



**CHRISTIAN BROTHERS UNIVERSITY
PUBLIC INFRACTIONS DECISION
November 22, 2019**

I. INTRODUCTION

The NCAA Division II Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division II membership and public. The COI is charged with deciding infractions cases involving member institutions and their staffs. This case involved the head men's and women's tennis coach at Christian Brothers University (CBU) providing impermissible recruiting inducements to an international prospective student-athlete on two separate trips to the institution.¹ His actions also violated NCAA legislation pertaining to head coach responsibility and unethical conduct. The violations also established CBU's failure to monitor its athletics program. 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). The COI adopted the institution's self-imposed penalties and proposed further penalties to CBU and head coach. Both agreed to the proposed additional penalties; therefore, there is no opportunity to appeal.

The violations occurred over seven weeks in July and August, 2018, and involved the head coach providing the prospect with cost-free lodging in his home, free meals and transportation, the free use of a private tennis facility and institutional apparel. The prospect came to campus twice during that period, once in conjunction with a tennis event and once in an attempt to work out potential admissions issues. On both occasions, the head coach allowed her to stay cost-free in his home and provided her with cost-free meals and local transportation. On one of the visits, he allowed her to use a private tennis club and provided her with two items of apparel. The parties agreed that the head coach's actions violated ethical conduct and head coach responsibility legislation. Finally, because CBU personnel were aware that the prospect was in the vicinity but did not ensure in a timely fashion that the visits were occurring consistent with all applicable recruiting legislation, the parties agreed that the violations demonstrated CBU's failure to monitor aspects of its athletics program. The parties also agreed that all violations are major.

The COI accepts the parties' factual agreements and concludes major violations occurred. Utilizing NCAA bylaws authorizing penalties, the COI adopts and prescribes the following principal penalties: one year of probation, a \$1,000 fine, recruiting restrictions, grant-in-aid reductions and a one-year show-cause order for the head coach.

¹ A member of the Gulf South Conference, CBU has a total enrollment of approximately 2,000. It sponsors nine women's sports and eight men's sports. This is the institution's first major infractions case.

II. CASE HISTORY

On August 30, 2018, the CBU associate director for compliance (compliance officer) noticed an international prospective women's tennis student-athlete (prospect) in the campus office of the head men's and women's tennis coach (head coach). The compliance officer recognized the prospect because they had met 10 days earlier when the prospect was on campus trying to gain admission to CBU. On August 30, the compliance officer for the first time asked questions regarding the prospect's housing arrangements while visiting and detected potential NCAA rules violations. The institution initiated an investigation and reported violations to the NCAA enforcement staff in October 2018, leading to a collaborative inquiry in January 2019. The enforcement staff issued a written notice of inquiry to CBU and the head coach on January 8, 2019, and the three parties jointly submitted the SDR to the COI on September 18, 2019.²

The COI reviewed the SDR on October 18, 2019, accepted the facts and violations as set forth in the SDR but proposed additional penalties to the institution and head coach. They both accepted all additional penalties on November 1, 2019.

III. PARTIES' AGREEMENTS

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

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

1. [NCAA Division II Manual Bylaws 13.2.1 and 13.2.3-(h) (2017-18 and 2018-19) and 13.2.3-(b) and 13.2.3-(g) (2018-19)]

CBU, the head coach and the enforcement staff agree that from July through August 2018, the head coach provided approximately \$461 of impermissible recruiting inducements in the form of cost-free housing, meals, transportation, use of a private tennis club and t-shirts to the prospect. Specifically:

- a. On July 6 and 7, 2018, while the prospect was in the institution's locale for a tennis club event, the head coach provided her with cost-free local transportation, and one night of housing at his residence and a restaurant meal. [NCAA Bylaws 13.2.1 and 13.2.3-(h) (2017-18)]

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' agreement.

³ This decision provides the agreed-upon factual basis and violations as exactly stated in the SDR, except for shortening references to the parties and student-athletes.

- b. Between August 16 and 30, 2018, while the prospect was in the institution's locale attempting to rectify visa problems and gain fall of 2018 admission, the head coach permitted her to live cost-free at his residence and receive home cooked meals.

Additionally, the head coach provided the prospect cost-free local transportation and allowed her to use a private tennis club on four occasions at no charge. Further, the head coach provided her two institutional t-shirts. [NCAA Bylaws 13.2.1, 13.2.3-(b), 13.2.3-(g) and 13.2.3-(h) (2018-19)]

2. [NCAA Division II Manual Bylaws 10.1-(b) and 11.1.2.1 (2017-18 and 2018-19)]

CBU, the head coach and the enforcement staff agree that between July and August 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, the head coach did not demonstrate that he promoted an atmosphere for compliance within the women's tennis program due to his personal involvement in knowingly providing the prospect improper inducements and failure to engage the institution's compliance staff to determine whether his actions were permissible.

3. [NCAA Division II Manual Bylaw 2.8.1 (2018-19)]

The institution and enforcement staff agree that in August 2018, the scope and nature of the violations detailed in Violation No. 1 demonstrate that the institution violated the NCAA principle of rules compliance when it failed to adequately monitor an international prospective student-athlete's presence and activities while in the institution's locale. Specifically, the athletics administrators were aware the international prospective student-athlete was from [a foreign country] and on campus with the head women's tennis coach attempting to rectify visa problems and gain admission to the institution. Even though these circumstances should have alerted the athletics administrators to a higher awareness of all activities surrounding the international prospective student-athlete, the athletics administrators failed to ask questions or take necessary steps to provide adequate oversight and monitoring to ensure rules compliance.

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, over an approximate seven-week span, the head coach provided impermissible recruiting inducements to the prospect. He allowed the prospect to stay in his home, provided her with meals, transported her around the area, gave her access to a private tennis club and gave her two items of institutional program apparel, all free-of-charge. His actions violated Bylaw 13 recruiting legislation and Bylaw 10 ethical conduct legislation and demonstrated his failure to promote an atmosphere for rules compliance within his program, in violation of Bylaw 11. Because the institution knew the prospect was in the vicinity of campus and did not timely ensure that her presence was in accordance with NCAA recruiting legislation, it failed to monitor aspects of its athletics program as required by the NCAA Constitution.⁴

Bylaw 13 governs recruiting. It generally prohibits institutional staff members from providing any benefits to prospects unless they are expressly allowed by the legislation. Further, the bylaw specifically prohibits institutional staff from providing prospects with gifts of clothing, free or reduced-cost housing or any other services. Head coach behavior is governed in part by Bylaws 10 and 11. Bylaw 10 requires all institutional staff to conduct themselves in an ethical manner. Among the activities it prohibits is knowingly providing prospects with improper inducements. Bylaw 11 establishes two affirmative duties for head coaches, one of which is promoting an atmosphere for rules compliance in the program each head coach supervises. This bylaw presumes that head coaches are responsible for violations in their programs, although the coaches may rebut the presumption by showing that they promoted rules compliance. Finally, the NCAA Constitution governs the administration of member institutions' athletics programs. Constitution Article 2 requires that each member institution monitor its program to assure full compliance with the rules and regulations of the association.

During the prospect's two separate trips to the vicinity of the institution in the summer of 2018, the head coach provided her with inducements in violation of several provisions of Bylaw 13. At the time, she was looking to transfer from the institution she had been attending. She made her first visit on July 7 and 8 to participate in an event at a local tennis club and meet with the head coach. Following the event, the head coach drove her to his home, where she stayed the night cost-free. The next morning, the head coach transported her to a local restaurant, where he purchased her meal. After they ate, the head coach drove her back to the tennis club and she left the area, returning to her home country. At the head coach's urging, the prospect applied for admission to CBU shortly thereafter.

On approximately July 21, 2018, the institution informed the prospect that it had accepted her for admission for the spring 2019 semester but not the fall of 2018. In an attempt to obtain a more favorable decision from CBU, she flew back to the area on August 16, 2018, to speak in person with institutional personnel. She stayed in the area until August 30, 2019, residing cost-free at the head coach's residence for the full period. While she stayed there, the head coach provided her with meals and local transportation. He also allowed her to use his private tennis club on four occasions as a non-paying guest and gave her two CBU tennis t-shirts. At no time during either

⁴ The full text of all bylaws violated in this case is at Appendix Two.

visit did he inquire of the compliance staff whether his actions were allowable. The approximate total value of all inducements was \$461.

The head coach violated Bylaw 13 when he allowed the prospect to stay in his home during the two visits and provided her with free meals, local transportation, access to a tennis club and items of clothing. Because these types of inducements are either not expressly allowed by the legislation or are expressly prohibited, their provision violated the bylaw. These agreed-upon violations are major because they provided more than a minimal recruiting advantage and were not isolated or inadvertent. Pursuant to Bylaws 19.02.2.1 and 19.02.2.2, a major violation is not isolated or inadvertent, provides or is intended to provide more than a minimal advantage (recruiting, competitive or otherwise) to the institution and/or includes any type of significant benefit. Any violations that are not classified as secondary are major violations, specifically those that provide extensive recruiting or competitive advantages. *See East Central University (2015)* (concluding that a head coach who, among other things, provided prospects with free housing at his home and on campus, as well as free access to an institutional strength complex, engaged in major violations); *California Polytechnic University, Pomona (2011)* (concluding that when a head coach and his assistant provided impermissible inducements of meals, lodging, transportation and cash to two prospects, they committed major infractions); and *Abilene Christian University (2009)* (concluding that institutional staff members committed major violations when they signed as guarantors on two prospects' leases, provided them with athletic shoes and allowed them to use a campus fitness center free-of-charge). This head coach engaged in similar violations. The violations are major.

The head coach's actions also violated Bylaw 10 ethical conduct standards and his responsibilities as a head coach under Bylaw 11. He violated the Bylaw 10 prohibition against knowingly providing improper inducements when he allowed the prospect to stay at his home, fed her, drove her around the area and gave her free access to his tennis club and t-shirts. Regarding Bylaw 11, the parties agreed that, because the head coach personally committed the violations, he could not demonstrate that he promoted an atmosphere for compliance so as to rebut the presumption that he was responsible for them.

As in similar cases, his actions constituted major Bylaw 10 and 11 violations. *See Fayetteville State University (2017)* (concluding that a head coach who personally committed major violations violated both ethical conduct and head coach responsibility bylaws); *East Central* (concluding that the head coach violated ethical conduct and head coach responsibility legislation when he did not check with the compliance staff before personally committing major recruiting violations); and *Wingate University (2013)* (concluding that a head coach engaged in unethical conduct and failed to promote an atmosphere for compliance when she, among other major violations, paid half of a prospect's enrollment deposit fee). The head coach personally committed major violations, thereby engaging in unethical conduct and failing to demonstrate that rules compliance was of utmost importance in his program.

The final violations in this case occurred when CBU did not meet its monitoring responsibilities under the NCAA Constitution during the prospect's second visit to the vicinity. The athletics

compliance officer met the prospect on August 20, 2018, when the head coach brought the prospect to campus and introduced them. The head coach also told the compliance officer that the prospect was trying to gain admission to the institution but was having issues with her international visa. The introduction and conversation ended without the compliance officer inquiring about the prospect's campus visit or receiving an unofficial visit form from the head coach.⁵

It was not until ten days later, when the compliance officer saw the prospect in the head coach's campus office, that she asked questions about the prospect's situation and detected that NCAA rules violations may have occurred. Had the compliance officer posed those questions upon initially meeting the prospect, she may well have detected the violations earlier and prevented some of them from continuing or occurring at all.

In similar situations when institutional personnel had information that they should have followed up on in some way but did not timely do so, the COI has concluded that institutions failed to monitor the administration of their athletics programs. *See Fayetteville State* (concluding that an institution failed to monitor when it did not investigate rumors that two ineligible student-athletes were practicing with their team); *Texas A&M International University* (2011) (concluding that an institution failed to monitor when it did not investigate how an underperforming student with no foreign language background was able to earn perfect grades in advanced Spanish courses he needed to remain eligible, even after an institutional coach reported concerns about the student-athlete to the director of athletics); and *Abilene Christian* (concluding failure to monitor by the institution when athletics staff who committed and/or witnessed violations did not recognize them as such, allowing the violations to continue). The CBU compliance officer did not inquire of the prospect or the head coach at their first meeting about the prospect's visit, nor did the compliance officer question why the head coach did not provide her with an unofficial visit form. The compliance officer's failures were a factor in the violations continuing for another 10 days and constituted a failure to monitor the administration of the athletics program. The violation is major.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the COI accepts the parties' agreed-upon factual basis and violations and 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. Because CBU and the head coach agreed to the facts, violations and penalties, there is no opportunity to appeal.

The COI considered the institution's cooperation during the infractions process, as addressed by Bylaws 19.01.3 and 32.1.3. The COI concludes that the cooperation exhibited by CBU met its

⁵ As set forth in the SDR, the compliance officer stated in her interview that she assumed the prospect was on an unofficial visit to campus.

obligation under the bylaws. The COI also considered the corrective actions as set forth in Appendix One.

After accepting the proposed facts and violations, the COI considered penalties. Considering the institution's self-imposed penalties and Bylaw 19.5.2, the COI prescribes the following penalties:

1. Public reprimand and censure through the release of the public infractions decision.
2. Probation: One year of probation from November 22, 2019 through November 21, 2020.
3. During the one-year period of probation, CBU 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 NCAA recruiting and certification legislation;
 - b. Submit a preliminary report to the office of the COI (OCOI) by **January 15, 2020**, setting forth a schedule for establishing this compliance and educational program and compliance with prescribed penalties;
 - c. File with the OCOI an annual compliance report indicating the progress made with this program by October 15, 2020. Particular emphasis shall be placed on rules education regarding recruiting inducements;
 - d. Inform women's tennis prospects in writing that CBU 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 women's tennis. The 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.
4. Scholarship reductions: The institution shall reduce women's tennis financial aid awards from 6.0 to 4.0 for the 2019-20 academic year. (Self-imposed.)
5. Financial penalty: The institution shall pay a fine of \$1,000. (Self-imposed.)

6. Recruiting restrictions: No official visits in the sport of women's tennis for one year from September 2018 through September 2019. (Self-imposed.)
7. Recruiting restrictions: No off-campus recruiting in the sport of women's tennis for one year from September 2018 through September 2019. (Self-imposed.)
8. CBU shall undergo a comprehensive review of its athletics policies and procedures by a qualified outside entity during the term of probation. CBU shall implement all recommendations made by the reviewer.
9. Show-cause order: The head coach knowingly violated NCAA recruiting legislation when, over seven weeks during the summer of 2018, he provided impermissible inducements valued at approximately \$461 to the prospect. The inducements consisted of cost-free housing, meals and transportation, cost-free access to a tennis facility and items of apparel. His actions constituted unethical conduct and demonstrated his failure to promote and atmosphere for compliance due to his personal involvement in the violations. Therefore, the COI prescribes a one-year show-cause order pursuant to NCAA Bylaw 19.5.2.2. The show-cause order shall be in effect from November 22, 2019, through November 21, 2020. During the term of the show-cause, the head coach shall:
 - a. Complete the "Recruiting" modules (13 total modules) in the DII University compliance education system by September 1, 2019; (Institution imposed.) and
 - b. From August 11, 2019, through August 12, 2020, meet weekly with the associate director of athletics for compliance to present all updated Countable Athletically Related Activity and recruiting logs. (Institution imposed.)
10. Following the receipt of the final compliance report and prior to the conclusion of probation, CBU'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, CBU 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, November 22, 2019. The COI further advises CBU that it should take every precaution to ensure the terms of the penalties are

observed. The COI will monitor the penalties during their effective periods. Any action by the institution 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.

NCAA DIVISION II COMMITTEE ON INFRACTIONS

John David Lackey

Richard Loosbrock

Melissa Reilly

Jason Sobolik

Harry O. Stinson III, Chair

APPENDIX ONE

**CHRISTIAN BROTHERS'S CORRECTIVE ACTIONS AS IDENTIFIED IN THE
SEPTEMBER 18, 2019, SUMMARY DISPOSITION REPORT**

1. Additional compliance education regarding recruiting inducements was conducted at the October 2018 staff meeting.
2. Compliance education has occurred at all monthly staff meetings since August 2014. As a result of these violations, compliance education has since been separated into its own staff meeting to create greater focus and educational awareness of athletics coaches and staff. The standalone compliance meetings began in February 2019.
3. The institution will be implementing a robust compliance software and monitoring system in fall 2019. Specifically, CBU will contract with a compliance software company.
4. The head coach was placed on institutional probation for one year beginning June 1, 2019. During the one-year period, any further violations of NCAA rules/regulations will result in his dismissal.

APPENDIX TWO
Bylaw Citations

2017-18 Division II Manual

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;

11.1.2.1 Responsibility of Head Coach. It shall be the responsibility of an institution's head coach to promote an atmosphere for compliance within the program supervised by the coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.

13.2.1 General Regulation. An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to the prospective student-athlete or the prospective student-athlete's relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by prospective student-athletes or their relatives or friends is not a violation of NCAA legislation if it is demonstrated that the same benefit is generally available to the institution's prospective students or their relatives or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability.

13.2.3 Specific Prohibitions. Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following:

(h) Free or reduced-cost housing;

2018-19 Division II Manual

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

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;

11.1.2.1 Responsibility of Head Coach. It shall be the responsibility of an institution's head coach to promote an atmosphere for compliance within the program supervised by the coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.

13.2.1 General Regulation. An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to the prospective student-athlete or the prospective student-athlete's relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by prospective student-athletes or their relatives or friends is not a violation of NCAA legislation if it is demonstrated that the same benefit is generally available to the institution's prospective students or their relatives or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability.

13.2.3 Specific Prohibitions. Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following:

(b) Gift of clothing or equipment;

(g) Free or reduced-cost services, rentals or purchases of any type;

(h) Free or reduced-cost housing;