



**ELMHURST COLLEGE**  
**PUBLIC INFRACTIONS DECISION**  
**October 27, 2017**

**I. INTRODUCTION**

The NCAA Division III Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division III membership and the public. The COI decides infractions cases involving member institutions and their staffs. This case involved violations of NCAA bylaws affecting the athletics program at Elmhurst College.<sup>1</sup> The violations occurred when the director of financial aid knowingly provided impermissible financial aid to student-athletes. The actions of the director of financial aid constituted unethical conduct, and certain institutional shortcomings established the institution's lack of control over its athletics program. The COI considered this case through the summary disposition process in which all participating parties agreed to the primary facts and violations as fully set forth in the summary disposition report (SDR). Because the parties agreed to the violations and all penalties proposed by the COI, there is no opportunity to appeal.

As detailed in the SDR, the director of financial aid awarded financial aid partially based on athletics criteria to 26 student-athletes on 42 occasions over four academic years. The student-athletes participated in 10 sports. The director of financial aid knew that the aid was impermissible, but felt pressured to award it so as to alleviate budgetary pressures in the institution's financial aid office. Through the same period of time, Elmhurst actually established scholarships using athletics criteria, failed to act on a letter from the NCAA warning about the impermissible financial aid, did not educate personnel involved in the financial aid and development processes, and did not have proper monitoring mechanisms in place. The parties proposed and the COI agrees that the violations are major.

The COI accepts the parties' factual agreements and concludes that major violations occurred. The COI adopts and prescribes the following principal penalties: two years of probation, a \$2,500 fine, an audit of the financial aid process, vacation of records, a one-year show-cause order for the director of financial aid, along with other appropriate administrative actions.

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<sup>1</sup> A member of the College Conference of Illinois and Wisconsin, Elmhurst College has an enrollment of approximately 3,400 students. It sponsors 10 women's and 10 men's sports. The institution had no previous major infractions cases.

## **II. CASE HISTORY**

On February 24, 2016, the NCAA Division III Financial Aid Committee notified Elmhurst of concerns that adjustments made to student-athletes' financial aid packages did not meet established guidelines and may have involved athletics staff members.<sup>2</sup> On May 19, 2016, the enforcement staff issued a notice of inquiry and prepared to conduct on-campus interviews.

Before the interviews began, Elmhurst conducted a comprehensive review of its financial aid office. The review revealed that student-athletes may have been receiving aid from five scholarship funds based on athletics participation. In response, the enforcement staff requested a four-year analysis of the five scholarships. After the review and some on-campus interviews, Elmhurst submitted violation self-reports in August and September 2016.

In January 2017, the institution and enforcement staff agreed to submit the violations to the COI through the SDR process. They submitted the original SDR on May 18, 2017. The COI rejected the SDR and sought clarification from the parties on whether the facts demonstrated other violations, including a violation based on the actions of the director of financial aid (director of financial aid). Elmhurst, the director of financial aid and the enforcement staff agreed that the facts established other violations and submitted an amended SDR on September 18, 2017.<sup>3</sup> On September 29, 2017, the COI proposed penalties to Elmhurst and the director of financial aid. Institutional counsel informed the COI by email on October 5, 2017, that Elmhurst accepted all proposed penalties. The director of financial aid informed the COI that she accepted the proposed penalties on October 6, 2017, also by email.

## **III. PARTIES' AGREEMENTS**

### **PARTIES' AGREED-UPON FACTUAL BASIS AND VIOLATIONS OF NCAA LEGISLATION**

The parties jointly submitted an SDR that identifies an agreed-upon factual basis and violations as established by NCAA legislation. The SDR identifies:

#### **A. [NCAA Division III Manual Bylaw 15.4.1-(a) (2012-13 through 2015-16)]**

The institution, director of financial aid, and enforcement staff agree that from the 2012-13 through 2015-16 academic years, the institution improperly awarded approximately \$126,216 of financial aid on 42 instances to 26 student-athletes

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<sup>2</sup> This notification followed a 2014 letter to Elmhurst warning of potential problems in the financial aid process, but the situations referenced in the two letters were not related.

<sup>3</sup> In the future, the committee may view violations established through the summary disposition process as less instructive than a decision reached after a contested process.

across 10 sports, contrary to NCAA financial aid legislation. Specifically, the director of financial aid improperly considered athletics participation in awarding financial aid despite knowing it was contrary to legislation. As a result of receiving the impermissible aid, the student-athletes were not eligible for intercollegiate competition and, therefore, subsequently competed while ineligible.

**B. [NCAA Division III Manual Bylaw 10.1-(c) (2012-13 through 2015-16)]**

The institution, director of financial aid and enforcement staff agree that from the 2012-13 through 2015-16 academic years, the director of financial aid violated the principles of ethical conduct when she was knowingly involved in providing improper aid to student-athletes, as set forth in Proposed Finding No. 1. Specifically, even though the director of financial aid was aware that she could not award financial aid based in any degree on athletics participation, she knowingly used athletics criteria in awarding scholarships from the 2012-13 through 2015-16 academic years.

**C. [NCAA Division III Manual Constitution 2.1.1, 2.8.1, and 6.01.1 (2012-13 through 2015-16)]**

The institution and enforcement staff agree the scope and nature of the violations set forth in Violation No. 1 demonstrate that the institution failed to exercise institutional control and monitor the conduct and administration of its athletics program. Specifically, Elmhurst: (1) established scholarships in 2013 and 2014 that used athletics criteria as a basis for the awards, even though it was aware awarding scholarships based in any degree on athletics participation is not permissible; (2) failed to act on a March 7, 2014, letter from the Financial Aid Committee informing the institution that it had considered athletics criteria in awarding financial aid and admonishing it to comply with Bylaw 15; (3) did not provide rules education to personnel in the offices of financial aid and development; and (4) did not have monitoring mechanisms in place to detect the consideration of athletics criteria when awarding financial aid.

**IV. REVIEW OF CASE**

The submitted SDR fully details the parties' positions in the infractions case and includes the agreed-upon primary facts and violations. The enforcement staff, Elmhurst and director of financial aid agreed that the institution and financial aid director violated NCAA legislation when they awarded aid based on athletics participation to student-athletes. Elmhurst further violated NCAA legislation by failing to exercise control over its athletics program. After reviewing the parties' principal factual agreements and the respective explanations surrounding those agreements, the COI accepts the parties' SDR and concludes that the facts constitute major violations of NCAA legislation.

NCAA Bylaw 15 governs financial aid. Specifically, Bylaw 15.4.1-(a) precludes member institutions from considering athletics leadership, ability, participation or performance as a criterion in the formulation of financial aid packages for student-athletes. At the individual conduct level, Bylaw 10.1 defines ethical conduct, with subsection (c) providing that an institutional employee engages in unethical conduct if, among other things, he or she is knowingly involved in providing an enrolled student-athlete improper financial aid. Regarding institutional rules compliance, the NCAA Constitution, particularly sections 2.1.1, 2.8.1 and 6.01.1, require member institutions to administer their athletics programs in full compliance with all rules and regulations of the association

Elmhurst and the director of financial aid committed major violations of NCAA legislation when the director of financial aid considered athletics criteria in the awarding of financial aid. From the 2012-13 through the 2015-16 academic years, the director of financial aid awarded aid to 26 student-athletes on 42 instances from five institutional scholarships, three of which included specific athletics criteria. As to the other two scholarships, the director of financial aid thought they contained an athletic component, even though they did not. Based on her belief, the director of financial aid provided aid from these two scholarships to student-athletes. Elmhurst reported the actions as NCAA violations. Because Elmhurst and the director of financial aid awarded the aid based on athletics criteria, the aid was impermissible pursuant to Bylaw 15.4.1-(a). *See Rose – Hulman Institute of Technology* (2015) (concluding that the institution violated Bylaw 15.4.1-(a) when it failed to exclude athletics participation from the financial aid award process); *University of Wisconsin – Superior* (2014) (concluding that the institution violated Bylaw 15.4.1-(a) because it considered athletics performance when awarding aid); *Maine Maritime Academy* (2013) (concluding that institutional scholarships with criteria that favored athletic participation violated Bylaw 15.4.1-(a)).

The actions of the director of financial aid constituted unethical conduct in violation of Bylaw 10.1. Even though Elmhurst did not provide formal rules education to the director of financial aid, as a long-time institutional employee she was aware that NCAA Division III financial aid cannot be based on athletics criterion. She chose to award the aid regardless because she felt "pressure" from the Elmhurst development staff to abide by the wishes of the scholarship donors and award competitive financial aid packages, which would increase enrollment and help realize "real dollars" for the institution. She did not report the perceived pressure to her supervisor, and she alone was responsible for making the awards that resulted in the violations. When the director of financial aid awarded financial aid to student-athletes based on athletic criterion, knowing that it was prohibited by NCAA legislation, she violated Bylaw 10.1-(c). An institutional staff member who knowingly provides impermissible aid or benefits violates Bylaw 10.1-(c). *See Baruch College* (2016) (concluding that an institutional staff member who knowingly arranged for impermissible financial aid violated Bylaw 10.1-(c)); *College of Staten Island* (2013) (concluding that a coach who knowingly provided impermissible benefits to student-athletes violated 10.1-(c)).

Finally, Elmhurst lacked control over certain aspects of its athletics program as required by the NCAA Constitution. Member institutions must exercise control over the conduct of their athletics programs. Elmhurst fell short of this standard when it: (A) established scholarships that

used athletics criteria for the awards; (B) failed to act on a warning that it might be awarding financial aid improperly; (C) did not provide rules education to relevant personnel; and (D) did not have monitoring mechanisms in place to detect violations such as those detailed in Violation III.A.

Regarding the establishment of athletics-based scholarships, in both 2013 and 2014 Elmhurst created new scholarships (scholarships 1 and 2, respectively) that included specific athletics components. Scholarship 1 was earmarked for student-athletes with an interest in medical fields, while scholarship 2's recipients were to include football student-athletes. Institutional personnel knew that athletic criteria could not be considered when awarding financial aid, but established the scholarships and awarded the aid regardless. In doing so, Elmhurst fell short of the requirement that it administer its athletic program in full compliance with NCAA rules, as required by the NCAA Constitution. *See Baldwin Wallace University* (2014) (concluding that the institution failed to control its financial aid packaging when it permitted two of its financial aid programs to operate in violation of NCAA legislation).

Elmhurst also failed to act on a specific warning that it might have problems in the financial aid awarding process. On March 7, 2014, the NCAA Financial Aid Committee sent a letter to the institution informing it that it had considered athletics criteria when awarding aid to wrestling student-athletes. The letter also admonished Elmhurst to comply with Bylaw 15. Elmhurst took no action as a result of the letter, and the violations that are the subject of this case continued. The failure of the institution to act on the warning letter also demonstrated Elmhurst's lack of control over its athletics program as required by the constitution. *See Baruch College* (2011) (concluding that, among other reasons, the institution lacked control of its athletics program when failed to take action after being informed of possible NCAA rules violations); *Hobart College* (2011) (concluding that the institution's failure to promptly act on information of potential rules violations established lack of institutional control).

Elmhurst did not educate individuals involved in the financial aid and development process, which contributed to the violations. The director of financial aid never received rules education; she developed her knowledge of Division III rules through her submission of institutional reports to the NCAA Financial Aid Committee and occasional conversations with NCAA personnel. Similarly, Elmhurst did not provide education for the development officers from whom the director of financial aid felt "pressure" to comply with the wishes of donors. Elmhurst's failure to educate the individuals involved in making financial aid decisions contributed to the financial aid violations and demonstrated a lack of control over the athletics program, as required by the NCAA Constitution. *See Hobart College* (concluding that failing to provide adequate rules education to institutional staff constituted an element of lack of control over the athletics program).

Finally, Elmhurst did not meet its obligation to control the administration of its athletics program when it failed to have in place monitoring mechanisms to detect the types of violations that occurred in this case. The director of athletics acknowledged that he relied solely on the director of financial aid to ensure that her office performed its responsibilities pursuant to NCAA rules. Until informed otherwise, the director of athletics assumed there were no problems with the

financial aid process. Elmhurst's failure to have in place checks and balances to ensure that the financial aid packaging process was operating in accordance with NCAA legislation also demonstrated a lack of control over the athletics program. *See University of Wisconsin, River Falls* (2014) (citing Division I *University of Oregon* (2013) when concluding that institutions failing to have checks and balances in place to monitor compliance with NCAA legislation violate Constitution 2.8.1).

## 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. Elmhurst and the director of financial aid committed major violations when they awarded aid based on athletics participation to student-athletes. Elmhurst further violated NCAA legislation by failing to exercise control over its athletics program, while the director of financial aid engaged in unethical conduct when she knowingly awarded the impermissible aid.

In prescribing the penalties, the COI considered Elmhurst's cooperation in the processing of this case. Bylaws 19.01.3 and 32.1.3 address cooperation during the infractions process. The COI concludes that the institution met its obligation to cooperate. Elmhurst also implemented targeted corrective actions designed to prevent future violations. The institution's corrective actions are contained in the Appendix. As Elmhurst and the director of financial aid agreed to the factual findings, violations and penalties, there is no opportunity to appeal them. The COI prescribes the following penalties (self-imposed penalties are noted).

### **Penalties, Disciplinary Measures and Corrective Actions (NCAA Bylaw 19.5.2)**

1. Public reprimand and censure.
2. Two years of probation from October 27, 2017, through October 26, 2019.
3. The institution shall pay a \$2,500 fine.
4. During both years of probation, the institution shall request a Level II review from the NCAA Division III Committee on Financial Aid and abide by any recommendations made by the reviewer.
5. The director of financial aid, Athletics Director and Senior Compliance Administrator will attend the 2017 NCAA Regional Rules Seminar. (Self-imposed.)
6. During both years of probation, Elmhurst shall undergo an outside audit of its athletics policies and procedures to ensure that they are consistent with institutional guidelines and NCAA legislation. The results of the audits shall be included in the institution's annual compliance reports (Elmhurst has indicated that it will have a third-party administrator

review the director of financial aid's duties with respect to the awarding of financial aid for students).

7. When the director of financial aid knowingly awarded impermissible financial aid to student-athletes, she rendered them ineligible for competition. Therefore, Elmhurst shall vacate all wins in which student-athletes competed while ineligible. The contests shall be vacated pursuant to Bylaws 19.5.2-(g) and 31.2.2.3. The individual statistics of the student-athletes who competed while ineligible shall also be vacated. Further, the institution's athletics records, as well as the records of the head coaches of the affected sports, will reflect the vacated records and will be recorded in all publications in which athletics 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 affected head coaches shall similarly reflect the vacated wins in their career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records cannot count the vacated wins to attain specific honors or victory "milestones" such as 100<sup>th</sup>, 200<sup>th</sup> or 500<sup>th</sup> career victories. Any public reference to these vacated contests shall be removed from athletics department stationary, banners displayed in all public areas and any other forum in which they may appear. Finally, to aid in accurately reflecting all institutional and student-athlete vacations, statistics and records in official NCAA publications and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA Media Coordination and Statistics Office and appropriate conference officials to identify the specific student-athletes and contests impacted by the penalties. In addition, Elmhurst must provide the NCAA Media Coordination and Statistics Office a written report detailing those discussions with the director of statistics. This document must be delivered to the NCAA Media Coordination and Statistics office no later than 45 days following the COI release. The sports information director (or designee) must also inform the Office of the Committee on Infractions (OCOI) of its submission to the NCAA Media Coordination and Statistics Office.
8. The director of financial aid knowingly violated NCAA legislation when she awarded financial aid based on athletics criteria to student-athletes. Therefore, the director of financial aid will be informed in writing by the NCAA that, due to her involvement in the violations of NCAA legislation found in this case, if she seeks employment or affiliation in an athletically related position at an NCAA member institution other than Elmhurst College for one year from October 27, 2017, through October 26, 2018, she and the involved institution shall contact the OCOI to make arrangements to show cause why restrictions on athletically related activity should not apply.
9. Effective immediately, any of the institution's athletics teams whose rosters include one or more student-athletes receiving funds from any scholarships that included athletics involvement as a criterion at the time the funds were awarded shall end their seasons with the playing of their last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition, including conference tournaments and NCAA

championships. Further, any affected teams shall not be eligible for regular season conference championship consideration for as long as their rosters include student-athletes receiving funds from any scholarship that included athletics as a criterion at the time the scholarship was awarded. If Elmhurst permits student-athletes receiving impermissible aid to continue to compete with those impermissible packages, the institution may be subject to new financial aid violations.

10. During probation, Elmhurst 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 institutional staff members with responsibility for the certification of student-athletes' eligibility for admission, financial aid, practice or competition;
- b. Submit a preliminary report to the OCOI by December 15, 2017, 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 of each year during the probationary period. Particular emphasis should be placed on monitoring the institution's financial aid awarding process. The reports must also include documentation of the institution's compliance with the penalties adopted and prescribed by the COI;
- d. Inform all prospective student-athletes that the institution is on probation for two years and explain the violations committed. The information must be provided in writing and for the full term of probation. The institution must provide this information as soon as practicable after the prospective student-athlete is recruited pursuant to Bylaw 13.02.8 and, in all instances, before the prospective student-athlete signs a financial aid agreement or initially enrolls at the institution, whichever is earlier; and
- e. For the full term of probation, publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement including the types of violations and a direct, conspicuous link to the public infractions decision located on the athletic department's main or landing webpage. The information shall also be included in the institution's media guides and in an alumni publication. The statement must: (i) clearly describe the infractions; (ii) include the length of probation associated with the major infractions case; and (iii) give members of the general public a clear indication of what happened in the major infractions case to allow the public (particularly prospective student-athletes and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.

11. At the conclusion of the probationary period, Elmhurst's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.
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As required by NCAA legislation for any institution involved in a major infractions case, Elmhurst College shall be subject to the provisions of Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, October 27, 2017.

NCAA COMMITTEE ON INFRACTIONS

Christopher Bledsoe

Effel Harper

Tracey Hathaway

Gerald Houlihan, chair

Gerald Young

**APPENDIX**  
**THE INSTITUTION'S CORRECTIVE ACTIONS AS IDENTIFIED IN THE**  
**SEPTEMBER 18, 2017, AMENDED SUMMARY DISPOSITION REPORT**

1. The institution reviewed and revised all scholarships in question to ensure that any impermissible references to athletics were removed. All new donor scholarship agreements will include specific language related to Division III financial aid regulations, e.g. "The institution shall not consider athletics leadership, ability, participation or performance as a criterion in awarding the scholarship." (Implemented).
2. The Director of Financial Aid was reprimanded and the financial aid office is in the process of reorganization. (Implemented and on-going).
3. The Director of Financial Aid's duties with respect to the awarding of financial aid for students will be reviewed by an independent third party administrator for the period of one-year. (Proposed).
4. The Vice President for Advancement was asked to resign and his resignation was effective January 31, 2017. (Implemented).
5. A comprehensive on-campus mandatory educational seminar was provided by the NCAA staff in November 2016 regarding NCAA financial aid legislation to admissions, financial aid, advancement, athletics administrators and coaches. The College will enhance its comprehensive education program on NCAA rules compliance and specifically include in this education plan regular reminders and educational outreach to individuals outside of athletics including admissions, financial aid and advancement. (Implemented and on-going).
6. The College will form a cross-functional interdepartmental Executive Committee to regularly address NCAA compliance issues and ensure communication related to NCAA compliance and processes are shared and understood by all relevant departments. (Implemented).