



**MCDANIEL COLLEGE
PUBLIC INFRACTIONS DECISION
October 7, 2021**

I. INTRODUCTION

The NCAA Division III Committee on Infractions (COI) is an independent administrative body comprised of individuals from the Division III membership and the public. The COI decides infractions cases involving member institutions and their staffs. This case centered on impermissible recruiting contacts by the head field hockey coach at McDaniel College.¹ The parties agreed that the impermissible contacts also supported a head coach responsibility violation. The COI considered this case through the cooperative summary disposition process, in which all parties agreed to the primary facts and violations as fully set forth in the summary disposition report (SDR). Because the parties agreed to the violations, and the institution did not timely object to the proposed additional penalties, there is no opportunity to appeal.

The violations in this case stemmed from the mistakes of an inexperienced, first-time head coach, who McDaniel hired and onboarded immediately before the start of the fall 2019 field hockey season. On October 3, 2019, a little over a month after the head coach assumed her role, a field hockey student-athlete from another NCAA member institution contacted her to ask about transferring to McDaniel. The head coach responded to the prospective student-athlete's inquiry and communicated with her frequently over the next month, culminating in the prospect's visit to McDaniel's campus on November 15, 2019. From October 3 through November 15, 2019, the parties agreed that the head coach had at least 69 impermissible contacts with the prospect without first obtaining written permission from the prospect's institution or authorization through the notification of transfer process. Additionally, during the prospect's visit, the head coach provided her with an impermissible recruiting inducement in the form of a free meal. The collective recruiting violations are major.

In the short time between the head coach's hire and the start of the season, McDaniel had provided her with NCAA rules education, including information regarding the notification of transfer process. The head coach agreed that her involvement in the recruiting violations, despite having access to rules education in this area, demonstrated that she did not promote an atmosphere for compliance in the field hockey program. The head coach responsibility violation is major.

¹ A member of the Centennial Conference, McDaniel's total enrollment is approximately 2,900. The institution sponsors 12 women's sports and 12 men's sports. This is McDaniel's first major infractions case.

The COI accepts the parties' factual agreements and concludes that major violations occurred. Utilizing NCAA bylaws authorizing penalties, the COI adopts and prescribes the following principal penalties: two years of probation; an outside audit of the institution's athletics policies and procedures; a one-month suspension of the head coach from all recruiting events; and required attendance by the head coach at an NCAA Regional Rules Seminar.

II. CASE HISTORY

The violations in this case were self-reported by the head field hockey coach (head coach) on November 15, 2019, during the prospect's visit to McDaniel's campus. While the prospect was at lunch, the head coach mentioned to another McDaniel coach that she had a potential transfer student-athlete on campus for a visit. During the course of this conversation, the head coach realized that she may have committed an NCAA violation by having contact with a prospect from another institution without first obtaining the institution's written permission or obtaining authorization through the notification of transfer process. The head coach immediately notified the assistant director of athletics (assistant AD), who directed the head coach to terminate the visit and have no further contact with the prospect until she obtained the required permission. McDaniel immediately began an investigation and self-reported potential violations to the NCAA on January 7, 2020. The enforcement staff issued a written notice of inquiry to McDaniel on November 3, 2020.

Following a collaborative investigation, McDaniel, the head coach and the enforcement staff submitted an SDR to the COI on May 13, 2021.² The COI reviewed the SDR on July 12, 2021, and accepted the agreed-upon facts, violations and type of violations. The COI adopted McDaniel's self-imposed penalties and, on July 22, 2021, proposed additional penalties for the institution—specifically, an external audit of the institution's athletics policies and procedures and the standard conditions of probation. The COI also requested clarifying information regarding one of the institution's self-imposed penalties. The COI established a deadline of July 30, 2021, for McDaniel to provide the requested clarification and inform the COI whether it would accept the proposed additional penalties.

The institution did not respond by that date. On August 18, 2021, the COI notified McDaniel that it would consider the institution's non-response as acceptance of the proposed penalties. The COI's letter also reminded the institution of the outstanding clarification request. The following day, McDaniel sent a letter providing the requested clarification and objecting to the COI's proposed additional penalties. On August 30, 2021, the COI responded, accepting the clarifying information but informing McDaniel that it would not consider the institution's untimely objections. On September 22, 2021, McDaniel submitted correspondence requesting

² Pursuant to Division III COI Internal Operating Procedure (IOP) 4-8-2-1, the COI in future cases may view this decision as less instructive than a decision reached after a contested hearing because violations established through the summary disposition process constitute the parties' agreement.

that the COI reconsider its decision not to consider the institution's untimely objections to the proposed penalties. The COI denied the request on October 4, 2021.

III. PARTIES' AGREEMENTS

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

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

1. [NCAA Division III Manual Bylaws 13.1.1.2, 13.2.1 and 13.6.1.2.1. (2019-2020)] (Major)

McDaniel, the head coach and the enforcement staff agree that from October 3 through November 15, 2019, the head coach had at least 69 impermissible recruiting contacts with a field hockey student-athlete from an NCAA Division II member institution without first obtaining written permission from the other institution or without first obtaining authorization through the notification of transfer process. Further, the head coach provided the student-athlete an impermissible recruiting inducement.

2. [NCAA Division III Manual Bylaw 11.1.2.1 (2019-2020)] (Major)

McDaniel, the head coach and the enforcement staff agree that from October 3 through November 15, 2019, the head coach is presumed responsible for the violations detailed in Violation No. 1 and did not rebut the presumption of responsibility. Specifically, the head coach did not demonstrate that she promoted an atmosphere for compliance due to her personal involvement in the violations.

IV. REVIEW OF CASE

The SDR fully detailed the parties' positions and included the agreed-upon primary facts, violations and type of violations. After reviewing the parties' principal factual agreements and respective explanations surrounding those agreements, the COI accepts the SDR and concludes that major violations occurred. Specifically, the parties agreed that violations of NCAA recruiting legislation occurred when the head coach had at least 69 impermissible contacts with a

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

prospective student-athlete from another institution without first obtaining permission from that institution or authorization through the notification of transfer process. An additional recruiting violation occurred when the head coach provided the student-athlete with a free meal during the student-athlete's visit to McDaniel's campus. Finally, the head coach agreed that her personal involvement in the violations demonstrated that she did not promote an atmosphere for compliance in the field hockey program. The conduct at issue in this case violated Bylaws 13 and 11.

Bylaw 13 governs recruiting. Under Bylaw 13.1.1.2, an athletics staff member shall not make contact in any manner with the student-athlete of another NCAA four-year collegiate institution without first obtaining written permission to do so, regardless of who makes the initial contact. Relatedly, under Bylaw 13.6.1.2.1, an institution may only host a potential transfer student-athlete on an official visit after receiving permission from the student-athlete's current institution. With respect to inducements, Bylaw 13.2.1 precludes an institutional staff member from making arrangements for or giving any financial aid or other benefits to a prospective student-athlete, other than expressly permitted by NCAA regulations. Finally, Bylaw 11.1.2.1 establishes two affirmative duties for head coaches: (1) to promote an atmosphere for compliance and (2) to monitor individuals in their program who report to them. The bylaw presumes that head coaches are responsible for violations in their programs. They may rebut this presumption by demonstrating that they promoted an atmosphere for compliance and monitored their staff.

Bylaw 13 violations occurred when the head coach communicated with the prospect and invited her to campus without obtaining permission from the prospect's institution or authorization through the notification of transfer process. The impermissible contacts began on October 3, 2019, when the prospect emailed the head coach to discuss the possibility of transferring to McDaniel. The head coach responded to the prospect's email and suggested that they talk by phone, which they did the following day.

Over the next month, the head coach and the prospect communicated frequently by email. In late October, the prospect advised the head coach that she had not spoken with her then current head coach regarding her desire to transfer. The head coach responded that she understood why the prospect was hesitant to have that conversation. In early November, the head coach informed the prospect that she had been officially accepted to McDaniel and offered her a roster spot on the field hockey team. At the prospect's suggestion, the head coach scheduled a campus visit for her on November 15, 2019. When the prospect arrived on campus, the head coach met with her for approximately five minutes and then sent her to lunch at an on-campus dining facility with current McDaniel student-athletes. The head coach used her recruiting budget to pay for the lunch. Shortly thereafter, during a conversation with another McDaniel coach, the head coach learned that her contacts with the prospect may have violated NCAA rules. She then terminated the visit and reported the potential violations.

In total, the head coach had 69 impermissible contacts with the prospect from October 3 through November 15, 2019. Of those contacts, there were 49 emails, 17 text messages, two telephone calls and one in-person meeting on McDaniel's campus. Because the head coach did not obtain

the required authorization before engaging in these contacts, her conduct violated Bylaws 13.1.1.2 and 13.6.1.2.1. Additionally, the head coach's provision of a free meal during the prospect's visit constituted an impermissible recruiting inducement in violation of Bylaw 13.2.1. The institution, head coach and enforcement staff agreed that the collective violation is major. The COI has previously concluded that major violations occur when coaches engage in numerous contacts with prospective transfer student-athletes without first obtaining the required permission. *See Occidental College* (2013) (concluding a major violation occurred when the head football coach sent a mass email to 467 football student-athletes enrolled at other four-year institutions to request that they consider transferring to Occidental but did not obtain the required authorization before doing so). As in *Occidental*, the COI concludes that the impermissible contacts in this case, as well as the recruiting inducement, constitute a collective major violation.

The parties agreed that the head coach did not rebut the presumption of responsibility for the Bylaw 13 violations. Specifically, the head coach could not demonstrate that she promoted an atmosphere for compliance in her program because she was personally involved in the violations. The head coach acknowledged that McDaniel provided her with NCAA rules education on the notification of transfer process. Both the head coach and McDaniel noted, however, that her education and onboarding occurred within a compressed period of time because she was hired immediately before the start of the 2019 field hockey season. McDaniel also stated that it has now changed its onboarding procedures in an effort to minimize the likelihood of future violations. Institutions have a responsibility to provide rules education in a thorough and comprehensive manner. Irrespective of the institution's obligation, however, coaches are responsible for learning, understanding and implementing NCAA rules in order to promote an atmosphere for compliance within their programs. The head coach's conduct violated Bylaw 11.1.2.1. The parties agreed that the violation is major.

The COI has routinely concluded that head coaches do not promote an atmosphere for compliance—and therefore cannot rebut the presumption of responsibility under Bylaw 11.1.2.1—when they are personally involved in violations. *See Alfred State College* (2021) (concluding that the head track and field coach did not promote an atmosphere for compliance when he was directly involved in violations, including permitting ineligible student-athletes to compete and receive travel expenses); *University of Mary Hardin-Baylor* (2019) (concluding the head football coach did not promote an atmosphere for compliance when he was directly involved in providing impermissible transportation to student-athletes); and *Illinois College* (2012) (concluding the head football coach did not promote an atmosphere for compliance when he sent 277 impermissible text messages to 41 prospects after being educated on the relevant NCAA texting legislation). In each of these cases, the COI determined that the head coach responsibility violation was major. The violation in this case is likewise major.

V. PENALTIES

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

and provide or are intended to provide more than a minimal competitive or recruiting advantage. Multiple secondary violations may collectively be considered as a major violation.

In prescribing penalties, the COI evaluated relevant mitigating factors pursuant to Bylaw 32.7.1.3. As part of its evaluation, the COI also considered McDaniel's corrective actions as set forth in Appendix One. After considering all information, the COI prescribes the following penalties (self-imposed penalties are so noted):

Penalties for Major Violations (Bylaw 19.5.2)

1. Public reprimand and censure through the release of the public infractions decision.
2. Probation: Two years of probation from October 7, 2021, through October 6, 2023. During the period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive compliance and educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for ensuring compliance with NCAA legislation on certification and recruiting;
 - 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 1st of each year of probation. Particular emphasis shall be placed on McDaniel's onboarding procedures for new coaches and rules education related to the notification of transfer process;
 - d. Inform all field hockey prospective student-athletes in writing that the institution is on probation for two years and detail the violations committed. The information shall be provided as soon as practicable after the prospect is recruited pursuant to Bylaw 13.02.8 and, in all instances, before the prospect signs a financial aid agreement or initially enrolls at the institution, whichever is earlier; 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 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 field hockey. 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.

3. During the period of probation, McDaniel shall undergo an outside audit of its athletics policies and procedures, with a particular emphasis on onboarding procedures and rules education. The audit shall be conducted at the institution's own expense and shall ensure that all institutional athletics policies and procedures comply with NCAA legislation. McDaniel shall abide by the reviewer's recommendations.
 4. McDaniel suspended the head coach from all recruiting events for a one-month period from March 1, 2021, through March 31, 2021. (Self-imposed.)
 5. McDaniel required the head coach to attend the 2021 NCAA Regional Rules Seminar and lead an athletics department discussion on NCAA rules. (Self-imposed.)
 6. Prior to the conclusion of probation, the institution's president shall provide a letter to the COI affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.
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As required by NCAA legislation for any institution involved in a major infractions case, McDaniel shall be subject to the provisions of Bylaw 19.5.2.3 concerning repeat violators for a five-year period beginning on the effective date of the penalties in this case. The COI further advises McDaniel that it should take every precaution to ensure that it observes the terms of the penalties. The COI will monitor McDaniel 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 McDaniel does not comply or commits additional violations. Likewise, any action by McDaniel contrary to the terms 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 DIVISION III COMMITTEE ON INFRACTIONS

Richard Lapidus
Donna Ledwin
Jody Mooradian, Vice Chair
Angela Givens Williams

APPENDIX ONE

**MCDANIEL COLLEGE'S CORRECTIVE ACTIONS AS IDENTIFIED IN THE
MAY 13, 2021, SUMMARY DISPOSITION REPORT**

1. McDaniel has strengthened its onboarding processes to include several sessions on recruiting and add a specific session focusing on the transfer student-athlete.
2. McDaniel now has a mentoring program that teams "veteran" coaches with those who have less experience. They meet formally each month and informally more regularly. The mentors are part of the coach evaluation process at the end of each season.
3. McDaniel has implemented a monthly compliance challenge game where coaches are assigned a section of the NCAA manual and have to create a quiz for the rest of the department.

APPENDIX TWO
Bylaw Citations

Division III 2019-20 Manual

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

13.1.1.2 Four-Year College Prospective Student-Athlete. An athletics staff member or other representative of the institution's athletics interests shall not make contact in any manner (e.g., in-person contact, telephone calls, electronic communication, written correspondence) with the student-athlete of another NCAA or NAIA four-year collegiate institution, directly or indirectly, without first obtaining written permission to do so, regardless of who makes the initial contact. If permission is not granted, the second institution shall not encourage the transfer. If permission is granted, all applicable NCAA recruiting rules apply. If an institution receives a written request from a student-athlete to permit another institution to contact the student-athlete about transferring, the institution shall grant or deny the request within seven business days of receipt of the request. If the institution fails to respond to the student-athlete's written request within seven business days, permission shall be granted by default and the institution shall provide written permission to the student-athlete.

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

13.6.1.2.1 Transfer Student. If a student-athlete attending a four-year institution desires to transfer and that institution provides the permission required, it is permissible for a second institution to provide the student-athlete one official visit to that institution's campus.