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ENFORCEMENT: DIVISION I INTERNAL OPERATING PROCEDURES

Introduction.

This document contains the Internal Operating Procedures and Investigative Guidelines of the NCAA enforcement department. The primary purpose of this document is to provide member institutions and involved individuals with basic information regarding the enforcement staff's investigation and processing functions in connection with alleged violations of NCAA bylaws. The provisions are designed to reflect the obligations of all parties to cooperate during investigations in order to discover accurate facts in a timely manner. This document does not articulate all of the enforcement staff's activities. Nor does it apply to Divisions II and III. The administrative procedures for Divisions II and III are contained in Article 32 of their respective Manuals and the Enforcement and Committee on Infractions Internal Operating Procedures of their respective divisions.

These procedures are not contractual in nature, do not create any independent right, do not have the force of NCAA bylaws and may be amended without advanced notice in accordance with NCAA Bylaw 19.3.6-(g). Current procedures and notice of amendments will be available on the NCAA website.

Chapter 1 – Investigations.

1-1. Information Gathering. If the enforcement staff receives or develops information indicating a potential NCAA violation and that information is believed to be reliable, the staff may conduct an investigation pursuant to Bylaw 19.5 and these procedures. The enforcement staff has a responsibility to gather information regarding possible violations. In doing so, the staff may employ the following investigative tools:

- (a) Letter of inquiry to the institution;
- (b) Interviews with prospective student-athletes, enrolled student-athletes, current and former institutional staff members, third parties or other individuals who may have relevant knowledge;
- (c) Document and records requests;
- (d) Review of publicly available information;
- (e) Observation of public places (on or off campus);
- (f) Research;
- (g) Communications between departments of the NCAA national office; and
- (h) Communications with sources.

If an enforcement staff member intends to use any other investigative tool, he or she shall first obtain written approval from the vice president of enforcement and the NCAA's general counsel, or their designees.



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- 1-2. Misrepresentation of Identity.** In no case shall an enforcement staff member misrepresent his or her identity or title to an individual who may provide information relevant to an investigation.
- 1-3. Sharing Information.** There are instances when the enforcement staff has information that, if shared immediately with the institution or an involved individual, could compromise the integrity of the investigation, even without malicious intent by the institution or involved individual. In those instances during an active investigation, and after consulting with the managing director of enforcement (investigations and processing) or the vice president of enforcement, the investigative team shall (a) inform an institution that it has information it will not immediately share and (b) share the information in a timely manner after concluding that disclosure will not materially jeopardize the investigation.
- 1-4. Document Request Deadlines.** When the enforcement staff requests information from either a member institution or an individual who is subject to NCAA bylaws, the enforcement staff may identify a reasonable deadline for the submission of the requested materials. The enforcement staff may, in its discretion, seek agreement of the parties when identifying response deadlines.
- 1-5. Interview Record and Attendance.**
 - 1-5-1. Recordings.** It is preferable that an interview conducted by the enforcement staff be recorded through the use of a mechanical device. If an interviewee objects to being recorded, or if the enforcement staff believes the use of a recording device would have an inhibiting effect on the interviewee, a summary of the information reported should be prepared pursuant to Enforcement IOP 1-5-2.
 - 1-5-1-1. Recording of an Interview by the Interviewee.** The interviewee may record his or her interview subject to the conditions set forth in Bylaw 19.5.8 and provided the interviewee gives advanced notice of his or her intent to record the interview. If the interviewee does not record the interview, he or she may request a copy of the recording and the interview transcript, if one has been completed, subject to the confidentiality provisions of Bylaw 19.5.8. Copies of interview summaries prepared by the enforcement staff are confidential and will only be provided to interviewees (and their institutions) in accordance with Bylaw 19 and the procedures set forth herein.
 - 1-5-1-2. Recording of an Interview by an Institution - Access to Recordings and Transcripts.** Interviews conducted by the institution in accordance with Bylaw 19.5.6.1 or with the enforcement staff at any location may be recorded by the institution under inquiry, provided the institution gives notice of its intent to record the interview. If the institution is unable or chooses not to



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record such an interview, the institution may request a copy of the enforcement staff's recording of the interview and/or a copy of the interview transcript, if one has been completed.

1-5-1-3. Access to Recordings and Transcripts by Conference. For interviews conducted in accordance with Bylaw 19.5.6.1 or by the institution and enforcement staff, and with consent of the institution, a conference may request a copy of the interview recording and/or transcript, if one has been completed by the enforcement staff or the institution.

1-5-2. Nonrecorded Interviews. When an interview is not recorded, or if the recording device malfunctions, the enforcement staff shall prepare a written interview summary of the information and, to the extent possible, attempt to obtain a signed affirmation of its accuracy from the interviewee. The interviewee will be permitted to make nonsubstantive corrections to the memorandum before affirming its accuracy. If an interviewee wants to make additions or corrections that materially alter the substance of the memorandum, he or she may do so and the new information shall be treated as a separate interview. In order to obtain the interviewee's signature, the enforcement staff may provide a copy of the unsigned interview summary to the interviewee and his or her counsel provided the interviewee agrees not to release the summary to a third party. After the summary is signed, the interviewee and his or her counsel, upon request, may make or receive a signed copy. The substance of an unrecorded interview for which a signed affirmation was not obtained may be considered by the NCAA Committee on Infractions to the extent the Committee on Infractions determines the information to be reliable.

1-5-3. Note-taking during Interview. It is permissible for individuals being interviewed to take notes of the proceedings. These notes are the personal notes of the person interviewed and do not need to be provided to any party in the investigation unless the note-taker gives his or her consent. These notes are not considered part of the case file.

1-5-4. Presence of Parents, Legal Guardians or Institutionally Appointed Advisors during Interview. Bylaws 19.5.4 and 19.5.6.1 identify individuals who may be present during certain interviews. In addition, by request, a parent or legal guardian (duly appointed by a court of competent jurisdiction) of a prospective student-athlete or current student-athlete who is under the age of 18 may be present during the individual's interview with the enforcement staff, or may participate by remote connection or through other available technologies. The enforcement staff reserves the ability to schedule the order of interviews if the parent or legal guardian is also interviewed or to decline the request of a parent or legal guardian to be present in order to, among other things, protect the integrity of the investigation, simplify logistics, preserve confidentiality and/or minimize scheduling conflicts. If a student-athlete's parent or legal guardian is



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not reasonably available, the student-athlete's institution may appoint from its staff an advisor to be present during the interview, regardless of the student-athlete's age.

- 1-5-5. Interview Participation.** If the enforcement staff conducts an interview with an enrolled student-athlete or institutional staff member on the campus of an institution and the subject matter to be discussed in the interview does not relate to that institution or would not affect the interviewee's eligibility or employment at that institution, notification to the institution's president or chancellor is not necessary. However, in such a circumstance, the enforcement staff shall contact the athletics director to offer an opportunity to discuss procedures relating to the enforcement staff's visit to campus. The institution may designate a representative to be present during the interview, provided the representative is someone who would not compromise the integrity of the investigation and whose participation would not prejudice the subject institution or any involved individual. In addition, if information is raised at any point during such an interview that relates to that institution or could affect the interviewee's eligibility or employment at that institution, the enforcement staff shall pause the interview. The enforcement staff shall notify the institution's athletics director, president or chancellor and allow the institution's involvement in the interview before the interview resumes or before any additional interviews are conducted on the institution's campus.
- 1-6. Enforcement Staff's Responsibility to Maintain Case File.** The enforcement staff is responsible for maintaining case materials obtained during its investigation, including recorded interviews, interview summaries, interview transcripts and other relevant information. Such materials will be retained consistent with the NCAA's document retention/destruction policy. Personal notes, impressions or communications of the enforcement staff do not become part of the case file.
- 1-7. Time-Sensitive Investigations.** All investigations shall be conducted as promptly and as efficiently as possible, without sacrificing fairness or accuracy. In instances where the eligibility of a student-athlete or a prospective student-athlete may be impacted, the enforcement staff shall work to complete as much of the investigation as reasonably possible 10 calendar days before the first competition of the season. If the staff cannot complete the investigation before the first competition, or if the investigation relates to in-season eligibility issues, the enforcement staff shall communicate with the institution about the status of the investigation; the information still needed; and the potential impact, if any, on the student-athlete's or the prospective student-athlete's eligibility.
- 1-8. Communications.**
- 1-8-1. Communications with Chancellor or President.** After providing a notice of inquiry pursuant to Bylaw 19.5.3 and upon request, the enforcement staff will meet personally with the chancellor or president or a designated representative of the involved institution to discuss the investigation. Thereafter, the enforcement staff will be available as needed to discuss the investigation with the president, chancellor or designated representative of the institution. Unless the institution



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requests more frequent periodic updates, the staff shall provide an update every six months to a designated representative of the involved institution regarding the status of the investigation, its expected duration and any obstacles encountered during the course of the investigation.

- 1-8-2. Expansion of an Investigation.** If, after commencing an investigation, the enforcement staff obtains information indicating possible additional types of violations or prompting a significant change in the focus of the investigation, it shall give written or oral notice to the institution that it has expanded the investigation.
- 1-8-3. Contacting the Enforcement Staff.** Communications with the enforcement staff about a matter under investigation are encouraged and should first be directed to the lead investigator or the supervising director. Unresolved concerns, or communications about matters not assigned to an investigative team, may be presented to a managing director or the vice president of enforcement.
- 1-8-4. Disclosures.** The parties shall not disclose information about an investigation in violation of Bylaws 19.01.3 or 19.5.2. If a party improperly discloses information, the enforcement staff may investigate the source of leaked or disclosed information and bring appropriate allegations if the Committee on Infractions could conclude from the information discovered that a party violated confidentiality legislation.
- 1-9. Projected Duration and Scheduling Conference.** When the enforcement staff begins an active investigation, it shall project the anticipated duration of the case (i.e., when a notice of allegations or summary disposition report will issue) based on, among other factors, the number of sports and the number of potential allegations identified. The staff shall notify the institution and any involved individual(s) of the projected duration and all parties shall work to satisfy the proposed timeline. The enforcement staff shall also notify the Committee on Infractions of active investigations as provided in ENF IOP 1-10. If the Notice of Allegations or initiation of the Summary Disposition process in a case is not completed within the projected timeline, the chair of the Committee on Infractions may, in his or her discretion pursuant to Bylaw 19.3.7-(h), convene a scheduling conference to discuss why the timeline was not satisfied, a plan for completing the investigation and other matters designed to assure timely disposition of the case. The scheduling conference is not designed to address the merits of potential allegations, the leveling of a case or other substantive issues.

The parties may also request a conference with the committee chair approximately 30 days before expiration of the anticipated timeline if it appears that timely resolution will be difficult. Should the chair agree to hold a conference, discussion would be limited to plans or strategies to keep the case moving expeditiously.



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1-10. Case Readiness Report. The enforcement staff will provide to the committee a monthly report of active investigations that are likely to yield a Notice of Allegations or Summary Disposition Report. For each active investigation, the report will include, among other information, a summary of the potential infractions, the anticipated duration of the investigation and the anticipated processing level.

1-11. Limited Immunity. Limited immunity is an investigative tool that allows information to be elicited from a prospective, current or former student-athlete and a current or former institutional staff member ("individual") concerning his or her potential involvement in or knowledge of NCAA violations, with the understanding that the NCAA will not put the individual at-risk in the infractions process by bringing identified allegations against him or her.

1-11-1 When to Request. The enforcement staff may request limited immunity for an individual at any time during the pendency of an investigation or during the processing of the case.

1-11-2 Protections. If an individual satisfies all conditions prescribed by the NCAA Committee on Infractions, limited immunity means that the NCAA enforcement staff will not allege bylaw violations against the individual for disclosed conduct predating the grant of immunity. Limited immunity does not prevent the enforcement staff from alleging identified violations of NCAA legislation when:

- a. The grant of immunity has been revoked by the Committee on Infractions,
- b. The individual fails to report violations, or
- c. The individual commits future violations (including the provision of false or misleading information).

Additionally, limited immunity does not protect the individual from action taken by the institution or any other entity.

1-11-3 Representation by Legal Counsel. Recipients of or candidates for limited immunity may be represented by personal legal counsel or another advisor throughout the process.

1-11-3-1 Student-Athletes. For recipients of or candidates for limited immunity who are student-athletes, when feasible, the enforcement staff will communicate with the institution where the student-athlete is enrolled about securing personal legal counsel or other advisor unaffiliated with the institution's athletics department, for the student-athlete.



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1-11-3-2 Prospective Student-Athletes. For recipients of or candidates for limited immunity who are prospective student-athletes, when feasible, the enforcement staff will communicate with the prospective student-athlete about the opportunity to secure personal legal counsel or other advisor.

1-11-4 Factors to Consider. In determining whether to seek limited immunity, the enforcement staff may consider the following factors:

- a. Whether the individual is a prospective student-athlete, current or former student-athlete, or a current or former staff member.
- b. Whether the individual received limited immunity in the past, and if so, the value of the information reported to the NCAA enforcement staff.
- c. Whether the individual has information that will assist the investigation or otherwise support or refute allegations.
- d. The likelihood of obtaining relevant information with or without the grant of limited immunity.
- e. The nature of the potential allegations involved in the case.
- f. The position of the individual's institution on the request for limited immunity.
- g. The impact on the timeliness of an investigation.
- h. Any other circumstances supporting or refuting a grant of limited immunity.

1-11-5 Process for Requesting. Limited immunity may be requested only by the enforcement staff's vice president, managing director of enforcement for investigations and processing or the vice president's designee. The request for limited immunity shall be made in writing, addressed to the chair or vice chair of the NCAA Committee on Infractions and shall contain a brief summary of the relevant facts that support a grant of limited immunity. The request shall also identify the involved parties and state whether the involved parties are represented by legal counsel or other advisor.

1-11-6 Acknowledgement. The enforcement staff shall prepare an appropriate document outlining the terms and conditions of the limited immunity agreement. The acknowledgment shall be signed by all parties subject to the limited immunity agreement, with a copy of the acknowledgment being provided to all signatories.



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- 1-11-7 Record Keeping (Pertaining to Limited Immunity).** The enforcement staff shall maintain copies of approvals and denials of applications for limited immunity in the case file and make those records available to the appropriate parties via the secure filing system. The presumption is that all parties will have access to all approvals and denials of applications for limited immunity.
- 1-11-8 Revocation.** The enforcement staff will seek revocation of limited immunity only when it reasonably determines that the NCAA Committee on Infractions could conclude that an individual violated the terms of his/her limited immunity agreement.
- 1-11-9 Revocation Process.** The NCAA enforcement staff may request that a grant of limited immunity be revoked by submitting a petition to the chair of the NCAA Committee on Infractions, or if the chair is unavailable, the petition shall be submitted to the vice chair. The petition shall state the basis for the revocation and shall be forwarded to all appropriate parties.
- 1-11-10 Process Following Revocation.** If the NCAA Committee on Infractions revokes a grant of limited immunity, the enforcement staff may name the individual in the underlying allegation(s) pursuant to NCAA Bylaw 19.7 and, where appropriate, may also allege an unethical-conduct violation pursuant to Bylaw 10.1.

Chapter 2 - Processing of Violations.

- 2-1. Interpretation Requests.** If an institution and the enforcement staff cannot reach agreement on whether facts and circumstances constitute a violation of NCAA legislation, the institution and the enforcement staff may submit a joint statement of agreed-upon facts to the NCAA academic and membership affairs (AMA) staff for a formal interpretation. If the institution and the enforcement staff are unable to reach agreement on the facts, or if there is an unreasonable delay in reaching agreement on the facts, a party may submit an individual request for an interpretation. In either case, the AMA staff will render a decision based on the facts submitted and notify participating parties of the outcome. Participating parties may appeal a staff interpretation to a committee of representatives from member institutions as allowed by applicable legislation and AMA procedures.
- 2-2. AMA Audit.** When the enforcement staff substantially completes a Notice of Allegations (NOA), the investigative team submits the draft NOA to the academic and membership affairs (AMA) staff for an audit of the cited bylaws. One or more of the AMA enforcement staff liaisons, in consultation with the appropriate bylaw team(s), will review the NOA to determine whether (1) the allegations, as drafted, support that a violation occurred, (2) the cited bylaws are appropriate, (3) the appropriate versions of the bylaws are cited and (4) additional bylaws should be cited.



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2-3. Summary Disposition.

2-3-1. SDR Election. Decisions about whether to use the summary disposition process are made on a case-by-case basis. While use of the summary disposition process is generally encouraged, the following are elements that suggest a case may not be appropriate for summary disposition:

- a. The case involves an allegation of unethical conduct.
- b. The case involves an allegation of lack of institutional control.
- c. The case involves an alleged violation of the cooperative principle or related bylaws.
- d. The institution or an involved individual has been involved in a separate major violation or a Level I or Level II violation within the past five years.
- e. The case involves significant disagreement on material facts, such that it may invite additional scrutiny by the Committee on Infractions.
- f. The case involves a significant Level I recruiting or extra-benefit allegation.
- g. The case involves a Level I academic misconduct allegation.
- h. There are any unique issues in the case or any particular instances that the committee has not reviewed in the last 10 years.
- i. The case involves an allegation or instance of material enforcement staff misconduct.

2-3-2. Abandoning the Summary Disposition Process. At its discretion, any party may withdraw its consent to the summary disposition process. If any party withdraws its consent, the enforcement staff shall issue a notice of allegations pursuant to Bylaw 19.7.

2-3-3. Completion of Summary Disposition Report. Pursuant to Bylaw 19.6, the enforcement staff, institution and any involved individual may elect to process a Level I or II case through the use of a summary disposition report. To complete the report, the enforcement staff may provide to the institution and any involved individual a template to use, which could include sections that each of the parties is asked to complete. For the purpose of completing this report efficiently, the enforcement staff may require as a condition for using this process an agreement on reasonable deadlines for completion of the report. The expected duration of the process shall not exceed 90 days from the day the parties reach agreement to



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pursue the process to the date the final report is submitted to a hearing panel of the Committee on Infractions. Failure by a party to adhere to the deadlines may serve as a basis for the other parties to withdraw their consent to the summary disposition process. Additionally, the chair of the Committee on Infractions or chief hearing officer, pursuant to Bylaw 19.7.6, may in his or her discretion convene a scheduling conference to discuss why the report was not completed within the deadline and determine a plan for completing the processing of the case, which could include abandoning the summary disposition process and proceeding via a hearing.

- 2-4. Guidelines for Allegations.** When determining whether a hearing panel of the Committee on Infractions could conclude that a Level I or II violation occurred (Bylaw 19.7.1), the enforcement staff must (a) use only attributable information and documentation and (b) evaluate relevant information in a fair and objective manner. In exercising its discretion to bring or not bring an allegation, the enforcement staff should also review relevant bylaw interpretations and prior similar cases as appropriate. Case-specific interpretations are addressed above in IOP 2-1.

Decisions whether to bring allegations are made on a case-by-case basis. Unethical conduct, failure of head coach responsibility, lack of institutional control and failure to monitor are among the most serious allegations the enforcement staff can bring. Accordingly, the following are general guidelines the enforcement staff will consider when determining whether to bring the identified allegations.

- 2-4-1. Unethical Conduct.** Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member (e.g., coach, professor, tutor, teaching assistant, student manager, student trainer, etc.) may include, but is not limited to, the following:

- a. Refusal to furnish information. Unless there are extenuating circumstances that would prevent an individual's participation in an interview and/or provision of requested information, the enforcement staff will allege a violation of Bylaw 10.1-(a) when one or more of the following factors exist:
 - (1) There is a nexus between the information requested and the underlying alleged violation(s);
 - (2) An individual's agreement to interview or produce requested information is untimely; or
 - (3) The failure or refusal to interview or produce requested information hinders the ability to discover pertinent information, slows the timely progress of the matter or otherwise negatively impacts efforts to conduct a thorough investigation.



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- b. Knowingly furnishing the NCAA or the individual's institution false or misleading information. Unless extenuating circumstances exist, the enforcement staff will allege a violation of Bylaw 10.1-(c) when an individual provides false or misleading information during an investigation and when one or more of the following factors exist:
- (1) The alleged false or misleading information hinders the ability to discover pertinent information, slows the timely progress of the matter or otherwise negatively impacts efforts to conduct a thorough investigation;
 - (2) There is a lapse in time between the provision of false or misleading information and any later corrected statement;
 - (3) Any later corrected statement was secured by the enforcement staff or the institution, rather than being volunteered by the interviewee; or
 - (4) There is a nexus between the underlying alleged violation and the provision of false or misleading information.

Unless extenuating circumstances exist, the enforcement staff will allege a violation of Bylaw 10.1-(c) when an individual attempts to influence others to furnish false or misleading information to the enforcement staff, particularly when the individual exercises some degree of oversight or authority over the other individual (such as a coach influencing a student-athlete to report false or misleading information to the enforcement staff).¹

Pursuant to Bylaws 10.1 and 19.2.3, current and former institutional staff members have an affirmative obligation to cooperate with NCAA investigations. Where conduct giving rise to a Bylaw 10.1-(a) or 10.1-(c) allegation occurred while the involved individual was not employed at the institution where the underlying alleged infraction(s) occurred, the enforcement staff will not attach the unethical-conduct allegation to that institution.² Instead, the enforcement staff will issue a separate notice of allegations and any resulting show-cause order would apply to NCAA member institutions.

¹ In circumstances where an individual refuses to furnish information and/or attempts to influence others to furnish false or misleading information, the enforcement staff may consider alleging a violation of Bylaw 19.2.3 (responsibility to cooperate) in addition to an alleged violation of Bylaw 10.1-(a) or Bylaw 10.1-(c). Bylaw 19.2.3 may also be cited in the absence of an alleged violation of Bylaw 10.1.

² A subsequent employing institution would only be responsible for the violation if it occurred while the individual was employed by that institution.



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Pursuant to Bylaw 19.1.1-(d), unethical conduct is presumed to be a Level I violation. In rare situations based on individual facts of a case, the enforcement staff may exercise its discretion to allege unethical conduct as a Level II violation instead of Level I.

2-4-2. Head Coach Responsibility. If there is a potential Level I or II violation in a sport program, the head coach is presumed responsible for the violation pursuant to Bylaw 11.1.1.1, and the enforcement staff will gather information regarding whether the head coach promoted an atmosphere of compliance and monitored the activities of his or her staff.

In determining whether the head coach promoted an atmosphere of compliance and monitored the activities of his or her staff, the enforcement staff will consider the head coach's overall communications, monitoring efforts and activities that demonstrate his or her commitment to compliance as well as the specific circumstances surrounding the alleged underlying violation(s). Examples of factual information that may inform the enforcement staff's analysis include, but are not limited to, the following:³

Examples of Commitment to Compliance

- A demonstration that compliance is a shared responsibility by establishing clear expectations that all coaches, staff members and student-athletes will understand and comply with NCAA rules.
- A demonstration that ultimate responsibility for the integrity of the program rests with the head coach, including understanding that staff actions reflect on the head coach and violations will result in clearly articulated discipline.
- Establishment of a program that includes immediate reporting of actual and potential issues to the compliance staff and allowing an independent inquiry into those issues.

Examples of Commitment to Communication

- Timely, consistent and continuing education of all coaches, staff members and student-athletes as to rules and regulations, including written agendas and documentation of subjects covered and issues discussed.
- A history of consulting with the compliance staff on a regular basis and asking before acting.

³ Some of the factors were identified by the Infractions Appeals Committee in December 2015.



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Examples of Commitment to Monitoring

- Establishment of a program of prompt and consistent review of documentation related to monitoring of forms, logs, evaluations and questionnaires within the sport program.
- A history of the head coach and/or the sport program staff's self-detecting and reporting potential NCAA violations to the appropriate institutional personnel in a timely manner.
- Frequent spot checks to uncover potential or existing compliance problems, including the head coach actively looking for and evaluating red flags, and asking pointed questions.
- Regularly soliciting honest feedback to determine if monitoring systems are functioning properly, and protecting from retribution any person who reports violations or potential violations.

These should not be viewed as a checklist or a so-called safe harbor. Instead, they are examples of factors the enforcement staff will consider in analyzing potential allegations.

If the enforcement staff alleges a Bylaw 11.1.1.1 violation and the head coach disagrees with the allegation, it is the head coach's responsibility to present information to a hearing panel of the Division I Committee on Infractions demonstrating that he or she promoted an atmosphere of compliance in his or her program and monitored the activities of the institutional staff members involved with the program who reported, directly or indirectly, to the head coach.

2-4-3. Lack of Institutional Control. The enforcement staff does not assume that an institution violated the NCAA Principle of Institutional Control when one or more Level I or II violations may have occurred. Instead, consistent with guidance from the membership regarding institutional control, the enforcement staff takes a common sense approach in considering the nature and scope of the violation(s) in a case, together with the institution's specific efforts to create and maintain a positive culture of compliance. Where the institution did not have a structure in place to create a culture of compliance, or where there was a breakdown in that structure, an institutional control allegation may be appropriate.



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Factors indicating institutional control include but are not limited to those outlined below.⁴ Generally, it is necessary to determine whether an institution's efforts to comply with all applicable rules and regulations of the Association were (a) in place at the time the alleged violation(s) occurred; (b) established to deter violations and not merely to discover their existence after they occurred; and (c) adequately promoted, monitored and enforced.

- a. Promotion of a culture of compliance – The institution demonstrated by words and actions that compliance with NCAA legislation was an obligation shared by all athletics staff members, student-athletes and others who interact with the athletics program (including institutional staff members, representatives of athletics interests and third parties). This includes the institution clearly communicating that any individual involved in its intercollegiate athletics program (1) had an obligation to report perceived or potential violations of NCAA legislation and (2) could do so without fear of reprisal.
- b. Oversight – The leadership of the athletics programs at the institution (e.g., director of athletics, faculty athletics representative, senior athletics compliance administrator) was knowledgeable about the content and operation of the athletics department's compliance program and exercised oversight with respect to its implementation and/or effectiveness.
- c. Policies and procedures – The institution established reasonable written policies and procedures to effectively deter and prevent violations, and detect in a timely manner any violations that occur⁵. The institution communicated and evaluated the policies and procedures on a regular basis, and made them readily available to all staff with athletics compliance responsibilities (e.g., athletics department staff, enrollment management staff and financial aid staff).
- d. Education and training – The institution took reasonable steps to provide regular and effective rules education by communicating applicable legislation, policies, procedures and other aspects of the athletics department compliance program to all student-athletes, institutional staff members and third parties who interact with the athletics department.
- e. Due diligence in delegating authority – The institution delegated authority to athletics compliance staff members who were appropriately supported and empowered to fulfill their obligation of administering an effective and ethical

⁴ These factors were developed after reviewing, among other resources, the following: (1) the NCAA Division I Constitution and bylaws; (2) prior NCAA Division I Committee on Infractions reports; (3) the 1996 "Principles of Institutional Control" white paper prepared by the Division I Committee on Infractions; (4) the June 5, 2013, "Standards for Effective Compliance and Risk Management Programs Maintaining Institutional Control" prepared by the Division I-A Athletic Directors Association Compliance and Enforcement Task Force; and (5) the National Association for Athletics Compliance (NAAC) Reasonable Standards.

⁵ By way of example, NAAC developed a number of reasonable standards. Adoption of and adherence to such reasonable standards may help demonstrate satisfaction of subparagraphs c, d and/or f.



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compliance program. The institution also ensured that the compliance staff was appropriately educated and trained to perform its obligations at a high level⁶.

- f. Program monitoring and review – Pursuant to its established policies and procedures, the institution monitored its athletics program for compliance with NCAA legislation. The institution heightened its monitoring of individuals who were known to have engaged in prior noncompliant conduct.
- g. Enforcement, response and prevention of reoccurrence – The institution (1) consistently promoted, investigated (in consultation with the enforcement staff for potential Level I and/or II violations) and enforced NCAA legislation as well as conference, campus, department and other applicable policies; (2) took swift and appropriate corrective action when noncompliance occurred, including reporting to the NCAA (and when appropriate, to the institution's conference office) any instance of noncompliance with NCAA legislation; and (3) took reasonable steps to prevent further similar non-compliant conduct.
- h. Risk assessment and modification – The institution established a system and periodically conducted assessments to determine risks relating to NCAA compliance matters and then implemented controls to mitigate the identified risks. The institution also (1) used an entity outside the athletics department to conduct regular and periodic reviews of athletics operations, and (2) reviewed and implemented reasonable recommendations of the outside entity and/or implemented other reasonable remedies or corrective action identified by the institution.

2-4-4. Failure to Monitor. An institution's obligation to monitor extends beyond its athletics compliance office. Even as a shared responsibility across an institution, the enforcement staff understands that universal monitoring of every NCAA rule presents a very practical or difficult challenge. Accordingly, the enforcement staff will not assume that an institution violated the NCAA Principle of Rules Compliance when one or more violations may have occurred. In fact, effective compliance and monitoring systems are expected to detect violations, and the enforcement staff will not consider a failure to monitor allegation based only on isolated Level III violations. Instead, consistent with guidance from the membership, the enforcement staff will take a common sense approach in considering an institution's specific efforts to monitor individuals and operations consistent with the NCAA constitution and bylaws.

⁶ Examples of training opportunities include completing the NAAC Education Certification for compliance administrators, and regular attendance at rules education seminars, NCAA Convention workshops, conference meetings or other legislation education sessions.



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Factors indicating satisfactory monitoring include but are not limited to the following:

- a. Policies and procedures – The institution established reasonable written policies and procedures to effectively deter and prevent violations, and detect in a timely manner any violations that occur⁷. The institution communicated and evaluated the policies and procedures on a regular basis, and made them readily available to all staff with athletics compliance responsibilities (e.g., athletics department staff, enrollment management staff and financial aid staff).
- b. Education and training – The institution took reasonable steps to provide regular and effective rules education by communicating applicable legislation, policies, procedures and other aspects of the athletics department compliance program to all student-athletes, institutional staff members and third parties who interact with the athletics department.
- c. Program monitoring and review – Pursuant to its established policies and procedures, the institution monitored its athletics program for compliance with NCAA legislation. The institution heightened its monitoring of individuals who were known to have engaged in prior noncompliant conduct.
- d. Enforcement, response and prevention of reoccurrence – The institution (1) consistently promoted, investigated (in consultation with the enforcement staff for potential Level I and/or II violations) and enforced NCAA legislation as well as conference, campus, department and other applicable policies; (2) took swift and appropriate action when noncompliance occurred, including reporting to the NCAA (and when appropriate, to the institution's conference office) any instance of noncompliance with NCAA legislation; and (3) took reasonable steps to prevent further similar non-compliant conduct.

The enforcement staff will also consider decisions of the Committee on Infractions, legislation education materials, other related factors that may inform on an institution's monitoring efforts and applicable NAAC reasonable standards in determining whether it believes an institution satisfied its obligation to monitor. If the enforcement staff believes a failure to monitor allegation is appropriate, the allegation will identify the specific context of the types of behavior(s) it believes were monitored insufficiently.

- 2-5. Allegation Review Board.** Before finalizing a Notice of Allegations (NOA), the investigative team shall submit the draft NOA to an Allegation Review Board unless the team, in consultation with the managing director for investigations and processing, concludes that additional review would prevent timely resolution of the matter. The investigative team will advise the institution in writing in advance of the date of the review board. The investigative team will also advise in writing any involved party in advance of

⁷ By way of example, NAAC developed a number of reasonable standards. Adoption of and adherence to such reasonable standards may help demonstrate satisfaction of subparagraphs a and b.



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the date of the review board, provided that the involved party's status has been determined by the enforcement staff at the time the review board is scheduled. The review board, consisting of enforcement staff members who were not part of the investigative team, shall be appointed by the managing director for investigations and processing to analyze the following:

- a. Information relied upon to support the allegation(s).
- b. Information refuting the allegation(s).
- c. Aggravating and mitigating information.
- d. Proper level and bylaw citation(s) for each allegation.
- e. Appropriateness of any matters not alleged to be violations.
- f. Other issues unique to the case.

2-5-1. Submission of Information to the Allegation Review Board. There is no requirement that institutions or involved individuals submit material for the review board's consideration. However, if a party wishes to submit additional information, it must be received by the investigative team no less than three business days prior to the date of the review board meeting.

2-5-2. Page Limits. Submissions are not restricted to page limitations; however, information should be succinct, relevant and probative.

2-5-3. Good-Cause Exception. Except for good cause as determined by the managing director of enforcement for investigations and processing, submissions that do not comply with this rule will be deemed untimely and may not be considered by the review board.

2-6. Pre-Allegation Conference. An institution or involved individual may request a conference with the enforcement staff before the staff issues an NOA. If requested, representatives of the enforcement staff shall allow the institution or involved individual to provide information or positions regarding potential allegations.

2-7. Submission Process. The enforcement staff will submit and share case materials electronically through the secure filing system, a secure website that serves as the principal platform for parties to electronically submit and access case information once a matter proceeds past investigation. The enforcement staff will provide instructions relating to the process for exchanging and submitting information electronically to involved individuals and institutions in a timely manner.



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- 2-7-1. Distribution of Process Documents.** Processing documents prepared by the enforcement staff (e.g., NOA, staff reply, statement of the case, etc.) will be shared with all parties unless, pursuant to IOP 4-6, there are portions of a processing document not pertinent to a party that are not shared.
- 2-7-2. Information that Refutes an Allegation.** The enforcement staff shall make available to the institution and any involved individual via the secure filing system any information of which it is aware that tends to refute an allegation pertaining to that party. If a party intends to rely on supplemental factual information (that is, information not identified by the enforcement staff as factual information), that party shall identify such information in its response's key record list with a hyperlink. If the enforcement staff is aware of information not identified by the parties that clearly refutes an allegation, the enforcement staff will make that information available to a panel of the Committee on Infractions.
- 2-7-3. Amending Allegations.** The enforcement staff may amend allegations consistent with operating procedures of the Committee on Infractions.
- 2-7-4. Key Record List and Hyperlinking.** Pursuant to Committee on Infractions IOP 3-1-3, a party, at the beginning of a written submission, shall identify the most pertinent factual information it intends to rely on in presenting the case in a key factual information list and index of authorities (i.e., past cases and interpretations) with hyperlinks to the secure filing system and the Legislative Services Database (LSDBi).
- 2-8. Access to Information through Secure Website.** In matters to be presented to the Committee on Infractions, the institution and involved individuals will have access to pertinent case materials as described in Bylaw 19.5.9 as soon as feasible after the issuance of the NOA (or after the issuance of the draft summary disposition report in a summary-disposition case). The information will be accessible through the secure filing system. All information contained in the secure filing system is governed by the rules of confidentiality, as set forth in Article 19 and the secure filing system's terms of service. The enforcement staff may add pertinent factual information to the secure filing system after the NOA is issued and must provide prompt notice of the addition to the institution, involved individuals and the Committee on Infractions.
- 2-8-1. Access Restrictions.** Pursuant to Committee on Infractions IOP 4-6, the presumption is that all pertinent case information and submissions will be made available to all parties. A party may request the enforcement staff to not share information with another party when the information is not pertinent to that other party. If the enforcement staff grants the request, it will provide notice to the Committee on Infractions and any impacted parties.



Chapter 3 - Level III Violations.

- 3-1. Processing Level III Violations.** Matters the enforcement staff believes to involve only Level III violations ordinarily will be submitted and reviewed electronically through the Requests and Self-Reports Online (RSRO) system. Appeals from staff determinations regarding Level III violations may be presented to the Committee on Infractions pursuant to Bylaw 19.11.4.