

NCAA DIVISION I INFRACTIONS APPEALS COMMITTEE
INTERNAL OPERATING PROCEDURES (IOPs)



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Web Location, Click [HERE](#)

Introduction and Purpose

Internal Operating Procedures (IOPs) have been created to aid NCAA Division I institutions and individuals in understanding the infractions appeals process and procedures. These IOPs have been approved by the NCAA Division I Board of Directors and developed by NCAA member institutions through adopted legislation and by the NCAA Division I Infractions Appeals Committee. IOPs may be amended from time to time, without prior notice, to accommodate changes to the constitution, the bylaws and the Infractions Appeals Committee's practices. An amendment is immediately effective. Any amendments will be presented to the Board of Directors for approval. Editorial, formatting or typographical corrections that do not rise to the level of an amendment will be made as needed.

Questions regarding situations in the appeals process not specifically addressed by these IOPs should be submitted as outlined in Section 14 of IOPs.

These IOPs will accompany the NCAA Division I Committee on Infractions decision informing the institution/involved individual of its right to appeal and the exact deadline for the submission of its Notice of Intent to Appeal to the Infractions Appeals Committee.

An appeal is not a new hearing that provides a second chance to argue the case. The Infractions Appeals Committee will affirm, vacate or remand findings, conclusions or appealable penalties of the Committee on Infractions involving Level I or Level II violations, only if the institution/involved individuals can show that no reasonable person could have made the decision after considering the record. Findings, conclusions or appealable penalties of the Committee on Infractions shall be affirmed if there is information in the case record supporting the hearing panel's decision.¹ Remands may include a new level or reclassification for reassessment of penalty by the Committee on Infractions.

Core penalties within the range of penalties in Figure 19-1 may not be appealed directly. Rather, the institution/involved individual wishing to impact such a penalty would need to focus any appeal on findings, conclusions and/or Level and classification.

The Infractions Appeals Committee acts on the basis of the record in the case. It will not consider information that was not presented to the Committee on Infractions, except in limited circumstances.

All previous Infractions Appeals Committee decisions may be found on the Legislative Services Database for the Internet (LSDBi) at <https://web3.ncaa.org/lstdbi/>. Institutions and individuals are encouraged to review these decisions and to use those involving similar violations and issues on appeal as guides when presenting an appeal.

¹ The only penalties that may be directly appealed are core penalties outside the ranges in Figure 19-1 or additional penalties prescribed by the Committee on Infractions.

Contents

1	INFRACTIONS APPEALS COMMITTEE	1
1-1	Composition.....	1
1-2	Authority	1
1-3	Term of Members	2
1-4	Duties of Chair.....	2
1-5	Duties of Vice Chair	3
1-6	Conflict of Interest	3
1-7	Recusals and Objections	3
1-8	Temporary Substitution	4
2	CONFIDENTIALITY	4
2-1	Enforcement Staff, Committee on Infractions and Infractions Appeals Committee	4
2-2	Institutions and Individuals.....	4
3	THE RIGHT TO APPEAL.....	4
3-1	Standing	4
3-1-1	Who may appeal	4
3-1-2	What may be appealed.....	5
3-2	Methods of Appeal.....	5
4	THE APPEAL	6
4-1	Record on Appeal	6
4-1-1	Content.....	6
4-1-2	Consideration of Information	7
4-1-3	New Information.....	7
4-2	Access to the Record on Appeal	7
4-3	Access to Appeal Submissions by Other Parties	8
4-3-1	Appeal by the individual.....	8
4-3-2	Appeal by the institution.....	8
4-4	Stay of Appealed Penalties	9
5	WRITTEN SUBMISSIONS.....	9
5-1	Submission of Written Material.....	9
5-2	Notice of Intent to Appeal.....	9
5-2-1	Content.....	10
5-2-2	Deadline for Submission	11

6	WRITTEN APPEAL	11
6-1	Content.....	11
6-2	Page Limitation.....	11
6-3	Deadline for Submission.....	11
6-4	Failure to Submit Written Appeal.....	11
7	COMMITTEE ON INFRACTIONS RESPONSE TO THE WRITTEN APPEAL.....	12
7-1	Content.....	12
7-2	Page Limitation.....	12
7-3	Deadline for Submission.....	12
8	REBUTTAL TO THE COMMITTEE ON INFRACTIONS RESPONSE.....	12
8-1	Content.....	12
8-2	Page Limitation.....	13
8-3	Deadline for Submission.....	13
9	ENFORCEMENT STAFF SUBMITTAL.....	13
9-1	Content.....	13
9-2	Deadline of Submission	13
10	RESPONSE TO THE ENFORCEMENT STAFF SUBMITTAL	14
10-1	Content.....	14
10-2	Deadline for Submission.....	14
11	DETERMINATION OF ACCURACY OF CHALLENGED INFORMATION.....	14
12	ORAL ARGUMENT	14
12-1	Oral Argument Format.....	14
12-2	Oral Argument Attendance	15
12-2-1	Infractions Appeals Committee	15
12-2-2	Appellant	15
12-2-3	Committee on Infractions	16
12-2-4	Enforcement Staff.....	16
12-2-5	Silent Observers.....	17
13	POST-ORAL ARGUMENT	17
14	QUESTIONS AND REQUESTS.....	17
14-1	Infractions Appeals Committees Office.....	17
14-2	Submit Request to the Committee – for Open Appeal Cases	18

1 INFRACTIONS APPEALS COMMITTEE

1-1 Composition

The Board of Directors shall appoint the Infractions Appeals Committee to act as appellate hearing officers for appeals from decisions involving Level I or Level II violations by the Committee on Infractions. The committee shall be comprised of no more than seven members. At least two members shall be from the general public and shall not be connected with a collegiate institution, conference, or professional or similar sports organization, or represent coaches or student-athletes in any capacity. The remaining members shall presently or previously be on the staff of an active member institution or member conference but shall not serve presently on the Board of Directors. There shall be no subdivision restrictions except that all nonpublic members may not be from the same subdivision. The committee shall reflect the Association's commitment to diversity.

For the current composition of the Infractions Appeals Committee, visit its webpage by clicking [HERE](#).

1-2 Authority

The Infractions Appeals Committee shall:

- a. Consider appeals from decisions of a hearing panel of the Committee on Infractions involving Level I or Level II violations;
- b. Affirm, reverse, or vacate and/or remand the panel's findings, conclusions, determinations and/or penalties prescribed for violations of NCAA bylaws;
- c. Assign a new classification to a case and remand for prescription of penalties only upon a conclusion that the hearing panel's level decision and/or determination regarding one or more aggravating or mitigating factors should be set aside pursuant to Bylaw 19.13;
- d. Formulate and revise its operating procedures. Committee amendments to the procedures shall be effective immediately and subject to review and ratification by the Board of Directors; and

- e. Sanction parties and/or their representative(s) for behaviors that inhibit the committee's ability to effectively manage the docket, ensure a professional and civil decorum in all proceedings or otherwise efficiently resolve infractions cases.

1-3 Term of Members

A member shall serve a three-year term, which shall commence on the first day of September following the member's appointment. A member may be reappointed for additional terms but shall not serve more than nine years on the committee.

1-4 Duties of Chair

- a. Coordinate with the Infractions Appeals Committees Office:
 - (1) Logistics, administrative and other support related to the processing of infractions appeals cases;
 - (2) Scheduling committee meetings, conference calls and scheduling oral arguments; and
 - (3) Scheduling release of infractions appeals decisions.
- b. Assign a committee member to serve as primary committee member for decision drafting; and present Infractions Appeals Committee's reports (in person and written) to the Board of Directors.
- c. Consider and decide case-related requests (e.g., time extension, oral argument attendance) in consultation with the full committee.
- d. Preside over in-person oral arguments and deliberations related to infractions appeals cases.
- e. Review and approve the final version of press release and decision of infractions appeals cases.
- f. Serve as the primary spokesperson for the Infractions Appeals Committee.

1-5 Duties of Vice Chair

- a. Serve as a resource for the chair.
- b. Fulfill the duties of the chair, when the chair is unavailable to conduct duties.
- c. It is expected that the vice chair will become chair of the committee when the chair's term expires.

1-6 Conflict of Interest

No member of the Infractions Appeals Committee shall participate in a case if he or she is directly connected with an institution under investigation or if he or she has a personal, professional or institutional affiliation that may create the appearance of partiality.

Committee members shall not participate in the committee's review, deliberation, discussion or vote on any action that might bring direct or indirect financial benefit to the member or any organization in which the member is financially interested (other than the member's institution or the conference of which it is a member). A violation of this rule by a committee member shall not invalidate the action taken by the committee if, following disclosure of the conflict of interest, the committee authorizes, ratifies or approves the action by a vote sufficient for the purpose, without counting the vote of the committee member with the conflict of interest, and the NCAA Division I Leadership Council approves such action. All committee members shall agree to this policy prior to committee service and shall abide by the policy at all times. The current Association-wide conflict of interest policy is located on the NCAA website (ncaa.org) or may be obtained from the NCAA national office.

1-7 Recusals and Objections

It is the responsibility of the committee member to recuse himself or herself if a conflict exists. Objections to the participation of a committee member in a particular case should be raised as soon as recognized, but will not be considered unless raised at least one week in advance of the committee's review of the case.

1-8 Temporary Substitution

If it appears that one or more of the committee members will be unable to participate in the disposition of a case, the chair may designate a former member or members of the committee to rejoin the committee for purposes of consideration and disposition of that case.

2 CONFIDENTIALITY

2-1 Enforcement Staff, Committee on Infractions and Infractions Appeals Committee

Except as provided in NCAA Article 19, the Committee on Infractions, the Infractions Appeals Committee and the enforcement staff shall not make public disclosures about a pending case until the case has been announced in accordance with prescribed procedures.

2-2 Institutions and Individuals

An institution and any individual subject to the NCAA constitution and bylaws involved in a case, including any representative or counsel, shall not make public disclosures about the case until a final decision has been announced in accordance with prescribed procedures.

3 THE RIGHT TO APPEAL

3-1 Standing

3-1-1 Who may appeal

An institution or an individual who has been found by the Committee on Infractions to have been involved in a violation of NCAA constitution or bylaws may appeal to the Infractions Appeals Committee. An individual may appeal regardless of whether the institution does so, and vice-versa. The appeals are independent of each other.

The Infractions Appeals Committee will not hear an appeal submitted by an individual who has not appeared (either in person or

through written presentation) before the Committee on Infractions' hearing.

3-1-2 What may be appealed

An institution/individual may accept the findings, conclusions, Level and/or classification and still appeal some or all appealable penalties while accepting others. The only penalties that may be directly appealed are core penalties outside the range in Figure 19-1 or additional penalties prescribed by the Committee on Infractions.

An institution/individual wishing to impact a core penalty within the ranges in Figure 19-1 would need to focus any appeal on findings, conclusions and/or Level and classification.

The NCAA Division I Legislative Review and Interpretations Committee decided July 29, 2010, that an institution has standing to appeal only findings of violations and/or penalties that are prescribed against the institution. Similarly, an individual has standing to appeal only findings of violations and penalties prescribed against that individual.²

Findings, conclusions (including level or classification) determined or appealable penalties prescribed by the Committee on Infractions shall be set aside only if the institution/involved individual can show that no reasonable person could have made the decision after considering the record. Findings, conclusions (including level or classification) determined or appealable penalties prescribed by the Committee on Infractions shall be affirmed if there is information in the case record supporting the hearing panel's decision.

3-2 Methods of Appeal

Generally, appeal cases shall be reviewed on the written record and parties may not request an oral argument. However, in extenuating circumstances, the Infractions Appeals Committee may conduct an oral argument if a majority of the committee members reviewing the case

² When appealing a finding of violation of head coach's responsibility, the involved individual may appeal the underlying violation(s) on which the head coach's responsibility violation is predicated even if the involved individual is not named in the underlying violation(s).

determine that a decision cannot be rendered in the absence of oral argument.³

4 THE APPEAL

4-1 Record on Appeal

4-1-1 Content

The Infractions Appeals Committee will consider only the record on appeal, which shall consist of:

- a. The case record before the Committee on Infractions;
- b. The official transcript of the Committee on Infractions' hearing(s);
- c. The decision of the Committee on Infractions;
- d. The institution/individual's Notice of Intent to Appeal and written appeal;
- e. The Committee on Infractions response to the written appeal;
- f. The institution/individual's rebuttal, if any;
- g. The enforcement staff's submittal, if any; and
- h. The appellant's response to the enforcement staff's submittal, if any.

The Infractions Appeals Committee may consider requests to supplement the record with additional material.

It is permissible for an institution/individual or the Committee on Infractions to provide, as part of its appeal submissions, brief portions of materials submitted to the Committee on Infractions in conjunction with the hearing before that body. In appeals in which

³ The Infractions Appeals Committee may determine it will conduct an oral argument via videoconference.

a summary disposition report is referenced, only relevant portions of the report should be attached to the appeal submission.

4-1-2 Consideration of Information

The Infractions Appeals Committee shall consider only the information contained in the record(s) of proceedings before the Committee on Infractions and the record on appeal.

If an institution or involved individual seeks to introduce information during the appeals process that was not presented to the Committee on Infractions for its consideration, the Infractions Appeals Committee will determine whether the information constitutes new information.

4-1-3 New Information

4-1-3-1 Definition of New Information

New information is relevant, material information that could not have reasonably been ascertained prior to the Committee on Infractions hearing.

4-1-3-2 Handling New Information

If the Infractions Appeals Committee determines that the information is new information, it may stay the appeal and remand the matter to the assigned panel to conduct further proceedings as may be necessary to address whether the information affects the panel's decision and to amend the decision, if necessary.

4-2 Access to the Record on Appeal

After submission of a timely Notice of Intent to Appeal, the institution/individual will provide access to some portions of the record through a secured website. That portion includes recorded interviews, interview summaries and/or interview transcripts, and other factual information pertinent to the case. The institution and involved individuals may also review such information in person at the NCAA national office.

For the record on appeal, those portions that may only be reviewed through the secured website include:

- a. A copy of the official transcript of the Committee on Infractions' hearing;
- b. The Committee on Infractions' decision;
- c. The Committee on Infractions' response to the written appeal;
- d. The enforcement staff submittal; and
- e. Any additional materials which the Infractions Appeals Committee has authorized to become part of the record of appeal.

These materials may only be reviewed by the individual and authorized representatives of the institution/individual (including legal counsel). Duplication of material is prohibited. Those reviewing the material may take handwritten notes or may use a mechanical recording device to make verbal notes, provided no verbatim records of the reviewed information are made.

4-3 Access to Appeal Submissions by Other Parties

4-3-1 Appeal by the individual

If the Committee on Infractions decision involves an individual as well as an institution and the individual appeals to the Infractions Appeals Committee, the institution is not entitled, in every case, to receive a copy of the individual appellant's written appeal or rebuttal to the Committee on Infractions response. The institution may request a copy from the individual appellant. If this request is denied, the institution may request a copy from the Infractions Appeals Committee. The Infractions Appeals Committee will make a copy available in extraordinary circumstances.

4-3-2 Appeal by the institution

If the Committee on Infractions decision involves an individual as well as an institution and the institution appeals to the Infractions Appeals Committee, the individual is not entitled, in every case, to receive a copy of the institution's written appeal or rebuttal to

the Committee on Infractions response. The individual may request a copy from the institution. If this request is denied, the individual may request a copy from the Infractions Appeals Committee. The Infractions Appeals Committee will make a copy available in extraordinary circumstances.

4-4 Stay of Appealed Penalties

Appealable penalties are not automatically stayed. If a Notice of Intent to Appeal form is filed within the deadline and includes a statement from the institution/involved individual directing the stay of the appealable penalties, the appealable penalties are stayed until the Infractions Appeals Committee issues its decision regarding the appeal case.

5 WRITTEN SUBMISSIONS

5-1 Submission of Written Material

Deadlines for the submission of written documents within the infractions appeals process, except for the Notice of Intent to Appeal, shall be considered met if the written document is submitted electronically to the Infractions Appeals Committees staff not later than 5 p.m. Eastern time on the due date.⁴ Electronic submission to the staff shall be completed through a method designated by the Infractions Appeals Committee.

Immediately after electronic submission, hard copies of the written documents shall be provided directly from the filing party to all members of the Infractions Appeals Committee.

5-2 Notice of Intent to Appeal

A communication explaining how to initiate an appeal and a copy of these internal operating procedures will accompany the Committee on Infractions decision informing the institution and individuals(s) of the right to appeal as well as deadline for and instructions on how to submit the Notice of Intent to Appeal form to the Infractions Appeals Committee.

⁴ If a due date for a submission process falls on a weekend or federal holiday, the due date will be moved to the next calendar day that is not a weekend or federal holiday.

5-2-1 Content

- a. The institution/individual must submit the Notice of Intent to Appeal on the form provided by the Committee on Infractions.⁵
- b. The institution/individual must identify on the form the specific findings, conclusions, Level, classification and/or appealable penalties to be reviewed by the Infractions Appeals Committee.
- c. Institution/involved individual must include a statement of whether appealable penalties will be stayed. If the institution/individual appeals one or more of the appealable penalties prescribed, only the specific penalties appealed will be stayed, as directed, pending the public announcement of the Infractions Appeals Committee's decision. (See section 4.4)
- d. If an institution/individual appeals only specific appealable penalties prescribed by the Committee on Infractions, the Infractions Appeals Committee will confine its decision to the specific penalty (or penalties) appealed, but will consider all of the penalties prescribed when making this decision.
- e. In the case of an individual appellant, the Notice of Intent to Appeal must state whether that individual is currently employed at an NCAA institution (regardless of the division of the institution). Further, if the individual's employment changes during the course of the appeal process (that is, from the time of the submission of the Notice of Intent to Appeal through the release of final Infractions Appeals Committee decision), the individual must notify the Infractions Appeals Committee, through the Infractions Appeals Committees Office staff, of that change, including the identity of the new employer.

⁵ The Notice of Intent to Appeal form is available through the NCAA Infractions Portal.

5-2-2 Deadline for Submission

The Notice of Intent to Appeal form of an institution/individual must be received by the Infractions Appeals Committees Office not later than 15-calendar days from the date of the public release of the Committee on Infractions decision.

6 WRITTEN APPEAL

The Infractions Appeals Committee will acknowledge receipt of a timely Notice of Intent to Appeal in writing and provide information about the submission of written appeal.

6-1 Content

The institution/individual must submit its written appeal, which includes the arguments in support of its appeal, in order to perfect its appeal to the Infractions Appeals Committee.

6-2 Page Limitation

The written appeal shall not exceed 35 pages, double-spaced, with no smaller than 12-point font and one-inch margins. These page limits are exclusive of cover, table of contents, attachments or appendices. The appellant may request that the chair of the Infractions Appeals Committee waive, for good cause, the page limitation requirement. The written appeal will not be accepted by the Infractions Appeals Committee unless it conforms to the requirements of this section.

6-3 Deadline for Submission

The institution/individual has 30-calendar days from the date of the Notice of Intent to Appeal acknowledgement to file a written appeal with the Infractions Appeals Committee.

6-4 Failure to Submit Written Appeal

Failure to submit a written appeal will result in dismissal of the appeal.

7 COMMITTEE ON INFRACTIONS RESPONSE TO THE WRITTEN APPEAL

The Infractions Appeals Committee will acknowledge receipt of a timely Committee on Infractions response in writing. The Committee on Infractions' appeal advocate must file a response to the written appeal.

7-1 Content

This response shall include a statement of the issue(s) raised in the appeal and the Committee on Infractions' response to the issue(s) raised in appeal.

7-2 Page Limitation

The Committee on Infractions response shall not exceed 35 pages, double-spaced, with no smaller than 12-point font and one-inch margins. These page limits are exclusive of cover, table of contents, attachments or appendices. The Committee on Infractions may request that the chair of the Infractions Appeals Committee waive, for good cause, the page limitation requirement. The Committee on Infractions response will not be accepted by the Infractions Appeals Committee unless it conforms to the requirements of this section.

7-3 Deadline for Submission

The Committee on Infractions' appeal advocate has 30-calendar days from the date of the written appeal acknowledgement to file a Committee on Infractions response with the Infractions Appeals Committee.

8 REBUTTAL TO THE COMMITTEE ON INFRACTIONS RESPONSE

The Infractions Appeals Committee will acknowledge receipt of a timely Committee on Infractions response in writing. The institution/individual may submit a rebuttal to the Committee on Infractions response.

8-1 Content

The rebuttal may only address issues contained in the initial submission or the Committee on Infractions response.

8-2 Page Limitation

The rebuttal shall not exceed 20 pages, double-spaced, with no smaller than 12-point font and one-inch margins. These page limits are exclusive of cover, table of contents, attachments or appendices. The appellant may request that the chair of the Infractions Appeals Committee waive, for good cause, the page limitation requirement. The rebuttal will not be accepted by the Infractions Appeals Committee unless it conforms to the requirements of this section.

8-3 Deadline for Submission

The institution/individual will have 14-calendar days, from the acknowledgement of the Committee on Infractions response, to submit a rebuttal.

9 ENFORCEMENT STAFF SUBMITTAL

The enforcement staff may submit written information regarding perceived new information, errors, misstatements and/or omissions relating to the appellant's initial submission, Committee on Infractions response and/or rebuttal documents. Such submission shall be included in the record on appeal.

9-1 Content

The enforcement staff statement shall be limited to a direct and specific identification of the new information, errors, misstatements and/or omissions, including only necessary clarification on why deemed to be new information, errors, misstatement and/or omissions (e.g., may not include argument regarding the case). In addition, the identification shall include the specific page(s) at which the new information, errors, misstatements, and/or omissions appear and where in the record the information which the enforcement staff believes is correct or accurate appears.

9-2 Deadline of Submission

This enforcement staff statement will have 10-calendar days, from the acknowledgement of whether a rebuttal to the Committee on Infractions response was filed, to submit the enforcement staff submittal.

10 RESPONSE TO THE ENFORCEMENT STAFF SUBMITTAL

The Infractions Appeals Committee will acknowledge receipt of a timely enforcement staff submittal in writing. Institution/individual shall be permitted to provide a response to the enforcement staff submittal.

10-1 Content

The response to the enforcement staff submittal shall be limited to an identification of record information, if any, which supports the accuracy of the alleged error, misstatement, or omission identified by the enforcement staff and specific rebuttal to clarifications provided by the enforcement staff.

10-2 Deadline for Submission

The institution/individual will have 10-calendar days, from the acknowledgement of an enforcement staff submittal, to submit the response to enforcement staff submittal.

11 DETERMINATION OF ACCURACY OF CHALLENGED INFORMATION

The Infractions Appeals Committee will review enforcement submittal and response to enforcement submittal and then, notify, in writing, all parties of its determination of the accuracy of the challenged information.

12 ORAL ARGUMENT (If Determinated Necessary by the Infractions Appeals Committee)

12-1 Oral Argument Format

The institution/individual shall be permitted a reasonable time to make an oral presentation to supplement its written appeal, specific to the limited areas identified by the Infractions Appeals Committee. The Committee on Infractions appeal advocate shall then be permitted a reasonable time to orally present the Committee on Infractions response. The period of time for the presentation by the institution/individual and the committee

appeal advocate shall be left to the discretion of the chair of the Infractions Appeals Committee, but shall not exceed 60 minutes per party.

12-2 Oral Argument Attendance

12-2-1 Infractions Appeals Committee

A minimum of three Infractions Appeals Committee members must be present to consider an appeal. (See also sections 1.1 and 1.7)

12-2-2 Appellant

12-2-2-1 Institution

The chancellor/president and director of athletics of an appealing institution are required to attend the oral argument. Faculty athletics representatives may attend, but are not required. Other university representatives whom the institution deems appropriate or a conference representative may attend the oral argument.

12-2-2-2 Individual

The individual who has requested the appeal is required to attend the oral argument. Also, the individual's representative(s) may attend the oral argument.

12-2-2-3 Failure of Appellant to Appear

If the appellant fails to participate in the oral argument, the Infractions Appeals Committee will dismiss the appeal and affirm any appealed factual findings, conclusions, violations and/or penalties.

12-2-3 Committee on Infractions

The Committee on Infractions will be represented by its committee appeal advocate and the NCAA managing director for the Office of Committees on Infractions or his/her designee.

12-2-4 Enforcement Staff

The vice president for enforcement, or his/her representative, and two NCAA enforcement staff members familiar with the case may attend the oral argument.

12-2-4-1 Participation in the Oral Argument by the Enforcement Staff

The enforcement staff may identify new information, error, misstatement or omission only if such allegedly offending material is raised for the first time during the oral argument. If the new information, error, misstatement, or omission is contained in the parties' written submissions and is identified by the enforcement staff in the enforcement's written submittal, then the enforcement staff may not correct again if the information is repeated during the oral argument. Further, if the new information, error, misstatement, or omission is contained in the parties' written submissions and is not identified by the enforcement staff in the enforcement staff's written submittal, then the enforcement staff may not identify such material for the first time during the oral argument.

This presentation may occur upon oral request by the enforcement staff at the conclusion of the oral argument period during which the enforcement staff believes that the offending material was presented.

The presentation by the enforcement staff in an Infractions Appeals oral argument shall not be accepted during either party's presentation, but instead must be made, if at all, at the conclusion of

the presentation during which the information to which the enforcement staff wishes to respond is presented.

12-2-5 Silent Observers

Two representatives of nonappealing party may attend the oral argument as a silent observer.

13 RESOLUTION AND ANNOUNCEMENT OF DECISION

- a. The Infractions Appeals Committee shall act on an appeal by majority vote of the members present and voting.
- b. The decision of the Infractions Appeals Committee is final and shall not be subject to further review by any other authority.
- c. The Infractions Appeals Committee's final written decision shall be sent to the appellant institution/individual and all other appropriate parties involved one-calendar day prior to the public release.
- d. The Infractions Appeals Committee will announce its final decision publicly in coordination with the NCAA's public and media relations staff.

14 QUESTIONS AND REQUESTS

14-1 Infractions Appeals Committees Office

The Infractions Appeals Committees Office staff is available to assist all of those involved in the infractions appeals process. If you have questions about the infractions appeals process, please feel free to contact the staff at the NCAA national office via telephone (317-917-6222), email (IACAdmin@ncaa.org) or case discussion posting (for an open appeal case).

The staff includes:

- a. Wendy A. Walters, managing director for Infractions Appeals Committees.
- b. Alexander R. Smith, director for Infractions Appeals Committees.
- c. Kelley Sullivan, assistant coordinator for Infractions Appeals Committees.

14-2 Submit Request to the Committee – for Open Appeal Cases

All requests (e.g., extension, additional oral argument attendees, etc.) to the Infractions Appeals Committee must be uploaded via the NCAA Infractions Portal.