



**UNIVERSITY OF ALABAMA  
PUBLIC INFRACTIONS DECISION  
November 20, 2020**

**I. INTRODUCTION**

The NCAA Division I Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division I membership and public. The COI is charged with deciding infractions cases involving member institutions and their staffs.<sup>1</sup> The conduct at issue in this case was related to a broader scheme that involved money and influence at the intersection of collegiate and professional basketball. The scheme resulted in the arrest and prosecution of multiple individuals—including college basketball coaches—on conspiracy and bribery charges, and it led to significant reforms to strengthen the NCAA Collegiate Model.<sup>2</sup> Within this broader scheme, the violations in this case were unique in that they resulted from the conduct of an administrator rather than a coach. This case centered on the unethical conduct of a former associate director of athletics at the University of Alabama, who received money in exchange for facilitating a meeting between the father of a student-athlete, a financial advisor and the advisor's representative.<sup>3</sup> Additionally, following his separation from Alabama, the associate AD failed to cooperate with the investigation.

A panel of the COI considered this case through the cooperative summary disposition process in which all participating parties agreed to the primary facts and violations, as fully set forth in the summary disposition report (SDR). Through that process, the panel proposed core penalties for Alabama and the associate AD. Alabama challenged the panel's proposed penalties against the institution on the written record, requesting that the panel prescribe the minimum penalties contemplated by the membership's penalty guidelines. The associate AD never responded. Given the substantive nature of the violations in this case, and among other reasons, the panel

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<sup>1</sup> Infractions cases are decided by hearing panels comprised of COI members. Decisions issued by hearing panels are made on behalf of the COI.

<sup>2</sup> In August 2018, the NCAA Board of Governors and the Division I Board of Directors adopted a series of significant policy and legislative changes based on the recommendations of the Commission on College Basketball. NCAA leaders announced that these changes would accomplish the following: (1) provide college basketball players more freedom and flexibility to decide their future; (2) minimize the leverage of outside influences on high school recruits and college athletes; (3) add independent voices in the areas of policymaking, investigations and case resolution; and (4) strengthen accountability and deter rule-breaking with harsher penalties for those who violate the rules.

<sup>3</sup> Although related to a broader scheme, the COI decided this case based solely on the agreed-upon and uncontested facts and circumstances surrounding the conduct of the associate AD. A member of the Southeastern Conference, Alabama has a total enrollment of approximately 33,000 students. It sponsors nine men's and 12 women's sports. This is the institution's seventh Level I, Level II or major case. Alabama had previous cases in 2017 (football), 2009 (multiple sports), 2002 (football), 1999 (men's basketball), 1995 (football) and 1964 (football).

maintains its proposed penalties. Alabama may appeal those penalties. Because the associate AD never responded, he does not have the opportunity to appeal.

Regarding the first violation, the associate AD knowingly received money during or around a series of meetings in the spring and summer of 2017 from a financial advisor and the advisor's representative in exchange for access to student-athletes. Alabama and the NCAA enforcement staff agreed that these meetings culminated with the associate AD arranging a dinner meeting, at the representative's request, with the father of a prominent Alabama men's basketball student-athlete. Dinner attendees were the associate AD, the financial advisor, his representative and the student-athlete's father. The financial advisor paid the dinner tab and the representative gave the associate AD money following the dinner.

The associate AD had an important role—administrative and operational oversight of the men's basketball staff and program. He also had a family connection with the advisor's representative.<sup>4</sup> The advisor's representative introduced the associate AD and the financial advisor over lunch in May 2017. The advisor's representative provided the associate AD money following the introductory lunch. The group would meet again a few months later. Although it is unclear whether the associate AD received money around the second meeting, the advisor's representative transferred money to the associate AD after a late July meeting between the financial advisor and his representative.

The associate AD admitted he knew from the first meeting that the financial advisor and his representative wanted access to student-athletes and their parents. He also knew that they wanted him to facilitate that access because it would enhance their credibility if they were brought in by an administrator. The associate AD's conduct cuts to the core of the integrity of the Collegiate Model. It undermines the ethical standards of conduct expected of all institutional employees and establishes a Level I violation.

After separating from Alabama, the associate AD refused to cooperate with the investigation when he did not provide requested records. Initially, the associate AD declined to be interviewed by the enforcement staff, but he ultimately participated in an unrecorded interview. Following that interview, and in an effort to corroborate the associate AD's statements, the enforcement staff requested bank, telephone and text records. The associate AD refused to provide those records. As a non-participating party, the associate AD's violations are uncontested, and the panel determines his failure to cooperate is Level I.

The panel accepts the parties' factual agreements and concludes violations occurred. After considering applicable aggravating and mitigating factors, the panel classifies Alabama's case as Level I-Mitigated. The panel also classifies the associate AD's conduct as Level I-Aggravated. Utilizing the current penalty guidelines and NCAA bylaws authorizing additional penalties, the panel adopts and prescribes the following principal penalties: three years of

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<sup>4</sup> The associate AD's father was the representatives' godfather.

probation, a fine of \$5,000 plus one percent of the men's basketball budget and a ten-year show-cause order for the associate AD.

## **II. CASE HISTORY**

The events at the center of this case came to light on September 26, 2017, when the United States Attorney's Office for the Southern District of New York (SDNY) unsealed a complaint against the financial advisor's representative (advisor's representative) detailing his activities with an unidentified cooperating witness, later identified as the financial advisor (financial advisor). Among other things, the complaint identified that the financial advisor and his representative met on three separate occasions to facilitate the payment of roughly \$25,000 from the financial advisor to an unnamed staff member at an unnamed institution, later identified as the former associate director of athletics (associate AD). The complaint expressly identified an August 31, 2017, dinner among these individuals and the father of a "highly regarded incoming freshman basketball player" at the unnamed staff member's university. It also alleged that the financial advisor gave his representative \$10,000 at the restaurant to provide to the associate AD.

Although the complaint did not identify the University of Alabama, the institution immediately retained counsel and began an internal investigation. The same day the SDNY issued the complaint, Alabama learned that the unnamed staff member was its associate AD and immediately reported its findings to the SDNY and NCAA.<sup>5</sup> The following day, the associate AD resigned. After receiving permission from the SDNY, Alabama continued its internal investigation without interfering with ongoing criminal matters.

Roughly eight months later, the SDNY issued a superseding indictment removing all references to the associate AD's involvement. On May 7, 2019, the advisor's representative pled guilty to facilitating bribes from the financial advisor to a men's basketball coach at a different institution. The following day, the enforcement staff issued a written notice of inquiry to Alabama and began its investigation.

The associate AD's participation in the investigation was limited to a non-recorded interview. He declined to provide requested records and has not participated in the processing of this case.

On March 5, 2020, Alabama and the enforcement staff sought a joint interpretation from the NCAA Academic and Membership Affairs (AMA) staff on the application of NCAA Bylaw 10.1 to the facts of this case. In late July 2020, the participating parties agreed to process the

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<sup>5</sup> Alabama also learned the identity of the father of the student-athlete and began proactively working to secure the student-athlete's reinstatement prior to the 2017-18 men's basketball season while the NCAA awaited word from the SDNY to move forward with its investigation. As a result of Alabama's actions, the student-athlete never competed while ineligible.

case through the summary disposition process and submitted an SDR to the COI.<sup>6</sup> On August 19, 2020, the chief hearing officer requested that the parties provide clarification on the SDR prior to the panel's consideration. The clarifications fell into three areas: (1) a confirmation that Alabama agreed that its violation was Level I; (2) definitive positions on potential aggravating and mitigating factors; and (3) the effect of potential penalties on case processing options. Because the SDR detailed Alabama's apparent disagreement over level and strong position that no penalties would be appropriate in this case, the panel considered whether there was sufficient agreement to process the case as an SDR and whether it would be more efficient to hold a contested hearing.

Approximately two weeks later, the enforcement staff responded on behalf of the parties confirming that Alabama agreed to its Level I designation and amending the SDR to include definitive positions on all potential aggravating and mitigating factors. The parties also asserted that the summary disposition process remained appropriate, even if the case required an expedited hearing on penalties.

The panel considered the amended SDR via teleconference on September 14, 2020. Three days later, the panel proposed required core penalties consistent with the membership's penalty guidelines for Alabama and the associate AD. On September 25, 2020, Alabama requested an expedited hearing on the panel's proposed penalties. The associate AD did not respond. The panel views his non-response as an acceptance of the proposed 10-year show-cause order.

After confirming its preference to have an expedited penalty hearing on the written record, Alabama submitted a written statement regarding the contested penalties on September 30, 2020. On October 26, 2020, the panel reconvened to consider the contested penalties.

### **III. PARTIES' AGREEMENTS**

#### **A. PARTIES' AGREED-UPON FACTUAL BASIS, VIOLATIONS OF NCAA LEGISLATION AND VIOLATION LEVELS**

The parties jointly submitted an SDR that identified an agreed-upon factual basis, violations of NCAA legislation, aggravating factors, mitigating factors and violation levels.<sup>7</sup> The SDR identified:

##### **1. [NCAA Division I Manual Bylaws 10.01.1 and 10.1 (2016-17 and 2017-18) and 12.3.1.3 and 16.11.2.1 (2017-18)] (Level I)**

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<sup>6</sup> Pursuant to COI Internal Operating Procedure (IOP) 4-10-2-2, panels 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.

<sup>7</sup> This decision provides the agreed-upon factual basis, violations and violation levels as exactly stated in the SDR, except for shortening references to the parties and other individuals.

The institution and enforcement staff agree that from May through September 2017, the associate AD violated the NCAA principles of ethical conduct when he failed to deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics by knowingly accepting benefits to facilitate or arrange a meeting between a student-athlete's parent, a financial advisor and the advisor's representative. Specifically, the associate AD received a dinner and at least \$3,000 from the financial advisor and the financial advisor's representative, in conjunction with the associate AD arranging a dinner for the financial advisor and the financial advisor's representative to meet with the father of a then men's basketball student-athlete. The financial advisor also paid for the father's dinner, resulting in an additional impermissible benefit.

**2. [NCAA Division I Manual Bylaws 10.1, 10.1-(a), 19.2.3 and 19.2.3-(c) (2019-20)] (Level I)**

The enforcement staff agrees that from November 2019, and continuing to the present, the associate AD failed to cooperate with the enforcement staff when he refused to provide information relevant to an investigation of possible violations. Specifically, on November 21, 2019, the enforcement staff requested telephone, messaging and bank records from the associate AD that were relevant to determining his involvement in potential violations of NCAA legislation. To date and despite additional requests from the enforcement staff, the associate AD has not provided these records to the enforcement staff.

**B. PARTIES' AGREED-UPON AGGRAVATING AND MITIGATING FACTORS**

Pursuant to Bylaw 19.6.2-(g), the parties agreed to the following aggravating and mitigating factors:

Alabama:

1. Aggravating factors [Bylaw 19.9.3]

A history of Level I, Level II or major violations. [Bylaw 19.9.3-(b)]

2. Mitigating factors [Bylaw 19.9.4]

- a. Prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties. [Bylaw 19.9.4-(b)]
- b. Affirmative steps to expedite final resolution of the matter. [Bylaw 19.9.4-(c)]
- c. An established history of self-reporting Level III or secondary violations. [Bylaw 19.9.4-(d)]

- d. Implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches' control standards. [Bylaw 19.9.4-(e)]

Associate AD:

1. Aggravating factors [Bylaw 19.9.3]

- a. Multiple Level I violations. [Bylaws 19.9.3-(a)]
- b. Unethical conduct and refusing to provide all relevant or requested information. [Bylaw 19.9.3-(e)]
- c. Persons of authority condoned, participated in or negligently disregarded the violation(s) or wrongful conduct. [Bylaw 19.9.3-(h)]
- d. Conduct or circumstances demonstrating an abuse of trust. [Bylaw 19.9.3-(j)]
- e. Conduct intended to generate pecuniary gain. [Bylaw 19.9.3-(l)]
- f. Intentional, willful or blatant disregard for the NCAA constitution and bylaws. [Bylaw 19.9.3-(m)]

2. Mitigating factor [Bylaw 19.9.4]

The absence of prior conclusions of Level I, Level II or major violations. [Bylaw 19.9.4-(h)]

## **IV. REVIEW OF CASE**

### **Agreed-upon Violations**

The SDR fully detailed the parties' positions in the infractions case and included the agreed-upon primary facts, violations, violation levels and aggravating and mitigating factors. After reviewing the parties' principal factual agreements and respective explanations surrounding those agreements, the panel accepts the parties' SDR and concludes that violations stemming from the associate AD's unethical conduct occurred. The first set of violations occurred when the associate AD received money in exchange for facilitating a meeting between a financial advisor and his representative with a prominent student-athlete's father. Later, after he separated from Alabama, the associate AD failed to meet fundamental cooperation requirements. All violations are Level I.

During the spring and summer of 2017, Alabama's associate AD for men's basketball received money in exchange for access to Alabama student-athletes and their parents. The associate AD received money during or around a series of meetings that culminated in his arranging a dinner between a high-profile men's basketball student-athlete's father and a financial advisor and his representative. The financial advisor paid for the dinner. The associate AD's disregard for fundamental standards of conduct violated Bylaws 10 and 16.

Bylaw 10.01.1 requires all staff members to act with honesty and sportsmanship. Bylaw 10.1 defines unethical conduct and includes a non-exhaustive list of example behaviors specifically identified as unethical conduct by the NCAA membership. One of these behaviors includes an institutional staff member's receipt of benefits for facilitating or arranging a meeting between a financial advisor, or representative of a financial advisor and a student-athlete. *See* Bylaw 10.1-(d). Case-specific interpretive guidance from AMA established that while parents and family members are not listed in Bylaw 10.1-(d), the list of clearly prohibited behaviors is non-exhaustive. Therefore, receiving benefits to facilitate or arrange a similar meeting with the parents or family of a student-athlete would establish a general unethical conduct violation under Bylaw 10.1.<sup>8</sup> Bylaw 12.3.1.3 identifies that individuals become ineligible if they or their relatives or friends receive benefits from prospective agents. Similarly, Bylaw 16.11.2.1 defines an extra benefit as a special arrangement by an institutional employee to a student-athlete or their family or friends that is not expressly authorized by NCAA legislation.

The associate AD was Alabama's employee. More significantly, he was the senior administrator responsible for oversight of the Alabama men's basketball program. In this role, he carried a high degree of responsibility, authority and credibility. Although facilitated by a family connection between the associate AD and the advisor's representative, those characteristics were what attracted the financial advisor and his representative to the associate AD. In fact, from the first meeting, the associate AD knew that they wanted access to Alabama student-athletes and parents for the purpose of future representation and that involving the associate AD would enhance their credibility in the eyes of potential clients.

Beginning with the introduction and occurring on two more occasions over the next several months, the associate AD met with and received money from the financial advisor and his representative.<sup>9</sup> The meetings and payments culminated in the associate AD arranging a dinner at the advisor's representative's request between the advisor's representative, the associate AD and the father of a prominent Alabama men's basketball student-athlete. Although the associate AD claimed to not have known the financial advisor was attending the dinner, he did nothing once the financial advisor arrived for the dinner, and he permitted the financial advisor to pay for his and the student-athlete's father's meal. The associate AD also accepted money from the advisor's representative following the dinner. The associate AD never reported any of this conduct to Alabama's compliance office.

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<sup>8</sup> The interpretation went on to note that a violation of Bylaw 10.1 occurs regardless of whether the meeting includes an express discussion of potential representation.

<sup>9</sup> Determining the total amount of money received by the associate AD was hindered by the limited record in this case. Because references to him were removed from the superseding indictment and implicated parties entered guilty pleas, there was no trial testimony nor were there evidentiary exhibits detailing the associate AD's involvement. Additionally, the associate AD failed to provide requested bank records. In interviews with the enforcement staff, the financial advisor claimed to have provided as much as \$35,000 to the associate AD either directly or through his representative. In his unrecorded interview, however, the associate AD acknowledged receiving roughly \$3,000, but attributed the money to the advisor's representative's repayment of loans on his behalf.

The associate AD behaved exactly as the financial advisor and his representative hoped. In exchange for money, he arranged a meeting with the father of Alabama student-athlete with significant professional potential. The associate AD's behavior directly threatens the Collegiate Model and completely undermines the honesty, integrity and fair play required of institutional employees. Alabama's associate AD violated Bylaws 10.01 and 10.1. Further, as a result of his arrangement, the financial advisor provided the father of the Alabama student-athlete with a free meal, resulting in violations of Bylaws 12.3.1.3 and 16.11.2.1.

The COI has previously concluded that Level I unethical conduct violations occur when institutional staff members' conduct is expressly identified or is similar to the examples listed in Bylaw 10.1. See *Oklahoma State University* (2020) (concluding that Level I Bylaw 10.1 and 10.1-(d) unethical conduct violations occurred when an associate head coach accepted cash bribes from two financial advisors who wanted to gain access to student-athletes with professional potential); *University of Louisville* (2017) (concluding that general Bylaw 10.1 Level I unethical conduct violations occurred when a director of basketball operations provided strippers and prostitutes to prospects and student-athletes); and *University of Hawaii at Manoa* (2015) (concluding that a general Bylaw 10.1 unethical conduct violation occurred when a former assistant coach altered a student-athlete's financial form and submitted it on his behalf). Additionally, Bylaw 19.1.1-(d) identifies unethical conduct as an example of a Level I violation. Therefore, consistent with Bylaw 19.1.1 and the COI's past cases, the panel concludes that the violation is Level I.

The Level I violation applies to both the associate AD and Alabama. Under the membership's violation structure outlined in Bylaw 19, the COI has consistently assigned the same level designation to institutions and involved individuals for the same underlying conduct. Although not a new concept, the COI recently directly addressed this issue in *Oklahoma State*. In that decision, the COI expressly stated that the level of the violation attached to the *conduct*, not the *actor*. The COI further explained that it is through party-specific aggravating and mitigating factors that the COI differentiates between institutions and individuals to classify the case for each party and prescribe appropriate penalties consistent with the membership's penalty guidelines. Here, like in *Oklahoma State*, the conduct at the center of the case was Level I unethical conduct. In that way, Alabama is responsible for the Level I conduct committed by its employee who was, in part, sought out due to his position at Alabama. The violation is Level I for Alabama and the associate AD. A different outcome would deconstruct the membership's infractions process.

After separating from Alabama, the associate AD failed to cooperate with the investigation when he refused to provide requested records to the enforcement staff. The associate AD failed to meet his obligations as a former institutional staff member in furthering the membership's infractions process. His conduct violated Bylaws 10 and 19.

Bylaw 10.1-(a) obligates current and former institutional staff members to furnish information relevant to an investigation of possible NCAA violations when requested to do so by the NCAA. Failure to do so may constitute unethical conduct under Bylaw 10.1. Similarly, and to further the mission of the infractions process, Bylaw 19.2.3 requires current and former staff



members to assist and cooperate with the enforcement staff, including the requirement to timely produce requested materials. *See* Bylaw 19.2.3-(c).

The associate AD failed to meet his obligation under the bylaws. After initially declining, the associate AD agreed to participate in an unrecorded interview with the enforcement staff on November 3, 2019. Following the interview, the enforcement staff requested the associate AD's bank, telephone and text messaging records. The associate AD refused and, to date, has not provided the requested records.

The cooperative principle is a core tenet on which the membership's infractions process depends. Any lack of cooperation threatens the integrity of the infractions process, and this is particularly true when the individual who fails to cooperate is the central actor in the case. *See Oklahoma State* (concluding that the associate head coach, who received bribe money to arrange meetings for financial advisors with student-athletes and their family members, failed to cooperate with the investigation and processing of the case). When the associate AD refused to provide records requested by the enforcement staff, he violated the cooperative principle and acted unethically contrary to obligations under Bylaws 10.1, 10.1-(a), 19.2.3 and 19.2.3-(c).

The COI has regularly concluded that individuals who refuse to participate in interviews and cooperate within the infractions process commit Level I violations of Bylaws 10 and 19. *See Oklahoma State* (concluding the associate head coach committed Level I violations when he refused to participate in the investigation and processing of the case) and *Louisville* (concluding the former director of basketball operations committed Level I ethical conduct and cooperation violations when he refused to participate in interviews, respond to the allegations and participate in the infractions hearing). Bylaw 19.1.1. identifies failure to cooperate and individual unethical conduct as examples of Level I violations. Thus, consistent with Bylaw 19.1.1 and past case guidance, the panel concludes that the associate AD's conduct constitutes a Level I violation.

### **Contested Penalties**

When the panel initially reviewed the SDR, Alabama had not self-imposed any penalties. In part, Alabama based its original decision that no penalties were appropriate on a mistaken belief that the same violations (i.e., conduct) could be assessed at different levels for different parties. After Alabama confirmed that it agreed the unethical conduct violation was Level I for all parties, the panel proposed two required core penalties within the ranges for Level I-Mitigated cases: (1) a three-year probation and (2) a financial penalty of \$5,000 plus one percent of the men's basketball budget.

Following the panel's proposal, Alabama notified the panel that it disagreed with the proposed penalties and had now self-imposed probation and a financial penalty at the low end of the penalty ranges associated with Level I-Mitigated cases. Among other reasons, Alabama argued that its behavior after becoming aware of potential violations served as a model for how member institutions should handle potential violations. The panel applauds Alabama's swift and decisive action once potential violations became public. Alabama undertook proactive efforts to determine whether its institution, staff members or student-athletes were among the

unnamed parties referenced in the complaint. The panel considered these actions when determining and weighing applicable mitigating factors and arriving at a Level I-Mitigated classification. However, this case involved severe conduct that seriously undermines and threatens the foundational values of the Association and the Collegiate Model. In light of the agreed-upon violations in this case, the absolute minimum penalties are not appropriate. Therefore, the panel maintains the three-year probation and financial penalty of \$5,000 plus one percent of the men's basketball budget.

### *Probation*

A three-year probationary period is appropriate for three primary reasons: (1) the penalty addresses the severe conduct in this case and provides the COI with proper oversight of Alabama's education and monitoring efforts—particularly with respect to standards of conduct; (2) the penalty falls within the membership-approved range for Level I-Mitigated cases; and (3) the penalty is supported by past cases. Alabama contested the proposed three-year probation asserting that the purpose of probation does not fit the unique facts of the case. Alabama also argued that based on the strength of its current compliance program, it would not need three years to implement areas of improvement. Finally, Alabama claimed that prescribing the minimum penalty would send a clear message to member institutions on how to respond to potential violations. The panel is not indifferent to Alabama's positions; however, the panel maintains the three-year probationary period is appropriate.

The conduct at issue in this case was severe. Alabama agreed that its employee engaged in Level I unethical conduct. The nature of that conduct—selling access to student-athletes and their families—completely undermines the Association's foundational values. The record is clear that Alabama neither knew about nor condoned the associate AD's conduct. In fact, to the contrary, Alabama took proactive measures once information became public. Nonetheless, the conduct still occurred. Alabama's employee, who had a significant compliance background, did not feel compelled to end his relationship with the financial advisor or the advisor's representative. Rather, he received money full well knowing their intent to use him to establish credibility in the eyes of potential future clients. Additionally, he personally furthered their business plan by arranging a dinner with the father of a prominent student-athlete and did not stop the financial advisor from attending or from paying the bill.

Although based on different facts and circumstances, the associate AD's conduct comes on the heels of Alabama's 2017 case, where an assistant football coach felt comfortable lying about his involvement and knowledge of recruiting violations. Thus, in only a three-year period, two Alabama employees have failed to meet core standards of conduct required of individuals employed at member institutions.<sup>10</sup> Given the fact that Alabama has had two cases involving unethical conduct in a three-year period, more than the minimum probationary period is necessary—particularly where the panel prescribes the minimum penalty (i.e., zero) for other core penalties.

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<sup>10</sup> Alabama's 2017 case did not include probation.

The three-year probationary period provides proper oversight of Alabama's athletics and compliance operations. Although Alabama may not have significant compliance gaps to enhance, the three-year period provides adequate opportunity to ensure that Alabama continues to educate and emphasize required ethical conduct standards and expectations. Among these expectations would be that staff members report potential violations and misconduct, which did not occur in this case.

Further, the three-year probationary period falls within the membership-approved ranges for Level I-Mitigated cases. When the NCAA membership adopted the penalty guidelines, it approved ranges for required core penalties to be prescribed after the COI classifies a case based on fact-specific aggravating and mitigating factors. The COI is not required to prescribe the minimum penalty available every time an institution has an infractions case. Rather, the COI has the flexibility to prescribe any penalty within the membership's approved penalty ranges. For Level I-Mitigated cases, the membership identified probationary ranges of two to four years as appropriate lengths of probation. Thus, a probationary period of two, three or four years would align with the membership's expectations for a Level I-Mitigated case. Here, because of the severe nature of the violations and the fact that this is the institution's second case involving unethical conduct in a short period of time, more than the minimum probationary period is appropriate.

Finally, the three-year probationary period aligns with recent COI decisions. Notably, the three-year probationary period is less than probationary periods in recent Level I-Standard cases. See *Georgia Institute of Technology* (2019) (prescribing a four-year probationary period associated with a Level I-Standard classification when the case was the institution's third case in the past eight years); *Alabama A&M University* (2018) (prescribing through the SDR process a five-year probationary period in a Level I-Standard case); and *Morgan State University* (2017) (prescribing, in an SDR, a four-year probationary period after the COI classified the case as Level I-Standard).<sup>11</sup> Penalties associated with more severe classifications can provide helpful context when prescribing appropriate penalties.

The panel acknowledges that the penalty guideline ranges for Level I-Standard and Level I-Mitigated probation overlap resulting in some Level I-Standard cases involving three-year probationary terms and some Level I-Mitigated cases involving less than three-year probationary terms. Neither the overlap nor these cases, however, make Alabama's three-year probationary term any less appropriate.

#### *Financial Penalty*

A financial penalty of \$5,000 plus one percent of the men's basketball budget is also appropriate for three reasons: (1) the associate AD held a significant leadership position with oversight of the men's basketball program; (2) the penalty falls within the membership-approved range for Level I-Mitigated cases; and (3) past cases support the additional

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<sup>11</sup> The *Georgia Tech* decision is currently under appeal by the institution; however, Georgia Tech has not challenged the four-year probationary period.

percentage. Alabama argued that circumstances related to the COVID-19 pandemic would cause the financial penalty to be more severe. The panel is not indifferent to the challenges facing all member institutions during the pandemic. However, penalties remain appropriate to hold institutions and involved individuals accountable for violations consistent with the membership's mission of its infractions program. *See* Bylaw 19.01.1. To balance these considerations, the COI developed a penalty methodology that, with limited exception, requires institutions to serve penalties as prescribed or, if impossible, at the next available opportunity. The methodology applies to the financial penalty in this case.

Alabama's associate AD was in a leadership role over the men's basketball program. He was the senior administrative staff member responsible for the oversight of the program. In this role, it was particularly important to further that institution's and athletics department's institutional control and culture of compliance. Rather than further those initiatives, he did the opposite. He failed to demonstrate the honesty and integrity of institutional employees. Given his leadership role, an increased fine on the university's athletics budget for basketball is appropriate.

Further, the \$5,000 plus one percent of the men's basketball budget falls within the membership-approved ranges for Level I-Mitigated cases. As previously mentioned, the membership's penalty guidelines do not distinguish penalties within a particular range. For Level I-Mitigated cases, the membership has identified appropriate financial penalties of \$5,000 to \$5,000 plus one percent of the sport budget. Thus, the membership has entrusted the COI to determine what penalty is appropriate within that range based on the facts and circumstances of an individual case. Here, because of the severe nature of the violations and the role of the associate AD within the senior leadership of the Alabama athletics staff, the additional one percent of the men's basketball budget is appropriate.

Finally, the additional percentage aligns with past COI decisions. Recently, the COI prescribed a fine of \$10,000 plus one percent of the men's basketball budget in *Oklahoma State* after classifying the case as Level I-Standard.<sup>12</sup> Although each case is based on its own unique facts and circumstances, the underlying conduct is similar (i.e., unethical conduct by institutional staff members who received money in exchange for access to student-athletes and families) and further supports the additional percentage component. Here, the panel classifies the case as Level I-Mitigated and prescribes a lesser fine of \$5,000 plus one percent of the men's basketball budget. Based on the facts and circumstances of this case, \$5,000 plus one percent of the men's basketball budget is appropriate.

Simply stated, this case requires more than the minimum penalties. The panel carefully considered the facts of the case when reviewing the ranges of appropriate penalties and determined that more than the minimum was appropriate for both probation and the financial penalty. The panel prescribed minimum penalties—in this case zero—for all other core

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<sup>12</sup> The *Oklahoma State* decision is currently under appeal by the institution; however, Oklahoma State has not challenged the financial penalty. The COI also prescribed the penalties in Oklahoma State during the COVID-19 pandemic and utilizing the penalty methodology.

penalties. The panel recognizes that the violations in this case were unique in that they resulted from an administrator's conduct rather than an individual within the sport program. Individuals employed within the sport program (e.g., coaches, operations directors, etc.) have daily interaction and influence over student-athletes in their program. Administrators, on the other hand, are a step removed. Although that relationship is different, it does not absolve Alabama from responsibility, nor does it suggest that only minimum penalties are appropriate. Given the associate ADs leadership role within the athletics administration and oversight over the basketball program, the three-year probationary period and increased financial penalty are most appropriate when reviewing all available core and additional penalties. Thus, the panel maintains the three-year probation and fine of \$5,000 plus one percent of the men's basketball budget is appropriate.

## V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the panel accepts the parties' agreed-upon factual basis and violations and concludes this case involved Level I violations for Alabama and the associate AD. Level I violations are severe breaches of conduct that undermine or threaten the integrity of the Collegiate Model and provide or are intended to provide substantial or extensive advantages or benefits. Undoubtedly, the violations at the center of this case undermine and threaten the foundation of the Collegiate Model.

In considering penalties, the panel first reviewed aggravating and mitigating factors pursuant to Bylaws 19.9.2, 19.9.3 and 19.9.4 to determine the appropriate classifications for the parties. The panel then used the current penalty guidelines (Figure 19-1) and Bylaws 19.9.5 and 19.9.7 to prescribe penalties.

Alabama and the enforcement staff agreed that one aggravating and four mitigating factors applied to the case. The enforcement staff proposed an additional aggravating factor and Alabama proposed three additional mitigating factors. The panel determines that the additional aggravating factor applies but the additional mitigating factors do not. Thus, this case involves two aggravating and four mitigating factors.

With respect to aggravating factors, the panel accepts Bylaw 19.9.3-(b), *A history of Level I, Level II or major violations*, and determines that Bylaw 19.9.3-(h), *Persons of authority condoned, participated in or negligently disregarded the violation or wrongful conduct*, also applies. In the SDR, Alabama asserted that Bylaw 19.9.3-(h) should not apply because the conduct involved a lone actor. That position, however, is not supported by the plain language of the aggravating factor, the agreed-upon facts of this case or the COI's longtime historic application of the factor. In its most basic form, the factor applies when a person of authority participates in the violation. Here, the associate AD was an authoritative figure within the athletics administration and the men's basketball program. This authority was a key consideration for the financial advisor's and his representative's plan to meet and recruit future clients. The COI historically applies this factor when individuals in authoritative roles (e.g., coaches, directors of operations, etc.) commit NCAA violations. *See Siena College (2020) and University of Connecticut (2019)*. The panel determines that the factor applies.

Regarding mitigating factors, the panel accepts the four agreed-upon factors—limiting the weight of one—and determines that the three additional mitigating factors do not apply. The panel does not apply full weight to Bylaw 19.9.4-(b), *Prompt acknowledgement of the violation(s), acceptance of responsibility and imposition of meaningful corrective measures and/or penalties*, because Alabama originally took the position that no penalties—even those required under the membership’s penalty guidelines—were appropriate. The panel notes and appreciates the fact that after the panel explained its rationale on aggravating and mitigating factors and penalties, Alabama self-imposed minimum penalties. However, Alabama’s self-imposition of penalties occurred too late in the process to receive full weight as a mitigating factor. Recently, the COI applied full weight to this factor when an institution acknowledged violations, accepted responsibility for them and self-imposed penalties consistent with the membership’s penalty guidelines prior to the COI’s consideration. *See Connecticut* (accepting the institution’s self-imposed core penalties, which included a financial penalty, scholarship reductions and recruiting restrictions). The panel determines that the factor applies, but the panel does not afford it full weight.

Alabama also proposed Bylaws 19.9.4-(a), *Prompt self-detection and self-disclosure*; Bylaw 19.9.4-(f), *Exemplary cooperation*; and Bylaw 19.9.4-(i), *Other facts warranting a lower penalty range*. The panel determines these factors do not apply.

With respect to Bylaw 19.9.4-(a), the COI has regularly stated that an institution must self-detect and self-disclose the conduct. Here, Alabama’s investigative efforts were admirable both in effort and timing. Those efforts developed the details around the violation and prevented an ineligible student-athlete from competing. But Alabama did not self-detect the underlying conduct. Recently, the COI declined to apply this mitigator when another entity discovered the violations. *See Oklahoma State* (declining to apply the factor when the conduct came to light as part of the federal government’s investigation) and *University of California, Santa Barbara* (2019) (determining that the institution did not promptly self-detect CARA violations that had been ongoing for approximately two years and came to light through student-athlete reports rather than compliance systems). Although the federal government’s complaint did not identify Alabama or the associate AD, the federal government did uncover and disclose the conduct. Thus, the factor does not apply.

The panel also determines that Bylaw 19.9.4-(f) does not apply. The panel recognizes Alabama’s immediate efforts following the public September 26, 2017, unsealed complaint. Those factors met, but did not exceed, the cooperative principle upon which the membership’s infractions process is built. The COI has regularly stated that exemplary cooperation is a high bar and has detailed the lengths institutions must demonstrate in order for this factor to apply. *See University of Northern Colorado* (2017) (determining the factor would apply where Northern Colorado searched coaches’ offices, inventoried the items found, imaged computer drives and email accounts, and obtained student-athletes’ coursework submitted to other institutions for review) and *Oklahoma State University* (2015) (applying the factor when, over 11 months, the institution assisted the enforcement staff in reviewing over 50,000 emails and other records and conducting over 90 interviews). The panel appreciates Alabama’s efforts, but believes those efforts better align with mitigating factor Bylaw 19.9.4-(c), *Affirmative steps to*

*expedite final resolution of the matter*, rather than exemplary cooperation. The application and weight of Bylaw 19.9.4-(c) contributed to the panel's overall classification of this case as Level I-Mitigated.

Alabama also asserted that it should receive credit for investigating and submitting reports related to five other unrelated allegations involving other Alabama programs. Those investigations are demonstrative of a well-functioning compliance program. The panel expects institutions to investigate potential violations. These are core requirements outlined in the NCAA Constitution and failing to do so could demonstrate monitoring or institutional control violations. Here, Alabama's other investigations did not substantiate other NCAA violations and therefore those investigations are not relevant to the facts of this case or the application of Bylaw 19.9.4-(f). Alabama's efforts do not establish exemplary cooperation.

Finally, the panel declines to apply Bylaw 19.9.4-(i). Alabama asserted that it could not have foreseen the violation, prevented or detected it, or responded with appropriate penalties any earlier. Alabama again pointed to its proactive investigatory efforts. The panel disagrees with Alabama's position. Alabama could have responded with more timely self-imposed penalties. Further, Alabama's investigative efforts have already been accounted for through the application of other mitigating factors. The COI has previously declined to apply this factor when institutional actions have already been accounted for through other mitigation. *See Siena* (declining to apply Bylaw 19.9.4-(i) when Siena's proactive investigation had already been considered in applying Bylaws 19.9.4-(b) and (c)). The mitigating factor does not apply.

The associate AD did not participate in this process. The enforcement staff identified six potential aggravating factors and one mitigating factor associated with the associate AD's conduct. The panel determines that all apply.

After considering the weight and number of applicable factors, the panel classifies Alabama's case as Level I-Mitigated. The panel also classifies the associate AD's violations as Level I-Aggravated.

Alabama agreed to the facts and violations, therefore Alabama may not appeal the violations. Alabama contested the panel's proposed three-year probationary period and financial penalty on the written record. Alabama may appeal those penalties on the written record. The associate AD did not participate in the process and therefore does not have the opportunity to appeal.

All penalties prescribed in this case are independent and supplemental to any action that has been or may be taken by the NCAA Division I Committee on Academics through its assessment of postseason ineligibility, historical penalties or other penalties. In prescribing penalties, the panel considered Alabama's cooperation in all parts of this case and determines it was consistent with Alabama's obligation under Bylaw 19.2.3. The panel also considered Alabama's corrective actions, which are contained in Appendix one. The panel prescribes the following penalties:

**Core Penalties for Level I-Mitigated Violations (Bylaw 19.9.5)<sup>13</sup>**

1. Probation: three years of probation from November 20, 2020 through November 19, 2023.<sup>14</sup>
2. Financial penalty: Alabama shall pay a fine of \$5,000 plus one percent of the men's basketball budget.<sup>15</sup>

**Core Penalties for Level I-Aggravated Violations (Bylaw 19.9.5)**

3. Show-cause order: The associate AD engaged in unethical conduct when he accepted cash benefits to facilitate or arrange a meeting between the father of a prominent student-athlete, a financial advisor and the advisor's representative. At the meeting, the father of the student-athlete received a free meal, paid for by the financial advisor. After separating from Alabama, the associate AD engaged in additional unethical conduct and failed to meet fundamental cooperation requirements outlined in Bylaw 19 when he refused to provide records requested by the enforcement staff. Therefore, the associate AD shall be subject to a 10-year show-cause order from November 20, 2020 through November 19, 2030.

In accordance with Bylaw 19.9.5.4 and COI IOP 5-15-3, any employing member institution shall restrict the associate director of athletics from all athletically related activity during the show-cause period. If the associate AD becomes employed by a member institution in an athletically related position during the 10-year 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.

Although each case is unique, the show-cause order is consistent with those prescribed in previous cases for Level I-Aggravated violations. *See Oklahoma State University (2020)* (prescribing a 10-year show-cause order for Level I-Aggravated violations committed by an associate head coach who, among other things, accepted bribes in exchange for arranging meetings between student-athletes and financial advisors and failed to cooperate with the enforcement staff's investigation); *University of Missouri, Columbia (2019)* (prescribing a 10-year show-cause order for the Level I-Aggravated violations of a tutor who engaged in

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<sup>13</sup> If an opportunity to serve a penalty will not be available due to circumstances related to COVID-19, the penalty must be served at the next available opportunity. With the exception of postseason bans, probation and general show-cause orders, this methodology applies to all penalties, including institutional penalties, specific restrictions within show-cause orders and head coach restrictions, unless otherwise noted.

<sup>14</sup> The COI's methodology for penalties impacted by COVID-19 does not apply to probation. As part of its challenge to the panel's proposed three-year probationary period, Alabama proposed a two-year probationary period during the expedited hearing process.

<sup>15</sup> The fine shall be paid consistent with COI Internal Operating Procedures 5-15-4 and 5-15-4-1. As part of its challenge to the panel's proposed financial penalty of \$5,000 plus one percent of the men's basketball budget, Alabama self-imposed a \$5,000 fine during the expedited hearing process.



academic misconduct) and *University of Southern Mississippi* (2016) (prescribing a 10-year show-cause order for the Level I-Aggravated violations of the former head men's basketball coach who planned and orchestrated an academic misconduct scheme).

**Additional Penalties for Level I-Mitigated Violations (Bylaw 19.9.7)**

4. Public reprimand and censure through the release of the infractions decision.
5. During the period of probation, Alabama 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 compliance report to the Office of the Committees on Infractions (OCOI) by January 30, 2021, setting forth a schedule for establishing the compliance and education program;
  - c. File with the OCOI an annual compliance report indicating the progress made with this program by September 30 of each year during the three-year probationary term. Particular emphasis shall be placed on education and monitoring of student-athletes' and their families' interaction with outside individuals including financial advisors, agents, boosters and representatives of those individuals;
  - d. Inform prospects in the men's basketball program in writing that Alabama is on probation for three years 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 the prospect signs an NLI; and
  - 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 athletic department's main webpage "landing page" and in the media guides for the affected sports programs. 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.

6. Following the receipt of the final compliance report and prior to the conclusion of probation, Alabama's president shall provide a letter to the COI affirming that Alabama's current athletics policies and practices conform to all requirements of NCAA regulations.
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The COI advises Alabama and the associate AD that they should take every precaution to ensure that they observe the terms of the penalties. The COI will monitor Alabama 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 Alabama does not comply or commits additional violations. Likewise, any action by Alabama or the associate AD 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

Jody Conradt  
Alberto Gonzales, chief hearing officer  
Thomas Hill  
Jason Leonard  
Joel Maturi  
Kay Norton  
Sarah Wake

**APPENDIX ONE**

**ALABAMA’S CORRECTIVE ACTIONS AS IDENTIFIED IN THE JULY 21, 2020,  
SUMMARY DISPOSITION REPORT**

1. The institution threatened to commence the termination process when the associate AD refused to participate in Alabama’s investigation. Rather than face the termination process, the associate AD submitted his letter of resignation on September 27, 2017.
2. The student-athlete [whose father attended the August 31, 2017, dinner] was withheld from competing in 2 games and required to pay the value of the benefit his father received to [a] charity before competing.

**APPENDIX TWO**  
**Constitution and Bylaw Citations**

**Division I 2016-17 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: [subparts omitted].

**Division I 2017-18 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: [subparts omitted].

**12.3.1.3 Benefits from Prospective Agents.** An individual shall be ineligible per Bylaw 12.3.1 if he or she (or his or her relatives or friends) accepts transportation or other benefits from:

- (a) Any person who represents any individual in the marketing of his or her athletics ability. The receipt of such expenses constitutes compensation based on athletics skill and is an extra benefit not available to the student body in general; or
- (b) An agent, even if the agent has indicated that he or she has no interest in representing the student-athlete in the marketing of his or her athletics ability or reputation and does not represent individuals in the student-athlete's sport.

**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 family members or friends with a benefit not expressly authorized by NCAA legislation.

### **Division I 2019-20 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:

(a) Refusal to furnish information relevant to an investigation of a possible violation of an NCAA regulation when requested to do so by the NCAA or the individual's institution;

**19.2.3 Responsibility to Cooperate.** Institutions, current and former institutional staff members, and prospective and enrolled student-athletes of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Complex Case Unit, the Committee on Infractions, the Independent Resolution Panel and the Infractions Appeals Committee to further the objectives of the Association and its infractions program, including the independent accountability resolution process. Full cooperation includes, but is not limited to:

(c) Making a full and complete disclosure of relevant information, including timely production of materials or information requested, and in the format requested;