

NEGOTIATED RESOLUTION

University of Idaho – Case No. 01020

June 18, 2020

I. CASE SYNOPSIS

The University of Idaho; former head men's basketball coach (head coach); and NCAA enforcement staff agree with the violations detailed below. The parties agree that this case should be resolved as Level II –Standard for the institution and the head coach.

In October 2016, the head coach promoted an undergraduate manager (undergraduate manager) to the director of men's basketball operations, even though the undergraduate manager was still a full-time undergraduate student at the institution during the 2016-17 year. The head coach's motivation in promoting the undergraduate manager at that time was to allow him to receive additional compensation. At that point, the head coach allowed the undergraduate manager to perform many of the same duties he had as a manager, even though some of them were no longer permissible due to his change in employment status. The head coach did not consult with compliance about changing the undergraduate manager's responsibilities. During the period of violations, the undergraduate manager regularly participated in on-court activities such as rebounding or passing in shooting drills or participating in live drills, scrimmages and scout team walk-throughs. Additionally, while the undergraduate manager generally did not provide instruction to men's basketball student-athletes, if they asked how to run a play or shot selection, he provided feedback.

This violation was discovered in October 2018 when the director of compliance conducted a spot check of a men's basketball practice and saw the undergraduate manager involved in on-court activity with men's basketball student-athletes. While the conduct underlying the violations ceased following its discovery, a subsequent violation occurred in early February 2019 during a men's basketball road trip in Montana. On that occasion, the head coach impermissibly utilized the undergraduate manager as a stand-in during a scout team walk-through when the team had several student-athletes injured and did not have sufficient personnel at the practice to conduct an adequate walk-through.

Another noncoaching staff violation was discovered by the director of compliance in early December 2018 while he was watching a men's basketball contest on television and noticed the undergraduate manager holding play cards. A subsequent investigation substantiated that, in addition to the undergraduate manager, the directors of men's basketball operations held decoy play cards intended to disguise the plays the team would run in upcoming possessions. The head coach assumed this play-calling system was permissible because his previous institution utilized the same system; however, he did not vet its permissibility with compliance.

Following discovery of the card holding violation, the head coach reassigned the responsibility to a third person, the men's basketball manager. Compliance understood that as a manager, he could serve in this role and did not object to him performing this function. However, the men's

basketball manager was not taking a full-time course load because, due to an oversight in the evaluation of his transcript by him and his academic counselor, he was not enrolled in a senior experience course required for graduation. Therefore, the men's basketball manager was not in his final semester and did not meet legislative requirements to serve as a manager. Because he did not meet the requirements to serve as a manager, the violations continued until January 2019. In addition to holding decoy play cards, the men's basketball manager also engaged in other responsibilities that were impermissible as a non-manager. Specifically, he passed or rebounded in team drills a few times per week, participated in scout team walk-throughs and occasionally participated in drills or scrimmages.

While conducting interviews regarding noncoaching staff violations, the institution also discovered violations involving excessive and unrecorded countable athletically related activities (CARA) and impermissible on-campus evaluations. From early June until the start of preseason practices, and again following the season until around the time of final exams, men's basketball student-athletes participated in scrimmages against one another and occasionally other players in the community or prospects visiting campus. The men's basketball program scheduled the facility for the scrimmages, and one or more men's basketball coaches were typically present in the bleachers to observe the sessions. Coaches observing the student-athletes playing in scrimmages would have been permissible if the time observed was included in CARA logs and did not cause the program to exceed the permissible amount of CARA. However, the coach responsible for compiling and reporting CARA for the men's basketball program did not include these observations because he believed only hands-on coaching constituted CARA. Additionally, because the men's basketball program typically met or came close to meeting daily and weekly CARA maximum limitations during the portions of the year when scrimmages took place without considering scrimmage observations, the unaccounted-for observations caused the program to exceed CARA limitations nearly every week they occurred.

Additional violations occurred when men's basketball prospective student-athletes played in the scrimmages observed by coaches. The institution's compliance coordinator noticed one of the prospects playing on-court with men's basketball student-athletes during his official paid visit March 31, 2019, and expressed concern that a violation may have occurred if the prospect had not undergone the required medical examination. The institution confirmed the violation involving this prospect and discovered additional violations of tryout legislation involving the men's basketball program's observations of two other local men's basketball prospective student-athletes.

The second and third prospects were minimally recruited by the institution. Both attended the institution's basketball camps, but neither took official visits to the institution nor had the institution's coaches conducted in-home visits. Beginning in approximately May 2018, when additional players were needed for team scrimmages in the off-season, a member of the men's basketball staff invited the two prospects to participate. The men's basketball staff recognized the two prospects present during scrimmages but did not believe it was impermissible to watch them play because they were not being seriously recruited by the institution at the time. Although the

coaches held this belief, they did not consult with compliance to determine if their interpretation of tryout legislation was accurate.

The head coach did not rebut the presumption of responsibility for the violations that occurred in his program. He was personally involved in directing the director of men's basketball operations to perform impermissible responsibilities, even after his program had committed a previous similar violation and received rules education in that area of legislation. Further, after the institution discovered additional noncoaching staff violations, first in October 2018 and again in December 2018, the head coach directed the director of men's basketball operations to participate in a scout team walk-through on a team road trip in February 2019.

Additionally, the head coach did not adequately monitor his staff's recording and reporting of CARA or their observations of men's basketball prospective student-athletes who scrimmaged on campus. The head coach did not ensure the time he and his staff spent observing was factored into their calculations and that this additional CARA did not result in more than was allowable on a daily and weekly basis. Further, the head coach did not adequately monitor his staff to ensure they did not observe prospects play on campus unless circumstances permitted them to do so.

The institution, the head coach and enforcement staff believe negotiated resolution is appropriate due to agreement on the 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 Bylaws 11.7.1, 11.7.1.1-(a), 11.7.3 and 11.7.6 (2015-16 through 2018-19)] (Level II)

The institution, head coach and enforcement staff agree that between November 2015 and February 2019, the head coach instructed and permitted the director of basketball operations and the undergraduate manager to engage in impermissible activities as non-coaching staff members. Additionally, the men's basketball manager also performed impermissible duties. As a result, the men's basketball program exceeded the permissible number of countable coaches. Specifically:

- a. Between November 2015 and December 2018, the head coach instructed the director of basketball operations or the undergraduate manager to hold decoy cards for signaling plays to student-athletes during competitions. They held these cards during almost every game over this time period. [NCAA Bylaws 11.7.1, 11.7.1.1-(a), 11.7.3 and 11.7.6 (2015-16 through 2018-19)]
- b. Between October 2016 and October 2018, the head coach instructed and permitted the undergraduate manager to participate regularly in preseason skill

workouts and regular season team drills as a passer or rebounder and as a participant in team scrimmages. The undergraduate manager occasionally provided tactical or technical instruction to men's basketball student-athletes during these activities. [NCAA Bylaws 11.7.1, 11.7.1.1-(a), 11.7.3 and 11.7.6 (2016-17 through 2018-19)]

- c. Between November 2016 and March 2018, and on one occasion in February 2019, the head coach instructed and permitted the undergraduate manager to participate in scout team walk-throughs prior to competitions. [NCAA Bylaws 11.7.1, 11.7.1.1-(a), 11.7.3 and 11.7.6 (2016-17 through 2018-19)]
 - d. Between June 2018 and December 2018, the men's basketball manager participated in preseason skill workouts and regular season drills, scrimmages and scout team walk-throughs. During this time, he was not enrolled as a full-time student and did not meet legislated exceptions which would have allowed him to engage in these activities. [NCAA Bylaws 11.7.1, 11.7.1.1-(a), 11.7.3 and 11.7.6 (2017-18 and 2018-19)]
2. [NCAA Division I Manual Bylaws 13.11.1, 13.11.2.1-(a), 13.11.2.1-(d), 13.11.2.1-(f), 13.11.2.1-(g), 13.11.2.1-(h), 17.1.7.2-(a),¹ 17.1.7.2.1.5.1 and 17.1.7.3.4 (2017-18 and 2018-19)²] (Level II)

The institution and enforcement staff agree that between April 2018 and March 2019, the men's basketball program supervised men's basketball student-athletes' participation in CARA beyond NCAA legislated daily and weekly hour limitations, failed to ensure the accurate recording of student-athlete countable hours in weekly reports to the compliance staff and conducted impermissible tryouts of three men's basketball prospective student-athletes. Specifically:

- a. From April 2018 through March 2019, the men's basketball program did not include their observations of men's basketball student-athletes participating in open gym scrimmages in daily and weekly CARA reported to the institution. Coaches regularly observed these scrimmages for approximately 45 minutes

¹ Effective August 1, 2018, NCAA Bylaw 17.1.7.2-(a) was amended to allow four hours per week of skill-related workouts. Previously, the legislation had only allowed for two hours per week of skill-related workouts. The change did not substantively impact the violation as alleged.

² Bylaw 17.1.7.2.1.5.1 was revised April 25, 2018, to allow four hours per week of skill-related instruction. Previously, the legislation had only allowed for two hours per week of skill-related instruction. The change did not substantively impact the violation as alleged.

once or twice a week between June and the official start of practice and again in April each year, causing the program to exceed legislated CARA limits. [NCAA Bylaws 17.1.7.2-(a), 17.1.7.2.1.5.1 and 17.1.7.3.4 (2017-18 and 2018-19)]

- b. From May 2018 through March 2019, the men's basketball coaching staff conducted impermissible tryouts of two prospects on approximately 10 to 15 occasions when they watched one or both play in scrimmages with men's basketball student-athletes. Further, on March 31, 2019, the men's basketball coaching staff conducted an impermissible tryout of a third prospect during his official paid visit when they watched him play during a scrimmage prior to completing the required medical examination needed to make this on-campus evaluation permissible. [NCAA Bylaws 13.11.1, 13.11.2.1-(a), 13.11.2.1-(d), 13.11.2.1-(f), 13.11.2.1-(g) and 13.11.2.1-(h) (2017-18 and 2018-19)]

3. [NCAA Division I Manual Bylaw 11.1.1.1 (2015-16 through 2018-19)]

The head coach and the enforcement staff agree that between November 2015 and February 2019, he is presumed responsible for the violations detailed in Agreed-Upon Findings of Fact No's. 1-(a) through (c) and 2 and did not rebut the presumption of responsibility. Specifically, the head coach did not demonstrate that he promoted an atmosphere of compliance because he instructed and permitted noncoaching staff members to engage in impermissible responsibilities in team practices and games. Additionally, the head coach did not demonstrate he monitored his staff within the men's basketball program because he did not ensure his staff's observations of men's basketball student-athletes were reported and factored into team CARA limitations, and did not ensure his staff's on-campus observations of men's basketball prospective student-athletes were permissible.

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 – Standard for the institution and the head coach.

Institution:

1. Aggravating factors (Bylaw 19.9.3).
 - a. A history of Level I, Level II or major violations [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(s) or related wrongful conduct [Bylaw 19.9.3-(h)].
2. Mitigating factors (Bylaw 19.9.4).
 - a. Prompt acknowledgement of the violation(s), 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)].

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(s) or related wrongful conduct [Bylaw 19.9.3-(h)].
2. Mitigating factors (Bylaw 19.9.4).
 - a. Prompt acknowledgement of the violation(s) and acceptance of responsibility [Bylaw 19.9.4-(b)].
 - b. The absence of prior conclusions of Level I, Level II or major violations [Bylaw 19.9.4-(h)].

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None.

IV. REVIEW OF OTHER ISSUES

The institution and enforcement staff agree the institution sufficiently monitored its athletics programs during the period of violations. In making this decision the parties relied upon several factors, including:

- The institution demonstrated it provided adequate and continuing education to coaches and noncoaching staff. The topic of noncoaching staff responsibilities was covered with all coaches approximately twice per year.
- The institution conducted adequate spot checks of the men's basketball program and immediately reported concerns to the general counsel, to whom compliance had a direct reporting line. Spot checks of the men's basketball program occurred approximately every two weeks and involved an accounting of personnel present at practice. Additionally, the institution occasionally utilized non-compliance personnel to conduct spot checks to ensure staff members did not change their behavior in the presence of compliance administrators.
- The institution's athletics compliance staff discovered a noncoaching staff violation in the fall of 2014 and ensured the violation was reported to the NCAA. Additionally, the compliance staff identified the conduct that underlies the proposed findings of fact detailed in this report.

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.

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

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

1. Probation: Two years of probation from June 18, 2020 through June 17, 2022.
2. Financial penalty: The institution shall pay a fine of \$5,000.
3. Recruiting restrictions:
 - a. The institution restricted men's basketball unofficial visits for a period of three weeks in the fall of 2019.
 - b. The institution reduced the maximum number of men's basketball official visits by four total during the two-year period of the 2018-19 and 2019-20 academic years.

³ Idaho has confirmed that it has already fully served Penalties 3-(a), (c) and (d). The panel recognizes that circumstances surrounding the COVID-19 pandemic could impact how the institution is able to implement penalties. If Idaho finds that any penalty cannot be served due the ongoing pandemic, it should report any challenges through the probation compliance process.

- c. The institution's men's basketball program shall restrict all recruiting communications for a period of two weeks during the 2020-21 academic year. The institution intends to implement this restriction from November 22 through December 5, 2020.
 - d. The institution's men's basketball program reduced the maximum number of recruiting person days by 16 during the 2019-20 academic year.
4. Show-cause order: the head coach violated NCAA legislation regarding coaching staff limitations, tryouts and CARA. Therefore, he shall be subject to a one-year show-cause order from June 18, 2020, through June 17, 2021. If the head coach seeks employment or affiliation with any athletically related position at an NCAA member institution during the show-cause period, he shall attend one NCAA Regional Rules Seminar in 2020 or 2021. Any employing member institution shall adhere to this penalty and the reporting requirements during the 2020-21 academic year.
 5. Head coach restriction: the head coach violated Bylaw 11 head coach responsibility legislation when he failed to promote an atmosphere of compliance and failed to meet monitoring expectations the membership has placed on head coaches. Bylaw 19.9.5.5 and Figure 19-1 penalty guidelines contemplate head coach suspensions to address head coach responsibility violations. Therefore, the head coach shall be suspended for the first two regular season contests during the 2020-21 season. The provisions of this suspension require that the head coach not be present in the facility where games are played and have no contact or communication with men's basketball coaching staff members or student-athletes during the two-game suspension period. The prohibition includes all coaching activities for the period of time which begins at 12:01 a.m. the day of the game and ends at 11:59 p.m. that day. During that period, the head coach may not participate in any coaching activities including, but not limited to, team travel, practice, video study, recruiting and team meetings. The results of the contests from which the head coach is suspended shall not count in his career coaching record.

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

6. Public reprimand and censure.
7. The institution reduced men's basketball CARA by 16 hours total in the summer and fall of 2019. Additionally, the men's basketball program reduced men's basketball CARA by one hour per week throughout the 2019-20 regular season.
8. The institution eliminated the director of men's basketball operations position during the 2019-20 academic year.

9. The institution shall require all men's basketball staff members to participate in a NCAA Regional Rules Seminar during the 2020 or 2021 calendar year.
10. During this period of probation, the institution shall:
 - 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 NCAA personnel, recruiting and playing and practice season legislation;
 - b. Submit a preliminary report to the NCAA office of the Committees on Infractions by **August 1, 2020**, 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 **April 15**, during each year of probation. Particular emphasis shall be placed on the institution's compliance measures taken to ensure adherence with NCAA personnel, recruiting and playing and practice season legislation and related rules education and;
 - d. Inform prospects in all affected sports programs 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; 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.
11. Following the receipt of the compliance report and prior to the conclusion of probation, the institution's president shall provide a letter to the NCAA Division I

Committee on Infractions affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

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 – Standard.

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 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 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-Standard for the institution and the head coach. The agreed-upon penalties align with the ranges identified for core penalties for Level II-Standard 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 the University of Idaho that it 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

Joel Maturi

Kay Norton, Chief Hearing Officer

Larry Parkinson

APPENDIX

UNIVERSITY OF IDAHO'S CORRECTIVE ACTIONS

1. In the fall of 2018, when the institution initially discovered a noncoaching staff violation, the institution issued letters of admonishment to the head coach and undergraduate manager.
2. In the spring of 2019, the institution ceased to employ the head coach and director of basketball operations.
3. Since the institution's initial discovery of the noncoaching staff violations that lead to the internal investigation and self-report to the enforcement staff, the institution has enhanced its rules education program for athletics department coaches and staff members (including athletics business office personnel) and relevant non-athletics campus departments (e.g., Registrar, Financial Aid).