

NEGOTIATED RESOLUTION¹

University of Montevallo – Case No. 020126

June 24, 2022

I. CASE SYNOPSIS

The University of Montevallo (Montevallo), its former volunteer assistant men's basketball coach and NCAA enforcement staff agree with the violations and major penalties detailed below.

On November 23, 2021, the professor for the institution's fall of 2021 Management 361 course received an anonymous complaint from a student enrolled in the course. Specifically, the student reported that a men's basketball coach completed an online exam on behalf of a men's basketball student-athlete. The report stated that the coach connected an HDMI cable to the men's basketball student-athlete's computer and took the exam for him while located in another room. At the beginning of its investigation, the institution confirmed that using an HDMI cable would successfully evade the lockdown web browser and video proctor monitoring system utilized for the exam. Therefore, the institution quickly determined the anonymous information was credible and cause for further investigation.

When the institution initially questioned the men's basketball student-athlete about his participation in potential academic misconduct in the Management 361 course, he denied any involvement. After further questioning based on additional information provided by the volunteer assistant men's basketball coach, the men's basketball student-athlete admitted to the misconduct and acknowledged that a then volunteer assistant men's basketball coach arrived at his dorm room and utilized an HDMI cord so the then volunteer assistant men's basketball coach could take the test for the men's basketball student-athlete.

Consistent with institutional policy, the professor for the Management 361 course chose to give the men's basketball student-athlete a failing grade. During interviews with the director of human resources, the volunteer assistant men's basketball coach admitted to the allegation. Upon this admission, the men's basketball student-athlete admitted to the misconduct. The institution dismissed the volunteer assistant men's basketball coach from his position. When interviewed by the institution and enforcement staff, the men's basketball student-athlete and the former volunteer assistant men's basketball coach both reaffirmed their participation in academic misconduct.

II. PARTIES' AGREEMENTS

Agreed-upon findings of fact and violations of NCAA legislation.

1. [NCAA Division II Manual Bylaws 14.9.2.1, 14.9.2.1-(a), 14.9.2.2, 14.9.2.2-(a), 14.12.1 and 16.8.1 (2021-22)]

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

The institution, former volunteer assistant men's basketball coach and enforcement staff agree that on October 28, 2021, the then volunteer assistant men's basketball coach committed academic misconduct when he took an online exam for a men's basketball student-athlete in his Management 361 course. As a result of the academic misconduct, the men's basketball student-athlete competed in seven contests and received actual and necessary expenses while ineligible.

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None.

IV. REVIEW OF OTHER ISSUES

The institution and enforcement staff agree that no violations of head coach responsibility or failure to monitor occurred. Regarding head coach responsibility, the head men's basketball coach rebutted the presumption by demonstrating that he had adequate monitoring systems in place and clearly communicated to his staff on multiple occasions that all men's basketball student-athletes must complete their own academic work. As a result, the investigation did not yield factual information indicating other men's basketball staff members had knowledge of or involvement in any instances of academic misconduct. Instead, it revealed that the then volunteer assistant men's basketball coach acted on his own in knowingly committing a violation on one occasion.

Regarding the institution's monitoring of the men's basketball program, the early discovery of the academic misconduct and the actions by the institution to investigate information reported by the anonymous source demonstrated the effectiveness of the institution's monitoring efforts. Rather than dismiss the initial complaint, the institution took the report seriously even when it initially doubted the feasibility of the academic misconduct method described by the anonymous source. Further, the professor for the course knew the importance of informing the athletics department about potential violations. This allowed the institution to take appropriate action by withholding the student-athlete from competition and investigating the matter.

V. PARTIES' AGREED-UPON PENALTIES

Pursuant to NCAA Bylaw 32.6.2.3-(e), the parties agree to the following penalties:

Penalties for Major Violations (Bylaw 19.5.2)

1. Public reprimand and censure through the public release of the negotiated resolution agreement.

2. Probation: one year of probation from June 24, 2022, through June 23, 2023.²
3. During this 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 and certification legislation.
 - b. Submit a preliminary report to the office of the Committees on Infractions by August 15, 2022, 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 May 1, 2023. Particular emphasis shall be placed on rules education and monitoring related to academic misconduct.
 - d. Inform prospects in the men'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 men'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.
4. Vacation of team and individual records: Ineligible participation in the men's basketball student-athlete occurred over October 28 through November 29, 2021, as a result of violations in this case. Therefore, pursuant to Bylaw 19.5.2-(g) and Executive Regulations 31.2.2.4 and 31.2.2.5, Montevallo 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. Further, if the ineligible student-athletes participated in NCAA postseason competition at any time they were ineligible, Montevallo's participation in the

² Institutions must serve probation during the prescribed penalty period.

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, Montevallo's records regarding its men's basketball program, as well as the records of the head coach, 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 coach 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 stationery, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in men's basketball program 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 sports information 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 media coordination and statistics office with a written report detailing those discussions. This written report will be maintained in the permanent files of the media coordination and statistics office. The 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 office of the Committees on Infractions at the same time.

5. The institution shall pay a fine of \$5,000 to the NCAA.
6. Show-cause order: The former volunteer assistant men's basketball coach violated NCAA academic misconduct legislation. Therefore, the former volunteer assistant men's basketball coach shall be subject to a two-year show-cause order from June 24, 2022, through June 23, 2024. In accordance with Bylaw 19.5.2.2.1 and NCAA Division II Committee on Infractions Internal Operating Procedure (IOP) 5-16-1-1, any employing member institution shall restrict the former volunteer assistant men's basketball coach from all athletically related activity during the first year of the show-cause period. During the second year of the show cause period, any employing member institution shall restrict the former volunteer assistant men's basketball coach from all involvement in all off campus recruiting. If the former volunteer assistant men's basketball coach becomes employed by a member institution in an athletically related position during the two show-cause period, the employing institution shall abide by the terms of the show-cause order unless it contacts the office of the Committees on Infractions to make arrangements to show cause why the terms of the order should not apply.

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 32.6, and 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 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 the violations identified in this agreement occurred and should be classified as major.

If the Committee on Infractions approves the negotiated resolution, the institution and volunteer assistant men's basketball coach agree that they will take every precaution to ensure that the terms of the penalties are observed. The institution and volunteer assistant men's basketball 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 Bylaw 19.5.

The office of the Committees on Infractions will monitor the penalties during their effective periods. Any action by the institution or the volunteer assistant men's basketball 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. Additionally, as required by NCAA legislation for any institution involved in a major infractions case, Montevallo shall be subject to the provisions of Bylaw 19.5.2.3 concerning repeat violators for a five-year period beginning on the effective date of the penalties in this case, June 24, 2022.

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 Committee on Infractions, subsequent to its review of the negotiated resolution, may reject the negotiated resolution. Should the Committee on Infractions reject the negotiated resolution, the parties understand that the case may be submitted through a summary disposition report (Bylaw 32.7) or notice of allegations (Bylaw 32.6) and prior agreed-upon terms of the rejected negotiated resolution will not be binding.

Should the Committee on Infractions approve the negotiated resolution, the parties agree that they waive NCAA hearing and appellate opportunities.

VIII. DIVISION II COMMITTEE ON INFRACTIONS APPROVAL

Pursuant to Bylaw 32.6.5, the COI approves the parties' negotiated resolution agreement. The COI's review of this agreement is limited. The COI 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 32.6.3. In this case, the COI determines that the agreed-upon facts, violations, and type of violations are appropriate for this process. The agreed-upon penalties align with the penalties available under Bylaw 19.5 and with past case guidance. Pursuant to Bylaw 32.6.5, this negotiated resolution has no precedential value.

The COI advises Montevallo and the former volunteer assistant men's basketball coach that they should take every precaution to ensure that it observes 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 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 DIVISION II COMMITTEE ON INFRACTIONS

Jessica Chapin
David Hansburg
John David Lackey, Chair
Richard Loosbrock
Melissa Reilly
Leslie Schuemann
Jason Sobolik

APPENDIX

UNIVERSITY OF MONTEVALLO'S CORRECTIVE ACTIONS

- Termination of the volunteer assistant men's basketball coach.