



FAYETTEVILLE STATE UNIVERSITY
PUBLIC INFRACTIONS DECISION
November 14, 2017

I. INTRODUCTION

The NCAA Division II Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division II membership and the public. The COI decides infractions cases involving member institutions and their staffs. This case involves the women's basketball program at Fayetteville State University.¹ The core violations in this case revolved around two ineligible women's basketball transfer student-athletes the institution allowed to enroll through a program titled "special visiting student program." Neither were eligible for financial aid and, as a result, a booster paid institutional charges incurred by the student-athletes. These payments constituted impermissible benefits under NCAA rules. The former head women's basketball coach and her husband, Fayetteville State's former director of intramurals, were directly involved in arranging the benefits. The head coach also allowed the two student-athletes to engage in impermissible practice activity.

This case demonstrates the hazards of recruiting prospective student-athletes who do not meet eligibility requirements. Fayetteville State's former head women's basketball coach offered the two then prospective student-athletes scholarships and advocated for their enrollment through the special visiting student program. Consequently, Fayetteville State permitted them to enroll for the fall 2014 semester, at which time they became student-athletes. As academically ineligible student-athletes attending Fayetteville State through this program, institutional policies and NCAA legislation precluded them from receiving financial aid and from participating in activities with the women's basketball team, including practice. After enrollment, when the two student-athletes' institutional charges were due and went unpaid, the head coach and the director of intramurals directed or permitted an athletics representative to pay these charges. Further, the former head coach also permitted the two student-athletes to engage in impermissible practice activity during the fall 2014 semester, and Fayetteville State allowed one of the student-athletes to compete while ineligible during the spring 2015 semester.

The impermissible benefits and impermissible practice activity triggered other violations. The head coach failed to meet her responsibility as a head coach and did not promote an atmosphere for compliance when she engaged in and allowed others to engage in violations of well-known NCAA legislation. She also engaged in unethical conduct when she knowingly violated or directed

¹ A member of the Central Intercollegiate Athletic Association (CIAA), Fayetteville State University has an enrollment of approximately 6,220 students. It sponsors six women's and four men's sports. The institution had no previous major infractions cases.

others to violate NCAA extra benefit legislation and provided false or misleading information to the institution. Further, Fayetteville State's intramurals director violated the NCAA principles of ethical conduct through his knowing involvement in the provision of the impermissible benefits to the ineligible student-athletes. Finally, Fayetteville State failed to monitor certain aspects of its athletics program.

Fayetteville State agreed to the facts of the violations, but did not agree that the facts constituted a failure to monitor. Except for the two student-athletes' impermissible practice activity, the former head women's basketball coach and the director of intramurals generally disagreed that they violated NCAA legislation.

The COI concludes all of the violations in this case as major and utilizing Bylaw 19.5.2, adopts and prescribes the following penalties: two years of probation, a financial penalty, vacation of records, an outside audit of Fayetteville State's athletics program, show-cause orders associated with the former head women's basketball coach and the director of intramurals and disassociation of an athletics representative during the probationary period.

II. CASE HISTORY

In October 2015, an alumnus informed the director of athletics that a representative of the institution's athletics interests (booster) had paid the tuition for two former women's basketball student-athletes (student-athletes 1 and 2, respectively). In response, the director of athletics immediately launched an internal investigation. By early November 2015, the director of athletics had developed information indicating that the then head women's basketball coach (head coach) and her husband likely violated NCAA legislation. The head coach's husband was the director of intramurals at the time (intramurals director). He was also a former assistant football coach at Fayetteville State.

Shortly thereafter, the institution suspended the head coach from all coaching duties and on November 18, 2015, the institution announced her retirement. One day later, Fayetteville State submitted a self-report to the NCAA's secondary enforcement staff.

In early February 2016, the enforcement staff issued a written notice of inquiry and began its investigation shortly thereafter. The enforcement staff concluded the investigation in mid-May 2016. In late August 2016, the enforcement staff sent a draft of the proposed findings to Fayetteville State and the attorney representing the head coach and the intramurals director, suggesting that the case could be processed through summary disposition. On October 18, 2016, the head coach and the intramurals director rejected summary disposition and requested a hearing. On October 26, 2016, the enforcement staff issued the notice of allegations (NOA) to Fayetteville State, the head coach and the intramurals director. On February 27, 2017, Fayetteville State submitted its response to the NOA. One day later, the head coach and the intramurals director submitted their joint response and followed with a revised response on March 11, 2017.

On May 9, 2017, the enforcement staff submitted the case summary to Fayetteville State, the involved parties and the COI. The COI conducted an in-person hearing on June 10, 2017. Representatives from Fayetteville State, the head coach and the intramurals director attended the hearing. Counsel represented the head coach and the intramurals director. During the hearing, the COI asked Fayetteville State to provide additional written information to the COI regarding the institution's compliance program and its monitoring efforts.

On June 12 and 13, 2017, Fayetteville State and the Office of the Committees on Infractions (OCOI) exchanged email messages clarifying the information sought by the COI. On June 27, 2017, the institution provided its response to the COI's request for additional information. Shortly thereafter, counsel for the head coach and the intramurals director replied to the institution's June 27, 2017, response. On July 17, 2017, the COI met by teleconference to discuss the institution's monitoring efforts and decide whether a failure to monitor allegation would be appropriate. On July 25, 2017, the COI sent an amended notice of allegations to Fayetteville State alleging that the institution failed to monitor. The COI provided Fayetteville State three ways to respond to the allegation, including the option to appear in person before the COI. In a July 27, 2017, letter to the COI, Fayetteville State specified that it would respond to the allegation in writing. On August 11, 2017, the COI received Fayetteville State's written response contesting the failure to monitor allegation. On August 24, 2017, the COI met by teleconference to address Fayetteville State's response to the failure to monitor allegation and conclude deliberations.

III. FINDINGS OF FACT

The issues in this case arose in Fayetteville State's women's basketball program and stem from the former head coach's recruitment of two ineligible prospective student-athletes who had previously attended two-year institutions. The issues primarily involved benefits, practice, conduct of institutional personnel and monitoring.

The two student-athletes previously attended two-year colleges and were considered transfers. However, as transfer students, neither met the institution's admissions standards. Under Fayetteville State's admissions and enrollment policies, and NCAA legislation, the two student-athletes status as special visiting students and their academic record as transfers rendered them unable to receive financial aid, practice and compete. Despite these circumstances, the head coach offered the two student-athletes scholarships. And, even though neither qualified for admission, the head coach convinced institutional officials to allow them to enroll in classes through an exception granted under the special visiting student program.² Athletics department personnel, including the head coach, the director of athletics and the compliance director were aware that the two student-athletes could not engage in practice

² An official in the institution's admissions office recommended that the two student-athletes take additional courses at a two-year college in order to earn the credits necessary to attain academic eligibility. However, the head coach convinced institutional officials to allow the two ineligible student-athletes to enroll through the special visiting student program.

Issues involving the two student-athletes surfaced shortly after they enrolled in the fall of 2014 and centered on two main substantive areas. The first area involved the head coach and the intramurals director involving a booster in paying the student-athletes' educational expenses.³ The other area involved the student-athletes' participation in practice.

Payment of Expenses

Shortly after her enrollment in August 2014, student-athlete 1 had incurred over \$4,000 in institutional charges that came to the attention of the head coach. In response to this, the head coach telephoned the booster and requested his assistance in paying student-athlete 1's outstanding account balance. On August 21, 2014, while on campus for an Athletics Club meeting, the booster met with the head coach and the intramurals director. The booster brought his checkbook in anticipation of paying student-athlete 1's outstanding charges. The intramurals director accompanied the booster to the finance office, where the booster wrote a check to Fayetteville State for the entire amount student-athlete 1 owed.

Similar to what occurred with student-athlete 1, about a month after the booster paid student-athlete 1's expenses, the head coach called the booster and asked him to pay the institutional charges incurred by student-athlete 2. The booster drove to the institution to attend another Athletics Club meeting and, upon arriving in town, met the intramurals director, who, again, accompanied the booster to the finance office. The booster attempted to pay student-athlete 2's outstanding charges using one of his credit cards, but the institution did not accept that form of payment. Consequently, the booster had to purchase a cashier's check at a local bank to pay student-athlete 2's outstanding debt. The booster tendered the cashier's check to the institution in the exact amount owed by student-athlete 2.

The booster's payments on behalf of the two student-athletes went undetected for approximately one year. In October 2015, the director of athletics received information from an alumnus indicating that the booster had paid these expenses and was "upset" because both student-athletes were no longer attending Fayetteville State. This triggered an internal investigation during which the director of athletics interviewed the booster and the head coach and obtained written statements from both. The director of athletics' investigation included inquiries at the finance office. Following his investigation, the director of athletics submitted a self-report to the NCAA. The enforcement staff initiated an investigation shortly thereafter.

³Both the booster and the intramurals director had long-time ties to Fayetteville State's athletics programs dating to the time they were football teammates in the 1970s. Since that time, the intramurals director had served as a Fayetteville State assistant football coach for nine years and one year as a volunteer assistant women's basketball coach. Both the booster and the intramurals director were active members of the Athletics Club, the institution's athletics support organization, for which the booster served as the president for several years. The head coach had requested, and received funds from the booster in the past in support of the women's basketball program. The program used these funds to finance winter break trips for the women's basketball team. In those instances, Fayetteville State processed the funds through its development channels.

As it relates to the investigation by the institution and the enforcement staff, consistency of information between the booster and the head coach was an issue. The intramurals director provided information confirming portions of what the booster reported.

In the booster's interview with the director of athletics during the internal investigation, and later with the enforcement staff, he consistently reported that the head coach telephoned him to request financial assistance in paying student-athlete 1's expenses and about a month later, did the same for student-athlete 2. On both occasions, the booster drove to the institution's campus where the intramurals director accompanied him to the finance office. There, he wrote checks on behalf of the two student-athletes. The booster did not realize that his payments on behalf of the student-athletes would be impermissible. He also reported that he did not receive NCAA rules education.⁴

Contrary to what the booster said, during the head coach's interview with the director of athletics and in her written statement, she denied asking the booster to assist in paying the tuition for the two student-athletes and denied having any direct knowledge of how the two student-athletes paid their outstanding charges. She indicated that financial aid was used to pay the two student-athletes' expenses. However, approximately a year later, when questioned by the enforcement staff, the head coach admitted to knowing about the booster's involvement in the payment of the two student-athletes' expenses as early as September 2014, around the time student-athlete 2's charges came due. She also admitted to knowing that her husband, the intramurals director, accompanied the booster to the finance office. She continued to deny that she asked the booster to pay the student-athletes' expenses.

The intramurals director confirmed that he accompanied the booster to the finance office and was aware that the booster's payments were on behalf of the two student-athletes. The intramurals director knew that the two student-athletes were in the status of special visiting students and, as such, could not receive financial aid.

Inquiries at the finance office confirmed the payments made by the booster. The finance office located copies of two cancelled checks totaling over \$12,500 written by the booster in payment of the two student-athletes' expenses. Further, personnel at the finance office identified the intramurals director as the individual who accompanied the booster to the finance office, a fact confirmed by the intramurals director.

Participation in Practice

After the two student-athletes enrolled at the institution, they participated in practice. Eventually, information indicating that the two may be practicing came to the attention of university officials, including the compliance director.

⁴ In Fayetteville State's response to the COI's failure to monitor allegation, the institution admitted that its rules education for "outside constituents" (e.g. boosters) "needs to be stronger."

The head coach admitted that she allowed the student-athletes to practice with the team during the fall 2014 semester. She permitted them to practice even though she knew both were in the status of special visiting students and were precluded from participating in activities with the team. She stated that the two young women "were just there" (at the gym), so she permitted them to practice. She did not discuss the permissibility of the two practicing with the compliance office and denied being told by the compliance office not to allow the two to practice. Ultimately, the head coach admitted in her interview with the enforcement staff that, as the head coach, she accepted responsibility for the two student-athletes practicing with the team.

The compliance director was aware that the two student-athletes could not practice and he informed the head coach that the two student-athletes could not engage in practice activities because of their status as special visiting students. Later, the compliance director heard rumors that both were practicing with the team and he again warned the head coach that the two student-athletes should not participate with the team in any way. However, at the hearing, the compliance director admitted that, other than verbally warning the head coach, he did not pursue the information indicating that the two student-athletes were practicing with the team. He also expressed regret for not following up on the information.

IV. ANALYSIS

The violations in this case arose from the head coach's decision to recruit two transfer student-athletes who failed to meet both institutional admissions standards and NCAA minimum academic requirements for practice, competition and financial aid.⁵ Nonetheless, the head coach convinced institutional officials to allow the student-athletes to enroll in classes, a decision that ultimately led to violations of NCAA legislation in the following areas: (A) the head coach and the intramurals director involving a booster in the provision of impermissible extra benefits to two student-athletes; (B) the head coach allowing the two student-athletes to impermissibly practice with the team and Fayetteville State allowing one of the student-athletes to compete during the spring 2015 semester while ineligible; (C) unethical conduct and a failure of the head coach to meet her responsibility to promote an atmosphere for compliance; (D) unethical conduct by the intramurals director; and (E) the institution's failure to monitor.

⁵ In the NOA and other record material, the institution and the enforcement staff categorized the two ineligible student-athletes as prospective student-athletes. Bylaw 13.02.9 specifies that a prospective student-athlete loses that status and becomes a student-athlete when that individual enrolls and attends classes, or participates in practice. Because both student-athletes enrolled in classes and both participated in team practice, the COI determined that they met the definition of student-athletes. Further, student-athlete 2 competed in 12 contests while ineligible during the spring 2015 semester. The COI concludes that when an individual competes for an institution, that individual is a student-athlete, regardless of whether they were eligible or ineligible.

A. IMPERMISSIBLE EXTRA BENEFITS [NCAA Division II Manual Bylaws 16.02.3, 16.11.2.1 and 16.01.1 (2014-15)]

During the fall 2014 semester, the head coach and the intramurals director involved a booster in the provision of extra benefits consisting of payment of institutional expenses incurred by two student-athletes. Partially as the result of these impermissible payments, one of the student-athletes competed while ineligible during the spring 2015 semester. Fayetteville State and the enforcement staff substantially agreed to the facts and that violations occurred. The head coach and the intramurals director, for the most part, did not agree to the violations. The COI concludes that the head coach and the intramurals director committed a major violation.

1. NCAA legislation relating to athletics representatives and impermissible benefits.

The applicable portions of the bylaws may be found at Appendix Two.

2. The head coach and the intramurals director violated NCAA benefit legislation when they involved a booster in the payment of institutional expenses for two student-athletes.

On two occasions, first in August 2014 and again in September 2014, the head coach and the intramurals director requested and/or permitted a booster to pay thousands of dollars in institutional expenses incurred by two student-athletes who were enrolled in classes at the institution. The head coach's and the intramurals director's actions resulted in violations of Bylaw 16, benefit legislation.

Bylaw 16 governs benefits for enrolled student-athletes, including prohibiting student-athletes from receiving extra benefits. An extra benefit is defined in Bylaw 16.02.3 as any special arrangement by an institutional employee or a booster to provide a student-athlete a benefit not expressly authorized by NCAA legislation. Bylaw 16.11.2.1 prohibits boosters from providing student-athletes with any extra benefit. Finally, Bylaw 16.01.1 specifies that receipt of an extra benefit by a student-athlete renders the student-athlete ineligible for athletics competition.

The booster paid the outstanding institutional charges incurred by the two student-athletes. The booster's own statements and documents uncovered during the investigation establish the payments. The institution located cancelled checks written by the booster totaling over \$12,500 that he used to pay the two student-athletes' debts. These payments constituted impermissible benefits and are violations of Bylaws 16.02.3 and 16.11.2.1.

The head coach and the intramurals director were involved in these payments. The head coach had a history of asking the booster to provide funds in support of the program and the head coach asked him to pay the two student-athlete's outstanding charges. On both occasions, first in August 2014 and later in September 2014, he drove to the institution's campus. There, the intramurals director accompanied him to the finance office where the booster wrote checks to pay the student-

athletes' outstanding charges. The intramurals director admitted to accompanying the booster to the finance office. Further, after initially denying knowledge of how the two student-athletes' charges were paid, the head coach ultimately admitted to being aware of the payments.

The committee concluded that the head coach requested the booster make the payments on behalf of the student-athletes. In doing so, she violated Bylaws 16.02.3 and 16.11.2.1. The COI notes that, although the head coach denied that she directly asked the booster to make the payments, she ultimately admitted to knowing about the booster's payments approximately a month after the booster paid student-athlete 1's charges and contemporaneous to when he paid student-athlete 2's charges. Even if the COI had concluded that the head coach did not expressly ask the booster to make these impermissible payments, by knowing about the payments and not taking any action to stop or report them, that would also have been a violation of Bylaws 16.02.3 and 16.11.2.1.

Likewise, the intramurals director admitted that he accompanied the booster to the finance office on both occasions the booster paid the charges. In doing so, he permitted the booster to make these payments. By permitting the booster to make these payments, the intramurals director also violated Bylaws 16.02.3 and 16.11.2.1.

Finally, because of the payments made by the booster, both student-athletes were ineligible for competition. Student-athlete 2 competed in 12 contests while ineligible during the spring 2015 semester in violation of Bylaw 16.01.1.⁶ Student-athlete 1 did not compete.

This case demonstrates the danger of mixing boosters and student-athletes. Involvement of boosters in violations of NCAA legislation has, for decades, been an issue in Division I. However, booster involvement in Division II infractions cases is unusual. In the past ten years, only one Division II infractions case included booster involvement in the provision of extra benefits. *See Abilene Christian University (2009)* (concluding that boosters provided impermissible extra benefits in the form of gift cards, cash, merchandise, food and clothing items to 15 track and field student-athletes). Despite the unusual nature of this type of violation in Division II, the committee cautions the Division II membership to be vigilant in preventing boosters from providing impermissible benefits or recruiting inducements to student-athletes.

B. IMPERMISSIBLE PRACTICE AND INELIGIBLE COMPETITION [NCAA Division II Manual Bylaws 14.5.4.2 and 14.5.4.2.4 (2014-15)]

During the 2014-15 academic year, the head coach allowed two student-athletes to practice who were ineligible for practice and competition. Further, Fayetteville State permitted student-athlete 2 to compete while ineligible during the spring 2015 semester. Fayetteville State, the enforcement

⁶ Student-athlete 2 was also ineligible for competition under Bylaw 14 as set forth in Violation B.

staff and the head coach substantially agreed to the facts and that a violation occurred. The COI concludes that major violations occurred.

1. NCAA legislation relating to impermissible practice and competition by ineligible student-athletes.

The applicable portions of the bylaws may be found at Appendix Two.

2. The head coach permitted two ineligible transfer student-athletes to practice and Fayetteville State allowed one of the student-athletes to compete while ineligible.

On several occasions during the fall 2014 semester, the head coach allowed the two student-athletes to practice even though they were not allowed to practice under both NCAA legislation and institutional policies.⁷ Additionally, Fayetteville State permitted student-athlete 2 to compete while ineligible during the spring 2015 semester. This conduct violated Bylaw 14.

Bylaw 14.5.4.2 establishes the requirements for two-year transfers to be eligible to practice, compete and receive financial aid at a member institution. Among the requirements is a 2.00 grade-point average (GPA) at the two-year institution(s) and at least 12-semester or 12-quarter hours of transferable degree credit. In tandem with Bylaws 14.5.4.2 and 14.5.4.2.4 specifies that nonqualifiers who do not meet the requirements set forth in Bylaw 14.5.4.2 may not compete, practice or receive any athletics aid at the certifying institution during their first academic year in residence.

The two student-athletes were deficient in one or more of the above academic requirements. Among these deficiencies, student-athlete 1 had no transferrable credit hours and student-athlete 2 did not have the requisite GPA. When the head coach allowed the two ineligible student-athletes to practice during the fall 2014 semester, she violated Bylaws 14.5.4.2 and 14.5.4.2.4. She also violated the institution's policies pertaining to special visiting students that prohibited the two student-athletes from practicing. Finally, because Fayetteville State allowed student-athlete 2 to compete in 12 contests during the spring 2015 semester, it also violated Bylaws 14.5.4.2 and 14.5.4.2.4.

Ensuring that all student-athletes, including transfer student-athletes, meet eligibility requirements is an important responsibility of the membership, regardless of divisional affiliation. In past cases, the COI has concluded that ineligible practice and/or competition by student-athletes who did not satisfy NCAA two-year college transfer requirements constitutes major violations. *See Eastern New Mexico University (2015)* (concluding the institution permitted 11 student-athletes who did not satisfy NCAA two-year college transfer requirements to practice and/or compete and receive

⁷ Although the two student-athletes were enrolled in classes, as special visiting students, they were not officially admitted to the institution. Because they were not officially admitted, under the institution's policies, they could not practice with the team (nor compete and receive financial aid).

travel expenses and/or athletically related financial aid during their first academic year of residence); *University of West Georgia* (2011) (concluding that five student-athletes in four sports had not satisfied two-year transfer requirements); and *Miles College* (2011) (concluding that thirty-nine student-athletes practiced and competed while ineligible and/or received impermissible athletically related financial aid even though they failed to meet two-year transfer requirements).

C. THE HEAD COACH'S UNETHICAL CONDUCT AND FAILURE TO PROMOTE AN ATMOSPHERE FOR COMPLIANCE [NCAA Division II Manual Bylaws 10.01.1, 10.1, 10.1-(c) and 10.1-(d) (2014-15 and 2015-2016); and 11.1.2.1 (2014-15)]

The head coach acted in an unethical manner and did not promote an atmosphere for rules compliance in three main ways: she requested and permitted a booster to pay institutional expenses for two ineligible student-athletes; she allowed two ineligible student-athletes to engage in practice; and she provided false or misleading information to the institution. The enforcement staff and Fayetteville State substantially agreed on the facts and that a major violation occurred. The head coach agreed to some of the underlying facts, but disagreed that her conduct was unethical or that she failed to promote an atmosphere for compliance. The committee concludes that the head coach committed major violations.

1. NCAA legislation relating to unethical conduct and failure to promote and atmosphere for compliance.

The applicable portions of the bylaws may be found at Appendix Two.

2. The head coach engaged in unethical conduct and failed to promote an atmosphere of rules compliance when she requested and permitted a booster to provide thousands of dollars in impermissible benefits to two student-athletes, allowed the two student-athletes to engage in impermissible practice activities and provided false or misleading information to the institution.

During the fall 2014 semester, the head coach engaged in unethical conduct and failed to promote an atmosphere for compliance when she requested a booster to provide over \$12,500 in impermissible payments for two ineligible student-athletes, when she allowed the two ineligible student-athletes to engage in practice and when she provided false or misleading information to the institution during its internal inquiry. The head coach's involvement in these violations violated Bylaws 10 and 11, ethical conduct and head coach responsibility legislation.

The NCAA membership set standards for the type of behavior expected of those involved in intercollegiate athletics. Bylaw 10.01.1 generally requires all institutional staff members to conduct themselves in an ethical manner, while Bylaw 10.1 identifies behaviors that constitute unethical conduct. Among those behaviors considered unethical is knowing involvement in providing an enrolled student-athlete an improper extra benefit or improper financial aid, as

specified in Bylaw 10.1-(c). Further, Bylaw 10.1-(d) requires institutional staff members to provide full and truthful information regarding their knowledge of matters relating to possible NCAA rules violations. Bylaw 11.1.2.1 establishes an affirmative duty on head coaches to promote an atmosphere for rules compliance in their programs.

The head coach engaged in unethical conduct in two ways. First, she knowingly involved a booster in payments on behalf of two student-athletes in violation of Bylaw 10.1-(c). Second, during the institution's internal investigation, she provided a false or misleading written statement to the director of athletics when interviewed about the booster's payment. Her provision of false or misleading information violated Bylaw 10.1-(d).

Cases that include coaches involving boosters in violations are unusual in Division II. In fact, no previous Division II cases over at least the past ten years included coaches unethically involving boosters in the provision of recruiting inducements or benefits, as seen in this case. However, the COI has considered cases in which head coaches engaged in unethical conduct when they became directly involved in the provision of impermissible benefits or recruiting inducements. Cases involving head coaches engaging in unethical conduct by providing impermissible benefits or recruiting inducements include *Gannon University* (2016) (concluding that the head coach engaged in unethical conduct when he provided a \$3,000 impermissible benefit by funneling athletics aid from one student-athlete to another); and *East Central University* (2015) (concluding that the head men's basketball coach engaged in unethical conduct when he directly engaged in and directed others to engage in impermissible recruiting activities, including the provision of recruiting inducements).

As leaders of young people and role models, coaches must act ethically and be truthful when questioned by their employing institution and/or the NCAA. Over the past few years, the COI has encountered several instances of head coaches providing false or misleading information. Providing falsehoods during investigations invariably exacerbates the seriousness of cases. See *West Texas A&M University* (2016) (concluding that the head football coach engaged in unethical conduct when he provided false or misleading information to the institution when he denied knowledge of an assistant coach providing an impermissible loan to a student-athlete); *Chadron State College* (2013) (concluding that the head football coach provided false or misleading information to the institution when he denied knowledge of outside bank accounts used for athletics purposes and when he provided false or misleading information regarding his involvement in providing impermissible benefits of cash to two student-athletes); and *University of California, San Diego* (2013) (concluding that the head women's rowing coach engaged in unethical conduct when she provided false or misleading information when she denied her involvement in having student-athletes falsify documents associated with travel and competition). Similar to these cases, the head coach engaged in unethical conduct by providing false or misleading information to the institution when questioned about the booster's payments on behalf of the two student-athletes.

In addition to engaging in unethical conduct, the head coach violated head coach responsibility legislation. Bylaw 11.1.2.1 requires head coaches to promote an atmosphere for compliance. In this case, the head coach knowingly involved a booster in impermissible payments on behalf of the two student-athletes and she allowed them to participate in practice, being aware that they were not allowed to do so. Consequently, she failed to set the proper tone of compliance and violated Bylaw 11.1.2.1.

For the last decade, the membership has made it clear that head coaches have a heightened responsibility to properly administer their programs within the parameters of NCAA rules and regulations. Despite this expectation, the committee has considered several cases in recent years involving head coach responsibility failure. These cases often involved violations of well-known NCAA rules. *See Seattle Pacific University (2017)* (concluding that the head women's soccer coach failed to promote an atmosphere for compliance when he violated bylaws associated with the financial administration of his institution's soccer camp); *Lenoir Rhyne University (2016)* (concluding that the head men's basketball coach failed to promote an atmosphere for compliance by directly engaging in and allowing others to engage in the impermissible recruiting activities); *Gannon University* (concluding that the head swimming coach failed to promote an atmosphere for compliance when he provided a \$3,000 impermissible benefit by funneling the aid from one student-athlete to another); and *University of California, San Diego* (concluding that the head women's rowing coach failed to promote an atmosphere for compliance when she knowingly permitted student-athletes to compete and receive travel expenses while ineligible). Similarly, in this case, the head coach violated well-known benefit legislation when she involved a booster in the payment of institutional charges on behalf of the two student-athletes, thus demonstrating that she failed to promote an atmosphere for compliance.

D. UNETHICAL CONDUCT – INTRAMURALS DIRECTOR [NCAA Division II Manual Bylaws 10.01.1, 10.1 and 10.1-(c) (2014-2015)]

During the 2014-15 academic year, the intramurals director violated the principles of ethical conduct when he knowingly permitted a booster to pay institutional expenses incurred by two student-athletes who were ineligible to practice, compete and receive financial aid. Fayetteville State and the enforcement staff substantially agreed to the facts and that violations occurred. The intramurals director did not agree. The COI concludes that the intramurals director committed a major violation.

1. NCAA legislation related to ethical and unethical conduct.

The applicable portions of the bylaws may be found at Appendix Two.

2. The intramurals director engaged in unethical conduct when he permitted a booster to pay thousands of dollars in institutional expenses incurred by two ineligible student-athletes.

The parties all agree that intramurals director accompanied the booster to the finance office on two separate occasions where the booster paid over \$12,500 in institutional expenses incurred by the two ineligible student-athletes. The intramurals director's conduct violated Bylaw 10.

Bylaw 10.01.1 generally require all institutional staff members to conduct themselves in an ethical manner while Bylaw 10.1 identifies behaviors that constitute unethical conduct. Among those behaviors considered to be unethical conduct is knowing involvement in providing an enrolled student-athlete an improper extra benefit or improper financial aid, as specified in Bylaw 10.1-(c).

The intramurals director had extensive experience in intercollegiate athletics. He was a former student-athlete. Further, he served as a Fayetteville State assistant football coach for nine years and one year as a volunteer assistant women's basketball coach. He knew the booster, a former football teammate, was a representative of the institution's athletics interests. Moreover, the intramurals director was aware that the two student-athletes were "special visiting students" and, as such, were not eligible for institutional financial aid.

As a long-time former NCAA coach, the intramurals director knew, or certainly should have known, that NCAA legislation prohibits boosters from providing either recruiting inducements to prospects, or benefits to enrolled student-athletes. The intramurals director believed the two student-athletes were, in fact, student-athletes and not prospects, and he claimed that he was unaware the booster's payments on behalf of the student-athletes were impermissible. Regardless whether the student-athletes were student-athletes or prospects, the booster's payments on their behalf were obvious violations of well-known NCAA legislation. Therefore, the COI found not credible the intramural director's claim that he didn't know the booster's payments were impermissible. Consequently, the COI concludes that his actions in accompanying the booster to the finance office and permitting him to make payments on behalf of two ineligible student-athletes constitutes unethical conduct and violates Bylaws 10.01.1 and 10.1-(c), a major violation.

E. FAYETTEVILLE STATE'S FAILURE TO MONITOR [NCAA Division II Manual Constitution 2.8.1 (2014-15 and 2015-2016)]

From August 2014 to December 2015, Fayetteville State failed to monitor aspects of its athletics program. Specifically, the institution failed to monitor in two main ways: not providing adequate compliance education to representatives of the institution's athletics interests and not engaging in heightened monitoring and awareness required by the enrollment of two ineligible transfer student-athletes who were precluded from engaging in practice. Fayetteville State did not agree that it failed to monitor. The COI concludes the institution committed a major violation.

1. NCAA legislation relating to monitoring.

The applicable portions of the bylaws may be found at Appendix Two.

2. Fayetteville State failed to monitor when it did not provide adequate rules education for boosters and when it did not monitor aspects of its women's basketball program.

During at least a two-year period, the institution failed in its obligation to monitor in two ways: failing to provide adequate rules education for boosters and failing to monitor the activity of two ineligible student-athletes. In failing to provide compliance education to boosters and in monitoring the two ineligible student-athletes, the institution violated Constitution 2.8.1.

Constitution 2.8.1 requires that each member institution comply with all rules and regulations of the Association and monitor its programs to ensure compliance. The Constitution also establishes that the institution exercise control over the conduct of the institution's intercollegiate athletics programs.

From at least August 2013 to December 2015, Fayetteville State failed to provide adequate NCAA rules education to boosters. The booster at the center of this case reported that he did not realize that his payments on behalf of the two student-athletes were impermissible. He did not receive compliance education regarding what representatives of athletics interests can and cannot do under NCAA rules. Fayetteville State admitted that its "NCAA rules education program for constituents external to the Athletics Department needs to be stronger."

NCAA rules education is a key element of a comprehensive compliance program. Inadequate education has been a component of either a lack of institutional control or a failure to monitor in several Division II infractions cases in recent years. *See Central State University* (2016) (concluding that the institution lacked control when, among other failures, it did not provide accurate NCAA rules education regarding key topics); *Eastern New Mexico University* (concluding that the institution lacked control, when, in addition to other failures, it did not provide appropriate NCAA rules education in the area of eligibility certification); *Morehouse College* (2015) (concluding that the institution failed to monitor when, among other shortcomings, it failed to provide adequate NCAA rules education and training to institutional staff members to ensure that the athletics programs operated in compliance with NCAA rules); and *University of Alaska, Fairbanks* (2014) (concluding that the institution lacked control when, among other issues, it failed to provide adequate NCAA rules education regarding eligibility certification requirements to institutional personnel and staff outside of the athletics department who were responsible for the certification of student-athletes' academic eligibility). In this case, Fayetteville State did not provide adequate rules education to boosters.

Fayetteville State also failed to monitor the two ineligible student-athletes relative to their practice activity. Institutional personnel, including the head coach, the compliance director and the director

of athletics were all aware that the two student-athletes were "special visiting students" and ineligible to practice, compete and receive financial aid. The compliance director stated that he warned the head coach on at least two occasions not to allow the two to practice. The first occasion was shortly after the two enrolled and the second was in response to rumors he heard that the two may be practicing. However, at the hearing, when questioned by the COI, the compliance director admitted that he did not investigate the rumors that the two student-athletes were practicing with the team.

Ensuring that ineligible student-athletes do not engage in practice and competition is a basic responsibility for all member institutions. The COI has considered cases that included impermissible practice by ineligible student-athletes in the context of either a failure to monitor or lack of institutional control. *See Lane College* (2008) (concluding the institution lacked control and failed to monitor when numerous student-athletes were permitted to practice, compete and receive athletically related financial aid while ineligible); and *Miles College* (concluding that the institution lacked control and failed to monitor when it failed to establish a system for monitoring the eligibility of student-athletes to practice, compete and receive athletically related financial aid). In this case, the head coach and athletics administrators were keenly aware that the two student-athletes were not eligible to practice with the team. Nevertheless, the head coach allowed the two student-athletes to practice and rumors that the two were practicing circulated in the athletics department. However, Fayetteville State failed to follow up on these rumors to ensure that the two did not engage in practice. This lack of action demonstrated a failure to monitor, a major violation.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the COI concludes that this case involved major violations of NCAA legislation. Major violations are those that provide an extensive recruiting or competitive advantage. Therefore, the COI prescribes penalties pursuant to Bylaw 19.5.2 which lists penalties for major violations. In prescribing appropriate penalties, the COI also considered the institution's cooperation in the processing of this case. Cooperation during the infractions process is addressed in Bylaws 19.01.3 and 32.1.3. The COI concludes that the cooperation exhibited by the institution was consistent with its obligation under the bylaws.

The COI also considered the institution's corrective actions, which are contained in Appendix One. The COI prescribes the following penalties:

Penalties, Disciplinary Measures and Corrective Actions (Bylaw 19.5.2)

1. Public reprimand and censure.
2. Two years of probation from November 14, 2017, through November 13, 2019.

3. Fayetteville State shall pay a financial penalty of \$2,500 to the Association.⁸
4. Disassociation: Fayetteville State shall disassociate the booster in this case for a period of two years to coincide with the probationary period. The disassociation shall include:
 - a. Refraining from accepting any assistance from the booster that would aid in the recruitment of prospective student-athletes or the support of enrolled student-athletes;
 - b. Refusing financial assistance or contributions to the institution's athletics program from the booster;
 - c. Ensuring that no athletics benefit or privilege is provided to the booster, either directly or indirectly, that is not available to the public at large; and
 - d. Implementing other actions that the institution determines to be within its authority to eliminate the involvement of the booster in the institution's athletics program during the two-year period.
5. Fayetteville State shall undergo a Division II Compliance Blueprint Review to take place once during the two-year probationary period. The results of the Blueprint Review shall be included in one of the institution's two annual compliance reports.

Show-cause Orders (Bylaw 19.5.2.2)

6. The head coach asked a booster to provide impermissible benefits to two ineligible student-athletes and she allowed the two ineligible student-athletes to engage in impermissible practice activities. In committing these violations, she failed her responsibility as a head coach. She also provided false or misleading information to the institution regarding her knowledge of, and involvement in, violations of NCAA legislation. Therefore, pursuant to Bylaw 19.5.2.2, the COI prescribes a three-year show-cause order for the head coach that shall be in effect beginning with the date of this decision, November 14, 2017, and concluding on November 13, 2020. The head coach shall be informed in writing by the NCAA that if she seeks employment or affiliation in an athletically related position at an NCAA member institution during the three-year show-cause period, any employing institution shall be required to contact the OCOI to make arrangements to show cause why restrictions on her athletically related activity should not apply.
7. The intramurals director permitted a booster to provide impermissible benefits to two ineligible student-athletes. Therefore, pursuant to Bylaw 19.5.2.2, the COI prescribes a two-year show-cause order that shall be in effect beginning with the date of this decision, November 14, 2017,

⁸ The CIAA fined the institution \$12,000. The \$2,500 fine prescribed by the COI is in addition to the conference fine. The fine shall be paid to the NCAA no later than the due date of the institution's preliminary compliance report.

and concluding on November 13, 2019. The intramurals director shall be informed in writing by the NCAA that if he seeks employment or affiliation in an athletically related position at an NCAA member institution during the two-year show-cause period, any employing institution shall be required to contact the OCOI to make arrangements to show cause why restrictions on his athletically related activity should not apply.

8. Vacation of records. Student-athlete 2 competed while ineligible in 12 contests during the spring 2015 semester. Therefore, pursuant to Bylaws 19.5.2-(g) and 31.2.2.4, Fayetteville State shall vacate all regular season and conference tournament wins (if any) in which student-athlete 2 competed. The individual records of the ineligible student-athlete shall also be vacated. Further, the institution's records regarding women's basketball, as well as the record of the head coach, shall reflect the vacated records and shall be recorded in all publications in which women's basketball records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media plus institutional, conference and NCAA archives. Any institution that may subsequently hire the head coach shall similarly reflect the vacated wins in her career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins to attain specific honors or victory "milestones" such as 100th, 200th or 500th career victories. 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. Any trophies or other team awards attributable to the vacated contests shall be returned to the Association.

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 media coordination and statistics staff and appropriate conference officials to identify the student-athletes and contests impacted by the penalties. In addition, Fayetteville State must provide the NCAA media coordination and statistics staff a written report detailing those discussions. This document will be maintained in the permanent files of the NCAA media coordination and statistics department. This written report must be delivered to the NCAA media coordination and statistics staff no later than 45 days following the initial infractions decision release or, if the vacation penalty is appealed, at the conclusion of the appeals process. Documentation of the vacation of records shall be included in the first annual compliance report.

9. During the period of probation, Fayetteville State shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for NCAA recruiting and certification legislation;

- b. Submit a preliminary report to the OCOI by January 15, 2018, setting forth a schedule for establishing this compliance and educational program;
 - c. File with the OCOI annual compliance reports indicating the progress made with this program by September 1, during each year of probation. Particular emphasis shall be placed on compliance education for athletics representatives (boosters), certification of eligibility and the monitoring of the institution's practice sessions and other countable athletic related activity;
 - d. Inform in writing prospective student-athletes in women's basketball that Fayetteville State is on probation for two years and detail the violations committed. If a prospective student-athlete takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospective student-athlete signs a National Letter of Intent; and
 - e. Publicize specific information concerning the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport program and a direct, conspicuous link to the public infractions report located on the athletic department's main or "landing" webpage. The information shall also be included in the women's basketball media guides (either paper or digital versions) and in an alumni publication. The institution's statement must: (1) clearly describe the infractions and how they occurred; and (2) include the penalties associated with the infractions case.
10. Following the receipt of the final annual compliance report and prior to the end of probation date, the institution's president shall provide a letter to the COI affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

The COI advises Fayetteville State that it should take every precaution to ensure that it observes the terms of the penalties. The COI 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 may be considered grounds for extending the institution's probationary period, prescribing more severe penalties or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS

John David Lackey
Julie A. Rochester, chair
Carey J. Snyder
Harry O. Stinson, III
Jane Teixeira
Christie L. Ward

APPENDIX ONE
CORRECTIVE ACTIONS AS IDENTIFIED IN FAYETTEVILLE STATE'S
FEBRUARY 27, 2017, RESPONSE TO THE NOTICE OF ALLEGATIONS.

1. On November 6, 2015, the University suspended the head women's basketball coach. She subsequently resigned as a University employee.
2. On November 18, 2015, the University declared student-athlete 1 ineligible for competition. Although the University submitted a reinstatement waiver for student-athlete 1 for the spring 2016 semester, she remained ineligible due to lack of progress-towards-degree requirements.
3. The University's compliance staff reviewed its compliance program to determine if additional compliance education was needed for various constituents. The staff determined that such was the case and has begun the following corrective measures:
 - More targeted rules education seminars aimed at student admissions and student services employees along with members of the University's Board of Trustees are being conducted by the compliance staff.
 - Additional rules education seminars related to allegations contained in the Notice of Allegations for athletics department coaches and staff are being conducted by the compliance staff.
 - The compliance staff increased the number of rules education seminars to once a quarter for its booster club members and other individuals interested in supporting the University's athletics program.
 - The University is in the process of correcting its travel procedures. The revised procedures would ensure review of travel rosters by the compliance staff 24 hours before student-athletes traveled to away contests. Once approved by the compliance office, the travel roster would be forwarded to the University's travel office for processing. This will prevent student-athletes who have been found to be ineligible from traveling to away contests.

APPENDIX TWO
Constitution and Bylaw Citations

Division II 2014-15 Manual

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

10.01.1 Honesty and Sportsmanship. Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

10.1 Unethical Conduct. Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

- (c) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;
- (d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.

11.1.2.1 Responsibility of Head Coach. It shall be the responsibility of an institution's head coach to promote an atmosphere for compliance within the program supervised by the coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.

14.5.4.2 Eligibility for Competition, Practice and Athletics Aid—All Other Qualifiers, Partial Qualifiers and Nonqualifiers. A transfer student from a two-year college is eligible for competition, practice and athletics aid during the first academic year in residence at the certifying institution, provided:

- (a) The student-athlete has attended the two-year college as a full-time student for at least two semesters or three quarters (excluding summer sessions); and
- (b) The student-athlete has satisfied one of the following provisions:
 - (1) Graduated from the two-year college. At least 25 percent of the credit hours used to fulfill the student's academic degree requirements must be earned at the two-year college that awards the degree per Bylaw 14.5.4.4.4; or
 - (2) Satisfactorily completed an average of at least 12-semester or 12-quarter hours of transferable degree credit acceptable toward any baccalaureate degree program at the certifying institution for each academic term of full-time attendance with a cumulative minimum grade-point average of 2.000 (see Bylaw 14.5.4.4.3.2).

14.5.4.2.4 Nonqualifiers. Nonqualifiers who do not meet the requirements set forth in Bylaw 14.5.4.2, may receive nonathletics aid (but may not compete, practice or receive any athletics aid) at the certifying institution during their first academic year in residence.

16.01.1 Eligibility Effect of Violation. A student-athlete shall not receive any extra benefit as defined in Bylaw 16.02.3. Receipt by a student-athlete of an award, benefit or expense allowance not authorized by NCAA legislation renders the student-athlete ineligible for athletics competition in the sport for which the improper award, benefit or expense was received.

16.02.3 Extra Benefit. An extra benefit is any special arrangement by an institutional employee or a representative of the institution's athletics interests to provide a student-athlete or the student-athlete's relative or friend a benefit not expressly authorized by NCAA legislation.

16.11.2.1 General Rule. The student-athlete shall not receive any extra benefit. The term "extra benefit" refers to any special arrangement by an institutional employee or representative of the institution's athletics interests to provide the student-athlete or his or her relatives or friends with a benefit not expressly authorized by NCAA legislation.

Division II 2015-16 Manual

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics

interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

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- (c) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;
- (d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.