REPORT OF THE
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
DIVISION I INFRACTIONS APPEALS COMMITTEE

June 29, 2012

Report No. 355

Boise State University

Boise, Idaho

This report is filed in accordance with NCAA Bylaw 32.11 and is organized as follows:

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I. INTRODUCTION.

Boise State University appealed to the NCAA Division I Infractions Appeals Committee specific penalties as determined by the NCAA Division I Committee on Infractions. In this report, the Infractions Appeals Committee addresses the issues raised by Boise State University (hereinafter referred to as Boise State).

II. BACKGROUND.

The Committee on Infractions issued Infractions Report No. 355 September 13, 2011, in which the committee found violations of NCAA legislation in the football, men’s and women’s cross country and track and field, and men’s and women’s tennis programs. On the basis of those findings, the Committee on Infractions determined that this was a major infractions case and imposed penalties accordingly. [September 13, 2011, issue of The NCAA News.]

This case centered on violations of NCAA bylaws governing recruiting, financial aid and extra benefits; impermissible travel expenses, housing, meals and transportation; unethical conduct; ineligible competition; impermissible recruiting inducements; impermissible practice sessions with a prospective student-athlete; failure to monitor and promote an atmosphere for compliance; impermissible arrangements for housing; impermissible transportation, lodging and practice for a prospective student-athlete; impermissible activities and benefits involving a nonqualifier; impermissible practice sessions and transportation; impermissible transportation, housing and food for a prospective student-athlete; and a lack of institutional control.

After the Committee on Infractions issued its report, Boise State filed a timely Notice of Appeal September 28, 2011. A written appeal was filed November 3, 2011. The Committee on Infractions filed its Response December 5, 2011. Boise State filed its Rebuttal to the Committee on Infractions Response December 20, 2011. The case was considered on the written record by the Infractions Appeals Committee beginning January 29, 2012 (see Section VIII below).

III. VIOLATIONS OF NCAA LEGISLATION AS DETERMINED BY THE COMMITTEE ON INFRACTIONS. [Please note that the cites below are the cites as they appear in the Committee on Infractions report dated September 13, 2011]

B-1 RECRUITING, FINANCIAL AID AND EXTRA BENEFIT VIOLATIONS. [NCAA Bylaws 13.2.1, 13.2.1.1-(b), 13.2.1.1-(h), 14.3.1, 14.3.2.1.1, 15.01.5 and 16.11.2.1]

From January through September 2005, a then men’s track and field student-athlete (“student-athlete 1”), received impermissible financial aid, housing, meals and clothing and engaged in practice activities with the men’s track and field team
at a time when he was not eligible to do so because of his status as an academic nonqualifier. Specifically:

a. In January 2005, on his arrival in Boise and both prior to and after his initial enrollment at the institution, student-athlete 1 was provided meals and clothing by three then men’s cross country and track and field student-athletes (‘‘student-athlete’s 2,3 and 4’’ respectively)

b. From mid-January until February 1, 2005, student-athlete 1 resided in an apartment, at no cost to the young man, with student-athlete 2. This housing arrangement was made through the assistance of a then assistant men’s and women’s cross country and track and field coach (‘‘former assistant track coach B’’)

c. From January to May 2005, student-athlete 1 participated in practice activities with the men’s track and field team, which were arranged by former assistant track coach B.

d. On September 20, 2005, the institution provided student-athlete 1 with $5701 in impermissible financial aid, an amount satisfying student-athlete 1’s unpaid tuition that had accrued during his enrollment at the institution.

B-2 RECRUITING VIOLATIONS: IMPERMISSIBLE HOUSING AND TRANSPORTATION [NCAA Bylaws 13.2.1, 13.2.1.1-(h) and 13.5.1]

During the summers of 2005 through 2009, assistant football coaches and football staff members arranged summer housing and transportation in Boise, Idaho, for 63 then prospective student-athletes with then current student-athletes in order for the young men to participate in summer workouts. Specifically:

a. During the summers of 2005 through 2008, assistant football coaches and football staff members impermissibly arranged housing and transportation for 40 then prospective student-athletes prior to the young men's initial enrollment at the institution. These arrangements resulted in cost-free or discounted housing and transportation for the prospects.

b. During the summers of 2007 through 2009, assistant football coaches and football staff members impermissibly arranged housing and transportation for 23 prospective student-athletes prior to the young men's initial enrollment at the institution.
B-3. RECRUITING VIOLATIONS; IMPERMISSIBLE HOUSING, MEALS AND TRANSPORTATION. [NCAA Bylaws 13.2.1, 13.2.1.1-(h), 13.5.1, 13.5.4 and 16.11.2.1]

From the fall of 2005 through the spring of 2009, numerous then prospective student-athletes in the sports of women's tennis and men's and women's track and field received impermissible housing, transportation and meals from coaches, then student-athletes and representatives of the institution's athletics interests when the young men and women arrived in Boise, Idaho, for their initial enrollment. The impermissible housing and transportation were arranged with the assistance of men's and women's tennis and men's and women's track and field coaches.

B-4. RECRUITING VIOLATIONS; IMPERMISSIBLE TRAVEL EXPENSES, HOUSING AND TRANSPORTATION. [NCAA Bylaws 13.2.1, 13.2.1.1-(h) and 13.5.1]

In February 2008, a then prospective student-athlete ("prospect 1") received impermissible transportation, lodging, and travel expenses from a then student-athlete ("student-athlete 5") and a then assistant men's and women's cross country and track and field coach ("former assistant track coach C"). Specifically:

a. On February 1, 2008, on her arrival in Boise, Idaho, for a recruiting visit, prospect 1 was provided transportation and two nights of lodging by student-athlete 5 at the request of former assistant track coach C.

b. On February 3, 2008, prospect 1 was provided impermissible transportation to the Boise Airport by former assistant track coach C.

c. In February 2008, on prospect 1's return to Bend, Oregon, the young woman received a cashier's check in the amount of $300 from former assistant track coach C.

B-5. UNETHICAL CONDUCT. [NCAA Bylaws 10.01.1, 10.1, 10.1-(c) and 10.1-(d)]

In February 2008, former assistant track coach C acted contrary to the principle of ethical conduct inasmuch as he did not, on all occasions, deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics based on his involvement in the violations detailed in Finding B-4. Additionally, when interviewed by the institution during the
investigation, former assistant track coach C knowingly furnished the institution with false or misleading information on May 9, August 4 and September 17, 2009, regarding his involvement in these matters.

**B-6. INELIGIBLE COMPETITION. [NCAA Bylaws 14.2, 14.2.3.2.1 and 16.8.1.2]**

During the 2008-09 academic year, the institution permitted a then women's tennis student-athlete ("student-athlete 6") to practice, represent the institution in intercollegiate athletics competition and receive travel expenses after her fourth season of competition.

**B-7. IMPERMISSIBLE RECRUITING INDUCEMENTS. [NCAA Bylaws 13.2.1, 13.2.1.1-(b), 13.2.1.1-(e), 13.2.1.1-(h), 13.5.1, 13.7.2.1, 13.11.1 and 16.11.2.1]**

From June to October 2010, the former head women's tennis coach; a then assistant women's tennis coach and a then student assistant women's tennis coach ("former student assistant women's tennis coach") provided a prospective student-athlete ("prospect 2") with impermissible transportation, cash, lodging, educational expenses and entertainment. Specifically:

a. On or about June 27, 2010, upon her arrival in Boise, Idaho, prospect 2 was provided automobile transportation by the former student assistant women's tennis coach from the airport to the apartment of a student-athlete ("student-athlete 7"), who housed prospect 2 at the request of the former head women's tennis coach, until approximately July 1, 2010. This lodging was provided to prospect 2 at no cost to the young woman.

b. On June 27, 2010, a former head women's tennis coach provided student-athlete 7 with cash to purchase groceries for prospect 2.

c. On or about June 29 and 30, 2010, prospect 2 was provided local automobile transportation by the former head women's tennis coach to a U.S. Bank branch where the former head women's tennis coach assisted prospect 2 with opening a bank account and provided prospect 1 with $1,500, $1,420 of which prospect 2 used to pay the cost of attendance for the institution's summer session of the Intensive English Program (IEP).

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1 Taken in isolation, some of the following violations would likely be considered secondary in nature. However, all of the below violations are part of a significant pattern of infractions in the women's tennis program, some of which are undoubtedly major in nature. For the purposes of this report, all of the violations, regardless of severity, are grouped together.
d. From approximately June 28 to October 2010, the former head women's tennis coach provided prospect 2 access to a locker in the institution's women's tennis locker room located in the Appleton Tennis Center, the institution's on-campus tennis facility, and also provided several items of apparel to her.

e. On August 26, 2010, the former head women's tennis coach provided prospect 2 with a U.S. Bank cashier's check in the amount of $2,040 to pay the cost of attendance for the institution's fall session of the IEP program.

f. On or about September 4 and 5, 2010, prospect 2 traveled by automobile with women's tennis student-athletes for an overnight camping trip to the McCall, Idaho, area; a distance of approximately 218 miles round trip.

g. On or about September 18, 2010, prospect 2 attended the Bronco Bash, a men's and women's tennis team fund-raising event held at a local tennis and swim club, wherein she received free admission, a complimentary meal, and participated in athletically related activities with men's and women's tennis student-athletes and attendees of the event. These activities were observed by the women's tennis coaches in attendance.

h. In October 2010, a former assistant women's tennis coach arranged for prospect 2 to receive round-trip automobile transportation between Boise, Idaho, and Portland, Oregon (a distance of approximately 864 miles round trip), and one night of lodging at a Best Western Hotel in Portland to enable the young woman to take the International English Language Testing System, an English proficiency examination.

B-8. IMPERMISSIBLE PRACTICE SESSIONS WITH A PROSPECTIVE STUDENT-ATHLETE. [NCAA Bylaws 13.2.1, 13.11.1, 14.02.7, 14.1.7, 14.1.8.1, 14.1.8.2 and 14.2.2.1]

From July to October 2010, the former head women's tennis coach and a former assistant women's tennis coach conducted impermissible practice sessions with prospect 2 and permitted the young woman to represent the institution in intercollegiate athletics competition prior to her initial full-time enrollment.

a. From approximately June 28 to July 31, 2010, prospect 2 participated in impermissible practice sessions with student-athlete 7 at the Appleton
Tennis Center, the institution's outdoor tennis facility. These sessions were conducted by the former head women's tennis coach and a former assistant women's tennis coach.

b. In July 2010, prospect 2 participated in two impermissible practice sessions with a former head women's tennis coach at a local tennis court near the locale of the institution, while the young woman was enrolled in the institution's IEP program.

c. From August to October 2010, prospect 2 participated in scheduled one-hour practice sessions on Tuesdays and Thursdays with a women's tennis student-athlete ("student-athlete 8"). These sessions were arranged and observed by the former head women's tennis coach and a former assistant women's tennis coach. Additionally, prospect 2 periodically participated in regular women's tennis practice sessions conducted by the former head women's tennis coach, a former assistant women's tennis coach and the former student assistant women's tennis coach.

d. From October 1-3, 2010, prospect 2 represented the institution in intercollegiate athletic competition at the direction of the former head women's tennis coach during the Jack Taylor Open, an event hosted by the institution.

B-9. UNETHICAL CONDUCT. [NCAA Bylaws 10.01.1, 10.1, 10.1-(c), 10.1-(d), 19.01.3 and 32.1.4]

The former head women's tennis coach acted contrary to the NCAA principle of ethical conduct when he knowingly engaged in violations of NCAA legislation and failed to deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics by furnishing and influencing others to furnish the institution with false or misleading information and failing to provide full and complete disclosure to the institution and NCAA enforcement staff regarding his knowledge of, and involvement in violations NCAA of legislation. Specifically:

a. As set forth earlier in this report, the former head women's tennis coach arranged for prospect 2 to reside with student-athlete 7, met prospect 2 at the Boise Airport and later at student-athlete 7's apartment upon the young woman's initial arrival in Boise. At that time, the former head women's tennis coach provided student-athlete 7 with funds to purchase food for
prospect 2. The next day, the former head women's tennis coach transported prospect 2 to a local U.S. Bank where he assisted her with opening an account and provided her with $1,500, $1,420 of which was used to pay the cost of attendance for the institution's summer IEP program. The former head women's tennis coach also provided student-athlete 7 with locker room access and various items of apparel. Finally, after prospect 2 was unsuccessful in obtaining the necessary English equivalency score for admission into the institution, the former head women's tennis coach provided her with a cashier's check in the amount of $2,040 to pay the cost of attendance at the institution's fall IEP program.

b. In June 2010, when questioned by the institution about prospect 2, the former head women's tennis coach denied that prospect 2 was traveling to Boise during the summer. Thereafter, in July 2010, the former head women's tennis coach instructed student-athlete 7 not to provide the institution with information about prospect 2. In August 2010, the former head women's tennis coach scheduled an official visit for prospect 2 on the institution's campus, and during meetings with the compliance office, failed to provide truthful and complete information regarding prospect 2's living arrangement and involvement with the tennis program. Further, in October 2010, when confronted by the institution with information about his involvement with prospect 2, he denied and failed to provide information regarding his provision of impermissible benefits and practice sessions to prospect 2 or information regarding allowing the young woman to represent the institution in intercollegiate tennis competition. Finally, at the infractions hearing conducted on June 10, the former head women's tennis coach attempted to change earlier testimony that he had provided to the institution.

B-10. FAILURE TO MONITOR AND TO PROMOTE AN ATMOSPHERE FOR COMPLIANCE. [NCAA Bylaw 11.1.2.1]

Based on the scope and nature of the violations detailed in Findings B-7 and B-8, the former head women's tennis coach failed to promote an atmosphere for compliance within the women's tennis program and failed to monitor the activities of a former assistant women's tennis coach and the former student assistant women's tennis coach. Specifically:

a. In September 2010, the former head women's tennis coach knew or had reason to know that prospect 2 received impermissible automobile
transportation from women's tennis student-athletes to McCall, Idaho, as set forth in Finding B-7-g.

b. In October 2010, the former head women's tennis coach knew or had reason to know that a former assistant women's tennis coach arranged for prospect 2 to travel by automobile with a friend of a former assistant women's tennis coach to Portland, Oregon, to enable prospect 2 to take the International English Language Testing System, as set forth in Finding B-7-i.

c. From June to October 2010, the former head women's tennis coach arranged for prospect 1 to engage in impermissible tennis practice sessions, which he observed and conducted and also involved women's tennis student-athletes, a former assistant women's tennis coach and a former student assistant women's tennis coach, as set forth in Finding B-8.

B-11. IMPERMISSIBLE ARRANGEMENTS FOR HOUSING. [NCAA Bylaws 13.2.1 and 13.2.1.1-(h)]

In the fall of 2009, the institution's head men's tennis coach ("head men's tennis coach") arranged for a then prospective student-athlete ("prospect 3") to reside with a family in the Boise, Idaho, community for approximately four to five weeks on his initial arrival in Boise. Prospect 2 paid rent to the family during his stay in their home.

B-12. IMPERMISSIBLE TRANSPORTATION, LODGING AND PRACTICE FOR A PROSPECTIVE STUDENT-ATHLETE. [NCAA Bylaws 13.2.1, 13.2.1.1-(h), and 13.11.1]

In September 2009, a then prospective student-athlete ("prospect 4") received impermissible automobile transportation and lodging from a student-athlete ("student-athlete 9"). Additionally, prospect 3 participated in a practice session with a then volunteer assistant tennis coach and with a then student-athlete ("student assistant men's tennis coach"). The session with the student assistant men's tennis coach was observed by the head men's tennis coach. Specifically:

a. In September 2009, on his arrival in Boise, Idaho, prospect 4 was provided transportation and two nights' lodging by student-athlete 9.

b. While in Boise, prospect 4 engaged in a one-hour practice session with a student assistant men's tennis coach at the institution's tennis facilities.
c. While in Boise, prospect 4 attended men's tennis practice sessions and participated in an approximately one-hour long practice session with the student assistant men's tennis coach that was observed by the head men's tennis coach.

B-13. IMPERMISSIBLE ACTIVITIES AND BENEFITS INVOLVING A NONQUALIFIER. [NCAA Bylaws 14.3.2.1, 14.3.2.2, 16.11.2.1 and 16.11.2.3-(a)]

From August to October 2010, a men's tennis student-athlete ("student-athlete 10") engaged in practice activities with the men's tennis team and received free admission to a men's and women's tennis fund-raising event at a time when he was not eligible to do so because he was a nonqualifier. Specifically:²

a. On or about August 20, 2010, student-athlete 10 participated in practice activities with a then volunteer assistant men's tennis coach at the institution's tennis facilities.

b. From August to October 2010, student-athlete 10 attended and observed two to three men's tennis practices per week at the institution's tennis facilities and, on at least two to three occasions, participated in athletics activities at the institution's tennis facilities during men's tennis practice with the high school son of the head men's tennis coach.

c. On September 18, 2010, student-athlete 10 attended the Bronco Bash, a men's and women's tennis fund-raising event, held at a local tennis and swim club, at no cost to the young man, wherein he received a complimentary meal and participated in athletically related activities with men's and women's tennis student-athletes and attendees of the event. These activities were observed by the institution's men's tennis coaches present at the event.

B-14. RECRUITING VIOLATIONS; IMPERMISSIBLE HOUSING AND TRANSPORTATION. [NCAA Bylaws 13.2.1, 13.2.1.1-(h) and 13.5.1]

In October 2006 and 2007, a then assistant men's and women's track and field coach ("former assistant track coach D") and the former head track coach assisted

² Taken in isolation, most of the following violations would likely be considered secondary in nature. However, all of these violations are part of a pattern of infractions in the men's tennis program, most of them secondary. A pattern of secondary violations can, in the aggregate, be viewed as major in nature.
in the arrangement of housing and transportation for four prospective student-athletes prior to the young men's admission to the institution as regular, degree-seeking students. Specifically:

a. On or about October to November 2006, two prospective student-athletes ("prospect 5 and 6", respectively) received impermissible automobile transportation from former assistant track coach D to the residence of student-athletes 4, 11 and 12 where former assistant track coach D had arranged for the young men to reside.

b. On or about October 16, 2006, a prospective student-athlete ("prospect 7") received impermissible automobile transportation from a former student-athlete ("student-athlete 14") to student-athlete 14's apartment where prospect 7 resided.

c. On or about October 15, 2007, a prospective student-athlete ("prospect 8") received impermissible automobile transportation from former assistant coach D to the institution's campus. Prospect 8 subsequently traveled to the residence of a men's track field student-athlete ("student-athlete 15") where the former head track coach had arranged for prospect 8 to reside.

B-15. IMPERMISSIBLE PRACTICE SESSIONS AND TRANSPORTATION.
[NCAA Bylaws 13.2.1, 13.5.1 and 13.11.1]

Between October 2005 and April 2008, former assistant track coach D and the former head track coach conducted impermissible practice sessions with prospects 7 and 8, in addition to a third prospective student-athlete ("prospect 9") prior to their initial enrollment at the institution as regular, degree-seeking students. They also arranged for impermissible automobile transportation for prospect 9. Specifically:

a. From October 2005 to January 2006, prospect 9 participated in impermissible practice sessions with former assistant track coach D at the institution's track and field facilities while she resided in the locale of the institution, prior to the young woman's initial enrollment at the institution. The training sessions were valued by the institution at $350.

b. On or about October 2005 to January 2006, prospect 9 received impermissible automobile transportation from former assistant track coach D's wife to the institution's indoor practice facilities located in Nampa, Idaho. The benefit was valued by the institution at $227.
c. From January to May 2007, prospect 7 participated in impermissible practice sessions with former assistant track coach D at the institution's track and field facilities while the young man was enrolled in the institution's IEP program.

d. From October 2007 to April 2008, prospect 8 participated in impermissible practice sessions with the former head track coach at the institution's track and field facilities while the young man was enrolled in the institution's IEP program.

B-16. IMPERMISSIBLE TRANSPORTATION AND HOUSING FOR A PROSPECTIVE STUDENT-ATHLETE. [NCAA Bylaws 13.2.1, 13.2.1.1-(h), 13.5.4 and 16.11.2.1]

In September 2006, a then prospective student-athlete ("prospect 10") received impermissible housing and automobile transportation from a then men's cross country and track and field student-athlete ("student-athlete 16"). Specifically:


b. In September 2006, student-athlete 16 provided prospect 10 with impermissible housing. The housing was arranged with the aid of former assistant track coach B.

B-17. IMPERMISSIBLE TRANSPORTATION, HOUSING AND FOOD FOR A PROSPECTIVE STUDENT-ATHLETE. [NCAA Bylaws 13.2.1, 13.2.1.1-(f), 13.2.1.1-(h), 13.5.1 and 13.11.1]

From August through November 2006, a then prospective student-athlete ("prospect 11") received impermissible automobile transportation, groceries and housing from former assistant track coach B and several men's cross country and track and field student-athletes. Additionally, prospect 11 engaged in impermissible practice activities with then men's cross country and track and field student-athletes. Specifically:

a. In August 2006, former assistant track coach B transported prospect 11 from the Boise Airport to the apartment of student-athlete 3 and another
then men's cross country track and field student-athlete ("student-athlete 17") where prospect 11 initially resided.

b. In August 2006, the day after prospect 11's arrival in Boise, student-athlete 16 purchased groceries for prospect 11.

c. In November 2006, prospect 10 resided cost free with student-athletes 3, 4 and 11 in addition to two other then men's cross country and track and field student-athletes ("student-athletes 18 and 19", respectively).

d. In November 2006, student-athlete 18 transported prospect 10 to the Boise Airport.

e. From August through November 2006, prospect 10 participated in impermissible practice activities with student-athletes 3 and 17.

**B-18. LACK OF INSTITUTIONAL CONTROL. [NCAA Constitution 2.1.1, 2.8.1 and 6.01]**

The scope and nature of the violations set forth in this report demonstrated that the institution lacked institutional control. In critical areas of NCAA compliance, the institution failed to (a) implement and monitor certain policies and procedures to ensure compliance with NCAA housing, transportation and impermissible benefit regulations; (b) provide adequate rules education and training to institutional staff members to ensure that the athletics program operated in compliance with NCAA legislation; and (c) monitor and evaluate its athletics program to detect, deter and report instances of NCAA violations. Specifically:

a. Regarding the institution's failure to implement and monitor certain policies and procedures to ensure compliance with NCAA legislation,

   (1) During the 2004-05 through 2008-09 academic years, the institution failed to establish adequate NCAA compliance systems to alert institutional representatives to violations of NCAA legislation within the athletics department with regard to the provision of impermissible housing, transportation and other inducements or benefits to prospective and enrolled student-athletes in football, men's and women's cross country and track and field, and men's and women's tennis.
In addition, when the institution became aware of prospective student-athletes residing in the locale of the institution prior to initial enrollment as regular, degree-seeking students, it failed to follow up with the involved individuals to ensure compliance with NCAA legislation.

b. Regarding the institution's failure to provide adequate rules education and training to institutional staff members to ensure that the athletics program operated in compliance with NCAA legislation,

(1) During the 2004-05 through 2009-10 academic years, the institution failed to provide adequate NCAA rules education to coaches, athletics department staff and key individuals in other nonathletic institutional departments with regard to the admission, housing, transportation and living arrangements of prospective student-athletes.

(2) During the 2009-10 academic year and the fall of 2010, the institution failed to provide adequate rules education to men's and women's tennis coaches and key individuals involved with the institution's IEP program with regard to the admission, housing, transportation, living arrangements and permissible activities involving prospective student-athletes and academic nonqualifiers.

c. Regarding the institution's failure to monitor and evaluate its athletics program to detect, deter and report instances of NCAA violations,

(1) During the 2005-06 and 2006-07 academic years, the institution failed to seek guidance from the WAC or the NCAA regarding the appropriate application of NCAA legislation, which the institution mistakenly believed permitted track and field coaches to conduct individual practices with prospective student-athletes prior to the prospective student-athletes' initial enrollment as regular, degree-seeking students.

(2) In the fall of 2005, the institution failed to report to the WAC or NCAA enforcement staff that student-athlete 1, a nonqualifier, received impermissible financial aid, despite the institution's knowledge of NCAA legislation prohibiting such aid.
(3) During the 2008-09 academic year, the institution failed to detect that student-athlete 20 represented the institution in intercollegiate athletics competition after having already competed four seasons.

(4) During the summer and fall of 2010, the institution failed to establish adequate policies and procedures to detect and deter the receipt of impermissible housing, transportation, cash, educational expenses, benefits, tryouts and competition of prospect 1 prior to the young woman's initial enrollment as a regular, degree-seeking student at the institution.

IV. SECONDARY VIOLATIONS [Please note that the cites below are the cites as they appear in the Committee on Infractions report dated September 13, 2011]

C. On January 29-31, 2010 the institution permitted a women’s tennis student-athlete to travel with the women’s tennis team and received actual and necessary expenses during a time when the young woman was not eligible to do so.

V. CORRECTIVE ACTION TAKEN BY THE UNIVERSITY [Please note that the Corrective Actions taken by the University are found in Appendix Two of the Committee on Infractions report dated September 13, 2011]

1. Terminated the employment of the former women's tennis coaching staff.

2. Issued "letters of education" or letters of admonishment to coaching staff members remaining at the institution.

3. Increased the compliance office staff. As a result of the violations found, the institution increased its budget to add an additional full-time executive director of compliance to enhance monitoring efforts and to provide more rules education for coaches. The new executive director will have direct reporting responsibility to the institution's president. The executive director will oversee the current athletics compliance personnel and will allow for increased monitoring of prospective student-athletes, as well as for more thorough rules education for coaches and staff.

4. Prohibited, for a period of five years, prospective student-athletes from attending the IEP program at Boise State.
5. Enhanced compliance policies and procedures. As a result of the review of the official visit violations detailed in institution's response, the institution enhanced its existing written procedures for monitoring and certifying compliance with NCAA legislation (e.g., international students, summer voluntary workouts, official/unofficial visit, summer housing, countable athletically related activities) contained within the Athletics Compliance Manual to provide an even greater comprehensive reference to coaching and administrative staff. These actions will provide for greater individual accountability and a better overall understanding of responsibilities and deadlines. Each system of documentation will be reviewed annually to ensure that: 1) the system serves a functional purpose beyond monitoring; 2) there is minimal duplication of information collected; and 3) required signatures specifically reflect actual review or approval. Further, the written description of each monitoring system will be evaluated annually to make certain that the description clearly delineates the process, documents the responsibilities of various offices and individuals, and is understood and endorsed by the offices and individuals involved. Additionally, each individual system will include appropriate staffing and education so that a backup is provided in those situations where an administrator assigned with primary responsibilities is not available. The institution has required that all interpretive questions emanating to and from the athletics compliance staff be documented through the use of electronic mail or hard copy.

6. Enhanced educational efforts. Although the institution had a comprehensive compliance education program in place at the time the violations detailed in this case occurred, the institution has used and will continue to use these violations as an opportunity to increase the awareness of the entire athletics department staff of potential NCAA issues. The office of athletics compliance has implemented a plan to conduct more frequent department-wide rules-education sessions specifically focusing on transportation and lodging in the locale of the institution prior to enrollment. Specifically, coaches have been instructed that they are not permitted to provide suggestions or contact information to incoming prospective student-athletes wishing to share an apartment with other student-athletes.

7. Enhanced monitoring. In addition, improved systems are now in place to provide for greater monitoring of prospective student-athletes who have signed a NLI. When a prospective student-athlete arrives on campus, he or she is now required to immediately report in to the athletics department compliance office. The compliance officer inquires as to the incoming student-athlete's housing arrangements, and completes a form documenting where the individual is obtaining lodging. If the incoming prospective student-athlete is sharing an apartment with another student-athlete, the compliance officer will investigate to
ensure that the arrangement was reached between the student-athletes without any involvement from the coaching staff. Further, a calculation will be made to ensure the prospective student-athlete is paying his or her "pro rata" share of the rent during the time period the apartment is being shared with another student-athlete. Rules-education sessions for those individuals at the institution who are involved in the coaching or sport-related administrative duties have used, and will continue to utilize, the violations and related issues of this case as illustrations of how unintended consequences can result in NCAA rules violations.

VI. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.

The Committee on Infractions found that this case involved numerous major violations of NCAA legislation, including a lack of institutional control. These violations occurred over a five-year period of time. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions.

The committee concluded that, because of the serious nature of the violations which occurred in the women's tennis program, additional sanctions were warranted on top of the penalties self-imposed by the institution. This includes a significant penalty imposed on the former head women's tennis coach. In the sport of football, the violations occurred over a lengthy period of time and involved a large number of prospective student-athletes. Further, even after the institution was notified of the impermissibility of certain activities involving prospects arriving in the area during the summer prior to full-time enrollment, some violations continued. The committee concluded that, as a result of coaching staff members helping arrange housing for prospects who arrived on campus early, and in some of these instances, the prospects received discounted or cost-free housing and transportation, a competitive advantage was obtained by the football program. Such a competitive advantage was mentioned earlier in this report in the context of the 2007 West Virginia infractions decision. In that report, the committee wrote that, "...arriving early to campus not only gives prospects a head start on conditioning and practice but it also gives them a head start on acclimating to campus and getting to know teammates." This competitive advantage warranted additional sanctions as well.

The committee also considered the institution's cooperation in the processing of this case. Cooperation during the infractions process is addressed in Bylaw 19.01.3 - Responsibility to Cooperate, which states in relevant part that, "All representatives of member institutions shall cooperate fully with the NCAA enforcement staff, Committee on Infractions, Infractions Appeals Committee and Board of Directors. The enforcement policies and procedures require full and complete disclosure by all institutional
representatives of any relevant information requested by the NCAA Enforcement Staff, Committee on Infractions or Infractions Appeals Committee during the course of an inquiry." Further, NCAA Bylaw 32.1.4 – **Cooperative Principle**, also addresses institutional responsibility to fully cooperate during infractions investigations, stating, in relevant part, "The cooperative principle imposes an affirmative obligation on each institution to assist the enforcement staff in developing full information, to determine whether a possible violation of NCAA legislation has occurred and the details thereof."

The committee determined that the cooperation exhibited by the institution met its obligation under Bylaws 19.01.3.3 and 32.1.4. The cooperation the institution demonstrated in this case must be weighed against the conduct and failures of the institution and its personnel as set forth in this report. The committee concluded that in light of the serious nature of the violations and the failure of the institution to detect and/or prevent them, the institution's cooperation did not warrant relief in the penalties imposed by the committee in this case.

1. Public reprimand and censure.

2. Three years of probation from September 13, 2011, through September 12, 2014. (The institution had similarly suggested a three year period of probation).

3. The institution's women's tennis team shall end its 2011-12 season with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition or take advantage of any of the exemptions provided in Bylaw 17.22.5.3.

4. Limit total grants-in-aid in the sport of football to 82 for the 2011-12, 2012-13 and 2013-14 academic years. [NOTE: the institution had proposed to reduce total grants-in-aid in the sport of football by three from the maximum allowed annually (85) over the 2011-12 and 2012-13 academic years. The institution had the option to spread these three reductions over the two-year period or to take them all in one of those years. The institution ultimately self-imposed the reduction of all three football grants-in-aid during the current 2011-12 academic year. The committee added an additional two years with a limit of 82 grants.]

5. Reduce grants-in-aid in the sport of men's track and field and cross country by 1.5 equivalencies from the average annual amount awarded the past four years (11.99) during the 2011-12 and 2012-13 academic year. The institution has the option to spread these reductions over the two-year period or to take them all in one of those years. (Institution imposed)
6. Reduce grants-in-aid in the sport of women's track and field and cross country by 1.5 equivalencies from the average annual amount awarded the past four years (15.36) during the 2011-12 and 2012-13 academic years. The institution has the option to spread these reductions over the two-year period or to take them all in one of those years. (Institution imposed)

7. Reduce grants-in-aid in the sport of women's tennis by three grants from the maximum annual amount allowed (eight) during the 2011-12 and 2012-13 academic year. The institution has the option to spread these three reductions over the two-year period or to take them all in one of those years. (Institution imposed)

8. Reduced practice opportunities as follows:
   a. In football, reduce by three the number of practice opportunities permitted prior to the first game for the 2011-12 and 2012-13 academic years (institution imposed). Further, during the 2012, 2013 and 2014 spring practice periods, the football team will reduce the number of sessions during which contact is allowed from 12 to nine. [See: Bylaw 17.9.6.4(c).]
   b. In men's tennis, reduce by three the number of practice opportunities permitted prior to the first game for the 2011-12 and 2012-13 academic years. Reduce from 20 to 18 the number of countable athletically-related activity hours during the 20-hour segments of 2011-12 and 2012-13 academic years. Reduce from eight to six, the number of permitted countable athletically-related activity hours during the remaining eight-hour segments of the 2011-12 and 2012-13 academic years. (Institution imposed).
   c. In women's tennis, reduce from 20 to 18 the number of countable athletically-related activity hours during the 20-hour segments of 2011-12 and 2012-13 academic years. Reduce from eight to six, the number of permitted countable athletically-related activity hours during the remaining eight-hour segments of the 2011-12 academic year (institution imposed).

9. Limit official expense paid visits as follows: (all institution imposed)
   a. In men's tennis, six each during the 2011-12 and 2012-13 academic years.
b. In men's track and field and cross country, 16 each during the 2011-12 and 2012-13 academic years;

c. In women's track and field and cross country, 21 each during the 2011-12 and 2012-13 academic years.

10. Reduced recruiting opportunities as follows: (all institution imposed)

a. In men's track and field and cross country, reduced from two to one the number of recruiters permitted to recruit off-campus for six months during the 2011-12 and 2012-13 years. Reduce by two the number of recruiting opportunities from seven to five for all prospective student-athletes during the 2011-12 and 2012-13 academic years.

b. In women's track and field and cross country, reduce from two to one the number of recruiters permitted to recruit off-campus for six months during the 2011-12 and 2012-13 years. Reduce by two the number of recruiting opportunities from seven to five for all prospective student-athletes during the 2011-12 and 2012-13 academic years.

11. For a period of two years, a prohibition in the recruitment of international prospective student-athletes in the sports of men's and women's cross country and track and field. (Institution imposed)

12. For a period of two years, a prohibition in the recruitment of international prospective student-athletes in the sport of women's tennis.

13. The institution will pay a $5,000 financial penalty as a result of student-athlete 6's ineligible participation. (Institution imposed)

14. Pursuant to NCAA Bylaws 19.5.2.2-(e)-(2) and 31.2.2.3, the institution will vacate all wins in which student-athlete 6 competed while ineligible during the 2008-09 women's tennis season. The individual records of the student-athlete shall be vacated as well. (Institution imposed) Further, the record of the former head women's tennis coach will reflect the vacated records and will be recorded in all publications in which women's tennis records for the 2008-09 season are reported, including, but not limited to institution media guides, recruiting material, electronic and digital media plus institution and NCAA archives. Any public reference to these vacated contests shall be expunged.
Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publication and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA director of statistics, to identify the student-athlete and contests impacted by the penalties. In addition, the institution must provide the NCAA statistics department a written report, detailing those discussions with the director of statistics. This document will be maintained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than forty-five (45) days following the initial Committee on Infractions release or, if the vacation penalty is appealed, the final adjudication of the appeals process.

17. During this period of probation, the institution shall:

a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;

b. Submit a preliminary report to the office of the Committees on Infractions by November 1, 2011, setting forth a schedule for establishing this compliance and educational program; and

c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by June 1 of each year during the probationary period. Particular emphasis should be placed on the monitoring of prospective student-athletes who arrive on campus prior to initial full-time enrollment, with particular attention to international prospective student-athletes. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.

18. The above-listed penalties 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 contemporaneous, historical, or other penalties.

19. At the conclusion 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.
VII. ISSUES RAISED ON APPEAL.

In its written appeal, Boise State asserted penalties D-4 and D-8 against it should be set aside. (Bylaws 32.10.4 and 32.10.4.1)

VIII. APPELLATE PROCEDURE.

In considering Boise State’s appeal on the written record, the Infractions Appeals Committee reviewed the Notice of Appeal; the transcript of the institution’s June 10, 2011, hearing before the Committee on Infractions and the submissions by Boise State and the Committee of Infractions referred to in Section II of this report.

IX. INFRACTIONS APPEALS COMMITTEE’S RESOLUTION OF THE ISSUES RAISED ON APPEAL.

In reviewing the report in this case, a penalty imposed by the Committee on Infractions may be set aside on appeal if the penalty is “excessive such that it constitutes an abuse of discretion.” [Bylaw 32.10.2]

As we stated in the Alabama State case:

“…we conclude that an abuse of discretion in the imposition of a penalty occurs if the penalty: (1) was not based on a correct legal standard or was based on a misapprehension of the underlying substantive legal principles; (2) was based on a clearly erroneous factual finding; (3) failed to consider and weigh material factors; (4) was based on a clear error of judgment, such that the imposition was arbitrary, capricious, or irrational; or (5) was based in significant part on one or more irrelevant or improper factors.” [Alabama State University, Public Infractions Appeals Committee Report, Page No. 23, June 30, 2009]

D-4 Penalty. Limit Of Total Grants In Aid In The Sport Of Football.

The Infractions Appeals Committee, in reviewing the materials, recognizes the importance and complexity of this case. It is clear from the record that Boise State was in violation of several sections of NCAA legislation in several sports. In addition, the violations covered multiple years. The committee understands that this is a serious case. We also believe that the seriousness of this case was understood by the Committee on Infractions as well as Boise State.
Based on that, Boise State proposed a self-imposed reduction in its grants-in-aid in the sport of football by a total of three from the maximum allowed annually (85) over the 2011-12 and 2012-13 academic years. In addition, Boise State requested the option of spreading these three reductions over the two-year period or taking them all in one of the two years. Boise State ultimately self-imposed the reduction of all three football grants during the 2011-12 academic year. (Boise State University, Public Committee on Infractions Report, Page No. 61, September 13, 2011)

In reviewing this case, the Committee on Infractions accepted Boise State’s self-imposed proposed penalties and added an additional two years to the penalty with the loss of three grants-in-aid in football for each of those additional years. (Boise State Committee on Infractions Report Page No. 61) The overall effect of the penalty becomes the loss of a total of nine football grants-in-aid instead of three. Boise State believes that the Committee on Infractions failed to consider and weigh material factors and that the grants-in-aid penalty imposed was arbitrary, capricious or irrational and argues that the penalty is excessive such that it constitutes an abuse of discretion by the Committee on Infractions. (Written Appeal Page No. 4)

Boise State cites, as its major argument, the history of grant-in-aid reductions in football imposed either by institutions or the Committee on Infractions that involved Division I Football Bowl Subdivision (FBS) institutions. In doing so, it is clear that Boise State was attempting to punish itself and looked to the history of cases that came before this one to try and determine an appropriate penalty.

We have reviewed the same material and must admit that the university presents some compelling points. Of the 10 cases that involved the FBS and reductions of football grants-in-aid over the past five years, only two had reductions of grants-in-aid in football as great or greater than those imposed in this case. (Written Appeal Page Nos. 4 - 9). While this case is indeed serious, two cases, the University of New Mexico and University of Southern California, were more serious and had a great deal more issues that warranted greater penalties. Of the remaining eight cases, only three had reductions of grants-in-aid in football greater than three and those include Florida State University which involved academic fraud, the University of Oklahoma which involved payment of money to a student-athlete for work not performed and the University of Kansas which involved inappropriate academic support by members of the university staff. Again, we believe those cases were more serious than this one and warranted additional penalties.

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As this committee noted in the Southern California case, while the Committee on Infractions should not be strictly bound to a decision made years earlier, where the circumstances of intercollegiate athletics are shown to be qualitatively different, it does not mean that prior decisions provide no restraint on or guidance to the Committee on Infractions and this committee, or that insignificant changes in the environment in which NCAA member institutions operate can justify ignoring those prior decisions [University of Southern California Infractions Appeals Committee Report (May 26, 2012) Page No. 21]. In this case, there appears to be no qualitative distinction in the record that would warrant the extent of the departure from prior precedent that was undertaken by the Committee on Infractions in this case. Therefore, the reduction by nine of football grants-in-aid is excessive.5

This committee, while recognizing the authority of the Committee on Infractions, respectfully finds that in this case the Committee on Infractions failed to consider and weigh the material factors of the precedent set in prior cases. Therefore, the Committee on Infractions' increase of the reduction in football grants-in-aid from three to nine imposed a penalty that was excessive such that it constituted an abuse of discretion. For that reason the Infractions Appeals Committee believes it is appropriate to remand to the Committee on Infractions for reconsideration of the appropriate penalty.

D-8 Penalty. Reduced Practice Opportunities.

In regard to the reduced practice opportunities, Boise State is appealing only the football spring practice penalty. This case did not include any Bylaw 17 violations and the institution argues that the establishment of the spring practice restrictions without a directly related practice time violation indicates a clear error of judgment, such that the imposition was arbitrary, capricious or irrational. (Written Appeal Page No. 9) We find this argument to be unpersuasive especially in light of the institution’s self-imposed penalty.

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5 As a self-regulating association, the NCAA asks member universities to ensure that their university is in compliance with NCAA legislation. The NCAA also requires them to cooperate with the NCAA enforcement staff and if they find a violation to report it to the NCAA. In addition, when there is clearly a violation it is expected that the university will correct the problem and impose a fair penalty on itself. How best can a university impose a fair penalty on itself? The answer should be quite simple. Look at other similar cases, determine what the penalties were and propose that fair and equitable penalties be self-imposed. We believe, under the current structure, the ability to review prior cases, decided within relative proximity to the current case, and make decisions based on them should remain an acceptable way to help a member university self-impose penalties when they realize that they have committed NCAA violations.
The Committee on Infractions has been provided an array of penalties which it may apply to deter an institution from violating NCAA legislation again and remove any competitive advantage gained by the violation. Further, it is within the discretion of the Committee on Infractions to increase a self-imposed penalty of an institution.

In this case, the institution acknowledges that its self-imposed limitations on practice opportunities at the beginning of the two football seasons would make it clear to its coaches that the violations would not be tolerated. (Written Appeal Page No. 8) Based on this rationale, the imposition of the restriction of spring practice opportunities would be the appropriate penalty, in this case, to deter further violations by the institution in the sport of football.

We do not find that the reduction in spring practice opportunities is a clear error of judgment such that it is arbitrary, capricious or irrational. Therefore, the record before us does not support overturning this penalty.

X. CONCLUSION.

Penalty D-4 is excessive such that it constituted an abuse of discretion. For that reason the Infractions Appeals Committee believes it is appropriate to remand penalty D-4 to the Committee on Infractions for reconsideration of the appropriate penalty. Penalty D-8 is affirmed.6

NCAA Infractions Appeals Committee

David Williams, chair
Susan Cross Lipnickey
Jack Friedenthal
W. Anthony Jenkins
Patti Ohlendorf.

6 According to the Division I Infractions Appeals Committee Policies and Procedures (See 3.b.(2).(d) at Page No. 4), any penalty that is appealed is automatically stayed through the course of the appeal process. This stay is triggered with the filing of the Notice of Appeal by the appellant and ends with the public release of the committee’s decision. However, just prior to the release of this report, the Committee on Infractions was notified by the institution that it had applied the first year of penalty D-8 in the spring 2012. Further, the institution requested that the Committee on Infractions accept its application of that penalty. The Committee on Infractions decided to accept that penalty application. Therefore, the appellant’s affirmed penalty (D-8), reduction in the number of sessions during which contact is allowed from 12 to nine, shall be applied in the spring of 2013 and 2014.