen to concerns about potential threats to the game, and also share experiences about infractions cases already decided. I encourage you to get to know them.

In conclusion, we understand your job is a difficult one. We understand the challenges you face and we want to be part of the solution. We understand that enforcement should advance the collegiate model and enhance the game of basketball – not undermine those epic interests. To that end, we look forward to working with all coaches who want a fair chance to win.



Jonathan Duncan became the NCAA vice president of enforcement in March 2014 after serving in an interim role since March 2013.

Jonathan oversees the enforcement department, which consists of three key areas: development, investigations and processing.

Prior to coming to the NCAA, Jonathan was a partner at the law firm of Spencer Fane Britt & Browne, LLP. Jonathan practiced at the Kansas City firm beginning in 2003, and spent the five years prior at another Kansas City firm, Husch Blackwell. In both instances, education and sports were the core of his work. He first represented the NCAA in litigation in 1998. Since then, he has served as a legal advisor for the NCAA and offered legal counsel to NCAA committees, working groups and task forces. Most recently, he rendered services to the NCAA Enforcement Working Group.

Jonathan attended William Jewell College – now part of Division II – and graduated from the University of Kansas School of Law in 1995, where he was a published member of the Kansas Law Review. After law school, he spent two years working as a law clerk for the Honorable D. Brook Bartlett, chief judge of the U.S. District Court for the Western District of Missouri. Since then, he has spent much of his professional career forging relationships inside the NCAA national office and among the NCAA's member institutions.

Jonathan lives in Zionsville, Indiana, with his wife and his two children.