

Based on the specific facts developed during the investigation and the timing of the submission of the case to the Division I Committee on Infractions, the panel accepts the parties' submission. The investigation did not develop any facts directly linking activities around name, image and likeness to the prospects' recruitment to or decision to enroll at the University of Miami. During its review, however, the panel was troubled by the limited nature and severity of institutional penalties agreed-upon by Miami and the enforcement staff—namely, the absence of a disassociation of the involved booster. Further, this case was processed prior to the adoption of NCAA Bylaw 19.7.3, which went into effect on January 1, 2023, and presumes that a violation occurred in cases involving name, image and likeness offers, agreements and/or activities. Based on legislation in effect at the time of submission, the panel cannot presume that activities around name, image and likeness resulted in NCAA violations.

Although the parties asserted that a disassociation penalty would be inappropriate based on an impermissible meal and an impermissible contact, today's new NIL-related environment represents a new day. Boosters are involved with prospects and student-athletes in ways the NCAA membership has never seen or encountered. In that way, addressing impermissible booster conduct is critical, and the disassociation penalty presents an effective penalty available to the COI.

Considering the facts and circumstances in this case, however, the panel did not determine that the absence of a disassociation rendered the penalties manifestly unreasonable or the agreement to be against the best interests of the Association. Pursuant to Bylaw 19.10.6, this approved agreement has no precedential value. The COI will strongly consider disassociation penalties in future cases involving NIL-adjacent conduct.

NEGOTIATED RESOLUTION¹

University of Miami (Florida) – Case No. 020161

February 24, 2023

I. CASE SYNOPSIS

The University of Miami (Florida) (Miami); head women's basketball coach (head coach); and NCAA enforcement staff agree with the violations and penalties detailed below. The parties also agree that this case should be resolved as Level II – Mitigated for the institution and for the head coach.

In May 2022, the enforcement staff learned of a representative of the institution's athletics interests and prominent Miami-area businessman's (booster) possible involvement with multiple transfer prospective student-athletes, including two four-year women's basketball prospective student-athletes (prospects) who were nationally recognized social media influencers. As a result, the enforcement staff requested that the institution produce all communications, among other records, between institutional staff members and the booster. During the production of those records, the institution identified communication between the head coach and booster regarding the prospects.

¹ In reviewing this agreement, the hearing panel made editorial revisions pursuant to NCAA Division I Committee on Infractions (COI) Internal Operating Procedure (IOP) 4-7-1-2. These modifications did not affect the substance of the agreement.

Around the same time, the enforcement staff identified a photo on the booster's Twitter account from April 13 that included the booster, booster's son, prospects and prospects' parents. The institution and enforcement staff began a collaborative investigation, which resulted in the following information.

The institution began recruiting the prospects after they entered the NCAA transfer portal in March 2022. Based on her limited knowledge of the prospects at that time, the head coach was initially uncertain if they would be a good fit in her program and wanted to ensure that basketball was their priority. After learning more about them from coaches at their previous institution and speaking with them, it became clear that their motivation for transferring was to join a winning program that could help them reach the NCAA tournament.

The prospects' father had businesses in the Miami/Fort Lauderdale, Florida, area, and the family planned a visit to Florida shortly before Easter. Because they would be in the area, the prospects were also interested in coordinating an official visit to the institution. The head coach had limited availability for the visit due to preexisting personal commitments; however, she agreed the staff should accommodate the prospects' request and arranged an abbreviated official visit beginning April 15.

In April 2022, the head coach met the booster and his sons for the first time at a university event for institutional administrators and staff, donors and prospective donors to welcome the new director of athletics and head football coach. The head coach received a late invitation to this event after the director of athletics realized that neither she nor the men's basketball head coach had been invited. The head coach reported that, at the time of the event, she believed it was a university celebration for the new director of athletics and head football coach. Although the event may have been for donors and prospective donors, the head coach said that was not her understanding or frame of reference and said she did not know the booster was a representative of the institution's athletics interests. However, she was aware that he was a prominent Miami-area businessman involved in name, image and likeness (NIL) activities with Miami student-athletes, describing him during her interview as "an NIL guy."

At the event, the booster and his two sons approached the head coach and talked about the prospects' upcoming official visit to Miami. The booster and his sons also talked about the prospects' social media presence and the possibility of engaging them in a business venture. The head coach did not initiate the interaction or meeting and did not initiate any discussions at the event about the prospects. The investigation did not determine how the booster and his sons knew the institution was recruiting the prospects.

On April 12, 2022, following the university event, the head coach called the booster to learn more about him and his work. The head coach reported that, at the time, she believed it would not be a "bad thing" if the prospects got to know the booster due to their mutual interests in social media and related business activities. When the head coach began texting with the booster, the head coach was unaware that the booster had already been in contact with the prospects' agent about arranging

a meeting with them the next time they were in the area. The following day, the booster forwarded the head coach a message he had received from the prospects' agent in which the agent said: "Hi [booster], yes lots of moving parts with visits, travel and family. The [prospects] are enthusiastic about the prospects of one day working together. Given their schedules we are going to hold off on a meeting for now and will look to follow up in the next few weeks." In forwarding the message to the head coach, the booster added, "Usually not a great sign but let's see." The head coach responded: "Well damn. I'll make sure the [prospects] know who you are." The booster responded that it was "important," he was "here to help" and he wanted "women's [basketball] to be huge for UM [Miami]."

Separately, the head coach asked the assistant coach to contact the prospects and explain that the booster was a legitimate businessperson. As a result of the assistant coach's call, the prospects agreed to meet with the booster. The head coach then sent a text message to the booster to confirm the prospects would "love to talk to him" and asked when he would be available. The booster asked the head coach to connect the family with him so he could invite the prospects and their parents to dinner at his home the following evening, and the head coach responded, "wow will do thank you goodnight." The booster then worked with the prospects' agent to make the meeting arrangements.

The prospects arrived in the Miami area a few days prior to the start of their official visit with family, using their own funds for their flight, accommodations and other expenses. On the morning of April 13, 2022, the head coach provided the booster profiles of the prospects, which the women's basketball staff had created for institutional staff members in preparation for their official visit. Later that evening, two days prior to the beginning of their official visit, the prospects and their parents met with the booster and his son at the booster's home in Miami. The booster provided the family a tour of his home and a chef-prepared dinner. During the meeting, the booster promoted the institution when he talked with the family about his children's experiences at the institution, including his sons' prior participation on the baseball team, and his admiration for the institution and the city of Miami. The head coach was not aware that this dinner had occurred until she saw the picture the booster sent her after the dinner took place, which was the same picture he had posted on social media.

The prospects completed their abbreviated official visit to the institution April 15 and, after completing an official visit to a different institution, notified the head coach of their commitment to attend the institution. The prospects reported that the dinner with the booster did not have an impact on their decision to commit to or enroll at the institution.

The head coach reported that she was not aware the booster was a representative of the institution's athletics interests when she facilitated an introduction between the booster and the prospects because she had never met the booster prior to April 2022, and he had not donated to the women's basketball program directly. The head coach also said in her interview that she believed at that time she could make introductions and share factual information with third parties involved in NIL. She agreed in her interview that, after receiving subsequent guidance, the booster was a representative and her communications with the booster about the prospects were impermissible.

Still, the head coach failed to ask questions regarding the permissibility of her involvement in connecting the prospects with the booster. Specifically, she did not communicate with compliance after the university event or leading up to or during her communications with the booster to clarify whether her actions would be consistent with NCAA rules. After the booster asked the head coach to connect him to the prospects, the head coach reported feeling uncomfortable with the situation. This discomfort should have prompted the head coach to seek guidance from compliance about her interactions with the booster. The head coach's involvement to connect the family and the booster resulted in an impermissible recruiting contact and recruiting inducement.

II. PARTIES' AGREEMENTS

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

1. [NCAA Division I Manual Bylaws 13.1.2.1, 13.2.1, 13.10.1.1 and 13.10.1.4 (2021-22)]

The institution, head coach and enforcement staff agree that between April 7 through 13, 2022, the head coach and an assistant women's basketball coach facilitated an impermissible contact between a booster and two prospects and their parents. Additionally, the head coach violated NCAA publicity legislation when she commented about the prospects to the booster and provided him information about their official visit. Specifically:

- a. On April 7, the head coach met the booster at an institutional event for donors and prospective donors. During the event, the head coach was present when the booster and his sons spoke about the prospects, including their national presence as social media influencers. Subsequently, on April 11, the head coach spoke with and exchanged text messages with the booster to further discuss his businesses and the prospects. During these communications, the head coach agreed to connect the booster and prospects before their upcoming official visit. The head coach also provided the booster the prospects' profiles that the coaching staff prepared for institutional staff in anticipation of their April 15 official visit. [NCAA Bylaws 13.10.1.1 and 13.10.1.4 (2021-22)]
- b. On April 12, the head coach instructed an assistant coach to contact the prospects about the booster being a legitimate businessman. The assistant coach did so and, as a result, the prospects agreed to talk to the booster and later, after the booster communicated with the prospects' agent, the prospects and their parents agreed to meet with the booster at his Miami-area home. On April 13, after the booster arranged logistics with the prospects' agent, the booster provided the prospects and their parents a tour of his home and a chef-prepared meal. During the visit, the booster promoted the institution when he spoke favorably about the institution and the city of Miami. [NCAA Bylaws 13.1.2.1 and 13.2.1 (2021-22)]

2. [NCAA Division I Manual Bylaw 11.1.1.1 (2021-22)]

The institution, head coach and enforcement staff agree that in April 2022, the head coach is presumed responsible for the violations detailed in Agreed-Upon Finding of Fact No. 1 and did not rebut the presumption of responsibility. Specifically, the head coach did not demonstrate that she promoted an atmosphere for compliance due to her knowledge of and personal involvement in the violations detailed in Agreed-Upon Finding of Fact No. 1. Further, the head coach failed to consult with compliance to ensure that she and her staff complied with NCAA legislation and failed to identify potential NCAA violations regarding the women's basketball program's involvement of the booster in the recruitment of the four-year women's basketball prospective student-athletes.

B. Agreed-upon aggravating and mitigating factors.

Pursuant to NCAA 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 the head coach.

In reaching a mitigated classification for the institution, the parties agreed that significant weight should be given to the mitigating factors in Bylaws 19.9.4-(b) and 19.9.4-(c) because the institution accepted its responsibility for the violation, imposed appropriate and meaningful corrective actions and agreed to and met expedient deadlines for document production and interviews. Also, while there are two Level II violations in this case, one is a derivative of the underlying violation. Therefore, the parties agreed not to give the Bylaw 19.9.3-(g) "multiple Level II violations" aggravating factor substantial weight. The parties agreed that the same analysis applied for the head coach concerning Bylaws 19.9.4-(b) and 19.9.4-(c).

The parties further agreed that 19.9.3-(b) "a history of Level I, II or major violations" carried less-than-standard weight because the violations in the institution's most recent infractions case did not concern the women's basketball program.

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 [Bylaw 19.9.3-(g)].
 - c. Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct [Bylaw 19.9.3-(h)].

2. Mitigating factors (Bylaw 19.9.4).
 - a. Prompt acknowledgement of the violation, acceptance of responsibility and 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)].²

Involved Individual (head coach):

1. Aggravating factors (Bylaw 19.9.3).
 - a. Multiple Level II violations [Bylaw 19.9.3-(g)].
 - b. Persons of authority condoned, participated in or negligently disregarded the violation or wrongful conduct [Bylaw 19.9.3-(h)].
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. The absence of prior conclusions of Level I, Level II or major violations committed by the institution or involved individual [Bylaw 19.9.4-(h)].

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None.

IV. REVIEW OF OTHER ISSUES

None.

² The institution reported 61 Level III or secondary violations from 2018 to 2022 , approximately 12 violations each year.

V. PARTIES' AGREED-UPON PENALTIES³

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.

In addition to the core penalties detailed below, the institution implemented a series of corrective actions designed to demonstrate accountability for the violations and its commitment to ongoing rules education and monitoring efforts relating to the case. Those actions are detailed in the Appendix.

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)

1. Probation: One year of probation from February 24, 2023 through February 23, 2024.
2. Financial penalty: The institution shall pay \$5,000 plus 1% of the women's basketball budget to the NCAA.⁴
3. Recruiting restrictions (applied during the 2022-23 year):
 - a. A 7% reduction from the permissible number of official visits in women's basketball.
 - b. A reduction of nine recruiting-person days from the permissible number of recruiting-person days in women's basketball.
 - c. The institution shall prohibit recruiting communications by all women's basketball staff members for three weeks beginning with the opening date of the transfer portal (March 13 through April 2, 2023).

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

4. Head coach restriction: The head coach violated head coach responsibility legislation when she did not demonstrate that she promoted an atmosphere for

³ All penalties must be completed during the time periods identified in this decision. If completion of a penalty is impossible during the prescribed period, the institution shall make the NCAA Division I COI hearing panel aware of the impossibility and must complete the penalty at the next available opportunity.

⁴ The fine from the program budget must be calculated in accordance with NCAA Division I COI IOPs 5-15-4 and 5-15-4-1.

compliance due to her knowledge of and personal involvement in the violations detailed in Agreed-Upon Finding of Fact No. 1. Bylaw 19.9.5.5 and the Figure 19-1 penalty guidelines contemplate head coach suspensions to address head coach responsibility violations. In anticipation of this penalty, Miami and the head coach agreed to a 10% suspension and applied the penalty to the first three contests of the 2022-23 women's basketball regular season. Specifically, the head coach was not permitted to be present in the facility where the contests were played, and no contact or communication with women's basketball coaching staff members or student-athletes occurred during the three contests. The prohibition included all coaching activities for the period of time that began at 12:01 a.m. on the day of the contest and ended at 11:59 p.m. that day. During that period, the head coach did not participate in any coaching activities, including, but not limited to, team travel, practice, video study, recruiting and team meetings. The results of those contests from which the head coach is suspended shall not count toward the head coach's career coaching record.

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

5. Public reprimand and censure through the release of the negotiated resolution agreement.
6. During the period of probation, the institution 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 legislation.
 - b. Submit a preliminary report to the office of the Committees on Infractions by April 15, 2023 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 by December 15, 2023. Particular emphasis shall be placed on rules education and monitoring related to NCAA NIL activities, boosters and publicity legislation.
 - d. Inform prospects in the women's basketball program in writing that the institution is on probation for one year 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.

- 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 athletics department's main webpage "landing page" and in the media guides for the women's basketball program. 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.
7. Following the receipt of the final 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.

VII. 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 NCAA Division I 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 occurred and should be classified as Level II – Mitigated for the institution and the head coach.

If a hearing panel approves the negotiated resolution, the institution and head coach agree that they will take every precaution to ensure that the terms of the penalties are observed. The institution and 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 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.

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 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.

Should a hearing panel approve the negotiated resolution, the parties agree that they waive NCAA hearing and appellate opportunities.

VIII. 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 Miami and the head women's basketball coach's violations. The agreed-upon penalties align with the ranges identified for core penalties for Level II-Mitigated cases 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 Miami, and the head women's basketball 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 the head women's basketball coach contrary and 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

Cassandra Kirk

Gary Miller, Chief Hearing Officer

Dave Roberts

APPENDIX

UNIVERSITY OF MIAMI (FLORIDA)'S CORRECTIVE ACTIONS

1. Prior to the completion of the negotiated resolution, the institution suspended the head coach from the first three contests of the 2022-23 season.
2. A letter of suspension was provided to the head women's basketball coach.
3. A letter of reprimand was provided to the assistant women's basketball coach.
4. The compliance staff provided targeted NCAA rules education to the women's basketball staff concerning the violations and the involvement of institutional staff members with boosters.
5. The director of athletics and deputy director of athletics met in person with the booster to discuss his role in the violation. The booster was provided targeted NCAA rules education concerning his status as a representative of the institution's athletics interests and the parameters of his involvement with student-athletes, prospective student-athletes and the athletics program.