UNIVERSITY OF WASHINGTON
PUBLIC INFRACTIONS DECISION
October 9, 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 decides infractions cases involving member institutions and their staffs.[1] Although limited in scope, this case is significant because it involved recruiting violations in the University of Washington's baseball program and an associated failure to monitor.[2] The underlying facts in this case are undisputed. The only areas of disagreement were the application of a bylaw to the core recruiting violation and whether the institution failed to monitor. There were no involved individuals in this case.

This case centers on Washington's admitted violations that it impermissibly paid for parents' travel in conjunction with prospects' official visits. For over two years, the baseball staff misunderstood recruiting legislation relating to parental travel. Consequently, the baseball coaches arranged for and provided impermissible recruiting benefits in the form of airfare for the parents of 14 prospects in conjunction with the prospects' official paid visits. The payment of airfare for individuals other than prospects is permissible *only* in the sports of basketball and Football Bowl Subdivision (FBS) football. These benefits resulted in three student-athletes competing and receiving expenses while ineligible in a total of 61 contests.

The provision of impermissible payment of parents' airfare over two years demonstrated that the institution failed to monitor recruiting travel over the period of the violations. The failure to monitor occurred because Washington: (1) failed to establish an effective system for ensuring compliance with NCAA official visit transportation legislation and (2) did not provide pertinent rules education to applicable staff members. All violations are Level II.

The panel classifies this case as Level II-Mitigated. Utilizing the current penalty guidelines and bylaws authorizing additional penalties, the panel adopts and prescribes the following principal penalties: one year of probation, a $5,000 fine, recruiting restrictions and a vacation of records.

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[1] Infractions cases are decided by hearing panels comprised of COI members. Decisions issued by hearing panels are made on behalf of the COI.

[2] A member of the Pac-12 Conference, Washington has a total enrollment of approximately 46,000 students. It sponsors 10 men's and 12 women's sports. This is the institution's sixth Level I, Level II or major infractions case. Washington had previous cases in 2004 (football), 2003 (men's basketball), 1994 (football), 1983 (men's basketball) and 1957 (football).

II. CASE HISTORY

The genesis of this case was in October 2018 when the head baseball coach attended an on-campus rules education session presented by staff from the Pac-12 Conference Office. This session included discussion of legislative proposals, one of which was a proposal to permit an institution to pay the round-trip costs for two family members to accompany prospects on official visits for sports other than basketball and football.[3] After confirming that payment for baseball prospects' parents travel was not currently permissible, the head coach reported to the compliance office and his sport supervisor that the baseball program had potentially provided impermissible transportation expenses to prospects' parents. This triggered an internal inquiry. From October 2018 through early January 2019, the institution reviewed official visit, travel and business office records, and interviewed current baseball coaching staff members. This review culminated in a January 18, 2019, report to the NCAA enforcement staff detailing potential violations of recruiting transportation legislation during the fall of 2016 and 2017. In February 2019, the institution alerted the enforcement staff that it was amending its original report to include prospects from the fall of 2018. The information submitted by Washington led to a joint investigation involving the institution and the enforcement staff beginning in the spring of 2019 and concluding in the fall of that year.

On October 8, 2019, the enforcement staff issued a notice of allegations. The institution responded to the allegations on January 3, 2020. On March 3, 2020, the enforcement staff submitted its written reply and statement of the case. The institution previously requested that the infractions hearing be conducted by video, but COVID-19 disruption caused delays. The panel ultimately conducted the hearing by videoconference on August 27, 2020.

III. FINDINGS OF FACT

The events in this case were centered on the baseball program at Washington and occurred during portions of three academic years. The institution and enforcement staff agreed to the core facts.

The issues in this case relate to payment of travel for parents of prospects. Specifically, between October 2016 and September 2018, the baseball staff arranged for and paid the cost of airfare for 23 parents of 14 prospective student-athletes to accompany their sons on official paid visits to the institution. The airfare payments ranged in value from $136 to $881 and totaled $7,795. These payments began shortly after a conversation between a baseball staff member and the compliance office.

The baseball program's practice of paying parents' airfare occurred as a result of a "miscommunication" or "misunderstanding" between the compliance office and the baseball program. This "misunderstanding" originated from a conversation that occurred following an

[3] This proposal ultimately did not pass.

October 2016 compliance education session in which coaches were reminded that parental transportation costs associated with official visits can only be paid in basketball and football.

Shortly after the October 2016 compliance session, and contrary to what had been provided in that session, two former assistant baseball coaches told the head coach that the program could begin paying the cost of airfare for parents to accompany their sons on official visits to Washington. The head coach asked the assistant coaches to confirm the permissibility of this and, later, the former assistant coach told the head coach that the compliance office confirmed that payment of parental travel was allowed. In his interview with the enforcement staff and institution, the former assistant coach could not recall the identity of the compliance staff member with whom he spoke but speculated it may have been the former associate athletics director for compliance. However, in interviews with the institution and the enforcement staff, the former associate athletics director of compliance and a former director of compliance, who both worked specifically with recruiting and interpretations, did not recall providing any verbal interpretations or rules education sessions stating that it was permissible for baseball to pay airfare for parents associated with official visits. Moreover, at the hearing, the former director of compliance stated that his normal practice was to provide interpretations either in writing or documented with a follow-up email. In that light, the institution did not uncover any written documentation, including emails, showing that questions were asked by coaches relating to payment of parental travel costs, nor were any written interpretations on that issue provided by compliance staff members.

Upon receiving assurances from the former assistant coach that paying for parental travel was permissible, the head coach approved paying the transportation costs. As the head coach explained in his interview with the enforcement staff, his approval was based on his view that, if Washington did not pay these costs, his program would be "disadvantaged in terms of what other people are able to offer kids." Consequently, the baseball coaches began the process for arranging official visits that included payment of visiting parents' airline travel in the fall of 2016.

The process for official visits included pre-approval, booking and post-visit reconciliation. It involved four different offices—compliance, travel, business and the sport administrator. To initiate the official visit process, a coach completed an Official Visit Pre-Approval Form for each prospect. No preapproval was necessary for a coach to book travel for official visits. Although the form requested information pertaining to lodging for individuals accompanying the prospects, it did not request information relating to the means by which those individuals traveled for the visit. Furthermore, while a coach could include a general itinerary or potential flight information on the form, compliance did not require the information prior to its review of the form. The forms also did not include any information related to the payment of travel information. Compliance checked the preapproval form for arrival and departure times to ensure against violations of dead periods and the 48-hour rule, but there was no review of how parents traveled to campus.

Coaches booked travel for official visits through either the athletics department travel manager or individually through a travel portal. Neither the compliance staff nor the coaches ever copied the athletics department travel manager on the preapproval form. Further, in her interview conducted

by the enforcement staff and the institution, the travel manager stated that compliance did not receive a copy of any flight itinerary when the flight was purchased.

Once the visit was completed, the baseball program submitted a post-visit reimbursement packet to the compliance office. The reimbursement packet did not include any expenses for flights or hotels, as those purchases were direct billed to the program. The flight itineraries that were included in the packet did not indicate any expenses paid for the flights and only occasionally included the parents' names. For example, in at least four separate instances in 2016, 2017 and 2018, documentation of parents' flights was included in the post-visit review package. However, the compliance office never questioned these flights in the post-review process. In an interview conducted by the institution and the enforcement staff, a compliance staff member noted that he received flight itineraries sporadically in the reimbursement packets and that he checked the packets for permissible people at meals and no excessive entertainment, but not for any parental transportation.

In addition to the multiple layers of review, recruiting travel was included as a topic in some of the monthly compliance sessions conducted by the institution's compliance office. For example, and among other topics, recruiting travel was addressed during the August 2016 compliance meeting. A little more than two years later, Pac 12 Conference staff members came to Washington's campus and conducted a compliance training session that included information on recruiting travel. During that session, the conference office discussed a legislative proposal to expand paying for parents' travel to sports beyond football and basketball, the only two sports in which such payments are permitted. Following that session, the head coach contacted the baseball program supervisor and the compliance office to report that his program had paid for parental travel, triggering this case.

Although recruiting travel legislation was a subject presented during some compliance sessions, not all staff members received training in this area. One staff member who was not educated on recruiting travel legislation was the travel manager. During her interview with the enforcement staff and institution, the athletics department travel manager stated that she did not recall receiving any rules education relating to recruiting official visits. Furthermore, prior to the fall of 2018, when the institution became aware of the baseball program paying for parents' flights, the travel manager did not know that there was a difference in the rules with regard to paying for parental travel in two sports—football and basketball, as compared with all other sports.

There is no dispute that over a two-year period, from September 2016 to October 2018, the institution paid the airfare for parents of prospects associated with their official visits. The sport administrator for baseball provided insight with regard to how this occurred. During her April 15, 2019, interview, the baseball sport administrator attributed these multi-year payments to three primary occurrences: (1) miscommunication between the compliance office and the baseball program, including no documentation of the purported conversation in which compliance told the

baseball program it could pay for parental travel; (2) inconsistencies with the paperwork and processes associated with recruiting packets; and (3) a lack of "robust" training.[4]

IV. ANALYSIS

The violations in this case, both of which are Level II, occurred in the baseball program and fall into two areas: (A) the impermissible payment of airfare for the parents of 14 prospects making their official visits, which resulted in ineligible competition and expenses and (B) a failure to monitor the baseball program's official visits due to inadequate monitoring systems, education and training.

A. IMPERMISSIBLE RECRUTING TRAVEL EXPENSES AND INELIGIBLE COMPETITION [NCAA Division I Manual Bylaws 13.2.1 and 13.5.2.6 (2016-17 through 2018-19) and 12.11.1 and 16.8.1 (2017-18)]

Over portions of three academic years, the baseball staff arranged for and provided approximately $7,795 in impermissible recruiting benefits in the form of airfare for the parents of 14 prospective student-athletes to accompany the prospects on their official paid visits to the institution. As a result of the impermissible benefits, three student-athletes competed in 61 contests and received actual and necessary expenses while ineligible. The panel concludes that Level II violations occurred.

1. NCAA legislation relating to recruiting travel expenses, impermissible competition and ineligible expenses.

The applicable portions of the bylaws may be found at Appendix Two.

2. The baseball program provided impermissible recruiting benefits to the parents of prospects in the form of airfare payment associated with official visits over portions of three academic years. The benefits caused student-athletes to compete and receive expenses while ineligible.

Between October 2016 to September 2018, the baseball program paid the cost of airfare for parents of visiting prospects. As a result of these impermissible recruiting benefits, student-athletes competed and received expenses while ineligible over three years. The recruiting benefits and resulting competition and expenses violated Bylaws 13, 16 and 12. The institution agreed that violations of Bylaws 13 and 16 occurred but contested Bylaw 12.

[4] With regard to the paperwork, some paperwork included parent travel information, and some did not. For the paperwork that did contain information documenting parental travel cost, it was not flagged by compliance.

Bylaw 13 governs recruiting, with Bylaw 13.2 outlining offers and inducements and Bylaw 13.5 detailing restrictions around official paid visits. Among other restrictions, coaches are prohibited from paying airline transportation costs for relatives of prospects around prospects' official visits.[5] Pursuant to Bylaw 16.8.1, an institution may provide actual and necessary expenses only to eligible student-athletes to represent the institution in practice and competition. Finally, institutions must withhold ineligible student-athletes from competition pursuant to Bylaw 12.11.1.

From October 2016 to September 2018, the baseball program admittedly violated recruiting travel legislation by paying the cost of airfare for 23 parents of 14 prospective student-athletes in conjunction with the prospects' official paid visits to Washington's campus. These airfare payments ranged from $136 to $881 and totaled $7,795. These payments violated Bylaws 13.2.1 which prohibits staff members from giving or offering to give any benefits to a prospective student-athlete or his or her relatives. The payments also violated Bylaw 13.5.2.6, which prohibits athletics department staff members from paying, providing or arranging for the payment of transportation costs incurred by relatives of a prospective student-athlete to visit the campus or elsewhere, except for automobile mileage reimbursement and limited ground transportation in the institution's locale. These payments rendered three of the prospects, who later became student-athletes, ineligible. As a result, the three student-athletes competed and impermissibly received actual and necessary expenses while ineligible in 61 contests over three academic years. The competition-related expenses violated Bylaw 16.8.1.

Because it is such a well-founded and understood rule, impermissible payment of recruiting-related travel, particularly air travel costs, for individuals associated with prospects in violation of Bylaw 13 is rare. The COI, however, has previously encountered such violations under the previous violation structure. *See Howard University* (2001) (concluding that the institution committed a major violation of Bylaw 13 recruiting travel legislation when it paid the cost of airfare for the junior college coach of a men's basketball prospect in conjunction with the prospect's visit to the institution's campus); *Middle Tennessee State University* (1993) (concluding that, following the official visit of a prospect, the institution committed a major violation of Bylaw 13 recruiting travel legislation when the head men's basketball coach provided a total of $356 to the prospect's parents, $184 in excess of the amount the parents should have received for driving between the institution's campus and the home of the prospect); and *University of Florida* (1990) (concluding that the institution committed a major violation of Bylaw 13 recruiting travel legislation when the men's basketball coaching staff allowed the mother of a prospect, who accompanied the prospect on his official paid visit to the university's campus, to use the return portion of her son's airline ticket after he stayed at the university to enroll in summer school). The prohibition against paying the travel costs for relatives or other individuals associated with prospects has remained constant. Thus, violations of Bylaw 13 occurred.

The impermissible competition also violated Bylaw 12.11.1. The institution disagreed that it violated this bylaw. While Washington acknowledged that the violations occurred, and

[5]Paying roundtrip airfare for visiting parents is allowed in the sports of basketball and Football Bowl Subdivision (FBS) football only.

acknowledged that three student-athletes competed in 61 contests while ineligible, the institution argued that Bylaw 12.11.1 required institutional knowledge of the ineligibility. And because a baseball staff member claimed to have been told by the compliance staff that it was permissible to pay for visiting parents' airfare, the program purportedly did not realize it was violating recruiting legislation by paying for parents' travel. Thus, it did not know that the affected student-athletes later competed while ineligible.

Bylaw 12.11.1 contains no knowledge requirement. The plain language of Bylaw 12.11.1 specifies that, 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. In fact, outside certain provisions of Bylaw 14, Bylaw 12.11.1 is the single piece of legislation that holds institutions responsible for ensuring that ineligible student-athletes do not compete. Further, it holds institutions accountable for the unfair advantage gained when ineligible student-athletes are permitted to compete, regardless of institutional knowledge.

The COI has regularly applied Bylaw 12.11.1, regardless of whether there was knowledge of ineligibility. Recently, the COI expressly concluded that knowledge is *not necessary* for Bylaw 12.11.1 to apply. *See Texas Christian University (TCU)* (2019), (concluding that Bylaw 12.11.1 does not expressly differentiate between circumstances under which an institution knew [or should have known] of the ineligibility from those where there is no knowledge).[6] Here, the institution conceded that three student-athletes competed while ineligible in a total of 61 contests. While the COI recognized in *TCU* that allowing an ineligible student-athlete to compete when the institution knows of ineligibility is "particularly troublesome," knowledge of ineligibility is not a prerequisite for Bylaw 12.11.1 to apply. *See also California Polytechnic State University (Cal Poly)* (2019) (concluding that Bylaw 12.11.1 applied when the institution did not realize that it had been violating financial aid legislation for numerous years and, as a result, student-athletes competed while ineligible). Moreover, the COI and the Infractions Appeals Committee (IAC) have established in previous decisions that ignorance of rules is not a valid defense for violating legislation. *See University of Central Florida* (2012) (concluding that pleading ignorance of the rules does not excuse or even mitigate (a) violation) and *Head Men's Soccer Coach Jacksonville University,* IAC Report No. 187 (2002) (concluding that ignorance of the rules is not a defense). Washington did not provide any specific examples to support its position that actual knowledge of the ineligibility is *required* before the bylaw can be cited.

Finally, in applying Bylaw 12.11.1, the COI has also recognized the importance of adhering to this bylaw in the context of competitive equity. Specifically, institutions that violate Bylaw 12.11.1 by allowing ineligible student-athletes to compete, as in this case, receive a competitive advantage over institutions that comply with NCAA legislation. *See Savannah State University* (2019)

[6] TCU did not know that student-athletes had been paid for work not performed through their employment in an on-campus summer maintenance program. Nevertheless, TCU did not dispute that these student-athletes were rendered ineligible and competed in that status, which supported a Bylaw 12.11.1 violation.

(applying Bylaw 12.11.1 and concluding that the institution received a competitive advantage when student-athletes competed while ineligible) and *North Carolina Central University* (*NCCU*) (2018) (same).[7] Here, Washington had an unfair advantage when three student-athletes competed in 61 contests without being withheld and going through the separate student-athlete reinstatement process.

B. FAILURE TO MONITOR THE BASEBALL PROGRAM'S RECRUITING OFFICIAL VISITS. [NCAA Division I Manual Constitution 2.8.1 (2016-17 THROUGH 2018-19)]

For portions of three academic years, Washington failed to monitor recruiting travel in its baseball program by failing to comply with official visit transportation legislation and provide adequate NCAA rules education and training. The institution disputed the allegation. The panel concludes that a Level II violation occurred.

1. NCAA legislation relating to the institution's responsibility.

The applicable portions of the Constitution may be found at Appendix Two.

2. The institution failed to adequately monitor recruiting travel associated with official visits over portions of three academic years.

Between October 2016 and September 2018, Washington violated the NCAA principle of rules compliance when it failed to adequately monitor the baseball program's official visits by failing to establish an adequate system for ensuring compliance with NCAA official visit transportation legislation and not providing adequate NCAA rules education and training to certain institutional staff members. As a result, the violations detailed in Violation IV.A occurred. In failing to adequately monitor recruiting travel associated with official visits, Washington violated Constitution 2.8.1.

Article 2 of the NCAA Constitution sets forth core principles for institutions conducting intercollegiate athletics programs. Constitution 2.8.1 requires an institution to abide by all rules and regulations, monitor compliance and report instances of noncompliance.

Key Washington staff members responsible for carrying out official visits in compliance with NCAA legislation misunderstood or did not know the rules. This resulted in the baseball program violating recruiting legislation over several years. The violations reflected weaknesses in the institution's monitoring of recruiting travel administration and related education. In turn, this permitted violations to occur over three academic years.

[7] Both *Savannah State* and *NCCU* were processed through summary disposition. Pursuant to COI Internal Operating Procedure (IOP) 4-10-2-2, summary disposition decisions are less instructive than a decision reached after a contested hearing because violations established through the summary disposition process constitute the parties' agreement. Nonetheless, *Savannah State* and *NCCU* provide guidance for this case.

The administration of the recruiting travel process included a monitoring system comprised of two steps. First, a preapproval process in which coaches submitted official visit requests and corresponding paperwork to the compliance staff for review and approval, followed by a post-visit review to ensure compliance with NCAA legislation. Each of these processes had weaknesses and, as a whole, the system was inadequate.

The preapproval process was inadequate because it permitted the baseball staff to book travel without any review and preapproval from compliance. There was no exchange of information between compliance and the travel office when flights were purchased. In essence, the purchasing of flights occurred in a vacuum, with only the baseball staff being aware. Additionally, while the preapproval forms requested information regarding accompanying individuals' (i.e. parents') lodging, it did not request travel information for persons accompanying a prospect. Further, it did not require flight itineraries to be included in the corresponding request paperwork. The pre-approval paperwork only required general arrival and departure times to verify compliance with the NCAA 48-hour rule.

The post-visit reconciliation process also had critical holes. This process failed to detect official visit transportation violations on the backend. A key omission was the fact that the post-visit packet of documentation did not include all travel expenses and receipts for an official visit. Direct-billed expenses, for example, airfare and lodging, were not required to be included in the post-visit paperwork. Additionally, the post-visit reconciliation packet did not require coaches to include all flight itineraries. Some packages included parental flight itineraries while some did not. The reimbursement packets on four official visit weekends in 2016, 2017 and 2018 did include documentation of parents' flights. However, that information was not flagged nor investigated by compliance and the violations went undetected.[8]

Finally, key individuals in the reconciliation process were not educated on applicable NCAA rules. A lack of targeted education permitted the violations to go undetected over portions of three academic years. Although recruiting travel legislation was a subject presented during compliance sessions, the travel manager did not receive pertinent education. She did not recall receiving any rules education relating to recruiting official visits. And, prior to the fall of 2018, when the institution became aware of the baseball program impermissibly paying for parents' flights, the travel manager thought that the institution could pay for parental travel in baseball, like football and basketball.

[8] The official visit review practices did not conform to the National Association for Athletics Compliance (NAAC) Reasonable Standards with respect to official visit transportation. The NAAC reasonable monitoring standards for official visits includes a provision that the institution should review records related to all official visit travel including "[d]ocumentation of mode of transportation to and from campus and amount of any reimbursement provided and *to whom it was provided*." (Emphasis added). As referenced above, neither the official visit preapproval form nor the reimbursement packet consistently documented that parents received transportation.

When an institution's policies and procedures for overseeing aspects of its athletics program are somehow deficient or not being followed and/or if an institution's related compliance education was deficient, the COI has concluded that the institution failed to monitor as required by NCAA legislation. Here, the institution's sport administrator for baseball attributed these multi-year payments to several factors, including miscommunication between the compliance office and the baseball program resulting in the coaches misunderstanding the legislation, inconsistencies in the paperwork and processes associated with official visits in the baseball program and educational deficiencies. These admitted weaknesses demonstrated a failure to monitor.

Washington's failure to monitor aligns with recent COI decisions where the shortcomings in a narrow area demonstrated a failure to monitor violation. *See University of San Francisco* (2018) (accepting the parties' agreement in an SDR that the institution failed to monitor when the institution failed to monitor due in part to its misunderstanding of recruiting legislation, its failure to follow up with coaches to ensure that free rounds of golf were not provided when written itineraries for recruiting visits included references to the prospects visiting local golf courses and its failure to collect and retain complete records of prospects' visits) and *Cal Poly* (concluding that Cal Poly failed to monitor when, over a multi-year period, it misunderstood or misapplied financial aid legislation that required cash stipends for books equal the exact cost of the books and that it did not provide compliance education relating to book stipends). Notably, in this case, like *Cal Poly*, Washington became aware that they had been violating NCAA legislation through educational sessions conducted by their respective conference offices, rather than through self-detection.

The COI's failure to monitor violation does not condemn Washington's entire compliance program, rather the misunderstandings and inadequacies in one area—official visits—demonstrate a failure to monitor that critical area. The COI has previously concluded narrow failure to monitor violations occur in a specific area as a result of misunderstandings and inadequate processes. *See Campbell University* (2016) (concluding that the institution's misapplication and misunderstanding of eligibility certification legislation contributed to a failure to monitor) and *Fordham University* (2013) (concluding that the institution did not understand policies and monitor the award of athletically-related financial aid for prospects prior to full-time enrollment). These institutions, like Washington, did not understand various aspects of NCAA legislation and, in some instances, did not provide adequate compliance education, demonstrating that they failed to monitor. Consistent with Bylaw 19.1.2-(b), the panel concludes that the failure to monitor is Level II.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the panel concludes that this case involved Level II violations of NCAA legislation. Level II violations are significant breaches of conduct that provide or are intended to provide more than a minimal but less than a substantial or extensive advantage, include more than a minimal but less than a substantial or extensive impermissible benefit, or involve conduct that may compromise the integrity 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 Washington. The panel then used the current penalty guidelines (Figure 19-1) and Bylaws 19.9.5 and 19.9.7 to prescribe penalties.

The panel determined that the below-listed factors applied and assessed the factors by weight and number. Based on its assessment, the panel classifies this case as Level II-Mitigated for Washington.

Aggravating Factors for Washington

19.9.3-(b): A history of Level I, Level II or major violations; and
19.9.3-(g): Multiple Level II violations by the institution.

Washington disagreed with the two aggravating factors. Washington contended that Bylaw 19.9.3-(b) should not apply because its last major infractions case occurred over fifteen years ago and none of its previous cases involved similar violations as the current case. Washington further contended that, if the panel determines that the aggravating factor applies, it should assign no weight to it. The institution had five prior major infractions cases; in 2004, 2003, 1994, 1983 and 1957. The COI has regularly determined that this factor applies when an institution has prior infractions cases—particularly when an institution has multiple prior cases. *See TCU* (determining the factor applied where the institution had previous major infractions cases in 2008, 2005, 1986 and 1981).

The COI, however, generally limits the weight of this factor when a significant amount of time has passed between the institution's most recent case and the current matter and when those distant cases did not involve similar conduct and programs. *See DePaul University* (2019) (determining that this factor applied where the institution had prior cases in 1994 and 1974, but assigning minimal weight to the factor) and *Cal Poly* (determining that this factor applied where the institution had prior cases in 1995 and 1987, but assigning minimal weight to the factor). Here, over 15 years has passed since Washington's most recent case and that case involved different circumstances. Therefore, based on the specific facts and circumstances of this case, the panel applies the factor to Washington but assigns little weight to it.

Washington also contended that Bylaw 19.9.3-(g) should not apply because Washington argued that a failure to monitor violation did not occur and therefore this case only involved one Level II violation. However, because the panel concludes that the institution failed to monitor, multiple Level II violations occurred. The COI has previously determined that the factor applied when an institution had two Level II violations consisting of one underlying violation and an associated failure to monitor. *See Savannah State University* (determining that this factor applied when the institution had a Level II certification failure violation and a Level II failure to monitor) and *Cal Poly* (determining that this factor applied when the institution had a Level II financial aid violation and an associated Level II failure to monitor). The COI has regularly applied Bylaw 19.9.3-(g) when a case involved two or more Level II violations.

Mitigating Factors for Washington

19.9.4-(b): Prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties;
19.9.4-(c): Affirmative steps to expedite final resolution of the matter;
19.9.4-(d): An established history of self-reporting Level III or secondary violations; and
19.9.4-(g): The violations were unintentional, limited in scope and represent a deviation from otherwise compliant practices by the institution.
Washington identified one additional mitigating factors: Bylaw 19.9.4-(i), *Other facts warranting a lower penalty range*. The panel determines that this factor does not apply.

Washington argued that Bylaw 19.9.4-(i) should apply because the recruiting violations did not provide more than a minimal recruiting or competitive advantage and did not compromise the integrity of the collegiate model. Washington asked the panel to consider that the prospects who received the benefits either did not commit to or attend the institution or had already signed National Letters of Intent to attend Washington prior to receiving the benefit.

Washington's argument conflates the definition of Level with aggravating and mitigating factors. The question of whether an institution received a competitive or recruiting advantage is relevant to the *level* designation rather than mitigation. *See* Bylaws 19.1.1, 19.1.2 and 19.1.3 (defining Level I, Level II and Level III violations by, among other things, the recruiting or competitive advantaged gained and threat to the Collegiate Model).

The panel declines to apply Bylaw 19.9.4-(i) because no other facts warrant a lower penalty range. The COI does not frequently apply the factor and has only applied it when a case involved unique circumstances. *See University of Oregon* (2018) (applying the factor to the institution when its robust monitoring detected an impermissible grade change and it acted quickly to prevent ineligible competition); *San Jose State University* (2018) (applying the factor to the institution when it self-reported violations and took meaningful corrective action but the enforcement staff did not act on information for over 16 months); and *University of Hawaii at Manoa* (2015) (applying the factor to the institution on remand from the IAC when a full year elapsed from the time the institution filed its appeal to the time that the IAC issued its final directive to the panel). In these cases, the institutions took steps above and beyond what the COI expected or unique circumstances warranted the factor. Similar unique circumstances were not present in this case, therefore Bylaw 19.9.4-(i) does not apply to the institution.

All the penalties prescribed in this case are independent and supplemental to any action the NCAA Division I Committee on Academics has taken or may take through its assessment of postseason ineligibility, historical penalties or other penalties. In prescribing penalties, the panel considered Washington's cooperation in all parts of this case and determines it was consistent with institutional obligations under Bylaw 19.2.3. The panel also considered Washington's corrective actions, which are contained in Appendix One. The panel prescribes the following penalties (self-imposed penalties are so noted):

Core Penalties for Level II-Mitigated Violations (Bylaw 19.9.5)[9]

1. Probation: One year of probation from October 9, 2020, through October 8, 2021.[10]

2. Financial penalty: Washington shall pay a fine of $5,000. (Self-imposed.)

3. Recruiting restrictions: Washington shall limit official paid visits in baseball to 18 for the 2020-21 academic year.[11]

Additional Penalties for Level II-Mitigated Violations (Bylaw 19.9.7)

4. Public reprimand and censure through the release of the public infractions decision.

5. Vacation of team and individual records: Ineligible participation in the baseball program occurred over one academic year as a result of violations in this case. Therefore, pursuant to Bylaws 19.9.7-(g) and 31.2.2.3 and COI IOP 5-15-7, Washington shall vacate all regular season and conference tournament wins, records and participation in which the ineligible student-athletes competed from the time they became ineligible through the time they were reinstated as eligible for competition.[12] Further, if the ineligible student-athletes participated in NCAA postseason competition at any time they were ineligible, Washington's participation in the postseason contests in which the ineligible competition occurred shall be vacated. The individual records of the ineligible student-athletes shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes shall be retained. Further, Washington's records regarding its baseball program, as well as the records of the head coach, shall reflect the vacated records and be recorded in all publications in which such records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media plus institutional, conference and NCAA archives. Any institution

[9] 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.

[10] The COI's methodology for penalties impacted by COVID-19 does not apply to probation.

[11] The institution proposed a reduction of 10 official visits from the maximum allowed (25 annually) over a three-year period (22 in 2018-19, 19 in 2019-20 and projected 24 in 2020-21). The baseball program averaged 18.5 visits over the four-year period from 2016-17 through 2019-20.

[12] Pursuant to Bylaw 19.9.7-(g), the COI may prescribe vacation of records when a student-athlete competes while ineligible. Among other examples, vacation is particularly appropriate when a case involves the direct involvement of a coach and either a failure to monitor or a lack of institutional control. *See* COI IOP 5-15-7. None of these factors, however, is necessary for the COI to prescribe the penalty. *See North Carolina Central University*, IAC Report No. 499 (2018). The COI has consistently prescribed vacation of records in cases in which the institution provided impermissible extra benefits or recruiting inducements that resulted in ineligible competition. *See Siena College* (2020); *Cal Poly, University of Tennessee-Chattanooga* (2018); and *University of Mississippi (2017)*. Washington argued that a vacation of records is not appropriate in this case. The panel disagrees and, consistent with Bylaw 19.9.7-(g), COI IOP 5-15-7 and past cases, prescribes a vacation of records to address the competitive advantage gained from ineligible competition.

that may subsequently hire the affected head coach shall similarly reflect the vacated wins in his career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins toward specific honors or victory "milestones" such as 100th, 200th or 500th career victories. Any public reference to the vacated records shall be removed from the athletics department stationery, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in baseball shall be returned to the Association.

Finally, to aid in accurately reflecting all institutional and student-athlete vacations, statistics and records in official NCAA publications and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA Media Coordination and Statistics office and appropriate conference officials to identify the specific student-athletes and contests impacted by the penalties. In addition, the institution must provide the NCAA Media Coordination and Statistics office with a written report detailing those discussions. This written report 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 14 days following the release of this decision or, if the institution appeals the vacation penalty, at the conclusion of the appeals process. A copy of the written report shall also be delivered to the Office of the Committees on Infractions (OCOI) at the same time.

6. During the period of probation, Washington shall:

   a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for recruiting and certification legislation;

   b. Submit a preliminary report to the OCOI by November 30, 2020, setting forth a schedule for establishing this compliance and educational program;

   c. File with the OCOI annual compliance reports indicating the progress made with this program by August 15, 2021. Particular emphasis shall be placed on rules education and monitoring related to recruiting legislation, particularly in the area of official paid visits;

   d. Inform prospects in the baseball program in writing that Washington is on probation for one year and detail the violations committed. If a prospect takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospect signs a National Letter of Intent; and

   e. Publicize specific and understandable information concerning the nature of the 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

baseball. 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.

7. Following the receipt of the final compliance report and prior to the conclusion of probation, Washington's president shall provide a letter to the COI affirming that Washington's current athletics policies and practices conform to all requirements of NCAA regulations.

The COI advises Washington it should take every precaution to ensure that they observe the terms of the penalties. The COI will monitor Washington 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 Washington does not comply or commits additional violations. Likewise, any action by Washington 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

Norman Bay
Carol Cartwright, Chief Hearing Officer
Thomas Hill
Joel Maturi
Vince Nicastro
Joseph Novak

APPENDIX ONE

WASHINGTON'S CORRECTIVE ACTIONS IDENTIFIED IN ITS RESPONSE TO THE NOTICE OF ALLEGATIONS

The institution has implemented corrective measures in its official visit approval and reconciliation process. In addition to a pre-approval process, the institution has created and implemented a pre-travel authorization process. Compliance created a shared Google spreadsheet that independently tracks approvals and reconciliations for official visits. Once compliance receives paperwork for official visits from coaches, it updates the shared Google spreadsheet, including noting who is pre-approved for travel. The travel manager checks the spreadsheet prior to booking travel and then enters for whom and when flights were purchased. The travel office also provides a receipt of all flights charged to a sport program's recruiting budget to compliance as the flights are booked. Coaches and operations directors can no longer purchase recruiting flights through a commercial online travel system. All recruit travel is purchased by the travel office. The compliance office also added to its post-official visit review process by creating a checklist to be completed each time a post-visit packet is reviewed. The corrective actions in the pre- and post-visit processes were implemented because the violations that occurred exposed that the processes needed shoring up. Although each office was independently reviewing its documentation, there needed to be better communication between the offices, specifically regarding travel. These corrective actions were implemented in the summer of 2019.

The institution has enhanced education for the travel office and business office to occur quarterly. Although there were good lines of communication between compliance and each of the travel and business offices, the institution believes that more formal and frequent education sessions will ensure similar mistakes in the future are avoided. The first quarterly education session occurred in August 2019 and the remainder are ongoing.

In August 2019, the compliance office conducted one of its recruiting seminars with all sport programs that focused on processes so each system could be reviewed and discussed from start to finish.

Lastly, although not found to be an issue in this case, the institution created a form for prospects on unofficial visits who are "out of the area" geographically to complete in which the prospect certifies that Washington did not provide any expenses for any aspect of the visit, including travel. This corrective action was implemented in the summer of 2019.

APPENDIX TWO
Bylaw Citations

2016-17 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.

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 a prospective student-athlete or his or her relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her relatives or friends is not a violation of NCAA legislation if it is determined 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.

13.5.2.6 Transportation of Prospective Student-Athlete's Relatives, Friends or Legal Guardians. An institution shall not permit its athletics department staff members or representatives of its athletics interests to pay, provide or arrange for the payment of transportation costs incurred by relatives, friends or legal guardians of a prospective student-athlete to visit the campus or elsewhere; however, an institution may:

(a) Provide automobile-mileage reimbursement to a prospective student-athlete on an official visit, even if relatives or friends accompany the prospective student-athlete;
(b) Permit the parents or legal guardians of a prospective student-athlete to ride in an automobile driven by a coaching staff member for the purpose of providing ground transportation to a prospective student-athlete as part of an official visit; and
(c) Provide transportation between its campus and any bus or train station or airport for the parents, relatives or legal guardians of a prospective student-athlete making an official visit.

2017-18 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.

12.11.1 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 12.12 if it concludes that the circumstances warrant restoration.

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 a prospective student-athlete or his or her relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her relatives or friends is not a violation of NCAA legislation if it is determined 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.

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(c) Provide transportation between its campus and any bus or train station or airport for the parents, relatives or legal guardians of a prospective student-athlete making an official visit.

16.8.1 Permissible. An institution 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.

2018-19 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.

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