



**REPORT OF THE  
NCAA DIVISION I BOARD OF DIRECTORS  
INFRACTIONS PROCESS COMMITTEE  
NOVEMBER 11, 2021, VIDEOCONFERENCE**

**ACTION ITEMS.**

1. Legislative Item.
  - Independent Accountability Resolution Process – Suspend Referral Process.
    - 1) Recommendation. That the NCAA Division I Board of Directors enact temporary emergency legislation to immediately suspend the referral of cases into the Independent Accountability Resolution Process until August 31, 2022.
    - 2) Effective date. Immediate. Cases already referred by the NCAA Division I Infractions Referral Committee would remain in the independent structure for resolution but no additional cases would be eligible for referral until the NCAA Division I Transformation Committee completes its assessment of the independent process.
    - 3) Rationale. In October, the Transformation Committee was established to help the Board of Directors address the division’s most pressing needs, including its regulatory structure. Specifically, the Transformation Committee noted the need for “an enforcement and infractions model that focuses on elements most integral to the Division I collegiate model and is timelier in all aspects of adjudication.” To ensure the Transformation Committee has the necessary discretion to consider models that are sufficiently responsive to its stated goal in terms of focus and duration, no additional cases should be referred to the independent structure. Further, by suspending the referral of additional cases for the time being, the independent process will have the ability to focus on the resolution of existing cases in its structure.
    - 4) Estimated budget impact. No costs associated with the referral of new cases will be incurred.
    - 5) Student-athlete impact. The suspension of the referral of additional cases to the independent structure will assist with its resolution of cases already referred.
2. Nonlegislative Item.
  - Processing of current breaches of conduct – Level III violations.
    - 1) Recommendation. That the Board of Directors support the NCAA Enforcement staff’s use of discretion to focus existing resources on the rules

most integral to the division. Support for this discretion includes processing cases as Level III that might arguably satisfy the technical definition of Level II.

- 2) Effective date. Immediate.
- 3) Rationale. Essential to ensuring the infractions process serves its intended role in promoting compliance with established rules includes focusing on violations that most undermine the collegiate model. While current legislation already implies that discretion be used when determining how to process the majority of rules violations, this recommendation will provide additional support for a strategic focus on resolving all infractions matters more efficiently. Specifically, this recommendation will allow all components of the infractions process to dedicate appropriate attention and resources to behaviors of most significance to the division. It will also allow faster outcomes in cases that do not necessarily require full, formal adjudication.
- 4) Estimated budget impact. Lower costs are associated with the processing Level III violations.
- 5) Student-athlete impact. Processing more violations as Level III may positively impact the conditions associated with student-athlete reinstatement requests, when necessary.

#### INFORMATIONAL ITEMS.

1. **Evaluation of the Independent Accountability Resolution Process.** During its October 12 videoconference the NCAA Division I Infractions Process Committee agreed to conduct an evaluation of the Independent Accountability Resolution Process (IARP) to assist both the NCAA Constitution Committee and the Transformation Committee, which was subsequently appointed by the Board of Directors to begin rewriting the rules for Division I and determining how and at what level they should be enforced. The Infractions Process Committee had spent its previous meetings examining the peer-review aspect of the enforcement and infractions process, but the committee agreed to expand its scope to review the independent process as well, particularly given membership feedback on the IARP suggesting that the process may not be as effective as originally envisioned.

The IARP was first operationalized in August 2019 to handle select complex Division I infractions cases in response to the recommendations made by the Commission on College Basketball in 2018. All but one of the six cases entered into the IARP to date emanated from the Southern District of New York's investigation into behaviors in men's college basketball that spurred the creation of the Commission on College Basketball and the

subsequent recommendation to establish the IARP. All six cases are in the process but outcomes have yet to be determined.

To facilitate its evaluation, the Infractions Process Committee met with Grant Hill, chair of the Independent Accountability Oversight Committee and an independent member of the NCAA Board of Governors, to discuss the IARP and become familiar with its structure and purpose. The committee discussed the procedural challenges facing the IARP and noted that the number of cases exceeded the expectations contemplated when the system was created, which has taxed the IARP and added to the length of adjudication.

After the engagement with Mr. Hill, the Infractions Process Committee agreed to continue deliberating the merits of the IARP moving forward and will plan to share those insights with the Division I Board of Directors in January.

2. **Review of Solution-Development Approach within Guiding Principles.** The Infractions Process Committee revisited its set of principles identified to guide the development of specific solutions to enhance or improve the infractions process moving forward and noted that all of them align with the principles the Board of Directors charged the Transformation Committee to follow in redefining the Division I collegiate model. Additionally, new feedback from the LEAD1 Association Infractions Working Group has been provided to the committee, much of which aligns with areas referenced in the committee's principle-based approach to addressing challenges with the current infractions process.

Given these developments, and recognizing the fluidity of the constitution review between now and January, the Infractions Process Committee agreed that efforts to address particular areas related to the infractions process could still be undertaken prior to the conclusion of the constitutional review, especially as it relates to two of the commonly shared principles, (1) Set and adhere to a timeline that balances expediency and thoroughness, and (2) Commit to effectiveness in communication about cases (as appropriate) and process.

Accordingly, the Infractions Process Committee charged staff with developing recommendations related to the following areas:

- a. **Timeline that balances expediency and thoroughness.**

- 1) Encourage the enforcement and hearing operations staffs' discretion in processing Level III violations (i.e., determine whether select violations typically processed as Level II, which triggers a hearing with the NCAA Division I Committee on Infractions, could instead be more efficiently processed as Level III).

- 2) Clarify the standards for partial negotiated resolutions pursuant to NCAA Bylaw 19.5.12.4.1.

**b. Effectiveness in communication.**

- 1) Develop a strategic communication and education plan specific to the infractions process and its related procedures.
- 2) Identify circumstances that may be appropriate to publicly comment on pending and decided infractions matters.
- 3) Identify what types of processing documents related to a case could be made publicly available during an infractions case.
- 4) Determine how the outcomes of critical Committee on Infractions and NCAA Division I Infractions Appeals Committee decisions could be summarized for membership education.

The Infractions Process Committee will review staff recommendations at a future meeting and potentially make determinations for the Board of Directors to consider in January.

3. **Review of Previous Report.** The Infractions Process Committee approved the report from its October 12 videoconference as presented.
4. **Future Videoconferences.** The Infractions Process Committee agreed to convene in December on a date to be determined.

*Infractions Process Committee chair: Jim Harris, University of San Diego*  
*Staff Liaisons: Emily Capehart, Academic and Membership Affairs*  
*Derrick Crawford, Law, Policy and Governance*  
*Jenn Fraser, Law, Policy and Governance*  
*Kevin Lennon, Law, Policy and Governance*

<b>Division I Board of Directors Infractions Process Committee November 11, 2021, Videoconference</b>	
<b>Attendees:</b>	
Adela de la Torre, San Diego State University.	
Ronnie Green, University of Nebraska, Lincoln.	
Jim Harris, University of San Diego.	
Geoff Mearns, Ball State University.	
Karen Paisley, University of Utah.	
Harlan Sands, Cleveland State University.	
Greg Sankey, Southeastern Conference.	
William Smith, Bryant University.	
<b>Absentees:</b>	
Natalie Robinson, University of Washington.	
<b>Guests in Attendance:</b>	
Grant Hill, NCAA Board of Governors (Independent Accountability Oversight Committee).	
<b>NCAA Staff Liaisons in Attendance:</b>	
Emily Capehart, Derrick Crawford, Jenn Fraser, and Kevin Lennon.	
<b>Other NCAA Staff Members in Attendance:</b>	
Brynna Barnhart, Gary Brown, Derrick Crawford, Jon Duncan, Meghan Durham, Saquandra Heath, Marnae Mawdsley, Scott McDonald, Matt Mikrut, Bridget Rigney, Jared Tidemann, Wendy Walters and Laura Wurtz.	