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

I. INTRODUCTION. ............................................................................................................. 1

II. BACKGROUND. ............................................................................................................... 1

III. FINDING OF FACT AS DETERMINED BY THE COMMITTEE ON INFRACTIONS. ................................................................. 1

IV. ANALYSIS AS DETERMINED BY THE COMMITTEE ON INFRACTIONS. ........... 1

V. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS. ......................... 1

VI. ISSUES RAISED ON APPEAL .................................................................................... 2

VII. APPELLATE PROCEDURE ......................................................................................... 2

VIII. INFRACTIONS APPEALS COMMITTEE’S RESOLUTION OF THE ISSUES RAISED ON APPEAL. ......................................................... 3

IX. CONCLUSION .............................................................................................................. 5
I. INTRODUCTION.

The former director of men’s basketball operations appealed to the NCAA Division I Infractions Appeals Committee specific findings of violations based on his conduct as determined by the NCAA Division I Committee on Infractions. In this decision, the Infractions Appeals Committee addresses the issues raised by the former director of basketball operations (hereinafter referred to as the former director of basketball operations).

II. BACKGROUND.

On December 7, 2016, the Committee on Infractions issued Infractions Decision No. 456 in which the committee found violations of NCAA legislation in the men’s basketball program. On the basis of those findings, the Committee on Infractions determined that this was a major infractions case and imposed penalties against the former director of basketball operations accordingly.

This case centered on violations of NCAA bylaws governing unethical conduct and extra benefits.

After the Committee on Infractions issued its decision, the former director of basketball operations filed a timely Notice of Appeal December 22, 2016. A written appeal was filed February 3, 2017. The Committee on Infractions filed its Response March 17, 2017. The former director of basketball operations filed his Rebuttal to the Committee on Infractions Response April 4, 2017. The case was considered by the Infractions Appeals Committee September 14, 2017 (see Section VII below).

III. FINDING OF FACT AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.

See Committee on Infractions decision for the former director of basketball operations Page Nos. 3 through 9. A copy of the decision may be accessed via the NCAA Legislative Services Database for the Internet (LSDBi) at the following link: https://web3.ncaa.org/lsdbi/.

IV. ANALYSIS AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.

See Committee on Infractions decision for the former director of basketball operations Page Nos. 9 through 14. A copy of the decision be accessed via LSDBi at the following link: https://web3.ncaa.org/lsdbi/.

V. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.

The Committee on Infractions imposed a five-year show-cause order against the former director of basketball operations, which is set forth in Section V.5 of the Committee on Infractions infraction decision.
V.5. Show-cause order: The former director of basketball operations violated core NCAA bylaws and requirements that are fundamental to the NCAA Collegiate Model and infractions process. First, he knowingly completed and submitted coursework for four men's basketball student-athletes who received fraudulent academic credit. His actions violated unethical conduct legislation. He committed further unethical conduct when he knowingly provided impermissible academic benefits to eight men's basketball student-athletes. Therefore, the former director of basketball operations will be informed in writing by the NCAA that should he be employed or affiliated in an athletically related position at another NCAA member institution during a five-year period, from December 7, 2016, through December 6, 2021, within 30 days of his hiring, that employing institution shall ask for a date to appear before a hearing panel to show cause why restrictions on all athletically related activity should not apply.

VI. ISSUES RAISED ON APPEAL.

In his written appeal, the former director of basketball operations asserted that the findings of violations of unethical conduct and the provision of extra benefits against him should be set aside as either not a violation of the Association’s rules or clearly contrary to the evidence presented.

VII. APPELLATE PROCEDURE.

In considering the former director of basketball operations appeal, the Infractions Appeals Committee reviewed the Notice of Appeal; the record and transcript of the August 19, 2016, hearing before the Committee on Infractions and the submissions by the former director of basketball operations and by the Committee on Infractions referred to in Section II of this decision.

The oral argument on the appeal was held by the Infractions Appeals Committee September 14, 2017. The former director of basketball operations was present via videoconference and was represented via videoconference by his attorney. The Committee on Infractions was represented by the appeals coordinator [via teleconference] for the Committee on Infractions; the managing director of the Office of Committees on Infractions and associate director of the Office of Committees on Infractions. Also present were the vice president of enforcement, managing director of enforcement and managing director of academic and membership affairs and deputy general counsel [via teleconference] of the NCAA. There was one silent observer on behalf of the university.
The oral argument was conducted in accordance with procedures adopted by the committee pursuant to NCAA legislation.

VIII. INFRINGEMENTS APPEALS COMMITTEE’S RESOLUTION OF THE ISSUES RAISED ON APPEAL.

In reviewing the decision in this case, the Infractions Appeals Committee may overturn factual findings and its conclusion that one or more violations occurred shall not be set aside on appeal except on a showing by the appealing party that:

a. A factual finding is clearly contrary to the information presented to the panel;

b. The facts found by the panel do not constitute a violation of the NCAA constitution and bylaws; or

c. There was a procedural error and but for the error, the panel would not have made the finding or conclusion.

“A showing that there was some information that might have supported a contrary result will not be sufficient to warrant setting aside a finding nor will a showing that such information might have outweighed the information on which the committee based a finding. The Infractions Appeals Committee ... will set aside a finding only on a showing that information that might have supported a contrary result clearly outweighed the information on which the Committee on Infractions based the finding.” [University of Mississippi Infractions Appeals Committee Public Report (May 1, 1995) Page No. 10.]

The Committee on Infractions determines the credibility of the information presented.

The Committee on Infractions determined that the former director of basketball operations provided extra benefits and committed unethical conduct violations based on information regarding the use of his work computer to complete online coursework for several student-athletes, noting in their finding and analysis the amount of interactions between the computer of the former director of basketball operations and the courses at issue, as well as the student-athletes lack of understanding of the course content and assignments. The Committee on Infractions also noted the negative grade fluctuation after the suspension of former director of basketball operations and the lack of corroboration regarding student-athlete access to the office of the director of basketball operations. (See Committee on Infractions decision for the former director of basketball operations Page Nos. 3 through 14.)
The primary argument of former director of basketball operations in regard to the findings focuses on information that suggests that others, including the student-athletes themselves, used the computer of the former director of basketball operations in relation to any work that may have been completed from the computer of the former director of basketball operations. This includes no eyewitness corroboration of the appellant completing the work, student-athlete statements indicating no assistance was provided, student-athlete general access to appellant’s computer and the appellant’s schedule, which primarily kept him out of his office. Further, the former director of basketball operations argued analysis of his computer shows the limited amount of substantive work originating from his computer, as opposed to evidence of the former director of basketball operations conducting academic progress checks of his student-athletes, and also pointed to the amount of work completed via computers to which the appellant had no access. Additionally, the former director of basketball operations noted that limited grade fluctuation after his suspension was more likely an indication of changed circumstances for the student-athletes in regard to their permissible academic assistance being in flux, rather than a discontinuation of any impermissible academic assistance that was allegedly provided.

The former director of basketball operations, however, does not meet the bar for the Infractions Appeals Committee to overturn a factual finding or conclusion in regard to the extra benefit findings and unethical conduct pursuant to Bylaw 10.1(c) (knowing provision of impermissible academic extra benefits) (Finding IV.B) (Committee on Infractions Decision Page No. 13).

While the appellant raises potential alternatives before this Infractions Appeals Committee, the totality of the record, as evidenced in the panel decision, supports the conclusions of the Committee on Infractions that he knowingly provided extra benefits in the form of impermissible academic assistance. However, the same record as evidenced in the panel decision does not support the finding of an unethical conduct violation pursuant to Bylaw 10.1(b) (knowing involvement in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete) (Finding IV.A) (Committee on Infractions Decision Page No. 9). Pursuant to the April 2014 interpretation and education column cited in the panel decision, the following must be shown for a violation of Bylaw 10.1(b) to be found where, as here, there is no erroneous declaration of eligibility:

“If an institution determines academic misconduct has occurred, the following standards apply:

(1) Institutional Staff Member Involvement. An institution is required to report a violation of Bylaw 10.1-(b) any time an institutional staff member (e.g., coach,
professor, tutor, teaching assistant) is involved in arranging fraudulent academic credit or false transcripts for a prospective or enrolled student-athlete, regardless of whether the institutional staff member acted alone or in concert with the prospective or enrolled student-athlete.” (emphasis added) (Official Interpretation, April 16, 2014, Item No. 10-c)

“Question No. 6: What is the meaning of the phrase “arranging to receive fraudulent academic credit or false transcripts?”

Answer: This phrase refers to conduct such as altering or “doctoring” transcripts or arranging to receive credit for a course in which the prospective student-athlete or student-athlete did not enroll or he or she did not complete. (Educational Column, April 16, 2014, Item No. 1)

Stated succinctly in relation to the case at hand, there should be some information demonstrating that the institutional staff member was involved in arranging for the student-athletes to receive credit for a course in which the prospective student-athlete or student-athlete did not enroll or that he or she did not complete.

Here there is no information presented to suggest that the student-athletes at issue were not enrolled in the courses at issue, nor that they were not ultimately involved in the completion of the courses.

IX. CONCLUSION.

Finding IV.B is upheld. Finding IV.A is overturned, and this case is remanded to the Committee on Infraction to both reclassify appellant’s case with reliance only on the remaining violations found against appellant, including only those aggravating factors that remain consistent with the removal of Finding IV.A, that are contained in the December 7, 2016, decision of the Committee on Infractions, and to refashion a penalty consistent with this reclassification.