

Limited Immunity

Frequently Asked Questions and Answers

1. What is a grant of limited immunity in the NCAA infractions context?

Limited immunity protects an individual ("prospective student-athlete, current or former student-athlete or current or former institutional employee") from certain consequences for violating NCAA legislation. Limited immunity is an investigative tool that allows information to be elicited from an individual concerning his or her potential involvement in or knowledge of NCAA violations, with the understanding that the NCAA will not put the individual at-risk in the infractions process by bringing identified allegations against him or her.

2. Where is the authority to grant limited immunity derived?

The authority to grant limited immunity is authorized in:

- Division I: NCAA Bylaw 19.4.7-(c) and 19.4.7-(d).
- Division II: NCAA Bylaw 19.4.6-(d) and (e).
- Division III: NCAA Bylaw 32.3.8.

3. Why is it referred to as "limited" immunity?

The term limited immunity refers to protections afforded to an individual who may have committed violations of NCAA legislation. Limited immunity protects the individual from consequences resulting from violations of NCAA legislation; however, it does not protect the individual from action(s) that could be taken by the individual's institution or any other entity. Additionally, limited immunity does not apply to an individual's involvement in violations not reported to the NCAA enforcement staff or to future violations of NCAA legislation committed by the individual. Finally, limited immunity does not apply to the institution's responsibility for the violations that occurred. Hence the term limited immunity.

4. Who decides whether an individual is offered a grant of limited immunity?

The chair of the NCAA Committee on Infractions or, in the chair's absence, the vice chair. Normally, this offer is made upon the recommendation of the enforcement staff.

5. What factors does the enforcement staff consider in determining whether to recommend that an individual be offered a grant of limited immunity?

- a. Whether the individual is a prospective student-athlete, current or former student-athlete or a current or former staff member.
- b. Whether the individual received limited immunity in the past, and if so, the value of the information reported to the enforcement staff.
- c. Whether the individual has information that will assist the investigation or otherwise support or refute allegations.
- d. The likelihood of obtaining relevant information with or without the grant of limited immunity.

- e. The nature of the potential allegations involved in the case.
- f. Whether the individual's institution supports the request for limited immunity.
- g. Whether time is of the essence.
- h. Other relevant circumstances

6. How is the offer of a grant of limited immunity presented?

The offer of a grant of limited immunity is presented in writing to the individual. The grant of limited immunity letter is signed by the chair or vice chair of the Committee on Infractions.

7. May an individual confer with legal counsel or advisor to consider an offer of limited immunity?

Yes, recipients of or candidates for limited immunity may be represented by personal legal counsel or another advisor throughout the process. For a recipient of or candidate for limited immunity who is a student-athlete, when feasible, the enforcement staff will notify the student-athlete and his or her institution of the opportunity to have legal counsel or another advisor. The institution can secure personal legal counsel or an advisor unaffiliated with the institution's athletics department for the student-athlete. For recipients of or candidates for limited immunity who are prospective student-athletes, the enforcement staff will communicate with the prospective student-athlete about the opportunity to secure personal legal counsel or another advisor.

8. What are an individual's obligations under a grant of limited immunity?

A grant of limited immunity is expressly conditioned upon an individual's full cooperation in an NCAA investigation. The individual must make himself/herself available and provide complete and truthful information in his/her interview with the enforcement staff. The individual must also provide to the enforcement staff all relevant information and documents under his/her control. The individual may also be required to appear, either in person, by video or teleconference, and provide information in a hearing before the Committee on Infractions and satisfy any other conditions imposed by the Committee on Infractions.

9. Are there any special considerations related to limited immunity granted in an academic integrity (Division I) or academic misconduct (Divisions II and III) matter?

Yes. Limited immunity will protect student-athletes from facing a violation of NCAA Bylaw 14 for the academic integrity or academic misconduct, which could have resulted in permanent ineligibility for the student-athlete. However, if an institution withdraws a fraudulent credit and/or changes the student-athlete's grade as a result of the misconduct, the student-athlete will need to be academically recertified by their NCAA institution to ensure they are still eligible under progress-toward-degree and other academic eligibility legislation. Based on the results of the recertification, it is possible that a student-athlete is ineligible under the applicable progress-

toward-degree rules, transfer rules or initial eligibility rules found in NCAA Bylaw 14 (Division). Limited immunity does not cover academic ineligibility in this scenario. A student-athlete, however, does have the opportunity to regain his or her eligibility based on subsequent academic progress.

10. Can a grant of limited immunity be revoked?

Yes. The chair of the Committee on Infractions may revoke a grant of limited immunity. If the chair is unavailable, the vice chair may act in the chair's absence and revoke the grant of limited immunity.

11. Who can request that a grant of limited immunity be revoked and under what circumstances will the enforcement staff request to have limited immunity revoked?

The vice president of the enforcement staff may request revocation of limited immunity. In the rare instance when revocation of limited immunity is sought, the enforcement staff will exercise appropriate caution and will only pursue revocation if the staff determines the Committee on Infractions could conclude that an individual violated the terms of his/her limited immunity agreement.

12. How may the enforcement staff request the revocation of a grant of limited immunity?

The enforcement staff may request that a grant of limited immunity be revoked by submitting a petition to the chair of the Committee on Infractions, or if the chair is unavailable, the petition shall be submitted to the vice chair. The petition shall state the basis for the revocation and shall be forwarded to all involved parties.

13. When can a grant of limited immunity be revoked?

At any time during the pendency of the investigation, during the processing of the case or at a hearing before the Committee on Infractions.

14. Can the Committee on Infractions revoke a grant of limited immunity independent of a request for revocation by the enforcement staff?

Yes. As the grantor of limited immunity, the Committee on Infractions may revoke limited immunity on its own.

15. What type of information will a revocation of a grant of limited immunity be based upon?

The chair of the Committee on Infractions or in the chair's absence, the vice chair, shall base the revocation decision on information presented that is determined to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs.

16. What does it mean if a grant of limited immunity is revoked?

The enforcement staff may bring the underlying violation(s) of NCAA legislation against the individual pursuant to the notice procedures set forth in NCAA Article 19 (Division I) or Article 32 (Division II/III). The enforcement staff may also allege a failure to cooperate or unethical conduct violation against the individual.

17. What is an example of how a grant of limited immunity would work in the context of a student-athlete?

The enforcement staff has received information that State University men's basketball student-athlete James Doe (Doe) received a \$10,000 cash payment from John Smith (Smith), State University men's basketball assistant coach. The cash payment was promised to Doe by Smith during his recruitment, and Smith made the payment when Doe enrolled at State University. Doe has known Smith since he was eight years old and has developed a close relationship with Smith. Based on the information developed, the enforcement staff schedules an interview of Doe, who is represented by counsel. At the interview, Doe is reminded of his obligation to provide complete and truthful information. Despite this admonition, Doe fails to acknowledge receiving any cash payments from Smith.

Due to Doe's close and longstanding relationship with Smith, the enforcement staff believes it is unlikely that Doe will acknowledge receipt of the \$10,000 from Smith without a grant of limited immunity. Based on those factors, the enforcement staff seeks a grant of limited immunity for Doe from the Committee on Infractions, and the grant of limited immunity is approved by the committee.

The enforcement staff reviews the terms and conditions of the limited immunity agreement with Doe and his counsel. The enforcement staff further reminds Doe that as long as he provides truthful and complete information concerning his involvement in receiving cash from Smith, the limited immunity protects him from being placed at risk for violating NCAA legislation. The enforcement staff further reminds Doe that pursuant to his limited agreement, his NCAA eligibility, including his initial eligibility, will not be affected by information that Doe reports.

Doe subsequently reports the following information to the enforcement staff:

Smith promised Doe a \$10,000 cash payment to induce Doe to sign with State University and told Doe that the cash payment would be paid to him upon his enrollment. Two days after Doe enrolled at State University, Smith called Doe on his mobile phone and asked Doe to meet him at an off-campus restaurant. Doe met Smith at the restaurant and, once they were seated, Smith passed an envelope under the table to Doe. Smith told Doe that the envelope contained "what was promised to you." Doe did not open the envelope at the restaurant, but instead placed it in his jacket pocket.

When Doe returned to his on-campus apartment, he opened the envelope and counted 100 one hundred dollar bills. Doe reported that of the cash payment he received from Smith, he only spent around \$350 on a video game system and the rest of the money was in a shoe box in his apartment. The enforcement staff determined that Doe provided truthful and complete information during his interview concerning receipt of the cash payment from Smith.

Accordingly, Doe met the terms and conditions of his limited immunity agreement and therefore the enforcement staff would not name Doe or place him at risk for violating NCAA inducements or extra benefits legislation. Additionally, Doe's eligibility for NCAA competition, including participating in NCAA Championships, would also not be affected.

18. Does a grant of limited immunity to an individual protect that individual's current (and/or prior) institution?

No. Limited immunity protects individuals, not institutions. For example, in the scenario provided above, the grant of limited immunity protected Doe from NCAA consequences, such as going through the NCAA student-athlete reinstatement process, for his involvement in the \$10,000 impermissible benefit. However, Doe's grant of limited immunity does not apply to State University or Smith (since he was not offered his own grant of limited immunity). Therefore, the enforcement staff could still allege the underlying violation in a notice of allegations, and the institution and Smith, if named as an at-risk individual, could still be subject to NCAA penalties, including that Doe participated while ineligible (if applicable).