

NEGOTIATED RESOLUTION¹

The University of North Carolina at Greensboro – Case No. 01071

April 7, 2020

I. CASE SYNOPSIS

The institution; then head men's soccer coach; and NCAA enforcement staff agree that from January 16 through July 23, 2019, the head coach had impermissible contacts with 13 men's soccer student-athletes he coached at a previous NCAA member institution without first obtaining authorization through the notification of transfer process.

The head coach's previous institution hired the head coach in 2010. On January 15, 2019, the head coach notified his prior institution's men's soccer team of his resignation. The next day, the head coach was appointed head men's soccer coach at his alma mater, The University of North Carolina at Greensboro (UNC Greensboro).

On March 11, 2019, the director of athletics at the head coach's prior institution contacted the director of athletics and the senior associate director of athletics/senior woman administrator at UNC Greensboro and alleged that the head coach made impermissible recruiting contacts with three current men's soccer student-athletes [at the head coach's prior institution], a prospective student-athlete who had signed a National Letter of Intent with [the head coach's prior institution] and a prospective student-athlete who had verbally committed to [the head coach's prior institution]. In addition, the [head coach's prior institution's] director of athletics stated that [the head coach's prior institution] had evidence of the head coach's impermissible telephone calls and text messages to support the allegations and would submit them in a report to the Southern Conference office.

UNC Greensboro officials promptly contacted the head coach about the allegations. At that time, the head coach acknowledged that he made contact with the five individuals identified by the head coach's former director of athletics. As a result, UNC Greensboro requested that the head coach cease communication with the identified individuals and provide screenshots of any text messages on his telephone with the five individuals.

At the time, UNC Greensboro was engaged with the enforcement staff in the final stages of processing a Level I sports wagering case (Case No. 00951) and notified the enforcement staff of the possible violations involving the head coach. The parties agreed to separate the two matters and continue processing the sports wagering case while the institution investigated the head coach's impermissible contacts. On May 28, 2019, UNC Greensboro submitted a report to the enforcement staff that outlined violations of NCAA Bylaw 13.1.1.3 committed by the head coach involving two men's soccer student-athletes [at the head coach's prior institution]. Upon reviewing the

¹In reviewing this agreement, the hearing panel made editorial revisions pursuant to NCAA Division I Committee on Infractions (COI) Internal Operating Procedure (IOP) 4-9-1-2. These modifications did not affect the substance of the agreement.

institution's report, the enforcement staff believed the violations could be Level II and recommended additional investigation.

The institution and enforcement staff immediately began a collaborative investigation and identified additional violations of Bylaw 13.1.1.3. In total, the head coach had impermissible contact with 13 men's soccer student-athletes [at the head coach's prior institution] without first obtaining authorization through the notification of transfer process. the head coach's contact with nine of the student-athletes involved only cordial and civil conversations (i.e., congratulatory messages, birthday wishes). While some of the contact with the four other student-athletes was similar in nature, the majority involved recruiting discussions relating to the student-athletes' possible transfer to UNC Greensboro. None of the student-athletes transferred to or enrolled at UNC Greensboro.

The institution, the head coach and enforcement staff considered the nature and scope of the violations while discussing case processing options. The parties also considered the fact that the institution was involved in a recent but unrelated Level I case. The parties believe negotiated resolution is appropriate due to the agreement on facts, violations, level classification and penalties.

II. PARTIES' AGREEMENTS

A. Agreed-upon findings of fact, violations of NCAA legislation and violation levels.

1. [NCAA Division I Manual Bylaw 13.1.1.3 (2018-19)] (Level II)

The institution, the head coach and enforcement staff agree that from January 16 through July 23, 2019, the head coach had at least 175 impermissible contacts with at least 13 men's soccer student-athletes from [the head coach's prior institution] without first obtaining authorization through the notification of transfer process. Specifically:

- a. From January 16 through March 11, 2019, the head coach had at least 117 impermissible contacts via 13 telephone calls, 101 text messages and three in-person conversations with four men's soccer student-athletes [from the head coach's prior institution]. These contacts involved recruiting conversations between the head coach and the four [the head coach's prior institution] men's soccer student-athletes. The head coach did not obtain authorization through the notification of transfer process before he made the contacts. [NCAA Bylaw 13.1.1.3 (2018-19)]
- b. From January 16 through July 23, 2019, the head coach had at least 58 impermissible contacts via one telephone call and 57 text messages with nine men's soccer student-athletes [from the head coach's prior institution]. The

context of these contacts involved only cordial and civil conversations. the head coach did not obtain authorization through the notification of transfer process before he made the contacts. [NCAA Bylaw 13.1.1.3 (2018-19)]

2. [NCAA Division I Manual Bylaw 11.1.1.1 (2018-19)] (Level II)

The institution, the head coach and enforcement staff agree that from January 16 through July 23, 2019, the head coach is presumed responsible for the violations detailed in Finding of Fact No. 1 and did not rebut the presumption of responsibility. Specifically, the head coach did not demonstrate that he promoted an atmosphere for compliance due to his personal involvement in the violations.

B. Agreed-upon aggravating and mitigating factors.

Pursuant to Bylaw 19.5.12.1.3-(e), the parties agree that the aggravating and mitigating factors identified below are applicable. The parties assessed the factors by weight and number and agree that this case should be properly resolved as Level II – Mitigated for the institution and as Level II – Standard for the head coach.

In reaching a "mitigated" classification for the institution, the parties agreed that significant weight should be given to the institution's prompt acknowledgement of the violations and immediate penalties and corrective actions. The institution also agreed to negotiate a resolution, which helped expedite a final resolution of this matter. Despite the institution's recent infractions case history, aggravating factor Bylaw 19.9.3-(b) was given less weight because the violations in the current case could have been combined with the Level I sports wagering case (Case No. 00951). As discussed previously, the sports wagering case was in the final processing stages when the institution notified the enforcement staff of the possible tampering violations involving the head coach. As such, the institution and enforcement staff agreed to move forward in processing the Level I sports wagering case given its subject matter and because combining the cases would unnecessarily delay the processing of the sports wagering case for the two involved individuals who are not involved in the current tampering case.

In reaching a "standard" classification for the head coach, the parties agreed that significant weight should be given to his prompt acknowledgement of the violations, acceptance of responsibility for his actions and his exemplary cooperation. After the head coach provided documentation on the five individuals as requested by UNC Greensboro, he performed a review of his telephone records that resulted in the discovery of additional impermissible contact violations. Based on his review, the head coach created a spreadsheet of his impermissible contacts via telephone and text messages with his former student-athletes at [the head coach's prior institution] and collected screenshots of any text messages he had with his former student-athletes. These actions resulted in a significant reduction in investigative time and effort by both the institution and enforcement staff. In addition, the head coach cooperated throughout the

investigation and agreed to negotiate a resolution, which helped expedite the final resolution of the matter.

Institution:

1. Aggravating factors (Bylaw 19.9.3).
 - a. A history of Level I, Level II or major violations by the institution [Bylaw 19.9.3-(b)].
 - b. Multiple Level II violations by the institution [Bylaw 19.9.3-(g)].
 - c. Person of authority condoned, participated in or negligently disregarded the violation [Bylaw 19.9.3-(h)].
2. Mitigating factors (Bylaw 19.9.4).
 - a. Prompt acknowledgement of the violation, acceptance of responsibility and (for an institution) imposition of meaningful corrective measures and/or penalties [Bylaw 19.9.4-(b)].
 - b. Affirmative steps to expedite final resolution of the matter [Bylaw 19.9.4-(c)].
 - c. An established history of self-reporting Level III or secondary violations [Bylaw 19.9.4-(d)].

Involved Individual (Head Men's Soccer Coach):

1. Aggravating factors (Bylaw 19.9.3).
 - a. Violations were deliberate [Bylaw 19.9.3-(f)].
 - b. Multiple Level II violations by the involved individual [Bylaw 19.9.3-(g)].
 - c. Person of authority condoned, participated in or negligently disregarded the violation [Bylaw 19.9.3-(h)].
 - d. Conduct or circumstances demonstrating an abuse of a position of trust [Bylaw 19.9.3-(j)].
 - e. Intentional, willful or blatant disregard for the NCAA constitution or bylaws [Bylaw 19.9.3-(m)].

2. Mitigating factors (Bylaw 19.9.4).

- a. Prompt acknowledgement of the violation and acceptance of responsibility [Bylaw 19.9.4-(b)].
- b. Affirmative steps to expedite final resolution of the matter [Bylaw 19.9.4-(c)].
- c. Exemplary cooperation [Bylaw 19.9.4-(f)].
- d. The absence of prior conclusions of Level I, Level II or major violations committed by the involved individual [Bylaw 19.9.4-(h)].

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None.

IV. REVIEW OF OTHER ISSUES

None.

V. PARTIES' AGREED-UPON PENALTIES

All penalties agreed upon in this case are independent and supplemental to any action that has been or may be taken by the NCAA Division I Committee on Academics through its assessment of postseason ineligibility, historical penalties or other penalties.

Pursuant to Bylaw 19.5.12.1.3-(e), the parties agree to the following penalties:

Core Penalties for Level II – Mitigated Violations (Bylaw 19.9.5) (Institution)

1. Probation: One year of probation to run consecutive to the probation in Case No. 00951. **This will extend the probation period through July 24, 2023.**²
2. Financial Penalty: The institution will pay a fine of \$5,000 to the NCAA.

² The running of probation penalty consecutive to current probation period is consistent with the Committee on Infractions' precedent. See University of Utah (2019).

3. Recruiting Restrictions: Three-week ban on all recruiting communication contacts and off-campus recruiting by the entire men's soccer coaching staff with any prospective student-athletes, including transfers.³

Core Penalties for Level II – Standard Violations (Bylaw 19.9.5) (Head Coach)

4. Show-cause order: the head coach was personally involved in impermissible contacts with his former men's soccer student-athletes at his former institution without first obtaining authorization through the notification of transfer process. Therefore, the head coach shall be subject to a one-year show-cause order from April 7, 2020, through April 6, 2021. During the one-year show-cause period, the head coach shall be prohibited from participating in all recruiting communication contacts and off-campus recruiting for ten weeks with credit for three weeks served at the UNC Greensboro resulting in a ban of seven weeks to still be served.⁴ Any NCAA member institution employing the head coach during the one-year show-cause period shall adhere to this penalty.
5. Head coach restriction: the head coach violated Bylaw 11 head coach responsibility legislation when he failed to promote an atmosphere of compliance when he was personally involved in impermissible contacts with his former men's soccer student-athletes. Bylaw 19.9.5.5 and the Figure 19-1 penalty guidelines contemplate head coach suspensions to address head coach responsibility violations. Therefore, if the head coach becomes employed in an athletically related position at an NCAA member institution during the one-year show cause period, he shall be suspended from two regular season (championship segment) contests. The suspension will run concurrently with the show-cause order.

Additional Penalties for Level II – Mitigated Violations (Bylaw 19.9.7) (Institution)

6. The institution withheld the head coach from two spring (non-championship segment) games after the discovery of the violations.
7. Public reprimand and censure through the release of the public infractions decision.
8. During this period of probation, the institution shall:

³ The institution applied this penalty for three weeks during the spring and summer of 2019 contact periods: April 15 through 21, April 29 through May 5 and June 3 through 9.

⁴ See Footnote No. 2 above.

- a. Continue to develop and implement a comprehensive compliance and educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for recruiting;
 - b. Submit a preliminary report to the NCAA office of the Committees on Infractions in conjunction with its next annual compliance report in Case No. 00951, setting forth a schedule for establishing this compliance and educational program;
 - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program on the same date its annual compliance report is due in Case No. 00951 during each year of probation. Particular emphasis shall be placed on the institution's compliance measures taken to ensure adherence with NCAA recruiting legislation and related rules education;
 - d. Inform prospects in all affected sports programs in writing that the institution is on probation through **July 24, 2023**, and detail the violations committed. If a prospect 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 prospect signs a National Letter of Intent; and
 - e. Publicize specific and understandable information concerning the nature of the violations by providing, at a minimum, a statement to include the types of violations and the involved sports program(s) and a direct, conspicuous link to the public infractions decision located on the athletics department's main webpage "landing page" and in the media guides of the involved sports program(s) for the entire term of probation. The institution's statement must: (i) clearly describe the violations; (ii) include the length of the probationary period associated with the case; and (iii) give members of the general public a clear indication of what happened in the case to allow the public (particularly prospects and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.
9. Following the receipt of the compliance report and prior to the conclusion of probation, the institution's president shall provide a letter to the Committee on Infractions affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

Additional Penalties for Level II – Standard Violations (Bylaw 19.9.7) (the head coach)

10. The head coach will attend one NCAA Regional Rules Seminar in 2020 or 2021 at his own expense.⁵

VI. OTHER AGREEMENTS

The parties agree that this case will be processed through the NCAA negotiated resolution process as outlined in Bylaw 19.5, and a hearing panel comprised of members of the Committee on Infractions will review the negotiated resolution. The parties acknowledge that the negotiated resolution contains agreed-upon findings of fact of NCAA violations and agreed-upon aggravating and mitigating factors based on information available at this time. Nothing in this resolution precludes the enforcement staff from investigating additional information about potential rules violations. The parties agree that, pursuant to Bylaw 19.1.2, the violations identified in this agreement should be classified as Level II – Mitigated for the institution and Level II – Standard for the head coach.

If a hearing panel approves the negotiated resolution, the institution and the head coach agree that they will take every precaution to ensure that the terms of the penalties are observed. The institution and the head coach acknowledge that they have or will impose and follow the penalties contained within the negotiated resolution, and these penalties are in accordance with those prescribed in Bylaws 19.9.5, 19.9.6, 19.9.7 and 19.9.8. The office of the Committees on Infractions will monitor the penalties during their effective periods. Any action by the institution or the head coach contrary to the terms of any of the penalties or any additional violations may be considered grounds for prescribing more severe penalties or may result in additional allegations and violations.

The parties acknowledge that this negotiated resolution may be voidable by the Committee on Infractions if any of the parties were aware or become aware of information that materially alters the factual information on which this negotiated resolution is based. Additionally, the parties acknowledge that this negotiated resolution will not be binding if the case is referred to the independent accountability resolution process (Bylaw 19.11).

The parties further acknowledge that the hearing panel, subsequent to its review of the negotiated resolution, may reject the negotiated resolution. Should the hearing panel reject the negotiated resolution, the parties understand that the case may be submitted through a summary

⁵ Historically, the COI includes required Regional Rules attendance as part of a show-cause order. However, the COI recognizes that the duration of the Regional Rules requirement may extend beyond the show-cause order in this case. Therefore, the COI accepts the parties' required Regional Rules attendance as an additional penalty. Although framed as an additional penalty in this agreement, the head coach and any employing institution shall be required to confirm compliance with his Regional Rules attendance.

disposition report (Bylaw 19.6) or notice of allegations (Bylaw 19.7) and prior agreed-upon terms of the rejected negotiated resolution will not be binding.

VII. DIVISION I COMMITTEE ON INFRACTIONS APPROVAL

Pursuant to NCAA Bylaw 19.5.12, the panel approves the parties' negotiated resolution agreement. The panel's review of this agreement is limited. Panels may only reject a negotiated resolution agreement if the agreement is not in the best interests of the Association or if the agreed-upon penalties are manifestly unreasonable. *See* Bylaw 19.5.12.2. In this case, the panel determines the agreed-upon facts, violations, aggravating and mitigating factors, and classifications are appropriate for this process. Further, the parties classified this case as Level II-Mitigated for UNC Greensboro and Level II-Standard for the head coach's violations. The agreed-upon penalties align with the ranges identified for core penalties for Level II-Mitigated cases and Level II-Standard violations in Figure 19-1 and Bylaw 19.9.5 and the additional penalties available under Bylaw 19.9.7. Pursuant to Bylaw 19.5.12.4, this negotiated resolution has no precedential value.

The COI advises UNC Greensboro and the head coach that they should take every precaution to ensure that they observe the terms of the penalties. The COI will monitor the institution while it is on probation to ensure compliance with the penalties and terms of probation and may extend the probationary period, among other action, if the institution does not comply or commits additional violations. Likewise, any action by the institution, and/or head coach contrary to the terms of any of the penalties or any additional violations shall be considered grounds for prescribing more severe penalties and/or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL
Alberto Gonzales, Chief Hearing Officer
Joel Maturi
Joseph Novak

APPENDIX

**THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO'S
CORRECTIVE ACTIONS**

1. Accepted the head coach's resignation as head men's soccer coach effective July 23, 2019.
2. Enhanced NCAA rules education for all sports programs concerning Bylaw 13.1.1.3, including specific education for all new coach hires.