



**WEST LIBERTY UNIVERSITY
PUBLIC INFRACTIONS DECISION
May 31, 2019**

I. INTRODUCTION

The NCAA Division II Committee on Infractions (COI) is an independent administrative body comprised of individuals from the NCAA Division II membership and the public charged with deciding infractions cases involving member institutions and their staffs. This case centered on the actions of a former head men's soccer coach who made impermissible tuition payments for two men's soccer student-athletes at West Liberty University (WLU).¹ The former head coach's actions in knowingly providing the impermissible payments, and his later provision of false and misleading information, violated NCAA principles of ethical conduct and head coach responsibility. The COI considered this case through the cooperative summary disposition process, in which all parties agreed to the primary facts and violations as fully set forth in the summary disposition report (SDR). Because WLU and the former head coach agreed to the violations and proposed penalties, neither party has the opportunity to appeal.

This case is the result of a series of purposeful actions by the former head coach that are inconsistent with bylaws and expectations of head coaches. First, in August 2018, the former head coach provided significant impermissible benefits for two of his student-athletes when he made tuition payments on their behalf totaling \$5,000. The former head coach made these payments because both student-athletes had outstanding tuition bills from the previous semester and therefore could not enroll for the 2018 fall semester. The former head coach's actions violated fundamental financial aid and extra benefits legislation and led to ineligible competition by one of the student-athletes. Second, the former head coach chose to make these tuition payments knowing that they were impermissible. His knowing provision of impermissible benefits violated NCAA ethical conduct legislation. Third, the former head coach provided false or misleading information regarding the payments when he was interviewed by the enforcement staff. This lack of truthfulness further violated ethical conduct legislation. Due to the former head coach's direct involvement in the violations, he was unable to demonstrate that he promoted an atmosphere of compliance in the men's soccer program. The parties agreed that all violations in this case are major.

The COI accepts the parties' factual agreements and concludes that major violations occurred. Utilizing NCAA bylaws authorizing penalties, the COI adopts and prescribes the following penalties: public reprimand and censure, one year of probation, a financial penalty, a vacation of wins, ties and records resulting from ineligible competition, scholarship limits in men's soccer

¹ Located in West Liberty, West Virginia, WLU is a member of the Mountain East Conference. WLU's total enrollment is approximately 2,500 and it sponsors nine women's sports and nine men's sports. This is WLU's first major infractions case.

and a show-cause order associated with the former head men's soccer coach's conduct. The penalty section of this decision details these and other penalties.

II. CASE HISTORY

The violations in this case first surfaced on August 29, 2018, when WLU's director of financial aid witnessed the former head men's soccer coach (head coach) walk into the business office with a check in his hand. The financial aid director looked into the matter and discovered that the head coach made a payment to one of his student-athlete's (student-athlete 1's) account. That day, she reported this transaction to the institution's compliance director, who immediately began an investigation. The following day, the compliance director instructed the head coach to withhold student-athlete 1 from competition. Two weeks later, the institution reported the violation to the NCAA as a secondary infraction.

The enforcement staff issued a verbal notice of inquiry on October 10, 2018. Two weeks later, during on-campus interviews, the institution and enforcement staff uncovered an August 16, 2018, payment made by the head coach on behalf of a second men's soccer student-athlete (student-athlete 2). The parties later agreed to process the case through summary disposition and submitted their SDR to the COI on March 22, 2019.² The COI reviewed the SDR on April 19, 2019, accepting the parties' agreed-upon violations and the institution's proposed penalties. However, the panel proposed additional penalties for both the institution and the head coach in letters dated April 23, 2019. Specifically, the panel proposed a brief probationary period and a fine for the institution and a show-cause order for the head coach. The institution accepted the additional penalties in a letter dated April 29, 2019, and the head coach accepted the show-cause order in a May 1, 2019, email.

III. PARTIES' AGREEMENTS

PARTIES' AGREED-UPON FACTUAL BASIS AND VIOLATIONS OF NCAA LEGISLATION

The parties jointly submitted an SDR that identified an agreed-upon factual basis, violations of NCAA legislation and type of violations.³ The SDR identified:

² Pursuant to COI Internal Operating Procedure (IOP) 4-7-2-1, the COI in future cases may view this decision as less instructive than a decision reached after a contested hearing because violations established through the summary disposition process constitute the parties' agreements.

³ This decision provides the agreed-upon factual basis and violations exactly as stated in the SDR, except for shortening references to the institution and other named individuals.

1. [NCAA Division II Manual Bylaws 14.12.1, 15.01.2, 15.01.3, 16.8.1 and 16.11.2.1 (2018-19)]

WLU and the enforcement staff agree that the head men's soccer coach provided impermissible benefits in the form of tuition payments to two men's soccer student-athletes as follows: (1) \$3,000 for student-athlete 2 on August 16, 2018, and (2) \$2,000 for student-athlete 1 on August 29, 2018. The head coach used funds from his personal camp account to make the tuition payments. Student-athletes 1 and 2 could not enroll in courses due to outstanding tuition bills from the previous semester. The head coach's payment allowed the two student-athletes to enroll, practice and compete. Because of the impermissible benefits, student-athlete 2 competed in 14 contests and received actual and necessary expenses while ineligible. Student-athlete 1 did not compete while ineligible but received actual and necessary expenses in the form of travel expenses associated with one competition.

2. [NCAA Division II Manual Bylaws 10.01.1, 10.1, 10.1-(b), 10.1-(c) and 11.1.2.1 (2018-19)]

The institution, enforcement staff and the head coach agree that on August 16, August 29, and October 15, 2018, the head coach violated the NCAA principles of ethical conduct and head coach responsibility legislation, as he is presumed responsible for violations outlined in Violation No. 1 and did not rebut that presumption. Specifically:

- a. On August 16 and 29, 2018, the head coach violated the NCAA principles of ethical conduct when he knowingly provided two impermissible tuition payments from personal camp funds for student-athletes 1 and 2, as detailed in Violation No. 1. These two tuition payments allowed both student-athletes to enroll in classes, practice and compete. [NCAA Bylaws 10.01.1, 10.1, and 10.1-(b)]
- b. On October 15, 2018, the head coach violated the principles of ethical conduct when he provided false or misleading information concerning his involvement in an NCAA violation. When asked if he provided a tuition payment from his personal camp account to any other student-athlete, the head coach stated that student-athlete 1 was the only student-athlete who received an impermissible tuition payment. This was false or misleading information as subsequent interviews revealed that the head coach paid tuition for both student-athletes 1 and 2 from the head coach's personal camp account. [NCAA Bylaws 10.01.1, 10.1, and 10.1-(c)]
- c. Concerning the violations committed on August 16 and 29, 2018, the head coach is presumed responsible for the violations detailed in Violation No. 1 and did not rebut the presumption of responsibility. Specifically, the head

coach did not demonstrate that he promoted an atmosphere for compliance due to his personal involvement in the violations. [NCAA Bylaw 11.1.2.1]

IV. REVIEW OF CASE

The SDR fully detailed the parties' positions in the infractions case and included the agreed-upon primary facts and violations. After reviewing the parties' principal factual agreements and respective explanations surrounding those agreements, the COI accepts the parties' SDR and concludes that the facts constitute major violations of NCAA legislation. Specifically, the COI concludes that the head coach violated NCAA financial aid and extra benefits legislation when he made tuition payments on behalf of the two student-athletes. In addition, the payments triggered an eligibility violation. Further, the head coach violated NCAA ethical conduct legislation when he made these payments knowing they were impermissible and later provided false and misleading information to the enforcement staff. Finally, the head coach is responsible for the impermissible payments and did not rebut the presumption of responsibility, thereby violating head coach control legislation.

Bylaw 15 governs financial aid while Bylaw 16 governs awards, benefits and expenses for enrolled student-athletes. One of the fundamental tenets of financial aid is set forth in Bylaw 15.02.3 which requires financial aid to be administered by a student-athlete's institution. Bylaw 15.01.2 specifies that a student-athlete who receives financial aid other than that permitted by the Association is ineligible for competition. Bylaw 14 sets forth general eligibility requirements, including the requirement that institutions shall withhold ineligible student-athletes from competition as set forth in Bylaw 14.12.1.⁴ Relatedly, Bylaw 16.11.2.1 establishes that a student-athlete shall not receive an extra benefit. The bylaw defines an "extra benefit" as any special arrangement by an institutional employee or booster to provide a student-athlete with a benefit not expressly authorized by NCAA legislation.

The head coach's provision of tuition payments violated well-known financial aid legislation. When the head coach provided tuition payments on behalf of the two student-athletes, he violated Bylaw 15.02.3 because these payments constituted financial aid not administered by WLU. Consequently, these impermissible payments rendered the two student-athletes ineligible pursuant to Bylaw 15.01.2. WLU immediately withheld student-athlete 1 from competition. However, student-athlete 2 competed in 14 contests while ineligible before the institution discovered that the head coach also provided tuition payments on his behalf. This participation while ineligible violated Bylaw 14.12.1.

The head coach's impermissible payments also violated benefit legislation under Bylaw 16. These tuition payments were not expressly authorized by NCAA legislation and were not

⁴The full text of the bylaws is set forth in Appendix Two.

generally available to other WLU students. Accordingly, the head coach's actions violated Bylaw 16.11.2.1.

Pursuant to Bylaw 19.02.2.2, the COI concludes that the impermissible tuition payments are a major violation because they were not inadvertent and they provided a significant impermissible benefit to the student-athletes. The COI has consistently concluded that major violations of Bylaw 16 and, in some instances, Bylaw 15, occur when boosters or institutional staff members provide student-athletes with academic-related expenses or payments not available to the general student population. *See Young Harris College* (2018) (concluding a major violation of Bylaw 16 occurred when two boosters made an impermissible tuition payment for a student-athlete); *Fayetteville State University* (2017) (concluding major violations of Bylaw 16 occurred when a booster paid institutional expenses for two student-athletes totaling approximately \$12,500); *Gannon University* (2016) (concluding a major violation of Bylaws 15 and 16 occurred when a head coach arranged for a men's swimming and diving student-athlete to receive a cash benefit of \$3,000 in impermissible financial aid); *University of Alaska, Anchorage* (2014) (concluding major violations of Bylaw 16 occurred when a head coach and volunteer coach provided two women's basketball student-athletes with cash benefits totaling \$7,320); and *Lynn University* (2007) (concluding major violations of Bylaw 16 occurred when the head softball provided impermissible cash payments to two student-athletes totaling over \$3,000 for tuition and book charges). Consistent with these cases, the head coach's tuition payments on behalf the two student-athletes is a major violation.

The membership expects coaches to always act ethically in the conduct of their duties. The head coach's conduct in this case demonstrated that he failed to do so. Ethical conduct standards are set forth in Bylaw 10, which contains the principles of ethical conduct. Bylaw 10.01.1 requires coaches to act with honesty and sportsmanship at all times. Conversely, Bylaw 10.1 identifies behavior that is considered unethical. Included in unethical conduct is knowing involvement in offering or providing an enrolled student-athlete an improper inducement, as set forth in Bylaw 10.1-(b). And, under Bylaw 10.1-(c), the membership has defined knowingly furnishing false or misleading information as unethical conduct.

The former head coach's knowing involvement in impermissible tuition payments and later false statements failed to meet Bylaw 10 ethical conduct standards. The head coach knew that providing tuition payments on behalf of student-athletes violated NCAA legislation. Therefore, his actions in making the payments violated Bylaw 10.1-(b). He later provided false and misleading information to the enforcement staff when asked if he provided similar payments for student-athletes other than student-athlete 1, which he falsely denied, violating Bylaw 10.1-(c). This conduct was also contrary to Bylaw 10.01.1, which requires coaches to act with honesty.

The COI has previously concluded that institutional employees commit major ethical conduct violations when they knowingly engage in violations and later provide false and misleading information to the enforcement staff or institution regarding the violations. *See Lane College* (2019) (concluding that the head track coach committed major violations when, knowing it was a violation, he instructed an ineligible student-athlete to compete under an eligible student-athlete's name and later provided false and misleading information to the enforcement regarding his

involvement in this violation); *Fayetteville State* (concluding that the head women's basketball coach committed major ethical conduct violations when, knowing it was a violation, she allowed a booster to pay tuition for two ineligible student-athletes and later provided a false and misleading written statement to the director of athletics regarding the tuition payments); and *Lynn University* (concluding that the head softball coach engaged in unethical conduct when, knowing it was a violation, he provided impermissible tuition and book payments for two student-athletes and later provided false and misleading information to the enforcement staff regarding these payments). It is a fundamental obligation of institutional employees to act with honesty at all times, abide by NCAA legislation and provide truthful information related to potential NCAA violations. Pursuant to Bylaw 19.02.2, the COI concludes that the head coach's unethical conduct is a major violation.

The head coach also failed his head coach responsibilities. Under Bylaw 11.1.2.1, head coaches are responsible for monitoring their staff members and to promote an atmosphere for compliance in their programs. On two occasions in August 2018, the head coach knowingly circumvented financial aid legislation by providing impermissible tuition payments for two men's soccer student-athletes. In doing so, he failed to promote an atmosphere of compliance because of his personal involvement in the violations. The head coach is responsible for his actions and could not rebut the presumption of responsibility for these violations. The head coach's knowing violations demonstrated a disregard for NCAA legislation and a failure to promote an atmosphere for compliance in violation of Bylaw 11.1.2.1.

The COI has consistently concluded that that head coaches fail to promote an atmosphere for compliance when they knowingly violate NCAA legislation by providing impermissible recruiting inducements, financial aid and/or extra benefits. See *Gannon University* (concluding that the head swimming coach failed to promote an atmosphere for compliance when he arranged \$3,000 in impermissible financial aid for a men's swimming student-athlete); *East Central* (2015) (concluding that the head men's basketball coach failed to promote an atmosphere of compliance when he provided recruiting inducements, including tuition payments for prospects at the prospects' two-year colleges); and *Alaska, Anchorage* (concluding that the head women's basketball coach failed to promote an atmosphere of compliance when he provided impermissible cash payments for two women's basketball student-athletes to cover the costs of institutional fees). The membership expects head coaches to be responsible for promoting an atmosphere for compliance within the program supervised by the coach. In this case, the head coach failed that responsibility by knowingly violating financial aid and extra benefit legislation through personally paying the tuition charges for two student-athletes. Therefore, pursuant to Bylaw 19.02.2 and consistent with these past cases, the COI concludes that the head coach's responsibility failure is a major violation.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the COI concludes this case involved major violations of NCAA legislation. Major violations are not inadvertent, provide or

are intended to provide more than a minimal advantage and/or include significant impermissible benefits.

In prescribing penalties, the COI evaluated relevant mitigating factors pursuant to Bylaw 32.8.7.4.2. In particular, the COI noted that WLU quickly detected one of the impermissible tuition payments and took immediate action by withholding the involved student-athlete, initiating an investigation and submitting a self-report. Even though the head coach's provision of false and misleading information initially thwarted the discovery of an additional impermissible payment to a second student-athlete, WLU met its obligation to self-report and investigate. The COI also considered WLU's cooperation during the infractions process, as addressed in Bylaws 19.01.3 and 32.1.3. The COI concludes that the cooperation exhibited by WLU met its obligation under the bylaws. The COI also considered WLU's corrective actions as set forth in Appendix One.

Finally, the COI reviewed past cases for guidance. The COI's decisions in *Gannon, Alaska*, *Anchorage* and *Lynn* were particularly relevant because they involved head coaches unilaterally providing impermissible cash benefits to student-athletes for the cost of tuition and/or fees. In these cases, the COI prescribed either no or limited probation, a show-cause order for the involved coaches and, in some instances, fines, recruiting restrictions, a vacation of records and financial aid reductions.

Because WLU and the former head coach agreed to the facts, violation and penalties, they have no opportunity to appeal. WLU's self-imposed penalties are specifically identified and its corrective actions are set forth in Appendix One. After considering all information, the COI prescribes the following penalties (self-imposed penalties are so noted):

Penalties for Major Violations (Bylaw 19.5.2)

1. Public reprimand and censure through the release of the infractions decision.
2. Probation: One year of probation from May 31, 2019, through May 30, 2020.
3. A limit of no more than eight scholarships in men's soccer for the 2019-20 and 2020-21 academic years. (Self-imposed.)
4. Financial penalty: The institution shall pay a fine of \$3,500.
5. Vacation of records. WLU acknowledged ineligible participation by one men's soccer student-athlete as the result of the violations in this case. Therefore, pursuant to Bylaws 19.5.2-(g) and Executive Regulations 31.2.2.4 and 31.2.2.5, WLU shall vacate the wins and any ties in which the ineligible student-athlete competed from the time he became ineligible through the time he was reinstated as eligible for competition. (Self-imposed.) The individual records of the ineligible student-athlete shall also be vacated during the time he competed while ineligible. However, the individual records and any awards for all eligible student-athletes shall be preserved. Further, the institution's records regarding its men's

soccer program, as well as the records of the head men's soccer coach, shall reflect the vacated records and shall 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 institutions that may subsequently hire the head coach shall similarly reflect the vacated wins in their career records documented in media guides and other publications cited above. The head coach 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 contests 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 these sports shall be returned to the Association.

Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected 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-athlete 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 document 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 45 days following the release of this decision. The sports information director (or designee) must also inform the Office of the Committees on Infractions (OCOI) of this submission to the NCAA Media Coordination and Statistics office.

6. Show-cause order. The former head men's soccer coach engaged in unethical conduct when he knowingly violated NCAA legislation by providing impermissible tuition payments for student-athletes 1 and 2. He further engaged in unethical conduct when he provided false and misleading information to the enforcement staff regarding these payments. Finally, the head coach's direct involvement in these violations demonstrates that he failed to promote an atmosphere for compliance in his program. Therefore, the COI prescribes a two-year show-cause order pursuant to NCAA Bylaw 19.5.2.2. The show-cause period shall run from May 31, 2019, through May 30, 2021. Should the head coach become employed at a member institution during the term the show cause is in effect, within 30 days of her hiring, that employing institution shall contact the Office of the Committees on Infractions to make arrangements to show cause why restrictions on his athletically related duties should not apply.
7. During this period of probation, WLU shall:
 - a. Continue to develop and implement a comprehensive 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 implementing NCAA financial aid legislation;

- b. Submit a preliminary report to the OCOI by July 15, 2019, setting forth a schedule for establishing this compliance and educational program and compliance with prescribed penalties;
 - c. File with the OCOI one annual compliance report indicating the progress made with this program by April 15th during each year of probation. Particular emphasis shall be placed on WLU's development and implementation of written policies and procedures for ensuring compliance with financial aid policies and procedures consistent with institutional and NCAA rules and regulations, in addition to related education and monitoring programs;
 - d. In writing, inform prospects in men's soccer that WLU 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 an NLI; 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 affected sports program 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 the affected sport programs. WLU'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.
8. Following the receipt of the final compliance report and prior to the conclusion of probation, WLU's president shall provide a letter to the COI affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.
-

As required by NCAA legislation for any institution involved in a major infractions case, WLU 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, May 31, 2019. The COI further advises WLU that it should take every precaution to ensure that it observes the terms of the penalties. The COI will monitor the penalties during their effective periods. Any action by WLU contrary to the terms of any of the penalties or any additional violations shall be considered grounds for prescribing more severe penalties or may result in additional allegations and violations.

NCAA DIVISION II COMMITTEE ON INFRACTIONS

John David Lackey
Richard Loosbrock
Melissa Reilly
Jason Sobolik
Harry O. Stinson, III, Chair
Jane Teixeira
Christie Ward

APPENDIX ONE

**WEST LIBERTY UNIVERSITY'S CORRECTIVE ACTIONS AS IDENTIFIED IN THE
MARCH 22, 2019, SUMMARY DISPOSITION REPORT**

1. Reclassified the scholarship reporting to the Compliance Coordinator in order to monitor more closely.
2. Implemented an online aid request process. Submissions go simultaneously to both Compliance and Director of Financial Aid for sign offs.
3. Developed a more extensive checks and balances system to monitor each sport's foundation scholarship accounts and budgets.
4. Implemented more extensive NCAA legislation education with all athletic coaches and personnel.
5. Terminated the head men's soccer coach on November 15, 2018.

APPENDIX TWO
Bylaw Citations

Division II 2018-19 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;
- (c) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.

11.1.2.1 Responsibility of Head Coach. An institution's head coach is presumed to be responsible for the actions of all institutional staff members who report, directly or indirectly, to the head coach. An institution's head coach shall promote an atmosphere of compliance within his or her program and shall monitor the activities of all institutional staff members involved with the program who report, directly or indirectly, to the coach.

14.12.1 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 14.13, if it concludes that the circumstances warrant restoration.

15.01.2 Improper Financial Aid. Any student-athlete who receives financial aid other than that permitted by the Association shall not be eligible for intercollegiate athletics.

15.01.3 Financial Aid Not Administered by Institution. Any student who receives financial aid other than that administered by the student-athlete's institution shall not be eligible for intercollegiate athletics competition, unless it is specifically approved under the Association's rules of amateurism.

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.

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 relatives or friends with a benefit not expressly authorized by NCAA legislation.