



**MISSOURI WESTERN STATE UNIVERSITY**  
**PUBLIC INFRACTIONS REPORT**

July 8, 2009

**A. INTRODUCTION.**

On June 4, 2009, officials from Missouri Western State University appeared before the Division II Committee on Infractions to address allegations of NCAA violations in the women's basketball program. Also appearing were two former women's basketball coaches at the institution ("former head coach" and "former assistant coach," respectively) and their attorney.

A number of allegations of rules violations were presented to the committee. However, the only major violation found by the committee was that the institution allowed a women's basketball student-athlete ("student-athlete 1") to compete while ineligible during the 2005-06 and 2006-07 academic years. Student-athlete 1 was ineligible because she had previously competed for three years for an overseas team in a professional league and two years at a community college. Student-athlete 1 did not divulge all of her prior competition when she enrolled at the institution, and the institution did not discover the information until conducting an audit in the fall of 2008. Once the violation was discovered, it was promptly reported to the NCAA.

A member of the Mid-American Intercollegiate Athletics Association, the institution has an enrollment of approximately 5,500 students. The institution sponsors four men's and six women's intercollegiate sports. This was the institution's first major infractions case.

**B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

**1. INELIGIBLE PARTICIPATION. [NCAA Bylaws 14.2.4.2 and 14.2.4.2.3-(a)]**

During the 2005-06 and 2006-07 academic years, student-athlete 1 competed while ineligible. Student-athlete 1 had exhausted her eligibility because of five years of organized competition prior to her initial enrollment at the institution.

### **Committee Rationale**

The institution and the enforcement staff were in substantial agreement with the facts of this finding and that a violation of NCAA legislation occurred. The enforcement staff and institution believed the violation to be secondary. The committee finds that the violation occurred and that it is major.

Student-athlete 1 initially enrolled at the institution for the 2005-06 academic year. Prior to that time, student-athlete 1 had spent 2000-01, 2001-02 and 2002-03 playing for a team in an overseas professional league. After coming to the United States, student-athlete 1 spent the 2003-04 and 2004-05 seasons competing at an American community college. Therefore, student-athlete 1 exhausted her eligibility before the time she enrolled at Missouri Western.

As part of a 2008 investigation into possible NCAA rules violations in the women's basketball program, the current head women's basketball coach ("current head coach") examined the student-athlete's file. The current head coach was the first to notice the three-year "gap" in student-athlete 1's records between her 2000 graduation from high school and her 2003 enrollment at a community college. Further investigation by the institution revealed that student-athlete 1 had competed for an overseas basketball team for three years before coming to America. Student-athlete 1's team played in a professional league. Student-athlete 1 failed to include the prior participation on her NCAA General Amateurism and Eligibility Form for International Students, and no one at the institution investigated student-athlete 1's whereabouts during the three years from 2000 to 2003 at the time she enrolled.

Before a violation can be deemed secondary, it must meet the test set forth in NCAA Bylaw 19.02.2.1. That test consists of three prongs, all of which must be satisfied before a violation may be considered secondary. The three requirements are:

1. The violation must be isolated or inadvertent in nature;
2. The violation must provide or be intended to provide only a minimal recruiting, competitive, or other advantage; and
3. The violation must not include any significant recruiting inducement or extra benefit.

This violation failed to satisfy the second prong of Bylaw 19.02.2.1. Student-athlete 1 participated for two full years while ineligible, thereby conferring more than a minimal competitive advantage on the institution. While the amount of playing time an ineligible student-athlete receives is not determinative of whether this type of violation is major or secondary, the committee noted that student-athlete 1 saw substantial playing time during the two years she was ineligible and was a contributor to a number of victories. This

institution gained a significant competitive advantage over those institutions that did not allow ineligible student-athletes to participate.

Though no evidence was presented regarding the third prong of Bylaw 19.02.2.1, it is possible that it would also prevent this violation from being deemed secondary. As student-athlete 1 was ineligible from the moment she arrived on campus, every dollar of scholarship aid and expenses for travel she received from the institution over her two years of enrollment would likely be classified as impermissible extra benefits. Were the amount of those benefits to be totaled, they would likely be termed "significant."

**C. SECONDARY INFRACTION. EXTRA BENEFITS [NCAA Bylaws 16.02.03 and 16.11.2.1]**

During the summer of 2007 and after leaving the institution, the former head coach gave \$300 to a former women's basketball student-athlete ("student-athlete 2").

Student-athlete 2 had exhausted her eligibility and was no longer enrolled at the institution at the time the former head coach provided the money to her.

**D. PENALTIES.**

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found a major violation of NCAA legislation. In considering possible penalties, the committee considered the institution's cooperation, the fact that it discovered and self-reported the major violation, and the self-imposed penalties and corrective actions. Because of the limited nature of the case, the committee determined that no further substantive penalties were warranted. [Note: The institution's corrective actions are contained in Appendix Two.] With the exception of Penalties E-1, part of E-3 (the vacation of student-athlete 1's individual records), E-7 and E-8, the sanctions were self-imposed by the institution:

1. Public reprimand and censure.
2. Two years of probation from July 8, 2009, through July 7, 2011.
3. Pursuant to NCAA Bylaws 19.5.2.2-(e) and 31.2.2.4, the institution will vacate all wins in which student-athletes 1 competed while ineligible (Note: the institution also declared student-athlete 3 to be ineligible and determined that certain contests she participated in should be vacated as well. However, the committee made no findings regarding the ineligibility of student-athlete 3). This order of

vacation applies to all regular season and postseason competitions, including conference and NCAA championship events. Because student-athlete 1 provided false information regarding her eligibility status, her individual records shall be vacated as well. Further, the institution's records regarding women's basketball, as well as the record of the former head coach, will reflect the vacated records and will be recorded in all publications in which women's basketball records for the 2005-06 and 2006-07 seasons are reported including, but not limited to, institutional media guides, recruiting materials, electronic and digital media, and institution and NCAA archives. Any public reference to these vacated contests shall be removed from athletics department stationery, banners displayed in public areas, and any other forum in which they may appear. This order of vacation also applies to any institution that employs the former head coach in the future.

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 and identify the specific 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.

4. The number of athletically related financial aid awards in women's basketball shall be reduced by one for the 2009-10 academic year, which limits the institution to nine scholarships under current rules.
5. The institution shall not recruit any international student-athletes in the sport of women's basketball from June 24, 2008, through June 23, 2010.
6. The institution shall return its 2006-07 conference championship trophy to the conference office.
7. 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 institutional 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 September 1, 2009, setting forth a schedule for establishing the 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 certifying initial and continuing eligibility of international student-athletes. The reports must also include documentation of the institution's compliance with the other penalties adopted and imposed by the committee.
8. 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.
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As required by NCAA legislation for any institution involved in a major infractions case, Missouri Western State University shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, July 8, 2009.

Should Missouri Western State University appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

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NCAA COMMITTEE ON INFRACTIONS

Jean Paul Bradshaw II

Bruce Kirsh

Bridget E. Lyons

Julie A. Rochester

Wendy Taylor May, chair

## APPENDIX ONE

### CASE CHRONOLOGY.

#### 2008

June 24 – The institution submitted a self-report of violations in the women's basketball program.

October 8 – The institution submitted a self-report of secondary infractions involving the student-athlete.

October 29 – Notice of inquiry sent to the president of the institution.

#### 2009

February 6 – Notice of allegations sent to the president of the institution, the former head coach and the former assistant coach.

May 5 – The institution submitted its responses to the notice of allegations.

May 6 – The former head coach and the former assistant coach submitted their responses to the notice of allegations.

May 11 – The enforcement staff conducted a prehearing conference with the institution.

May 13 – The enforcement staff conducted a joint prehearing conference with the former head coach and the former assistant coach

July 8 - Infractions Report No. 304 was released.

## **APPENDIX TWO**

### **CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S MAY 5, 2009, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

- Conduct an external, independent review of the university's NCAA compliance program and the related systems during the fall 2008 semester. Thereafter, the university will repeat the review at least every three years.
- Review, amend, and update the university's policies and forms related to the recruitment of international student-athletes for each of its sports programs.
- Enhance the rules education program for coaches and representatives from the bursar, financial aid, admission, and other appropriate university offices with special emphasis on the recruitment and continuing enrollment experience of international student-athletes.
- Strengthen the advising of all international students in athletics to ensure that those students understand both university and NCAA requirements. The newly created position of International Student Coordinator will assist in this regard.
- Athletics department will conduct external, independent review of entire compliance program during 2008-09 school year.
- The university's Compliance Advisory Council will annually review policies and procedures manual of athletics department and pay special attention to fifth-year aid, international student-athletes, extra benefits and insurance. They will meet a minimum of one time per semester. Compliance officer will be responsible for activation of council.
- The university president is creating a Faculty Athletics Advisory Council consisting of six faculty members, one staff member, the director of athletics, the faculty athletics representative, the senior woman administrator along with a student representative from the Student Government Association and Student-Athlete Advisory Council.
- The director of athletics, the faculty athletics representative and the compliance officer will be required to attend an NCAA regional rules seminar in 2008-09 school year and 2009-10 school year. Currently, these seminars are attended on a voluntary basis and normally only by compliance officers.

- Compliance officer hosted a retreat for coaches in spring 2009 to discuss/review all of article 16.
- Compliance officer has developed a program to educate all student-athletes on article 16 and current methods were examined to determine a better manner of communication. Emphasis was placed on the importance of the information provided by student-athletes.
- Compliance officer developed a program to educate representatives of the institution's athletics interests on article 16.
- Compliance officer will develop program to educate all university staff members on article 16.
- Compliance officer developed a system to audit all women's basketball student-athletes for extra benefit issues.
- Compliance officer developed a system to audit all international student-athletes for extra benefit issues and insurance issues.
- Compliance officer developed a system to randomly audit 10 percent of all student-athletes for extra benefit issues.
- Athletics department will add extra benefit questions to all senior survey questionnaires.