



**UNIVERSITY OF AKRON**  
**PUBLIC INFRACTIONS DECISION**  
**August 19, 2021**

**I. INTRODUCTION**

The NCAA Division I Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division I membership and public. The COI decides infractions cases involving member institutions and their staffs.<sup>1</sup> This case involved impermissible benefits and ineligible competition in the University of Akron's football program.<sup>2</sup> Specifically, the former associate director of athletics for compliance violated extra benefit legislation when he provided cash loans from his personal bank account to nine football student-athletes over the course of two academic years. The associate AD's conduct failed to meet the principles of ethical conduct outlined by the NCAA membership.

Beginning in January 2015, the associate AD provided cash loans—which he characterized as scholarship cash advances—from his personal bank account to two football student-athletes. The associate AD did so after learning from Akron's director of football operations (DOFO) that the student-athletes had not yet received their living allowance scholarships and/or Pell Grants. Under similar circumstances, the associate AD provided cash loans to seven additional football student-athletes during the 2019-20 academic year. As a result of receiving the impermissible benefits, four football student-athletes competed in 21 contests and received actual and necessary expenses while ineligible.

Although he contended that he mistakenly believed that his conduct was permissible, the associate AD violated fundamental and well-known rules regarding the provision of benefits. As the highest-ranking compliance officer in Akron's athletics department, the associate AD was expected to uphold Akron's commitment to athletic compliance. Instead, he acted independently to provide cash loans from his personal bank account to student-athletes after learning that Akron's bursar's office was unwilling to expedite the funds. Then, to make the loans look like they were coming from the institution, the associate AD created loan agreements on Akron's letterhead and required the student-athletes to sign them. At no point did he consult with anyone in Akron's athletics department, the conference office or the NCAA regarding the permissibility of his actions. In addition to underlying benefits violations, the associate AD's conduct ran afoul of the standards of ethical conduct legislated by the NCAA membership. The violations are Level I.

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<sup>1</sup> Infractions cases are decided by hearing panels comprised of COI members. Decisions issued by hearing panels are made on behalf of the COI.

<sup>2</sup> A member of the Mid-American Conference, Akron has a total enrollment of approximately 18,000 students. It sponsors six men's and 10 women's sports. Akron also sponsors one mixed sport. This is Akron's second Level I, Level II or major infractions case. Akron's prior case occurred in 1984 (football).

The panel classifies this case as Level I-Mitigated for Akron and Level I-Standard for the associate AD. Utilizing the current penalty guidelines and NCAA bylaws authorizing additional penalties, the panel prescribes the following principal penalties: two years of probation, a \$5,000 fine, vacation of records and a two-year show-cause order for the associate AD.

## **II. CASE HISTORY**

The violations in this case came to light in early March 2020, when Akron's assistant director for compliance (assistant compliance director) attended a meeting hosted by the Mid-American Conference (MAC). At the meeting, the assistant compliance director informed a representative of the conference office that the associate director of athletics for compliance (associate AD) had provided cash loans to several Akron football student-athletes.

On March 10, 2020, the MAC notified the NCAA enforcement staff about the potential extra benefit violations involving the associate AD and the football program. After providing the institution with a verbal notice of inquiry on April 16, 2020, the enforcement staff began a collaborative investigation with the institution. In a May 2020 interview with the enforcement staff, the associate AD admitted that he provided cash loans to football student-athletes in January 2015, August 2019 and January 2020. Soon after his acknowledgement, Akron initiated termination proceedings for the associate AD. Prior to completing those proceedings, the associate AD resigned from Akron.

On October 12, 2020, the enforcement staff issued a notice of allegations to Akron and the associate AD. Akron and the associate AD responded to the allegations on January 8, 2021, and January 9, 2021, respectively.<sup>3</sup> The enforcement staff then submitted an amended notice of allegations on January 19, 2021, with changes that did not impact the substance of the allegation.<sup>4</sup> On March 11, 2021, the enforcement staff submitted its written reply and statement of the case.<sup>5</sup> The panel held the hearing on May 25, 2021, via videoconference.

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<sup>3</sup> Akron submitted an amended response to the notice of allegations on January 29, 2021. The amendments were limited to formatting adjustments.

<sup>4</sup> The enforcement staff revised the NOA to correct errors in the bylaw citations and facts. Specifically, the enforcement staff inadvertently omitted Bylaw 12.11.1 and incorrectly identified June 2019 as a date when the associate AD provided loans to student-athletes.

<sup>5</sup> The president of Akron is a current member of the COI. NCAA Bylaw 19.7.7.5.4 prohibits members of the COI with a conflict of interest under Bylaw 19.3.4 from participating in an infractions proceeding and attending hearings involving the member's institution. After no parties objected to his participation as the chief executive officer of the institution, on March 12, 2021, the chief hearing officer sent a letter to Akron waiving Bylaw 19.7.7.5.4, thereby permitting Akron's president to attend the hearing.

### **III. FINDINGS OF FACT**

The events in this case centered on the associate AD's provision of cash loans to nine football student-athletes during the 2014-15 and 2019-20 academic years. The facts are largely not in dispute. All parties agree that when the associate AD learned that Akron would not provide the student-athletes with advances on their scholarships, he took matters into his own hands. The limited disagreement revolves around whether the associate AD's actions were permissible under NCAA legislation.

The associate AD came to Akron in 2014, bringing with him roughly 20 years of experience in athletics compliance. In his role, the associate AD oversaw the day-to-day operations of Akron's compliance department. As the institution's chief compliance officer, his tasks included self-reporting Level III violations to the NCAA and overseeing all aspects of student-athletes' financial aid. In his words, the associate AD had "direct control over all athletics scholarship aid." As a result of this responsibility, the associate AD had to work with Akron's bursar's office. Due to several disagreements during his tenure, the associate AD described his relationship with the bursar's office as "very contentious."

In January 2015, Akron's DOFO emailed the associate AD regarding two student-athletes who had not yet received their living allowance scholarships and/or Pell Grants from the institution. These student-athletes were both mid-year transfers, described as "late arrivals" on campus, which contributed to the delay in the distribution of their scholarship monies. The DOFO asked whether there was any way to assist the student-athletes, who needed money to pay for their living expenses. Based on his prior experience at other institutions, the associate AD contacted the bursar's office to obtain cash advances on the student-athletes' financial aid. However, he was informed that Akron did not have a cash advance program and that the bursar's office was unwilling to expedite the funds.

Despite knowing that Akron did not have a program in place to provide scholarship cash advances, the associate AD took it upon himself to implement a "creative solution" and take advantage of what he mistakenly believed to be a gray area in NCAA legislation. Accordingly, the associate AD provided cash loans from his personal bank account to the two student-athletes. In conjunction with providing the loans, the associate AD had the student-athletes sign loan repayment agreements that he drafted on Akron's letterhead. These agreements required the student-athletes to repay the loans upon receipt of their first scholarship checks from Akron. The associate AD also used the agreements to show that he was acting on behalf of the institution to arrange a scholarship advance between Akron and the student-athletes. At the hearing, the associate AD claimed that he never instructed the student-athletes to keep the loans a secret and, therefore, his actions were neither "clandestine" nor "covert."

The associate AD provided additional cash advances during the 2019-20 academic year. After the DOFO once again identified student-athletes in need of assistance due to scholarship delays, he provided cash loans from his personal bank account to two student-athletes in August 2019, and five other student-athletes in January 2020. All nine loans ranged in value between \$100 and

\$1,000, totaling \$5,900 overall. Eight of the nine student-athletes received loans totaling at least \$500.<sup>6</sup> Four student-athletes competed in 21 contests and received actual and necessary expenses after receiving the loan payments from the associate AD. The student-athletes competed during the 2015-16, 2016-17 and 2019-20 academic years.

At no point did the associate AD consult with anyone in Akron's athletics department, the conference office or the NCAA regarding the permissibility of the loans. While the DOFO and other individuals on Akron's football staff may have been aware of the cash loans, none of them questioned their permissibility due to the associate AD's leadership position in compliance. Moreover, no one was aware that the cash loans were coming from the associate AD's personal bank account.

As a result, questions related to the permissibility of the conduct were not raised until February 2020 when the associate AD informed the assistant compliance director that football student-athletes might be stopping by the compliance office to repay their loans. If the associate AD was out of the office, he instructed the assistant compliance director to accept the cash from the student-athlete and place it in a drawer in the associate AD's desk. The assistant compliance director did so on one occasion. In his interview with enforcement staff, the associate AD acknowledged that he provided football student-athletes with the cash loans. This included the loans from January 2015 and August 2019, of which the enforcement staff were previously unaware. By the time the enforcement staff learned of the conduct, it had gone unreported for five years.

#### IV. ANALYSIS

The extra benefit violations occurred over the course of two academic years and stemmed from the associate AD's provision of cash loans to football student-athletes, which resulted in ineligible competition and the provision of impermissible expenses. Akron and the associate AD agreed that these violations occurred, but the associate AD asserted that they should be classified as Level III. The associate AD also disputed the application of Bylaw 10 to his conduct due to his lack of knowledge about the impermissibility of the loans. The panel concludes that the violations are Level I and violate ethical conduct legislation outlined in Bylaw 10.1.

**UNETHICAL CONDUCT, EXTRA BENEFITS, IMPERMISSIBLE EXPENSES AND INELIGIBLE COMPETITION [NCAA Division I Manual Bylaws 10.1-(c) (2014-15); 10.01.1, 10.1, 16.11.2.1 and 16.11.2.2-(a) (2014-15 and 2019-20); 12.11.1 and 16.8.1 (2015-16 through 2016-17 and 2019-20); and 10.1-(b) (2019-20)]**

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<sup>6</sup> It is unclear how many of the student-athletes repaid their loans. Although four of the student-athletes who were interviewed stated that they repaid the associate AD, there is only documentation (loan repayment agreements) of two student-athletes' repayments. Three student-athletes' repayments were impacted by the COVID-19 pandemic and their corresponding departure from campus. For those student-athletes, the associate AD requested that the financial aid office reduce their living allowance scholarships by an equivalent amount. It is unclear whether those reductions were made. The question of whether the loans were repaid is immaterial to whether violations occurred.

In January 2015, August 2019 and January 2020, the associate AD violated the principles of ethical conduct when he knowingly arranged for and provided \$5,900 in impermissible benefits in the form of cash loans to nine football student-athletes. As a result of the benefits, four student-athletes competed in 21 contests and received actual and necessary expenses while ineligible. The violations are Level I.

**1. NCAA legislation relating to unethical conduct, extra benefits, impermissible expenses and ineligible competition.**

The applicable portions of the bylaws may be found at Appendix Two.

**2. The associate AD violated unethical conduct legislation when he provided extra benefits to student-athletes in the form of cash loans. The benefits caused student-athletes to compete and receive expenses while ineligible.**

The associate AD violated unethical conduct legislation when he knowingly gave cash loans to student-athletes during the 2014-15 and 2019-20 academic years. Although the associate AD attempted to provide the student-athletes with scholarships through Akron's bursar's office, the institution did not have a cash advance program. As a result, he took matters into his own hands and provided the student-athletes with loans that directly violated NCAA legislation. The student-athletes then competed and received impermissible expenses while ineligible. The benefits and resulting ineligible competition and expenses violated Bylaws 10, 16 and 12.

Bylaw 10 establishes ethical conduct standards. Generally, Bylaw 10.01.1 requires all staff members to act with honesty and sportsmanship. More specifically, Bylaw 10.1 outlines sample behavior that is considered unethical conduct, including an individual's knowing involvement in offering or providing an enrolled student-athlete an improper inducement or extra benefit under Bylaw 10.1-(b).

Bylaws 16 and 12 govern benefits and eligibility, respectively. Bylaw 16.11.2.1 restricts student-athletes from receiving extra benefits. The bylaw defines extra benefits as special arrangements by an institutional employee to provide student-athletes or their families or friends with an impermissible benefit that is not generally available to other students. As set forth in Bylaw 16.11.2.2-(a), prohibited benefits include loans of money. Pursuant to Bylaw 16.8.1, an institution may provide actual and necessary expenses only to eligible student-athletes to represent the institution in practice and competition. Institutions must also withhold ineligible student-athletes from competition under Bylaw 12.11.1.

All parties agree that during the 2014-15 and 2019-20 academic years, the associate AD provided impermissible cash loans to nine football student-athletes. The associate AD unilaterally provided the money to the student-athletes with funds from his personal bank account. The loans ranged from \$100 to \$1,000 and totaled \$5,900. After providing the loans, the associate AD created loan repayment agreements on Akron's letterhead and required the student-athletes to sign them. This conduct violated Bylaws 16.11.2.1 and 16.11.2.2-(a), which expressly prohibit institutional

employees from providing student-athletes with loans of money. Similarly, the violations rendered the student-athletes ineligible. As a result, four student-athletes competed in 21 contests and received actual and necessary expenses while ineligible over the course of three academic years. Their ineligible competition and impermissible expenses violated Bylaws 12.11.1 and 16.8.1, respectively.

Although the associate AD agreed that his conduct resulted in violations of Bylaws 16 and 12, the associate AD asserted that his involvement in those violations did not violate the principles of ethical conduct under Bylaw 10. Specifically, the associate AD claimed that, at the time he provided the loans to the student-athletes, he mistakenly believed that his conduct was permissible because he did not exceed their individual financial aid limitations. In other words, he claimed that he did not know his conduct was a violation and the panel is therefore precluded from concluding that an unethical conduct violation occurred. Further, the associate AD claimed that his actions were not "clandestine or covert," as athletics staff members were aware of the loans and the associate AD never instructed anyone to keep the loans a secret.

Bylaw 10.1 is clear. It expressly defines knowingly arranging or providing an impermissible benefit to student-athletes as unethical conduct. *See* Bylaw 10.1-(b). The COI has regularly concluded that Bylaw 10.1-(b) violations occur when an involved individual provides impermissible benefits. *See California State University, Sacramento (Sacramento)* (2018) (concluding that the tennis director violated the principles of ethical conduct when he knowingly provided impermissible benefits and recruiting inducements to student-athletes and prospective student-athletes, and later failed to cooperate in the investigation) and *Prairie View A&M University* (2017) (concluding that the former assistant men's basketball coach violated the principles of ethical conduct when he arranged for a representative of the institution's athletic interests to pay for a student-athlete's online course). The COI has also emphasized that involved individuals are not required to have intentionally committed NCAA rules violations to establish "knowing" involvement. Instead, the COI has historically and consistently applied a "knew or should have known" standard. *See University of California, Los Angeles (UCLA)* (2016) (concluding that an associate head football coach acted unethically when he provided housing and training benefits to prospects even though he did not know—but *should have known*—that the benefits were impermissible).<sup>7</sup> In that way, the actor does not need to know that they are committing an NCAA violation. Instead, the actor must consciously commit the act that results in an NCAA violation. Finally, the COI has not concluded that unethical conduct requires concealment of violations or an intent to act covertly. Such elements are not required under Bylaw 10.1-(b).

Contrary to the associate AD's explanation, the extra benefits legislation is well-known to the membership—*particularly compliance administrators*. Moreover, the associate AD was Akron's highest-ranking compliance administrator with decades of athletics compliance experience. Like

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<sup>7</sup> Although *Sacramento*, *Prairie View A&M* and *UCLA* were decided through the summary disposition process and may be viewed as less instructive under COI Internal Operating Procedure (IOP) 4-10-2-2, the panel cites to them because they involved similar underlying conduct and violations.

the associate head football coach in *UCLA*, the associate AD should have known that cash loans constituted impermissible benefits or, at the very least, sought guidance when he learned that Akron did not have a cash advance program. The fact that he may not have gone to great lengths to cover up the cash loans does not impact a conclusion of unethical conduct. Thus, the Bylaw 10 violations are appropriate and apply.

Based on these violations, Akron and the enforcement staff agreed that a Level I designation was appropriate. The associate AD disagreed, asserting that the Bylaw 16 violations were Level III. In support of his position, the associate AD claimed that the extra benefit violations were limited or isolated, inadvertent and provided student-athletes with no more than a minimal benefit. He also cited Level III cases that he viewed as instructive. The panel disagrees and concludes that the violations are Level I.

The COI has consistently concluded that unethical conduct and extra benefit violations are Level I. *See Sacramento* (concluding a Level I unethical conduct violation occurred where a tennis director knowingly provided impermissible benefits and inducements to student-athletes and prospects) and *University of Northern Colorado* (2017) (concluding Level I unethical conduct violations occurred where multiple coaches provided prospects with impermissible inducements in the form of payment for online courses). Although the monetary value of a benefit may be a factor, the COI has stated that value is not in and of itself the sole factor for determining violation level. *See Brigham Young University* (2018) (comparing Level II violations valued at \$16,000 with Level I violations valued at \$800 that differed in level largely due to the substantive nature of the conduct). The COI has also clarified what facts may make a Level III classification inappropriate. *See California Polytechnic State University (Cal Poly)* (2019) (stating that violations that occur over multiple years are not isolated in nature). Finally, although some Level III cases may contain similar extra benefit violations, the Level III process is a separate process that is administered by the enforcement staff and is not binding on Level I or Level II cases adjudicated by the COI. *See North Carolina Central University*, IAC Report No. 499 (2018) (reinforcing that the COI "is not bound by the actions taken in Level III infraction decisions when it prescribes penalties related to Level I or II violations").

The violations in this case were not isolated or limited. Rather, they continued over the course of two academic years. The extra benefit violations also provided a substantial or extensive advantage or impermissible benefit—advance payments, most of which exceeded \$500 and resulted in four student-athletes competing while ineligible. Finally, the NCAA membership has identified unethical conduct as an example of a Level I violation. *See* Bylaw 19.1.1-(d). In accordance with Bylaw 19.1.1, the panel concludes that the violations are Level I.

## **V. PENALTIES**

For the reasons set forth in Sections III and IV of this decision, the panel concludes that this case involved Level I violations of NCAA legislation. Level I violations are severe breaches of conduct that seriously undermine or threaten the integrity of the NCAA Collegiate Model, including

violations that provide or are intended to provide a substantial or extensive advantage or impermissible benefit. Among other examples, Level I violations may include individual unethical conduct, regardless of whether the underlying institutional violations are considered Level I.

In considering penalties, the panel first reviewed aggravating and mitigating factors pursuant to Bylaws 19.9.2, 19.9.3 and 19.9.4 to determine the appropriate classifications for Akron and the associate AD. The panel then used the current penalty guidelines (Figure 19-1) and Bylaws 19.9.5 and 19.9.7 to prescribe penalties.

The panel determined that the below-listed factors applied and assessed the factors by weight and number. Based on its assessment, the panel classifies this case as Level I-Mitigated for Akron and Level I-Standard for the associate AD.

### **Aggravating Factors for Akron<sup>8</sup>**

19.9.3-(b): A history of Level I, Level II or major violations by the institution; and  
19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct.

Akron agreed with the application of both aggravating factors. With regard to Bylaw 19.9.3-(b), the panel has regularly determined that this factor applies but has afforded it little weight when significant time has passed since the institution's most recent prior case. *See DePaul University (2019)* (determining that this factor applied where the institution had prior cases in 1994 and 1974, but assigning minimal weight to the factor) and *Cal Poly* (determining that this factor applied where the institution had prior cases in 1995 and 1987, but assigning minimal weight to the factor). Here, Akron had one prior major infractions case in 1984. Thus, although the factor applies, the panel assigns it no weight.

Additionally, Bylaw 19.9.3-(h) applies because the associate AD was a person of authority and personally committed the violations. The associate AD was the institution's chief athletics compliance officer. His job was to prevent NCAA violations. In fact, individuals on Akron's football staff knew about the loans but did not report them because they believed they were permissible due to the associate AD's leadership role in compliance. The COI frequently attributes Bylaw 19.9.3-(h) to institutions when their employees are in positions of authority and commit violations. *See Creighton University (2021)* (applying Bylaw 19.9.3-(h) because the assistant coach and the director of athletics were people of authority who actively participated in violations). The COI has also applied this factor when the institutional employee who committed the violations was a non-coaching staff member such as a DOBO, associate AD or tutor. *See University of*

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<sup>8</sup> Akron and the enforcement staff agreed that Bylaw 19.9.3-(m), *Intentional, willful or blatant disregard for the NCAA constitution and bylaws*, applied to the institution. During the May 25, 2021, hearing, the enforcement staff withdrew this factor, noting that it was no longer applicable in light of the Division I Infractions Appeals Committee's (IAC) release of *Georgia Institute of Technology*, IAC Decision No. 524 (2021). That decision vacated the COI's application of Bylaw 19.9.3-(m) to the institution and identified that for the aggravating factor to apply to an institution an appropriate "nexus or connection of action or inaction by the institution relevant to the violation" must exist. The panel agrees that Bylaw 19.9.3-(m) does not apply to Akron.



*Oregon* (2018) (DOBO); *University of Alabama* (2020) (associate AD); and *University of Houston* (2019) (tutor). As the highest-ranking compliance administrator in Akron's athletics department, the associate AD maintained a position of authority over all aspects of financial aid. The panel determines that this factor applies.

Akron and the enforcement staff also agreed that Bylaw 19.9.3-(j), *Conduct or circumstances demonstrating an abuse of a position of trust*, applied to Akron. However, in several recent cases where institutional staff members committed violations, the COI has declined to apply Bylaw 19.9.3-(j) to the institution. See *Texas Christian University* (2021) (applying Bylaw 19.9.3-(h) rather than Bylaw 19.9.3-(j)); *Creighton* (2021) (same); and *University of Southern California (USC)* (2021) (same). Instead, the COI has found Bylaw 19.9.3-(h) to be more appropriate. Moreover, the COI has only applied Bylaw 19.9.3-(j) to institutions on two occasions. See *DePaul* and *University of Hawaii at Manoa* (2017). Consistent with case guidance, the COI declines to apply Bylaw 19.9.3-(j) to Akron.

### **Mitigating Factors for Akron**

19.9.4-(a): Prompt self-detection and self-disclosure;

19.9.4-(b): Prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties;

19.9.4-(c): Affirmative steps to expedite final resolution of the matter; and

19.9.4-(d): An established history of self-reporting Level III or secondary violations.<sup>9</sup>

Akron did not propose any additional mitigating factors. Bylaw 19.9.4-(a) applies because of the assistant director's prompt reporting to the MAC upon discovering the extra benefit violations in February 2020. As for Bylaw 19.9.4-(b), Akron promptly contacted MAC officials, initiated an investigation and imposed corrective measures after learning about the violations. Finally, Bylaw 19.9.4-(c) applies because Akron attempted to resolve this case cooperatively with the enforcement staff, as demonstrated by its complete agreement with the facts, violations and level.

### **Aggravating Factors for the Associate AD**

19.9.3-(e): Unethical conduct;

19.9.3-(f): Violations were premeditated, deliberate or committed after substantial planning;

19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct; and

19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution and bylaws.

The associate AD contested all of the aggravating factors identified by the enforcement staff. The panel determines that all of the factors apply.

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<sup>9</sup> Akron has reported 34 Level III violations during the last five years, an average of approximately seven a year.

With respect to Bylaw 19.9.3-(e), the analysis is straightforward—the factor applies when an individual commits an unethical conduct violation. Despite the associate AD's disagreement, the panel concludes that he violated unethical conduct legislation when he knowingly provided cash loans to nine football student-athletes. Nonetheless, the panel recognizes that not all unethical conduct violations are the same. Here, the associate AD cut corners and disregarded institutional policies to provide student-athletes with their living expenses. His actions established Level I unethical conduct; however, the panel considered the associate AD's actions in the broader scope of all unethical conduct within intercollegiate athletics. In doing so, the panel determined that this factor applies, but affords it less weight.

The associate AD also asserted that Bylaw 19.9.3-(f) should not apply because the facts did not demonstrate premeditation or substantial planning. The facts, however, do not support the associate AD's position. In this case, the associate AD made the conscious decision to provide cash loans from his personal bank account to student-athletes after learning that the bursar's office would not provide advances on their scholarship monies. In his words, the associate AD developed a "creative solution." He also took the time to draft loan repayment agreements on Akron's letterhead in an attempt to form an arrangement between the student-athletes and Akron. The associate AD was thorough in his execution of the loans. The COI has applied Bylaw 19.9.3-(f) where individuals actively orchestrated and engaged in violations of NCAA legislation. *See DePaul* (applying the factor where the former associate head men's basketball coach provided impermissible benefits when he arranged for the assistant DOBO to live with a prospect for nearly two weeks to assist with and monitor the prospect's coursework). Thus, the panel determines that Bylaw 19.9.3-(f) applies to the associate AD.

Relatedly, the associate AD claimed that Bylaw 19.9.3-(m) was "largely duplicative" of Bylaw 19.9.3-(f) and, therefore, should not apply. The panel disagrees. The COI has applied both bylaws to the same involved individual on numerous occasions without reducing their weight. *See DePaul*. Further, the COI consistently applies Bylaw 19.9.3-(m) to involved individuals when they violate ethical conduct legislation. *See DePaul* and *Georgia Institute of Technology* (2019). Here, the associate AD blatantly disregarded well-known extra benefits legislation by providing cash loans to student-athletes. The panel determines that Bylaw 19.9.3-(m) applies.

Finally, the associate AD contested the application of Bylaw 19.9.3-(h) because he believed he did not engage in unethical conduct. However, unethical conduct is not required for this factor to apply. The COI regularly applies Bylaw 19.9.3-(h) to involved individuals who are in a position of authority and commit violations, including other coaches and administrators such as associate athletics directors. *See Creighton* (applying the factor to the athletic director where he should have recognized a violation that was presented to him or, at the very least, reported the conduct); *Oklahoma State University* (2020); and *Alabama*. Based on the structure of Akron's athletic department, the associate AD was the highest-ranking member of the compliance staff. His direct oversight of all aspects of student-athletes' financial aid put him in a position of authority that ultimately led him to participate in the violations. Therefore, the factor applies.

Similar to the panel's analysis for Akron, the panel declines to apply Bylaw 19.9.3-(j), *Conduct or circumstances demonstrating an abuse of a position of trust*, to the associate AD. The violations in this case stemmed from and occurred due to the associate AD's authority as Akron's chief compliance officer. Undoubtedly, the institution and individuals at Akron trusted him to adhere to NCAA legislation and strive to promote compliance within the athletics department. However, based on the facts of this case, Bylaw 19.9.3-(h) is more appropriate.

### **Mitigating Factors for the Associate AD**

19.9.4-(d): An established history of self-reporting Level III or secondary violations; and

19.9.4-(h): The absence of prior conclusions of Level I, Level II or major violations by the associate AD.

The parties agreed that one mitigating factor, Bylaw 19.9.4-(h), applied due to the absence of prior major violations by the associate AD. The panel agrees.

With respect to Bylaw 19.9.4-(d), the associate AD asserted that it should apply because he was responsible for self-reporting Level III violations while employed at Akron. The enforcement staff contended that this factor could only apply to an institution, not an involved individual. In this rare and unique circumstance, the panel applies the factor to the associate AD.

Although this mitigating factor has not previously been applied to an involved individual, the circumstances of this case are unlike any case previously presented to the COI in that the involved individual was the institution's chief compliance officer. The associate AD was the highest-ranking member of Akron's athletics compliance staff. He served in that role approximately six years. During his tenure at Akron, the associate AD was responsible for self-reporting Level III violations to the NCAA. Although the COI stated in a previous case that Bylaw 19.9.4-(d) does not pertain to involved individuals, that case did not involve a member of the institution's compliance staff. *See California State University, Northridge (2016)* (stating in reference to the former DOBO that "the proposed mitigator of an established history of self-reporting simply does not apply because the mitigator is one that only pertains to institutions, not individuals"). While the panel recognizes that Bylaw 19.9.4-(d) typically does not and will not apply to an involved individual, the panel draws a distinction where that individual is a compliance administrator responsible for self-reporting Level III or secondary violations. The panel also finds it significant that Bylaw 19.9.4-(d) applies to the institution. In that way, the institution should not receive mitigation for the associate AD's actions while he does not. The panel determines that this factor applies.

The associate AD identified three additional mitigating factors: Bylaws 19.9.4-(f), *Exemplary cooperation*; 19.9.4-(g), *The violations were unintentional, limited in scope and represent a deviation from otherwise compliant practices by the involved individual*; and 19.9.4-(i), *Other factors warranting a lower penalty range*. The panel determines that none of these factors apply.

In support of Bylaw 19.9.4-(f), the associate AD emphasized that he provided information in his interview that led the enforcement staff to discover the 2015 and 2019 extra benefit violations. He alleges that, without this information, those violations likely would have gone undiscovered. The COI has consistently stated that exemplary cooperation is a high bar. Fulfilling one's fundamental responsibility to cooperate under Bylaw 19.2.3, such as by providing complete and truthful responses during interviews, does not rise to the level of exemplary cooperation. Further, although bringing additional violations to the attention of enforcement staff may be considered exemplary cooperation under Bylaw 19.9.4-(f)(3), it must be done in a timely manner. While the associate AD identified previously unknown extra benefit violations, some occurred over five years prior to his disclosure to enforcement staff. Although the COI appreciates the associate AD's cooperation and candor during his interview, his cooperation was not exemplary.

With regard to Bylaw 19.9.4-(g), the associate AD contended that the factor should apply because of his oversight and monitoring efforts at Akron and his practice of promoting a "culture of compliance" throughout his career. However, a party must show all three prongs of the bylaw—unintentional violations, limited violations and a deviation from compliant practices—for the factor to apply. *See Siena College (2020)* (declining to apply the factor to a head coach who had no prior violations in his 27-year career, but whose violations were not unintentional or limited). The COI has declined to apply the factor when the violations were not limited because they occurred over multiple months or years. *See University of California, Santa Barbara (UCSB) (2019)* (determining that the factor did not apply to the head men's water polo coach when violations spanned two years); *Oregon* (determining that the factor did not apply to the head men's basketball coach when the violations spanned three-and-a-half years and involved multiple instances of the same impermissible conduct); and *Monmouth University (2017)* (determining that the factor did not apply to the head men's tennis coach when the violations occurred during an entire semester). As in these cases, the violations were not limited. They occurred over two academic years and involved nine instances of providing impermissible benefits to student-athletes. The panel does not apply the factor to the associate AD.

Finally, the associate AD asserted that Bylaw 19.9.4-(i) should apply because he mistakenly violated NCAA legislation and the benefits were minimal with no competitive or recruiting advantage. In doing so, the associate AD conflates the application of this mitigating factor with the analysis of violation level under Bylaws 19.1.1, 19.1.2 and 19.1.3. The associate AD's argument is not supported by the facts or the panel's conclusions. In this decision, the panel previously explained that the violations are Level I in part because they provided an extensive advantage and benefit. The COI rarely applies Bylaw 19.9.4-(i), generally reserving it for "circumstances where a party has taken steps above and beyond what is expected or where unique circumstances warrant it." *See University of Connecticut (2019)*. The panel determines that the associate AD did not demonstrate unique circumstances warranting application of this factor.

All the penalties prescribed in this case are independent and supplemental to any action the NCAA Division I Committee on Academics has taken or may take through its assessment of postseason ineligibility, historical penalties or other penalties. In prescribing penalties, the panel considered Akron's cooperation in all parts of this case and determines it was consistent with Akron's

obligation under Bylaw 19.2.3. The panel also considered Akron's corrective actions, which are contained in Appendix One. The panel prescribes the following penalties:

**Core Penalties for Level I-Mitigated Violations (Bylaw 19.9.5)**

1. Probation: Two years of probation from August 19, 2021, through August 18, 2023.
2. Financial penalty: Akron shall pay a fine of \$5,000.

**Core Penalties for Level I-Standard Violations (Bylaw 19.9.5)**

3. Show-cause order: The associate AD provided impermissible benefits in the form of cash loans to nine football student-athletes during the 2014-15 and 2019-20 academic years. These benefits resulted in four student-athletes competing in 21 contests and receiving expenses while ineligible. As a result of his involvement in these violations, the associate AD also committed unethical conduct violations. Therefore, he shall be subject to a two-year show-cause order from August 19, 2021, to August 18, 2023.

In accordance with Bylaw 19.9.5.4 and COI IOP 5-13-3, any employing member institution shall restrict the associate AD's involvement with NCAA financial aid legislation by requiring the athletic department's senior leadership to directly oversee his administration and distribution of financial aid. Additionally, the associate AD is required to attend the annual NCAA Regional Rules Seminar at his own expense during both years of the show-cause order. If the associate AD becomes employed by a member institution in an athletically-related position during the two-year show-cause period, the employing institution shall be required to contact the Office of the Committees on Infractions (OCOI) to make arrangements to show cause why the restrictions should not apply.

Although each case is unique, the show-cause order is consistent with those prescribed in prior cases involving Level I-Standard violations. *See USC* (prescribing a three-year show-cause order for an associate head coach's Level I-Standard violations that consisted of unethical conduct stemming from his acceptance of bribes in exchange for his agreement to direct student-athletes to the services of a business management company); *University of Mississippi* (2017) (prescribing a two-year show-cause order for an assistant coach's Level I-Standard violations that included multiple recruiting violations, involvement in inducements and benefits and his failure to report known violations); and *Georgia Southern University* (2016) (prescribing three-year show-cause orders associated with Level I-Standard unethical conduct by a former assistant associate AD and a former assistant director of student affairs). As in these cases, the show-cause order falls within the membership-approved penalty guidelines.

**Additional Penalties for Level I-Mitigated Violations (Bylaw 19.9.7)**

4. Public reprimand and censure through the release of the public infractions decision.

5. Vacation of team and individual records: Ineligible participation in the football program occurred over three academic years as a result of cash loans provided by the associate AD. In total, four student-athletes competed in 21 contests while ineligible. Therefore, pursuant to Bylaws 19.9.7-(g) and 31.2.2.3 and COI IOP 5-15-7, Akron shall vacate all regular season and conference tournament wins, records and participation in which the ineligible student-athletes competed from the time they became ineligible through the time they were reinstated as eligible for competition.<sup>10</sup> This order of vacation includes all regular season competition and conference tournaments. Further, if the ineligible student-athletes participated in NCAA postseason competition at any time they were ineligible, Akron's participation in the postseason contests in which the ineligible competition occurred shall be vacated. The individual records of the ineligible student-athletes shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes shall be retained. Further, Akron's records regarding its athletics programs, as well as the records of head coaches, shall reflect the vacated records and be recorded in all publications in which such 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 his career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins toward specific honors or victory "milestones" such as 100th, 200th or 500th career victories. Any public reference to the vacated records shall be removed from the athletics department stationary, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in football shall be returned to the Association.

Finally, to aid in accurately reflecting all institutional and student-athlete vacations, statistics and records in official NCAA publications and archives, the media relations 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, the institution must provide the NCAA Media Coordination and Statistics office with a written report detailing those discussions. This written report will be maintained in the permanent files of the NCAA Media Coordination and Statistics office. This written report must be delivered to the office no later than 14 days following the release of this decision or, if the institution appeals the vacation penalty, at the conclusion of the appeals process. A copy of the written report shall also be delivered to the OCOI at the same time.

6. During its probationary period, Akron's athletics department shall undergo a comprehensive compliance review by an outside agency with athletics compliance expertise. The status of this compliance review shall be included in Akron's first annual compliance report. The results

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<sup>10</sup> Pursuant to Bylaw 19.9.7-(g), the COI may prescribe vacation of records when a student-athlete competes while ineligible. The COI has consistently prescribed vacation of records in cases in which the institution provided impermissible benefits that resulted in ineligible competition. See *Siena College; University of Tennessee at Chattanooga* (2018); *Mississippi* (2017) and *University of the Pacific* (2017).

and any recommendations shall be provided to the OCOI no later than Akron's final annual compliance report.

7. During the period of probation, Akron shall:
  - a. Continue to develop and implement a comprehensive 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 and certification legislation;
  - b. Submit a preliminary report to the OCOI by October 15, 2021, 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 June 15 during each year of probation. Particular emphasis shall be placed on the athletic department's reporting structure and the roles of its compliance staff, and its education and monitoring efforts related to financial aid.
  - d. Inform prospects in the football program in writing that Akron is on probation for two years 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 infractions by providing, at a minimum, a statement to include the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions decision located on the athletic department's main webpage "landing page" and in the media guides for men's basketball. The institution's statement must: (i) clearly describe the infractions; (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.
8. Following the receipt of the final compliance report and prior to the conclusion of probation, Akron's president shall provide a letter to the COI affirming that Akron's current athletics policies and practices conform to all requirements of NCAA regulations.

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The COI advises Akron and the associate AD that they should take every precaution to ensure that they observe the terms of the penalties. The COI will monitor Akron 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 Akron does not comply or commits additional violations. Likewise, any action by Akron or the associate AD 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

Norman Bay  
Greg Christopher, Chief Hearing Officer  
Bobby Cremins  
Rich Ensor  
Jason Leonard  
Kay Norton  
Joe Novak



**APPENDIX ONE**

**AKRON'S CORRECTIVE ACTIONS IDENTIFIED IN ITS  
RESPONSE TO THE NOTICE OF ALLEGATIONS**

1. Akron initiated termination proceedings with the associate AD in May 2020, shortly after his acknowledgement of the extra benefit violations in an interview with the enforcement staff. Prior to completing these proceedings, the associate AD resigned from Akron.
2. Akron developed a plan and budget for hiring a senior level administrator to directly oversee Akron's compliance office.
3. Akron has included the subject matter of this case's violations in regular compliance education sessions for coaches.
4. Akron sought reinstatement for the four ineligible football student-athletes, which was approved on October 27, 2020.

**APPENDIX TWO**  
**Bylaw Citations**

**Division I 2014-15 Manual**

**10.01.1 Honesty and Sportsmanship.** Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

**10.1 Unethical Conduct.** Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

(c) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;

**16.11.2.1 General Rule.** The student-athlete shall not receive any extra benefit. The term "extra benefit" refers to any special arrangement by an institutional employee or representative of the institution's athletics interests to provide the student-athlete or his or her family members or friends with a benefit not expressly authorized by NCAA legislation.

**16.11.2.2 Other Prohibited Benefits.** An institutional employee or representative of the institution's athletics interests may not provide a student-athlete with extra benefits or services, including, but not limited to:

(a) A loan of money;

**Division I 2015-16 Manual**

**12.11.1 Obligation of Member Institution to Withhold Student-Athlete From Competition.** If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Committee on Student- Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 12.12 if it concludes that the circumstances warrant restoration.

**16.8.1 Permissible.** An institution, conference or the NCAA may provide actual and necessary expenses to a student-athlete to represent the institution in practice and competition (including expenses for activities/travel that are incidental to practice or competition). In order to receive competition-related expenses, the student-athlete must be eligible for competition.

### **Division I 2016-17 Manual**

#### **12.11.1 Obligation of Member Institution to Withhold Student-Athlete From Competition.**

If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athletes eligibility as provided in Bylaw 12.12 if it concludes that the circumstances warrant restoration.

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### **Division I 2019-20 Manual**

**10.01.1 Honesty and Sportsmanship.** Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

**10.1 Unethical Conduct.** Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

(b) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;

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