

NEGOTIATED RESOLUTION¹

Jacksonville State University – Case No. 01262

October 7, 2021

I. CASE SYNOPSIS

Jacksonville State University (Jacksonville State); assistant football coach (assistant coach); and the NCAA enforcement staff agree that from January 18, 2019, through November 6, 2020, the assistant coach had impermissible contacts with a football student-athlete (student-athlete 1) who was enrolled at (institution 2), a four-year NCAA Division I institution, via telephone calls and text messages without first obtaining written permission from the Division I institution or authorization through the notification of transfer process.

In December 2020, the director of athletics received information from student-athlete 1's institution alleging that the assistant coach had impermissible contacts with student-athlete 1. Jacksonville State reviewed the information and self-reported the violation to the enforcement staff February 2, 2021. Further, the institution declared student-athlete 1 ineligible and requested his reinstatement. The parties engaged in a collaborative investigation to determine the violation's scope.

The investigation revealed that Jacksonville State recruited current Jacksonville State football student-athlete (student-athlete 2) and high school friend of student-athlete 1, while student-athlete 2 was in high school. During a phone call in November 2016, student-athlete 2 introduced student-athlete 1, who was then a junior in high school, to the assistant coach based on their mutual shared beliefs and religious faith. From that point, the assistant coach and student-athlete 1 developed a mentor/mentee relationship. Regardless of the relationship, Jacksonville State did not recruit student-athlete 1. Student-athlete 1 enrolled at institution 2 in the fall of 2018.

Student-athlete 1 and the assistant coach's mentor/mentee relationship continued after student-athlete 1's enrollment at institution 2. Phone records demonstrated that the assistant coach and student-athlete 1 exchanged 450 text messages and at least 10 phone calls from January 18, 2019, through November 6, 2020, while student-athlete 1 was enrolled at institution 2. The content of the messages included religious scriptures, motivational quotes and/or general encouragement.

In August 2020, student-athlete 1's father contracted COVID-19 and was hospitalized for a month near his hometown of Daphne, Alabama.² Due to his father's illness and desire to be closer to home, student-athlete 1 entered the transfer portal November 18, 2020, and subsequently enrolled at Jacksonville State in January 2021. After the institution self-reported the violations, the

¹ In reviewing this agreement, the hearing panel made editorial revisions pursuant to NCAA Division I Committee on Infractions (COI) Internal Operating Procedure (IOP) 4-9-1-2. These modifications did not affect the substance of the agreement.

² Daphne is a 12-hour drive from student-athlete 1's original Division I institution and a 5-hour drive from Jacksonville State.

NCAA academic and membership affairs staff reinstated student-athlete 1's eligibility and granted relief from the residence requirement.

II. PARTIES' AGREEMENTS

A. Agreed-upon findings of fact, violations of NCAA legislation and violation levels.

1. [NCAA Division I Manual Bylaw 13.1.1.3 (2018-19 through 2020-21)]³ (Level II)

The institution, assistant coach and enforcement staff agree that from January 18, 2019, through November 6, 2020, assistant coach had at least 460 impermissible recruiting contacts with student-athlete 1 without first obtaining written permission from institution 2 or authorization through the notification of transfer process. Specifically, from January 18, 2019, through November 6, 2020, while student-athlete 1 was enrolled at institution 2, the assistant coach exchanged 450 text messages and at least 10 phone calls with student-athlete 1. Student-athlete 1 subsequently enrolled at Jacksonville State January 1, 2021.

B. Agreed-upon aggravating and mitigating factors.

Pursuant to NCAA Bylaw 19.5.12.1.3-(e), the parties agree that the aggravating and mitigating factors identified below are applicable. The parties assessed the factors by weight and number and agree that this case should be properly resolved as Level II – Mitigated.

Institution:

1. Aggravating factor (Bylaw 19.9.3).

Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [Bylaw 19.9.3-(h)].

2. Mitigating factors (Bylaw 19.9.4).

- a. Affirmative steps to expedite the final resolution of the matter. [Bylaw 19.9.4-(c)].
- b. An established history of self-reporting level III or secondary violations. [Bylaw 19.9.4-(d)].⁴

³ Effective October 15, 2018, NCAA Bylaw 13.1.1.3 required authorization to contact through the notification of the transfer process rather than through the written permission from the director of athletic's designee. The change did not have a substantive impact on the violation as alleged.

⁴ The institution reported 34 Level III or secondary violations from 2016 to 2021, approximately seven violations each year.

- c. The absence of prior conclusions of level I, Level II or major violations committed by the institution. [Bylaw 19.9.4-(h)]

Involved Individual (assistant coach):

1. Aggravating factor (Bylaw 19.9.3).

Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [Bylaw 19.9.3-(h)].

2. Mitigating factors (Bylaw 19.9.4).

- a. Affirmative steps to expedite final resolution of the matter. [Bylaw 19.9.4-(c)].
- b. Assistant coach has no prior conclusions of Level I, Level II or major violations during his approximately 12 years as an NCAA coach. [Bylaw 19.9.4-(h)].

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None.

IV. REVIEW OF OTHER ISSUES

None.

V. PARTIES' AGREED-UPON PENALTIES⁵

All penalties agreed upon 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.

Pursuant to Bylaw 19.5.12.1.3-(e), the parties agree to the following penalties:

Core Penalties for Level II – Mitigated Violations (Bylaw 19.9.5)

1. Probation: One year of probation from October 7, 2021, through October 6, 2022.
2. Financial Penalty: The institution shall pay a fine of \$5,000 to the NCAA.

⁵ 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.

3. Recruiting Restrictions:

- a. The institution shall prohibit the assistant coach from all recruiting communication for three weeks in the fall of 2021.
- b. The institution shall prohibit the assistant coach from off-campus recruiting for three days in the fall of 2021 and six days in the spring of 2022.

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

4. Public reprimand and censure through the release of the negotiated resolution agreement.
5. During this period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for recruiting and certification legislation.
 - b. Submit a preliminary report to the Office of the Committees on Infractions (OCOI) by November 30, 2021, 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 1 during each year of probation. Particular emphasis shall be placed on rules education and monitoring related to transfers from four-year institutions.
 - d. Inform prospects in the football program in writing that the institution is on probation for one year and detail the violations committed. If a prospect takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospect signs a National Letter of Intent.
 - e. Publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions decision located on the athletics department's main webpage "landing page" and in the media guides for the football program. The institution's statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the case; and (iii) give members of the general public a clear indication of what happened in the case

to allow the public (particularly prospects and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.

6. Following the receipt of the final compliance report and prior to the conclusion of probation, the institution's president shall provide a letter to the NCAA Division I Committee on Infractions affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

VI. OTHER AGREEMENTS

The parties agree that this case will be processed through the NCAA negotiated resolution process as outlined in Bylaw 19.5, and a hearing panel comprised of members of the Committee on Infractions will review the negotiated resolution. The parties acknowledge that the negotiated resolution contains agreed-upon findings of fact of NCAA violations and agreed-upon aggravating and mitigating factors based on information available at this time. Nothing in this resolution precludes the enforcement staff from investigating additional information about potential rules violations. The parties agree that, pursuant to Bylaw 19.1.2, the violations identified in this agreement occurred and should be classified as Level II – Mitigated.

If a hearing panel approves the negotiated resolution, the institution and assistant coach agree that they will take every precaution to ensure that the terms of the penalties are observed. The institution and Assistant coach acknowledge that they have or will impose and follow the penalties contained within the negotiated resolution, and these penalties are in accordance with those prescribed in Bylaws 19.9.5, 19.9.6, 19.9.7 and 19.9.8. The OCOI will monitor the penalties during their effective periods. Any action by the institution or Assistant coach contrary to the terms of any of the penalties or any additional violations may be considered grounds for prescribing more severe penalties or may result in additional allegations and violations.

The parties acknowledge that this negotiated resolution may be voidable by the Committee on Infractions if any of the parties were aware or become aware of information that materially alters the factual information on which this negotiated resolution is based. Additionally, the parties acknowledge that this negotiated resolution will not be binding if the case is referred to the independent accountability resolution process (Bylaw 19.11).

The parties further acknowledge that the hearing panel, subsequent to its review of the negotiated resolution, may reject the negotiated resolution. Should the hearing panel reject the negotiated resolution, the parties understand that the case may be submitted through a summary disposition report (Bylaw 19.6) or notice of allegations (Bylaw 19.7) and prior agreed-upon terms of the rejected negotiated resolution will not be binding.

Should a hearing panel approve the negotiated resolution, the parties agree that they waive NCAA hearing and appellate opportunities.

VII. DIVISION I COMMITTEE ON INFRACTIONS APPROVAL

Pursuant to Bylaw 19.5.12, the hearing panel approves the parties' negotiated resolution agreement. The hearing panel's review of this agreement is limited. Hearing panels may only reject a negotiated resolution agreement if the agreement is not in the best interests of the Association or if the agreed-upon penalties are manifestly unreasonable. *See* Bylaw 19.5.12.2. In this case, the hearing panel determines that the agreed-upon facts, violations, aggravating and mitigating factors, and classifications are appropriate for this process. Further, the parties classified this case as Level II-Mitigated for Jacksonville State and the assistant coach. The agreed-upon penalties align with the ranges identified for core penalties for Level II-Mitigated violations in Figure 19-1 and Bylaw 19.9.5 and with the additional penalties available under Bylaw 19.9.7. Pursuant to Bylaw 19.5.12.4, this negotiated resolution has no precedential value.

The COI advises Jacksonville State and the assistant coach that they should take every precaution to ensure that they observe the terms of the penalties. The COI will monitor the institution while it is on probation to ensure compliance with the penalties and terms of probation and may extend the probationary period, among other action, if the institution does not comply or commits additional violations. Likewise, any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for prescribing more severe penalties and/or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL
Tricia Brandenburg
Joseph Novak
Dave M. Roberts, Chief Hearing Officer