



Enforcement Self-Study **Operations and Compliance**

Summer 2019



PREPARED FOR

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BY

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ENFORCEMENT SELF-STUDY: OPERATIONS AND COMPLIANCE

Introduction

In August 2011, leaders from NCAA member institutions created a Working Group on the Collegiate Model – Enforcement (working group) to study infractions-related procedures. The working group recommended a series of significant reforms, which the NCAA Division I Board of Directors adopted and made effective August 1, 2013. These included, among others, new violation levels, new factors impacting penalties and new case resolution procedures. Beyond its sweeping legislative reforms, the working group supported periodic review of infractions operations and recommended that the enforcement staff "conduct a self-study every three years to review their overall operations and compliance with procedural requirements."¹

Pursuant to the working group's charge, the NCAA enforcement staff conducted its initial self-study and released its inaugural [report](#) in May 2016. The 2016 report highlighted procedural reforms tied to the working group's recommendations and described substantial internal changes focused on member service, case timeliness and overall transparency. Meaningful internal and external reforms between 2013 and 2016 changed the way enforcement conducted business during that initial self-study period. The reforms were member-driven and designed to position the enforcement department for effectiveness and efficiency moving forward.

Three years have passed since the initial report and the enforcement department now shares the findings of its second self-study. As suggested by the working group, this report will outline the enforcement department's overall operations and compliance with procedural requirements over the last three academic years (2016-17 through 2018-19). Picking up where the prior report ended, this self-study will address the department's performance against service standards², output levels and priorities moving forward. The report will also highlight significant reforms proposed by the Commission on College Basketball (Commission) and the impact of those reforms on department operations.

Enforcement is pleased to note the following general observations from its self-study. Each representation below is supported by examples, data and and/or member feedback discussed in the body of this report.

- The department leveraged changes made during the original self-study period and built on those reforms with further enhancements to internal operations and external outreach.
- The department made significant advances in connecting with member institutions and member-related associations outside of investigations.

¹ Final report of the working group, p. 14.

² Service standards are performance metrics designed to measure the efficiency and effectiveness of enforcement's service to the membership.

- The department dedicated its investigative resources to violations that most significantly impact the Collegiate Model.
- The department investigated a record number of cases, while simultaneously implementing significant external reforms.
- The department reduced the average lifecycle of a violation (i.e., the time between when the violation was committed and the time it was submitted to the Committee on Infractions for resolution).
- The department continued to work in strict compliance with all governing bylaws and operating procedures, with no known material departures.
- The department collaborated with members and stakeholders to address Association-wide challenges.

These and other developments were specifically designed to advance the mission of the infractions program as legislated in Bylaw 19.01.1. The department will continue building on these enhancements to assure that compliant programs at NCAA member schools are not disadvantaged by their commitment to compliance.

Section I: Operations

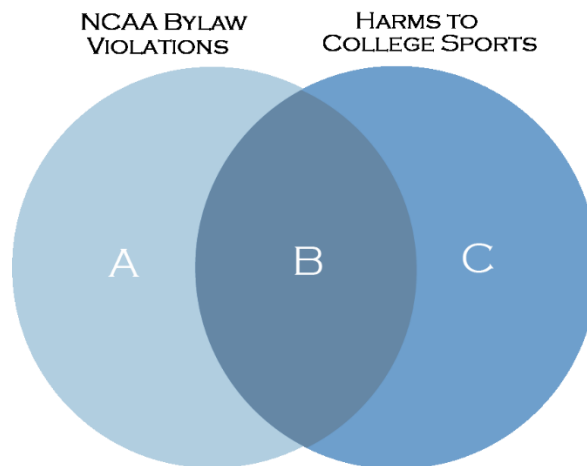
This section of the self-study provides an overview of enforcement's effort to prioritize and focus on behaviors that are most significant to member schools. We will then outline case-related data and highlight other work performed and enhancements made during the self-study period. This section also includes a summary of our effort to measure the enforcement department's overall effectiveness.

Departmental Strategy and Priorities

Because most observers form opinions about enforcement based on case-related activity, we will begin there. Data showing a high volume of investigative work will follow, but first it is important to note how outreach efforts and relationships with members inform case-related priorities.

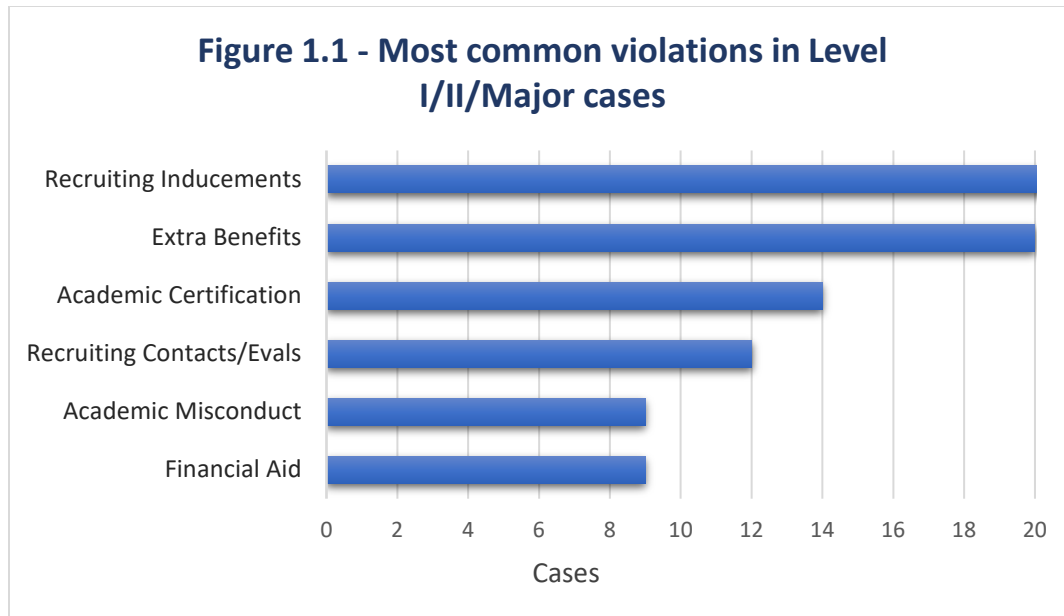
The enforcement department does not pad its output numbers by investigating and processing simple cases or behaviors of minimal import. On the contrary, the cases are not simple. Select fact patterns are straightforward, but recent investigations demonstrate a substantial increase in the complexity of potential violations. We handle complicated cases not only because of the increasing complexity of the environment, but because we align our work and the expenditure of resources with the priorities of member schools. To keep our finger on the pulse of behaviors that matter most, enforcement staff members routinely meet with and listen to college administrators, coaches, student-athletes, prospects, related associations and other leaders in intercollegiate athletics. When possible, these conversations occur on college campuses. We solicit feedback from all kinds of schools in all types of conferences across all sports to make sure we stay abreast of current threats to the Collegiate Model. With the benefit of many perspectives, we look for common themes and fold resulting insights into our departmental priorities.

While the particulars vary by school and by sport, member input is generally consistent that our department should focus primarily on behaviors that are both (1) violations of NCAA operating bylaws, and (2) harmful to intercollegiate athletics. This focus is illustrated by the following Venn diagram:



This may seem simple or obvious or both, but the insight has proven extremely valuable as we consider different categories of behaviors. For example, the enforcement department is aware of bylaw violations that are not particularly harmful to intercollegiate athletics (illustrated in Area A). In those instances, we talk with members and colleagues about whether modification of existing legislation is appropriate. In contrast, we also encounter behaviors on occasion that are harmful to intercollegiate athletics, but not violative of any operating bylaw (illustrated in Area C). In those instances, we talk with members and colleagues about whether new legislation may be appropriate. In both scenarios, we leave legislative and policy decisions to the Association's governance structure. But our investigative resources are dedicated to violations that impact the Collegiate Model most directly and most negatively (illustrated in Area B).

Despite well-documented differences across NCAA programs and sports, the majority of representatives from member schools tend to agree that rule violations most harmful to intercollegiate athletics are impermissible recruiting behaviors and academic misconduct. Accordingly, enforcement efforts focus primarily – but not exclusively – on those identified areas. By recruiting behaviors, we mean everything from purported "bumps" and impermissible contacts to inducements of cash or other goods offered to prospective student-athletes (including tampering with current student-athletes for transfer purposes). By academic misconduct, we include both pre-enrollment and post-enrollment behaviors relating to test scores, grade assignments, tutoring abuses and other academic-related mischief. Cases involving recruiting or academics or both made up approximately 50% of Level I/II or major cases processed during the review period.



In both areas, enforcement worked with internal and external partners to make our priorities very clear. If we could not extinguish violative behaviors altogether, the goal was at least to disrupt or make a significant dent in practices that compromise intercollegiate sport (knowing that displaced behaviors would likely manifest in other ways using newer mechanisms). We mapped common schemes and scenarios, and then searched for proactive strategies to prevent violations before they occurred. Among other things, this involved (1) filling vacant positions with candidates who brought subject-matter expertise in recruiting and others with backgrounds in academics, (2) communicating best practices to administrators, coaches, compliance professionals and athletic academic advisors, (3) hosting or supporting elite student-athlete symposiums, coaches academies and other ethics-related membership groups, (4) participating in member-led compliance seminars across the country, and (5) launching a [website](#) with resources to help campus personnel deal with various forms of academic impropriety.

Proactive efforts notwithstanding, the department understands rule violations will nevertheless occur. When they do, these complicated behaviors – especially recruiting violations – can be very difficult to substantiate with admissible, attributable, on-the-record information. Accordingly, we continued ongoing efforts to identify appropriate tools to enhance investigations and aid the department in bringing alleged violations to members' attention. These tools ranged from cooperation incentives vetted through Commission-related groups to further exploration of open source research techniques.³ Adding these to existing technologies that tend to expose academic misconduct rather plainly, we feel confident in our ability to secure information within the NCAA's reach.

³ Defined as information collected from publicly available sources.

New tools and evolving technologies are helpful, but some types of relevant information can still be very difficult to acquire. For example, there are frequently individuals with personal knowledge of violations who reside beyond our reach. It is also well-documented that enforcement does not have tools or tactics that are available to government actors. Therefore, we always look for appropriate and effective means of gathering information that will protect compliant schools from being disadvantaged by their commitment to compliance. Work clearly remains in our substantive areas of focus and we will keep striving and training to be fair, effective investigators on behalf of the entire NCAA membership.

Case-Related Operations

Based on the priorities and challenges outlined above, the enforcement department employed investigative resources strategically. The objective numbers below capture the case-related component of our broader operation.

Summary Data Since the Working Group Reforms

From the effective date of the working group's reforms (August 1, 2013), the enforcement staff submitted 484 Level I/II or major allegations across 136 cases. Those allegations cited operating bylaws across Articles 10-17 of the respective divisions' Manuals. The enforcement staff investigated all allegations individually and vetted them through no less than six stages of quality control review. We saw fact patterns ranging from intentional, manipulative schemes to violations resulting from negligent omission. In 65 instances, the enforcement staff alleged that a head coach failed to satisfy the legislated responsibilities of a head coach (i.e., to promote an atmosphere of compliance and monitor staff) and the various committees on infractions agreed in 97% of those cases.

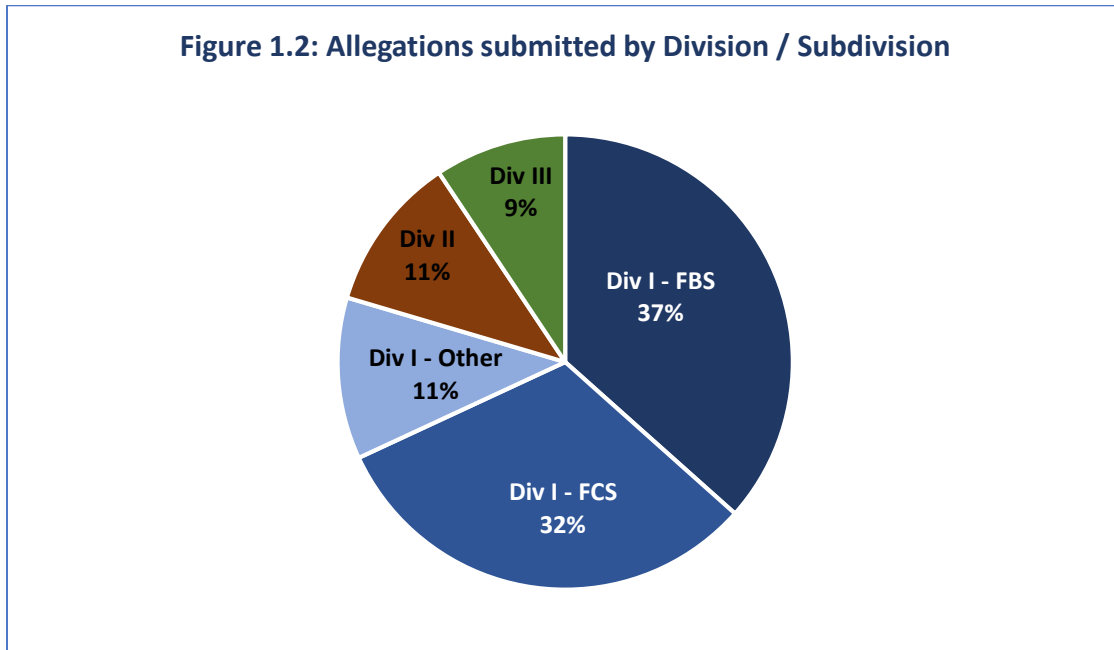
During that same time period, the enforcement staff received and processed over 30,000 Level III or secondary cases. While sometimes viewed as less significant, handling these cases and penalizing these behaviors fairly is of great import to compliant programs in all sports. Like Level I/II and major cases, all Level III and secondary violations received individualized, hands-on attention by the enforcement staff. All decisions were also subject to review by the division-specific Committees on Infractions.

Summary Data During the Review Period

During the shorter period presently under review (2016-17 through 2018-19), the enforcement staff submitted 250 Level I/II or major allegations across 80 cases to the respective Committees on Infractions.⁴ Of those cases, 74% involved Division I institutions. Approximately 25% of

⁴ These figures do not include potential violations that were investigated and not substantiated, or violations that only involved the eligibility of an individual student-athlete or prospect. They also do not include reports of behaviors shared during an investigation and handled by the institution.

schools in the autonomous conferences were involved in a Level I or II case, some of them in multiple cases. The percentage of allegations by division and subdivision are as follows:



Underlying behaviors most cited during the review period included recruiting inducements, impermissible benefits, academic misconduct, improper certification and impermissible recruiting contacts. One or more of these behaviors were found in 75% of cases. As noted above, these align with member feedback about behaviors that most threaten fair competition and our focus in these areas is intentional. Additional violations, such as failure to monitor, lack of institutional control, unethical conduct and failure of head coach responsibility, often derive from these underlying behaviors. In fact, 85% of cases during the review period included one or more allegations derived in part from other conduct.

Approximately 35% of Level I/II or major allegations were self-reported by the member institution. Virtually all the 15,000 Level III and secondary cases were self-reported. Whatever the level of violation, self-detection and proactive reporting are conditions of NCAA membership, and we are encouraged that many institutions adhered to that expectation during the reporting period. When schools satisfied their obligation to detect and report potential violations, our staff made that information very clear to the appropriate Committee on Infractions. Other violations came from our extensive network of sources, which we work hard to cultivate.

Sports producing the most Level I/II or major violations included men's basketball, football, women's basketball and men's tennis. We also saw significant case activity in swimming and diving, track and field, and women's volleyball. Cases of improper certification and financial aid errors often involved dozens (or hundreds) of student-athletes across multiple sports.

It is also important to note the positions (i.e., titles) of individuals most often cited in Level I/II or major allegations. During the review period, the five positions or combination of positions most often involved in allegations included the following:

- Assistant coach – 26%
- Head coach – 25%
- Representatives of athletics interests – 11%
- Multiple coaches – 9%
- Athletics administration – 8%

Noticeably absent from this list is student-athletes and prospective student-athletes. That is because the infractions process is focused primarily on conduct of member schools' adult representatives. Student-athletes and prospects are also not on the list because our department frequently secures limited immunity for them. Limited immunity is requested by the enforcement staff and granted by the Committee on Infractions. It is an investigative tool that may allow young men and women to share information freely during an investigation without fear of compromising their eligibility. Although immunity is available for adults, 98% of enforcement's requests for immunity during the review period were made on behalf of current student-athletes or prospects.

This overview of case-related data provides a snapshot of member behaviors and enforcement's case-related activity over the review period. We use this and other data to inform priorities, allocate resources, anticipate threats and enhance effectiveness. For purposes of this report, four observations about the summary data are in order.

First, of the allegations brought by enforcement, the Committees on Infractions concluded that 93% of the alleged violations occurred. These data show that enforcement brings well-supported charges, and also that committee members provide meaningful review and apply appropriate scrutiny to every allegation. Committee members ask probing questions of the enforcement staff at hearings and do not rubber stamp any allegation. Member schools should feel confident that (1) the enforcement staff is aggressive but very deliberate in deciding what to allege, and (2) committee members are actively engaged in examining every fact and resolving every allegation submitted.

Second, 65% of all cases were decided through the summary disposition process. In these matters, the parties agreed on the violations and the overall level of the case. While there are occasional disputes about penalties, the summary disposition process is typically an expedited method for addressing violations when there is substantial agreement between the parties. We are encouraged that the majority of cases are resolved using this method.

On a related note, NCAA members amended the infractions process near the end of the review period to allow negotiated resolution (i.e., settlement) of cases. This resolution method requires party agreement on all elements of a case outcome (including penalties). This new tool is already popular, and we are encouraged by the level of cooperation and agreement many schools demonstrate in resolving violations amicably.

Third, case-related data are important, but they do not inform on schools' individualized experiences in the infractions process. We are attentive to the data, but we must test the numbers against real-life experiences. Accordingly, in addition to measuring cases and allegations, we seek formal feedback from schools about their experience and our performance after an investigation is concluded. Responses show that schools feel they were treated fairly and with professionalism by the enforcement staff. Specifically, survey results demonstrated the following:

- 100% of responding schools strongly agreed or agreed the investigative team was professional.
- 100% of responding schools strongly agreed or agreed the investigation was cooperative, allowing the institution to share its perspective and concerns.
- 85% of responding schools felt the allegations were written fairly and accurately. The remaining 15% were neutral.

While enforcement appreciates this feedback, the surveys also suggested there are areas where the staff can continue to improve. We welcome input like this and we are glad to be made aware of concerns so we can take appropriate remedial steps. These included the following:

- 38% of schools were neutral and 8% disagreed that the investigative team had expertise in campus operations. [Note: Among other ways we addressed this observation, five of the last six investigators hired have significant campus experience and we encourage all staff members to participate in campus engagement opportunities. These steps proved valuable.]
- 21% of schools were neutral on the investigation being completed in a timely manner. [Note: This is a common (and shared) concern. Our efforts to address timeliness are discussed in more detail below.]

Fourth, the numbers in this section only represent allegations and cases formally submitted for adjudication. This is an important segment of enforcement's contribution to the Association, but it does not reflect our full body of work. As outlined below, we receive information about many other potential violations every year. Many of those matters are addressed through private communications with schools or conferences while others, such as violations only impacting a student-athlete's eligibility, are resolved outside of Level I/II or major cases. Accordingly, measuring formal cases provides only a limited view of enforcement's overall work.

In sum, the case-related data demonstrate a high volume of activity in enforcement. Indeed, 15% of all cases decided since the infractions process began in 1953 were decided in the last five years and we have more cases open right now than ever before. This demonstrates a degree of action and efficiency in recent years, but it also makes clear that hard work on the culture of intercollegiate athletics remains. With violative behaviors continuing and with stakes rising, the enforcement staff is well aware that developing, investigating and processing meaningful cases is of paramount importance to member schools.

Practical Deliverables

The enforcement department pledged not only to focus on violations that are meaningful to member schools, but also to continue improving during the review period in the areas of timeliness, transparency and case management. Developments in each area are highlighted below.

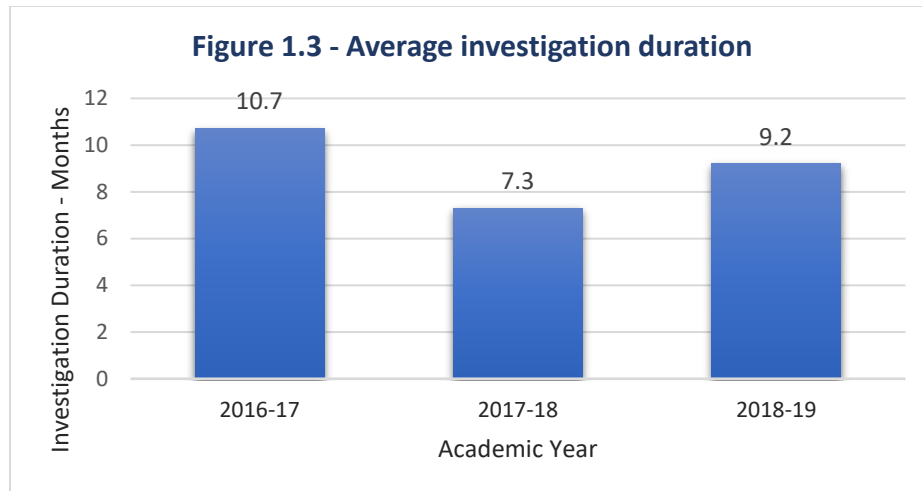
Timeliness

We often hear that the infractions process takes too long. While there are fairness, advocacy and practical reasons for certain delays, the enforcement department agrees that many investigations run longer than we would like. This is not in the best interest of the subject institution, involved individuals, other member schools or the infractions process itself. Accordingly, the department continued working during the review period to reduce the duration of investigations.⁵ The department made operational and strategic decisions to move the investigative phase more quickly, yet without sacrificing accuracy or fairness. These measures included, but were not limited to, the following:

- In collaboration with the subject institution, setting and striving to meet aggressive investigative end dates in every case;
- Establishing department goals around reducing the duration of investigations, and then measuring outcomes;
- Focusing our attention on cases involving meaningful violations that are likely to be substantiated, and less time on cases going nowhere;
- Bifurcating appropriate portions of cases (i.e., those involving different sports, different behaviors, different time periods and different violations) for resolution immediately upon completion;
- Streamlining internal practices and providing advanced support (including utilization of advanced technologies) to investigative teams; and
- Leveraging campus officials for initial investigative work on select reports.

These and related efforts yielded favorable but limited results. Specifically, the average duration of most traditional investigations during the current review period decreased slightly, as the chart below reflects.

⁵ The duration of an investigation is beyond our control in many instances, and certain categories of cases frequently present timing challenges. These include cases with parallel criminal actions and cases triggering other NCAA proceedings which must be resolved before the infractions process can be exhausted.



The enforcement department is not satisfied with these results. While every case is different and there is no one-size-fits-all goal for investigative duration, we would like to see (1) a sustainable decrease in the average duration of investigations, and (2) a decrease in the number of individual investigations that exceed their projected end date. Therefore, we will continue setting aggressive service standards and account for our performance. We will continue using enforcement's tools and resources to make sure that every investigation is not only fair, accurate and collaborative, but also timely.

While it is important to make sure investigations are efficient, they are only one component of a broader membership interest in timeliness. That broader interest is the time difference between when a violation is committed and when it is submitted to the Committee on Infractions for resolution. We call this the lifecycle of a violation. Without being reckless, and on behalf of all members, we would like to reduce the time lag between commission and submission of a violation.

To that end, we took steps during the review period to identify potential violations and commence investigations more quickly. These actions reduced the infancy stages of a case by an average of 11%. Much of this credit should be given to compliance efforts in the membership and schools' mechanisms to detect and report violations. Cooperation with the compliance community is much appreciated and is critical to the success of the infractions process. We also took steps to submit violations more quickly for resolution after commencing an investigation. Including the slight reduction in the length of investigations discussed above, we reduced the time for investigating and processing a violation by 22% (in addition to the 11% reduction pre-investigation).

In all, we saw a significant decrease in the average lifecycle of a violation. Consistent with our mission, it is important for the Association to see violations detected, investigated and submitted for adjudication more quickly.

Transparency

Many in the membership (and the public) express concerns about perceived secrecy of enforcement activities. Admittedly, part of that secrecy is by design and is intended to protect (1) the integrity of ongoing investigations, and (2) the privacy of institutions, student-athletes or involved individuals before allegations are adjudicated. Those are important interests and we protect them by keeping select information confidential for a limited period of time. In all other instances, the department endeavors to communicate as freely as circumstances allow. We believe it is best for everyone when there is candid communication between member institutions and the national office staff. Put simply, it is good for us to listen. We are also proud of the work we do and the way we do it, and it helps when enforcement discusses trends and new developments with member schools. Sharing relevant information with the membership and the public is always a point of emphasis, including during this review period.

Within the context of a pending case, investigative teams communicated as openly as possible with institutions, involved individuals and their respective counsel. As noted in footnote 4 above, this often included sharing information about behaviors that were not ultimately included in the case. The result was generally higher levels of trust, enhanced cooperation and narrowing of case-related disputes. This is reflected in the high number of cases resolved without a hearing (i.e., through summary disposition or negotiated resolution). It is also reflected in contemporaneous feedback from institutions involved in infractions cases and parties' ability to maintain positive relationships even while probing significant violations. This is a delicate balance, but we emphasized its importance and we are properly proud of the results.

Outside the context of pending cases, the department worked to connect personally with individual stakeholders, programs, institutions and conferences. We strengthened bridges already in place and invested in new ones. We also sought out and deepened relationships with high school coaches, trainers, advisors, agents, professional leagues and other third parties. Opportunities for dialogue are of great value to the national office and ultimately to member schools. Not only does the communication aid our case-related work, but it also fosters a healthy bond between member schools and their national Association. To those ends, the enforcement department strove for transparency during the review period as follows:

- Made hundreds of campus and conference visits to hear from members and discuss enforcement activity;
- Hosted social receptions at Regional Rules, Women Leaders in College Sports, FAR conventions and other gatherings of member schools;
- Drafted and secured Board approval of [charging guidelines](#) for the most serious violations (lack of institutional control, failure to monitor, unethical conduct and head coach control);

- Shared [current case volume](#) data on our website;
- Updated [educational materials](#) for member and public use;
- Provided "shareholder reports" and other updates to attendees at the NCAA Convention;
- Recorded a [podcast](#) outlining enforcement's role in the broader infractions process;
- Recorded a [podcast](#) outlining case-related decisions and general outcomes;
- Updated conference commissioners periodically on material developments and strategies;
- Continued meetings with a small advisory team from the membership;
- Visited select high schools to connect with coaches of current and future prospective student-athletes; and
- Collaborated with NABC, MBOC, WBCA, WBOC, FOC, AFCA, N4A, FARA, AMWG, NAAC, NACDA, CCA, CCACA, NFHS, NHSBCA, LEAD 1, Women Leaders in College Sports, professional leagues, players' bargaining units and other related associations.⁶

Case management

Timeliness and transparency are of little utility for parties if case management tools are unwieldy. While the procedures and sequence of an infractions matter are well-evolved and legislated already, the department nevertheless worked during the review period to make resolution of cases smoother for all participants (including volunteer members of the committees). Among other enhancements, the enforcement department instituted the following changes during the review period to improve the experience across all parties:

- Established a secure filing system for submission of all case-related processing documents;
- Continued revising processing templates and correspondence for clarity;
- Enabled electronic signature technology for case documents;
- Supported efforts to improve hearing room technology;
- Supported efforts to institute a unified case management system across national office staffs and volunteer committees;
- Focused on evenly distributing cases for committee review, rather than bouncing between periods of feast and periods of famine;
- Encouraged all parties to highlight (and hyperlink) important documents and cited authorities in process materials;

⁶ National Association of Basketball Coaches, Men's Basketball Oversight Committee, Women's Basketball Coaches Association, Women's Basketball Oversight Committee, Football Oversight Committee, American Football Coaches Association, National Association of Academic Advisors for Athletics, Faculty Athletics Representatives Association, Academic Misconduct Working Group, National Association for Athletics Compliance, National Association of College Directors of Athletics, Collegiate Commissioners Association, Collegiate Commissioners Association Compliance Administrators, National Federation of State High School Associations, National High School Basketball Coaches Association.

- Created an instrument detailing contest participation by ineligible student-athletes, if any; and
- Hosted a summit for attorneys and individuals who represent parties in infractions-related matters.

These measures helped to manage a heavier docket of cases. We do not expect practical enhancements to make the infractions process pleasant, but we believe these changes will at least make it less cumbersome for everyone involved.

Reports that may not become Formal Infractions Cases

The sections above primarily discuss cases where institutional violations were substantiated and submitted for formal adjudication and penalty. This is an important category of work, but it constitutes only a portion of the enforcement department's much broader caseload. Indeed, our department satisfies its mission not only by bringing Level I/II and major allegations for adjudication, but also by analyzing and acting on many other matters – almost always behind-the-scenes.

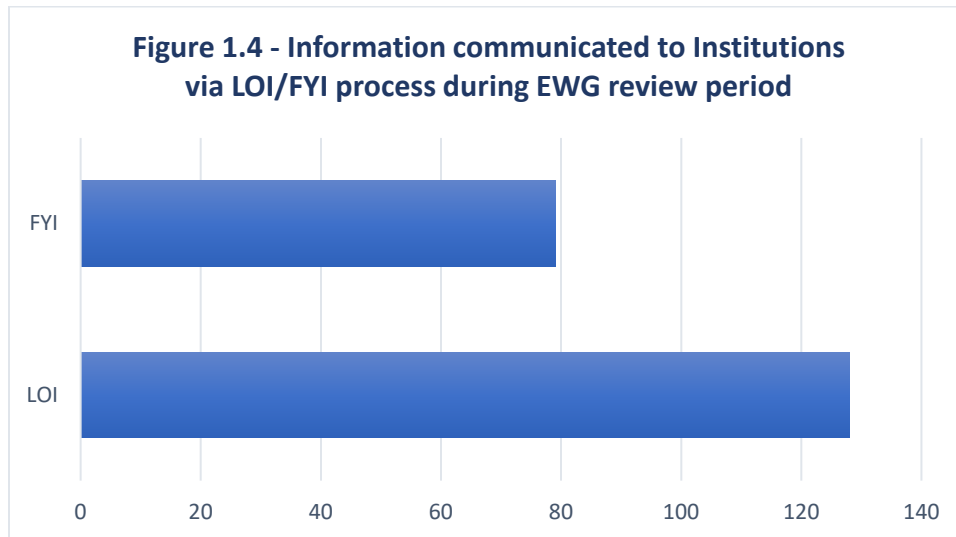
The enforcement department receives approximately 700 reports of potential serious violations every year. We consider each tip, together with reports submitted by schools and information developed through our network of relationships and sources. Through a sophisticated intake process, we look at all incoming information and then determine whether and how to follow up. Some incoming information warrants a full investigation and yields formal allegations like those detailed above. These are traditional infractions cases followed widely and reported publicly, but not all submissions spark an exhaustive Article 19 proceeding.⁷

Much of the incoming information is not actionable because it either lacks specificity or does not constitute an operating bylaw violation. The latter are examples of behaviors that may be captured in Area C of the Venn diagram above. Our department does not spend considerable time acting on information that is facially incredible or related to behaviors that are not regulated by NCAA operating bylaws. We do, however, follow up in a fiscally responsible manner on credible tips that lack specificity or do not merit a full, immediate enforcement investigation. If department leaders opt not to commence a formal staff-led investigation in these cases, we have at least two alternatives.

One option is to notify the involved institution and make administrators aware of the information reported. Even if a submission does not merit an NCAA investigation, the director of athletics may want to know what others are saying about the institution, its coaches, boosters, staff or student-athletes. This is referred to plainly as an FYI. It allows our staff to raise and the institution to address potential violations, even if they cannot be fully substantiated and adjudicated.

⁷ Article 19 of the Manual in each division governs enforcement investigations, allegations and committee hearings.

A second option is to share information with the institution and ask its administrators or counsel to investigate and report back to the enforcement department. This is referred to as a Letter of Inquiry (LOI). After reviewing the institution's report, the enforcement staff may (1) accept the institution's findings and close the matter, (2) ask for additional information or documentation, or (3) commence a formal Article 19 proceeding. The graph below demonstrates the number of FYIs and LOIs delivered during the review period.



As the numbers indicate, the enforcement department uses these tools regularly. Both options are generally well-received by member institutions (and both allow our staff to dedicate valuable time and attention to other matters). Even if the enforcement staff is not able to "solve" every reported violation with on-the-record substantiating information, these options allow our department to expose potential violations by alerting relevant institutions. They also allow institutional administrators to talk candidly with athletics staff members about information shared privately by the enforcement staff. While individual communications between our office and institutional leaders are not made public, these strategies have proved useful in getting the attention of reported or would-be violators. These encounters do not make headlines and are not widely known, but they are an important piece of a broader strategy to address suspected behaviors and reduce the universe of rules violations. FYI and LOI matters are two more ways to advance our mission and protect compliant schools.

Cases Related to the Federal Probe in New York

In September 2017, the federal government revealed a multi-year criminal investigation into schemes negatively impacting the integrity of men's college basketball. Based on its investigation, government officials in the Southern District of New York charged 10 individuals with various federal crimes. These included assistant basketball coaches and third parties. Charges against one individual were dropped, but all other defendants either pleaded guilty or were convicted by a jury. The cases sparked widespread reaction, speculation and criticism. They also sparked material

reforms and significantly impacted department operations during two thirds of the review period. The status of our investigations into similar behaviors is summarized in this section, and forward-looking reforms are outlined in subsequent sections of this report.

The FBI obviously has tools that are not available to NCAA investigators, such as wiretaps, subpoenas, undercover officers, the threat of imprisonment and the authority to surreptitiously videotape planned encounters. Some of the behaviors uncovered by FBI tools involved student-athletes who compromised their eligibility by accepting benefits directly from agents or their representatives. Absent institutional involvement, these are generally individual eligibility matters resolved outside a Level I/II or major infractions case. Other behaviors, however, involved institutional staff members or campus representatives or both. Although these scenarios might constitute institutional violations of NCAA bylaws, enforcement investigations were initially limited as the federal procedures played out. The enforcement staff later began its own investigations, which included reviewing information admitted into evidence at the trials. Contrary to the belief of many, neither the FBI nor federal prosecutors gave the results of their investigation to the enforcement staff. Nor did they produce evidence to the NCAA, share intercepted telephone calls or provide copies of subpoenaed documents.

Limitations from parallel criminal proceedings notwithstanding, the enforcement department is committed to investigating and processing probe-related cases as quickly and as aggressively as possible. Member schools have been very clear that there must be NCAA consequences where facts suggest institutional or individual departures from Association values. Our cases are open and we continue working closely with schools, counsel, individuals and third parties to bring complete and credible information for adjudication through appropriate channels. Not limited to information tied to federal crimes, the enforcement staff is actively gathering facts – in multiple forms from multiple sources – about potential NCAA violations.

We cannot determine at this point exactly when these investigations will conclude. Until the cases are complete, we also cannot publish specific details in light of confidentiality provisions in Bylaw 19.01.3. As those investigations wind down, however, we will make information known to members and the public as allowed by NCAA rules.

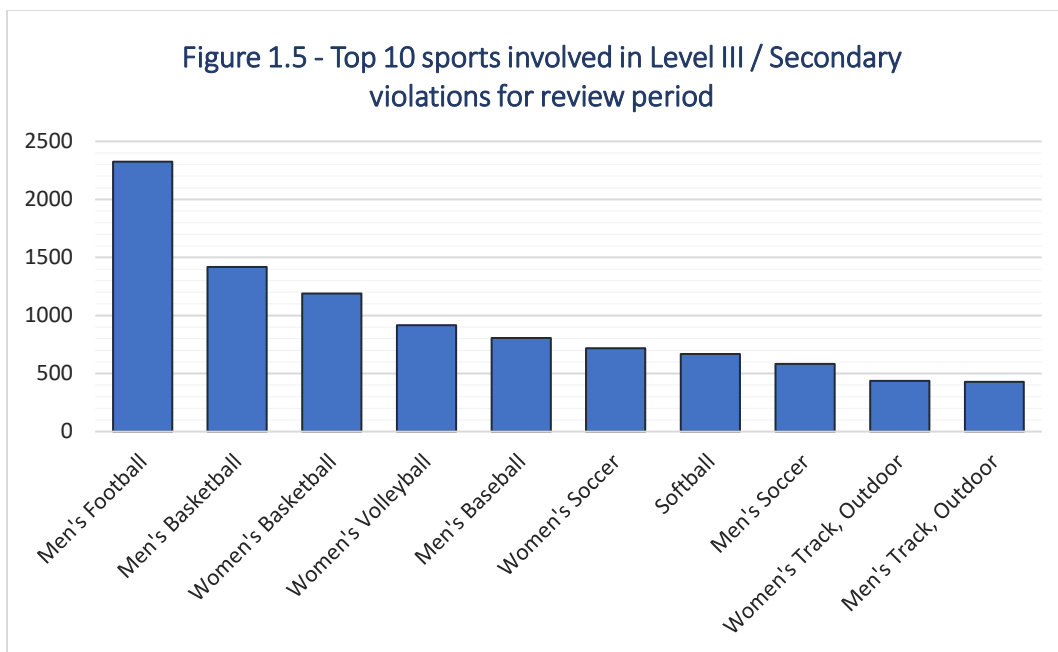
Cases Related to the Federal Probe in Boston

In April 2019, the federal government revealed another criminal investigation relating, in part, to intercollegiate athletics. In this instance, federal officials in Boston alleged that multiple individuals engaged in illegal schemes to secure admission into elite institutions. One of those schemes involved using special athletic admissions as a backdoor for entrance to the institution. While these alleged crimes did not spark calls for additional athletic reforms Association-wide, they may have violated NCAA bylaws. Accordingly, the enforcement staff is working with involved institutions to uncover relevant facts and determine whether rules violations occurred. As noted above, these are ongoing efforts and we will keep members and the public informed as allowed by NCAA rules.

Level III and Secondary Violations

Although Level I, II or major violations receive most of the enforcement-related public attention, it would be a serious mistake to overlook the significance of Level III and secondary violations.⁸ These so-called lesser violations are important to coaches and compliance professionals across the membership. Accordingly, we take these violations seriously and give individualized attention to each of the 5,000 self-reports submitted every year. Our staff works to resolve these issues in a timely manner as well. The average time to process a Level III or secondary violation was approximately 12 days over the review period, which is a 20% decrease from the prior three-year period.

Unlike cases discussed earlier in this section where committee members prescribe penalties for Level I/II and major violations, a unit within the enforcement department prescribes penalties for Level III and secondary violations.⁹ Penalties may range from no additional consequences to personnel suspensions or significant fines. In fact, 315 athletics personnel were suspended during the review period as a result of involvement in Level III/secondary violations. We strive to fashion appropriate penalties in every case, keeping in mind countless factors that inform on the severity of the behavior and the need, if any, for corrective action. Sports most frequently reporting Level III or secondary violations during the review period are outlined here.



⁸ The enforcement department is often criticized for actions around rules that appear to regulate immaterial behaviors. It should be noted here that our staff is charged with enforcing operating bylaws proposed and adopted by the membership, without regard to our personal opinion of those rules. As noted above, we help inform member discussion about areas to be regulated or deregulated, but those decisions are reserved to the sound discretion of member institutions.

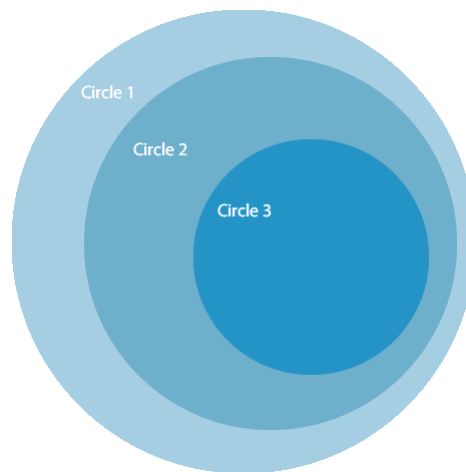
⁹ Those penalties are subject to review by each divisional Committee on Infractions.

Impact of Enforcement Operations

The mission legislated in Bylaw 19.01.1 is a responsibility shared across NCAA staff, institutional representatives and volunteer committee members. Although the enforcement department plays a meaningful role, we are only one part of a much broader infractions process. We cannot change intercollegiate athletics alone, but every case-related decision, every external contact and every operational enhancement made during the review period was designed to move toward a state where compliant schools are not disadvantaged by their commitment to compliance. Our department strives to contribute toward an environment where every coach and every student-athlete has a fair chance to win.

These are lofty goals and also decidedly difficult to measure. It is easy to count cases, tally allegations and put a stopwatch on investigators, but much more difficult to gauge accurately the ultimate impact of our work. We can (and do) track the quality of the allegations brought and the materials produced, but it is virtually impossible to count (1) violations that were concealed, and (2) would-be violators who were thwarted or deterred. Still, the enforcement department cannot simply labor year after year and assume its hard work is effective. Rather, it is important to find reasonably reliable ways to assess whether the environment in intercollegiate athletics is getting better or worse. With that information, we can then ask "why" questions and revise strategies as needed.

With those questions in mind, we set out during the review period to measure the following: the overall universe of meaningful violations (depicted as Circle 1 below), the number of those violations known to our staff (Circle 2 below) and the number of violations alleged formally to the Committee on Infractions (Circle 3 below). While Circles 2 and 3 are measurable, the exercise of constructing a reasonably accurate methodology for measuring Circle 1 is in its early stages. Once the department has reliable baseline data, we can compare year-to-year measurements and note any progress (or lack of progress) in reducing Circle 1 by growing Circles 2 and 3.



In the meantime, we rely on staff expertise, available data and anecdotal feedback from stakeholders. With regard to the latter input, it is important to note that reasonable minds differ widely on the state of rules compliance in intercollegiate athletics. Based on available information, and factoring in dramatically different perspectives, we note the following observations:

- Academics. The number and scope of academic misconduct cases is shrinking. Academic mischief still occurs at alarming rates across college campuses, but instances involving institutional personnel and student-athletes or prospective student-athletes are lower now than in the past. This is likely due to a combination of outreach efforts, new resource materials, revised legislation, campus training and recent case outcomes.
- Basketball. Challenges in men's basketball during the review period are real and well-documented, yet significant disagreement remains about the exact scope of institutional inducements and third-party influences in recruiting (including transfers). We know a category of programs and their representatives will break rules to secure a prospect's commitment/transfer. We also know a number of programs will cut corners to secure or maintain a player's eligibility. While these programs are in the minority, such behaviors absolutely disadvantage compliant schools and coaches. We believe cases currently in the pipeline, together with other recent reforms, will help improve the recruiting landscape. However, as long as current competitive, economic and professional pressures remain, it is not reasonable to believe the challenges will disappear. Accordingly, we will work to stay current with evolving trends, and also anticipate where violative behaviors in basketball will manifest next and put ourselves in a position to protect the game. We will also continue coordinating with regulatory partners in the national office to address pre-enrollment behaviors that compromise the Collegiate Model.
- Football. In football, as in basketball, we have considerable work to do. While some believe squad sizes, professional draft rules and various differences from basketball protect football's integrity, others believe violations in football recruiting are commonplace (at least in the bowl subdivision).¹⁰ Either way, we know that programs or their representatives make impermissible contacts, reimburse unofficial visit expenses, tryout prospects, provide inducements, poach student-athletes from other institutions and otherwise cut corners to recruit top talent. We also know individual or corporate third parties inject themselves into the recruiting process to advance their own interests. We will continue working with members, coaches, other interested sources and regulatory partners to either solve these violations or expose them.

¹⁰ The tension is understandable. For example, it is interesting to compare street-level rumors (often reported as fact) with the actual conclusions of a thorough investigation. After interviewing individuals with personal knowledge and reviewing extensive documentation, it is not unusual to conclude that either (1) a reported transaction did not occur, or (2) the actual inducement offered (or demanded) was significantly lower than reported.

- **Other sports.** Our department sees a steady flow of cases in sports other than basketball and football. During this study period, we processed Level I/II or major cases in 13 different sports, including multiple violations in sports such as golf, track and field, tennis, and swimming and diving. During conversations with coaches in these sports, we hear continued concerns about recruiting and practice violations. We will be attentive to concerns in all sports and from all types of institutions.

In sum, the enforcement department believes that most programs and most coaches are committed to complying with NCAA operating bylaws. Likewise, we are committed to ensuring an environment where those programs and coaches can compete and win at any level. However, not all institutions (or their representatives) share those commitments. Those programs disadvantage compliant schools and impact negatively the environment in intercollegiate athletics. This is unacceptable. Accordingly, our department will continue working together with compliant programs against conscious opponents who seek unfair advantages contrary to the Collegiate Model, ethical leadership and NCAA bylaws. We know those behaviors occur and we will not rest until they are a small exception to the rule. Based on outreach results and other measures, the enforcement department is cautiously optimistic that compliance Association-wide is on a positive trajectory and we will work tirelessly to protect that trend.

Internal Department Operations

To support the casework discussed above and other functions of enforcement, the department explored ways to operate more smoothly and effectively. Some of the enhancements were more significant than others, but all were designed to improve performance, enhance member service and otherwise fulfill our part of the infractions process mission. To those ends, listed below are examples of departmental enhancements made during the review period.

Personnel

Among the enforcement department's greatest assets are its people. We ask much of staff members and we place significant responsibility on them. Accordingly, the department is intentional about recruiting, hiring, training, developing and retaining a diverse, professional and mature staff. We were attentive to all of these during the review period.

Each time there is a vacancy in enforcement, department leaders review carefully the job description and the current business need for the position. We also analyze the competencies and qualities necessary for achieving the department's goals. With that information, we decide what we need and then look for candidates who have the appropriate expertise, together with important intangibles and a demonstrated commitment to member service. We are pleased to see strong applicant pools on a consistent basis. During the period of this review, our new hires included compliance professionals, attorneys, conference office representatives, Division I basketball and football coaches, former student-athletes and professional players, educators, and a long-time NBA scout.

Beyond attracting quality applicants, the department also revamped its initial training program for new hires. This is an ongoing effort as we adjust existing training elements and add new ones, including stronger collaboration across other regulatory departments of the national office. A deeper understanding of our regulatory partners encourages and enables new staff members to address issues across department lines. It also allows us to leverage (appropriately) existing relationships, share trends, realize efficiencies and otherwise provide a better experience for member schools.

Veteran staff members need training as well, so the department provides additional training opportunities for existing staff. These can be job-specific opportunities for specific personnel or department-wide training on subjects of broader applicability. For example, we provided training during the review period on cultural competency, effective writing, use of open source information, management of voluminous records, recruiting realities, certification of academic eligibility and many other substantive subjects. We also refreshed the entire staff with training on every element of the infractions process and all governing authorities.

In addition to hiring and training professional staff members, enforcement is also committed to creating a supportive and inclusive working environment where employees gladly give their very best. Like other workplaces, this department is most effective when staff members' contributions are valued and when we all labor together toward sensible goals in furtherance of a clear mission. There are challenges associated with our work, but we take formal and informal steps to stay unified and motivated. Work on our internal culture is never complete, but multiple datapoints suggest a generally positive environment within the department. This is by design and purposeful investment; not happenstance. We guard the environment jealously and solicit concerns from staff members regularly.

Even with a generally healthy environment, staff members leave on occasion to pursue other opportunities. When they do, enforcement is proud that its representatives depart for attractive positions including the following during the review period: compliance positions on campus, conference office administration, NBA and NFL clubs, Google, U.S. Center for SafeSport, Major League Soccer executive administration, and manager of diversity and inclusion for a national law firm. We also had two veteran staff members retire with a combined 50 years of enforcement experience.

Business and Structure

To support the staff members described above, the department continued exploring business and structural enhancements. Again, like many other workplaces, our department is always working on the proverbial machinery that helps us do our work and accomplish our mission. There were many changes of this nature during the review period, but a few examples include the following:

- Significantly enhancing our ability to gather (and leverage) precise case-related and performance data;

- Creation of the Investigative Technology Team, which focuses on emerging research technologies;
- Implementation of a simple and powerful relationship management tool;
- Exposure of eight staff members to campus challenges and systems through the Campus Placement or Campus Connect programs;
- Exhaustive review of all departmental templates, policies, guidelines and forms (resulting in amendment or discontinuation of at least 90 dated documents);
- Creation of a standing unit to focus on investigative tools;
- Rebranding and enhancement of internal support through the Business Operations Group;
- Solicitation of input and feedback through in-person events, anonymous surveys and other connections; and
- Addition of a department goal dedicated to listening to stakeholders.

These and other adjustments will facilitate the work of enforcement. We will leverage these resources and stay abreast of new developments that will assist with the smooth operation of complex regulatory work.

Other Enforcement Contributions

The bulk of this self-study relates to time spent developing information, investigating tips, processing violations and handling various certifications/approvals. Our roles there are well-known and members are understandably interested in our performance in those areas. However, the enforcement department also invests time collaborating with other national office departments and supporting Association-wide initiatives. This review period was no exception, as enforcement tried to advance the interests of all member schools in ways that directly or indirectly impacted enforcement operations. These included, among others, the following:

- Analyzing implications of the Supreme Court's decision striking down the Professional and Amateur Sports Protection Act of 1992 (PASPA). Our efforts here included member education, outreach to other regulatory entities and consideration of necessary steps to protect the well-being of student athletes and the integrity of collegiate contests.
- Supporting governance or membership discussions about difficult issues such as sexual violence, academic misconduct, individuals associated with a prospect (IAWP), transfers, tampering, student-athlete safety, amateurism, accountability for presidents and accountability for athletics directors.
- Contributing to general internal conversations about legislative reform, bylaw interpretations, eligibility consequences, communication strategies, relationship management, regulatory enhancements and building-wide operations.
- Assisting with Commission-related implementation efforts beyond areas traditionally associated with enforcement.
- Collaborating with stakeholders to develop coaches, administrators and student-athletes for future success within intercollegiate or professional athletics. Examples included working

with the Champions Forum, leading the Ethics Coalition and participating in symposiums for elite basketball and football student-athletes.

Department staff appreciate the opportunity to share their observations and expertise with members and individuals studying these very challenging issues. We do not fashion policy in these areas, but we welcome the opportunity to help governance bodies make fully informed decisions. We also welcome the opportunity to develop emerging leaders who will carry intercollegiate athletics into the future with integrity.

Section II: Compliance with Procedural Requirements

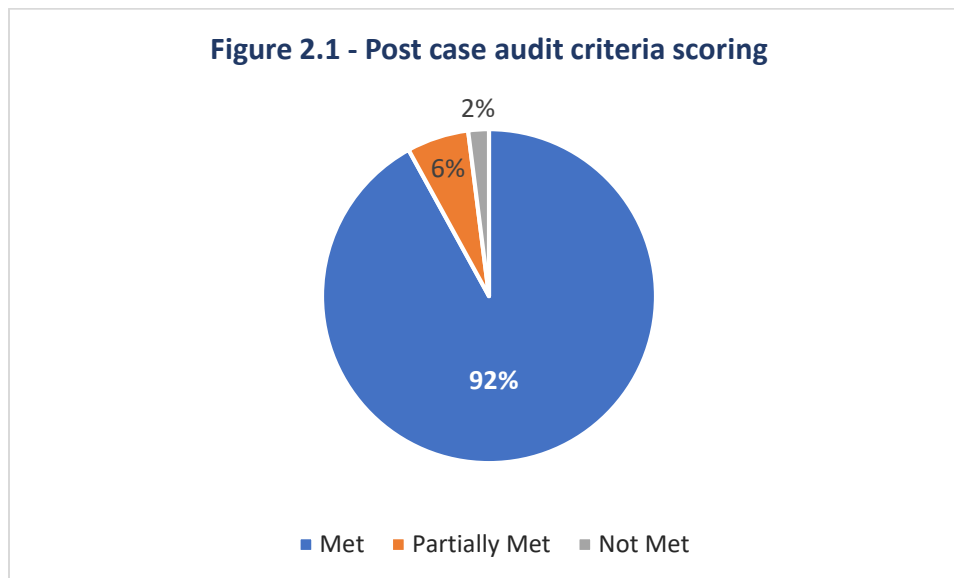
When the working group recommended self-study, it felt strongly that enforcement should examine itself regularly to determine whether staff members comply with all governing authorities. The enforcement staff shares the working group's regard for procedural integrity and welcomes the opportunity to study our record of compliance. In fact, we conduct all business knowing that (1) compliance with applicable bylaws and operating procedures is of paramount importance, and (2) we will report objectively our compliance results every three years. We work every day in a manner designed to leave no surprises during the self-study. We do not want to learn of compliance concerns or procedural departures during a subsequent audit – we want to operate in compliance and know of any errors in real time.

For all these reasons, and based on our commitment to quality member service, we constantly reinforce the expectation that all staff members adhere strictly to governing authorities. We communicate our commitments around internal compliance to staff members individually and through regular training to the department collectively. In fact, every year, enforcement adopts a departmental goal of zero material departures from applicable bylaws and operating procedures. We met that goal during each year of the self-study.

Further, enforcement's leadership team opted into responsibilities likened unto the legislated expectations of head coaches. These include promoting an atmosphere of compliance and monitoring direct and indirect reports, which the leadership team takes very seriously. This step was one of many ways we emphasize the importance and expectation of full compliance.

In addition to these overall initiatives, we built concrete safeguards to assure compliance in our actions and consistency in our decisions. Specifically, we exhaust quality control measures before and during every case, and then audit results at the end of select cases. Those measures are detailed on pp. 10-13 of the [2016 report](#) and will not be repeated here. We will simply note that each of those protections continued into and throughout the current review period. We also note that the safeguards appear to be working. For example, post-case audits review files comprehensively against requirements found in legislation, operating procedures and internal guidelines. The results of each criteria reviewed in the post-case audits are as follows¹¹:

¹¹ Criteria not met or partially met did not represent any material departures from NCAA bylaws governing enforcement.



The enforcement department is proud of its efforts to assure procedural compliance, and the results those efforts have yielded. However, we are always aware that deviations are possible and that consequences for poor decisions are substantial. We also know that a single poor decision can erase years of goodwill and trust. Accordingly, we will continue current practices aimed at satisfying both the letter and the intent of all governing authorities. We will also look for additional ways to make sure our practices are consistent with applicable rules and member expectations.

Section III: Support and Implementation of External Reforms

The enforcement department and all groups involved in the infractions process are subject to frequent reviews and calls for reform. This has been true for decades and it was certainly our experience throughout the period of this self-study. While still implementing reforms from the working group and other past evaluators, the enforcement department was subject to one or more additional external reviews during each year of the current self-study period. These included reviews by the Collegiate Commissioners Association, the Enforcement and Infractions Review Group and the aforementioned Commission on College Basketball.

The first two groups implemented meaningful changes including transparency in charging decisions, increased flexibility regarding hearing options and amended penalty factors. Supporting those reviews was time-consuming for department leaders, but the exercise was positive and the changes were helpful for schools that are, or may be, involved in an infractions case. The latter review, formed after federal officials announced a criminal probe and arrests in September 2017, yielded the most significant reforms in the modern era. Those are summarized briefly below.

Resolution of Complex Cases

The Commission articulated concerns about the efficacy of traditional infractions procedures in certain "complex" cases. Based on those concerns, the Commission recommended that select cases be resolved by independent individuals outside the infractions process. The Commission also recommended additional reforms for all infractions cases, which the membership adopted and began implementing in mid-2018. These included, among others, enhancing the responsibility to cooperate in investigations, increasing penalties in certain cases, allowing importation of evidence from other formal proceedings, protecting whistleblowers from retaliation and permitting parties to negotiate resolutions with the enforcement staff. These were codified in numerous legislative changes and formal operating procedures.

Rather than detailing reforms that are outlined in [education materials](#), the enforcement department reports that it was happy to assist the NCAA governance structure in implementing these sweeping reforms. The enforcement staff succeeded in advancing a very full caseload while also dedicating considerable time to the labor-intensive reform efforts. As a result, the docket did not suffer and participants in the infractions process now have resolution options that were not previously available. Implementation work remains (together with member education efforts) and will continue well into the next review period.

The enforcement department will employ these new mechanisms in our discretion and on behalf of the broader membership. We are hopeful the combination of new resolution paths and enhanced cooperation requirements will assist our effort to advance the mission of the infractions program. We will report as appropriate on the efficacy of post-Commission reforms and propose potential amendments that may be advisable based on practical experiences.

Certification and Approval Operations

Though not the focus of working group reforms in 2013, the enforcement department is also responsible for certifying nonscholastic basketball events, approving scouting services and providing related services. More information about the certification and approvals group is available [here](#). Staff members in that group stay busy with a high volume of complex transactions, often filled with strong emotion.

Beyond changes to how select infractions cases are investigated and resolved, the Commission also made recommendations that significantly impacted enforcement's certification and approval operations. Those reforms are described in [explanatory materials](#) and this report will not detail the finer points of specific changes. It will, however, highlight at least some of the ways Commission recommendations mandated changes to department functions.

Some of the reforms, like those around financial transparency of nonscholastic basketball events, required substantial enhancement of existing enforcement responsibilities. In those areas, department leaders collaborated with members, other national office staff and external advisors to establish certification criteria and strategies for separating NCAA coaches from nonscholastic

events that lack transactional transparency. This was complicated work with legal, financial, technological, practical, political and relational challenges. Our department committed considerable time and energy to navigating those difficult waters and implementing timely the changes. Other reforms, like calls to certify agents and open scholastic recruiting opportunities in June, required the creation of entirely new operations and procedures. These responsibilities did not exist before the Commission, and now need to be performed at a high level. As with nonscholastic event reforms, these functions needed governance oversight, technological support, stakeholder buy-in, clear procedures, fair enforcement mechanisms, skilled staff members and additional support resources.

Beginning to implement these certification and approval reforms consumed a considerable portion of the review period. Even with the effort given, much work remains to assure financial transparency, certify agents and participate in approving scholastic events. Building systems for each of these is an ongoing concern that will continue well into the next review period. Once built, and consistent with our broader commitments, enforcement will work to adhere strictly to all applicable authorities. Our staff will also continue exploring structures and strategies that may provide better or more effective service over time in these high-volume areas.

Section IV: Priorities moving forward

The main purpose of this self-study was to look hard at operations throughout the review period and to test departmental compliance with applicable bylaws, procedures and other authorities. To that end, the bulk of this report looked backwards at enforcement's performance during the review period. Sprinkled throughout the report, however, are intentional statements about departmental efforts moving forward. Although no one knows for certain what challenges might surface in the regulatory environment, we will close with a few additional representations about our plans moving forward. Based on feedback from stakeholders and regular communication with member schools, the enforcement department shares the following high-level priorities as we look ahead:

- Detecting and processing a greater proportion of meaningful violations;
- Exposing trends and developments by alerting member institutions and Association leaders of violative behaviors that threaten the Collegiate Model;
- Implementing and employing recent reforms on behalf of all members;
- Continuing our commitment to compliance and striving for overall departmental excellence;
- Supporting efforts to encourage integrity in intercollegiate athletics;
- Expanding outreach efforts for purposes of listening, building relationships and communicating with member schools; and
- Assuring that enforcement remains well positioned to protect the games we love.

To remain aligned with member expectations, we will test these priorities regularly and adjust them as needed. We will also articulate specific goals and execute strategies to advance these big-picture objectives. Finally, we look forward to sharing the outcomes of our work with member institutions and Association leaders.

Conclusion

Taking a hard look at enforcement operations and compliance is an exceptionally helpful exercise. Beyond assisting our department, we hope this report provides valuable insights to all who are interested in the infractions process. Enforcement leaders welcome questions or innovative ideas this report may have sparked in readers.

