



[May 7, 2021 - This decision reflects changes resulting from the decision of the NCAA Division I Infractions Appeals Committee (IAC). In its February 26, 2021, decision, the IAC vacated the panel's decision to apply Bylaw 19.9.3-(m), Intentional, willful or blatant disregard for the NCAA Constitution or Bylaws, to the institution. The IAC also vacated penalties V.4 (scholarship reductions) and V.9 (additional official visit limitations). The IAC remanded the decision to the panel with the instruction to re-examine the classification of the case for Georgia Tech and prescribe appropriate scholarship reductions, if any. On remand, the panel classifies Georgia Tech's case as Level I-Standard and prescribes a four-scholarship reduction to be taken over the next four academic years at Georgia Tech's discretion. The panel also acknowledges the one-scholarship reduction already served by Georgia Tech and permits Georgia Tech to apply a one-scholarship credit to the panel's penalty. The panel's analysis can be found in Appendix Three.]

**GEORGIA INSTITUTE OF TECHNOLOGY
PUBLIC INFRACTIONS DECISION
September 26, 2019**

I. INTRODUCTION

The NCAA Division I Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division I membership and public. The COI decides infractions cases involving member institutions and their staffs.¹ This case centered on inducement and benefit violations involving men's basketball staff and two different boosters in the Georgia Institute of Technology's men's basketball program. The conduct giving rise to the violations fell into two areas: (1) a former assistant coach orchestrating inducements and benefits from a booster during a highly touted prospect's official visit; and (2) another booster's involvement with two Georgia Tech men's basketball student-athletes and a potential transfer student-athlete after the booster was welcomed into the program by the head men's basketball coach.² The case also involved the assistant coach's unethical conduct violation for not being truthful and attempting to influence a student-athlete to change his story during the investigation.

Both sets of violations occurred because men's basketball coaching staff members invited outside individuals into their program. They permitted these outside individuals to interact with their student-athletes, and those actions resulted in Level I and Level II violations.

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

² A member of the Atlantic Coast Conference, Georgia Tech has a total enrollment of approximately 32,000 students. It sponsors nine men's and eight women's sports. This is the institution's fifth Level I, Level II or major infractions case. Georgia Tech had prior major infractions cases in 2014 (football and men's and women's basketball), 2011 (football and men's basketball), 2005 (football, men's and women's cross country, men's and women's indoor and outdoor track, men's and women's swimming) and 1989 (football).

The first set of violations stemmed from a highly touted prospect's official visit. During the visit, the assistant coach orchestrated contact between the prospect, his student-athlete host and a notable booster, who was formerly a successful Georgia Tech men's basketball player. The evening began by visiting the booster's home and then involved trips to a local strip club and a local restaurant/lounge. The booster arranged for the prospect and host to enter the strip club without paying a cover charge, and he provided each with \$300 cash for use inside the club. Later, the group visited a lounge owned by a local professional athlete where the prospect and host ate but did not pay for the meal. Additional violations occurred when the booster impermissibly texted the prospect the following day. The violations are Level I.

Relatedly, the assistant coach committed unethical conduct violations when the enforcement staff investigated the events of the official visit roughly one year later. The assistant coach provided false and misleading information when he denied any knowledge of and involvement in the violations. The assistant coach also attempted to influence the student-athlete host to modify what he had reported to the enforcement staff. He later denied those attempts in a subsequent interview. The assistant coach's unethical conduct violations are Level I.

This case also involved extra benefit and inducement violations resulting from a different booster's special access to the Georgia Tech men's basketball program through his then-friendship with the head coach. Through that unique access, the booster developed relationships with men's basketball student-athletes. He provided over \$2,400 in benefits to two Georgia Tech student-athletes and to a potential transfer student-athlete from the head coach's previous institution. The booster provided the two Georgia Tech student-athletes with shoes, clothing, meals and expenses associated with a trip to the booster's home in Arizona. The booster also provided the potential transfer student-athlete with shoes and purchased roundtrip airfare with the intent for him and his brother to visit. He also engaged in impermissible recruiting activity when he repeatedly texted the student-athlete attempting to influence him to transfer to Georgia Tech. The violations are Level II.

The panel classifies this case as Level I-Standard for Georgia Tech and as Level I-Aggravated for the assistant coach's violations. Utilizing the current penalty guidelines and NCAA bylaws authorizing additional penalties, the panel adopts and prescribes the following penalties: four years of probation, a fine of \$5,000 plus two percent of the budget of the men's basketball program, scholarship reductions, recruiting restrictions, vacation of records, disassociations for the two boosters involved in the violations and the assistant coach, and a three-year show-cause order for the assistant coach. The penalties section details these and other penalties.

II. CASE HISTORY

The case originated on September 20, 2017, when the NCAA enforcement staff interviewed the prospect about his recruitment to Georgia Tech. Shortly thereafter, a friend of the head men's basketball coach and Georgia Tech booster had a falling out with the head coach. On October 2, 2017, the booster informed the head coach of potential rules violations rendering two of his

student-athletes ineligible. The head coach immediately informed his compliance officer and sport supervisor and Georgia Tech began investigating the matter. On November 1, 2017, the enforcement staff provided Georgia Tech with a verbal notice of inquiry.

The enforcement staff and Georgia Tech investigated from November 2017 through February 2019. During that time, Georgia Tech and the enforcement staff sought and received a joint interpretation from the NCAA Academic and Membership Affairs (AMA) staff and related appellate bodies, which confirmed the date the head coach's then-friend became a booster.³ On February 15, 2019, the enforcement staff provided Georgia Tech and the former assistant men's basketball coach (assistant coach) with a notice of allegations. Over the next few months, the parties submitted timely written submissions pursuant to NCAA Bylaw 19.7.

Throughout the month of July, the chief hearing officer resolved multiple procedural issues and requests. On August 13, 2019, the chief hearing officer declined the assistant coach's untimely request to submit additional written materials because the request did not comply with the 30-day prior to a hearing deadline contemplated by Bylaw 19.7.5 and COI Internal Operating Procedure (IOP) 4-16. The panel held an in-person infractions hearing on August 22, 2019.

III. FINDINGS OF FACT

The facts of this case are straightforward and largely agreed-upon by the parties. Georgia Tech hired the head coach in early April 2016 after a successful tenure at a different Division I institution. The Georgia Tech men's basketball coaching position was the head coach's second head coaching job and the first at an autonomy five institution. Within seven months after the head coach's arrival at Georgia Tech, two boosters would involve themselves with prospective and current student-athletes in the men's basketball program.

Highly Touted Prospect's Official Visit

With an eye on improving Georgia Tech's recruitment of in-state talent and increasing its overall competitiveness, Georgia Tech turned its recruiting efforts to a local five-star prospect. The prospect, who was ranked in the top five to 10 nationally for the 2017 graduating class, publicly announced his top four schools in September 2016—Georgia Tech was among the finalists. Although the head coach was involved, the assistant coach was the prospect's primary recruiter. Georgia Tech arranged for the prospect to take his official paid visit from November 4 through 6, 2016.

At the August in-person infractions hearing, the head coach and assistant coach downplayed the magnitude of having such a high-profile prospect on campus, claiming that his visit was a standard visit. Neither, however, could deny the "buzz" or the public attention that came with having the

³ Georgia Tech appealed the AMA staff's interpretation to the NCAA Division I Interpretations Committee, which determined that the head coach's then-friend became a booster in summer 2016. Georgia Tech then appealed that decision to the NCAA Division I Legislative Committee, which determined that he became a booster when he provided a meal to two Georgia Tech student-athletes in the fall of 2016. The meal occurred on November 11, 2016.

prospect on campus. Georgia Tech's counsel also acknowledged the importance of the visit. Demonstrating the visibility and importance of the prospect's visit, and although not on the itinerary, counsel revealed that the prospect and his parents met and spoke with Georgia Tech's president during the visit.

Outside of typical visit activities, other events included the prospect and his student-athlete host's (host) visit to a booster's (booster) home, a trip to a strip club and a free meal at a lounge owned by a local NBA player. These activities occurred in the evening of November 5 and early morning of November 6, 2016 and were not listed on the itinerary. The assistant coach orchestrated the entire night's activities.

After initially denying any involvement, the assistant coach admitted in his second interview with the enforcement staff and at the in-person hearing that he contacted the booster to get them into the strip club without incident. This was not just any ordinary booster. The booster is a notable former Georgia Tech men's basketball student-athlete and, at the time, a member of the local NBA team. After calling the booster, the assistant coach drove the prospect and his host to the booster's home. The booster gave them a tour of his home, which included viewing his expansive shoe collection. Thereafter, the assistant coach drove the prospect and the host to an Atlanta strip club, where they met the booster and he arranged for the group to enter the club without paying a cover charge. Once inside, the booster provided both the prospect and the host with \$300 a piece to spend at the club.⁴ The prospect and the host used all of the cash at the strip club.

After leaving the strip club, the assistant coach drove the prospect and host to a lounge owned by another NBA player who, at the time, played in Atlanta. In his second interview with the enforcement staff, the assistant coach acknowledged that the same group was at the lounge. Although there was a post-game afterparty that advertised the attendance of local NBA players and celebrities, the group did not interact with any notable attendees.⁵ Rather, they ate—but did not pay for the food—and left. In his interview, the host reported that the assistant coach asked him not to talk about what had occurred on the official visit. Specifically, the assistant coach cautioned the host to not accidentally bring it up in conversation with teammates or friends. The host abided by that instruction until asked about the evening a year later in an interview with the enforcement staff.⁶

⁴ The assistant coach denied seeing the booster provide the prospect and host with money. However, both the prospect and the host confirmed that the booster provided them with cash. The host specifically recalled receiving three to four stacks of singles and that the booster provided the same to the prospect.

⁵ Although they did not interact at the lounge, the booster texted the prospect the following day encouraging him to attend Georgia Tech.

⁶ After the events during the official visit, the host competed as a member of the Georgia Tech basketball program in the 2016-17 and 2017-18 seasons.

Investigation into the Prospect's Official Visit

On November 20, 2017, the enforcement staff interviewed the host about the prospect's official visit. The interview began at 8:22 a.m. and lasted until 9:46 a.m. In the interview, the host confirmed details about what occurred during the official visit. Immediately following the interview, the host sent a text message to the assistant coach stating that he needed to talk with him in person. However, the assistant coach told the host he was at the doctor.

Concerned about what he had just told the enforcement staff, the host went to the office of the associate athletics director for finance and administration (associate athletics director) around 10:30 a.m.⁷ The associate athletics director reported that the host was distressed about what he reported in his interview and concerned it may have negative consequences for the assistant coach. The host came to Georgia Tech because of the assistant coach and the two maintained a personal relationship. During the conversation, the host recapped what he told the enforcement staff and that he needed to speak with the assistant coach. The associate athletics director instructed him to "hold off" on contacting the assistant coach and the host agreed to do so. The host left the associate athletics director's office around 10:50 a.m. for class.

At 11:16 a.m., the enforcement staff began its interview with the assistant coach. During the interview, the enforcement staff asked the assistant coach about the evening events on the official visit. The assistant coach denied facilitating any contact between the prospect and the booster. He also denied taking the prospect to the strip club. The assistant coach's interview ended at 12:27 p.m.

Three minutes after the assistant coach's interview ended, the associate athletics director received a text message from the host stating that he needed to see the associate athletics director "ASAP" because the assistant coach was trying to get in touch with him. The associate athletics director immediately went to his office where the host was already waiting.

In their interviews with the enforcement staff, the host and associate athletics director detailed the events that occurred throughout the rest of the day. The associate athletics director confirmed those events during the hearing. The host informed the associate athletics director that the assistant coach tried to contact him via Snapchat, an application where information is designed to disappear after receipt.⁸ The host reported that the assistant coach sent him a message asking what he had reported to the enforcement staff. The associate athletics director and host discussed whether the host should attend film and practice that afternoon. The host decided to go and avoid the assistant coach. Prior to a film session, the assistant coach pulled the host aside and suggested they go shoot

⁷ The associate athletics director for finance and administration is the sport supervisor for the men's basketball program. As sport supervisor, the associate athletics director was involved in the logistics of scheduling interviews for identified men's basketball student-athletes.

⁸ At the hearing, counsel for the assistant coach suggested that by following a number of steps one could retrieve confirmation of correspondence between two individuals using the application. Counsel conceded, however, that the substance of those messages may not be attainable. Neither the enforcement staff nor Georgia Tech were aware of this capability, and the assistant coach's counsel never attempted to retrieve the information.

around. During that time, the assistant coach told the host that he needed to change his story and tell the NCAA that he was intimidated and confused. The assistant coach urged the host to call Georgia Tech's chief compliance officer. Instead, the host called the associate athletics director and told him what happened. The associate athletics director removed him from practice.

That afternoon, the assistant coach called the enforcement investigator and continued to deny his involvement in the conduct. The following day, the assistant coach changed his mind. He notified the enforcement staff that he needed to correct his statements and tell the truth. On November 29, 2017, the enforcement staff conducted a second interview. During that interview, the assistant coach acknowledged that he lied about the events that took place during the prospect's official visit. The assistant coach also denied contacting the host and asking him to change his story. Instead, the assistant coach stated that it was the host who tried to talk to him about the interview and the host may have fabricated his story. However, the timeline and credible statements made by the associate athletics director and host in their interviews do not support the assistant coach's position.

Another Booster's Involvement in the Men's Basketball Program

About a week after the prospect's official visit in November 2016, another outside individual, who became a Georgia Tech booster, began interacting with Georgia Tech men's basketball student-athletes. Although new to the Georgia Tech program, the individual was not new to the head coach. In fact, as he had previously done at his past institution in the mid-2000's, the head coach welcomed this booster into his program with open arms. At the infractions hearing, the head coach identified that he was motivated out of kindness based on the booster's claimed personal circumstances and the booster did not display any red flags nor was he "a basketball guy." Throughout their relationship, the head coach repeatedly cautioned the booster never to provide anything to his student-athletes. Despite this caution, over the course of the next year, the booster would provide two Georgia Tech student-athletes and a potential transfer student-athlete with a total of \$2,424 worth of shoes, clothing, meal expenses, transportation and lodging. During spring 2017, he also frequently engaged in recruiting contacts with the potential transfer student-athlete via text and telephone.

The booster and the head coach became closely acquainted during the head coach's tenure at his previous institution. The relationship began through email exchanges where the booster reached out and told the head coach that he had saved his life back in 2007.⁹ In their communications, the booster also claimed that he was terminally ill and only had six months to live and he wanted to be part of a sports team. The head coach granted that request in what he viewed to be akin to a charitable gesture. Over the next ten years, that relationship would develop into a friendship with the head coach and his family. During that time, the booster and his girlfriend took multiple trips to visit the head coach and his family. On these trips they attended practices and games. After entrenching himself in the head coach's previous program, the head coach welcomed the booster into the Georgia Tech program, too.

⁹ In his interview with the enforcement staff, the head coach stated that he helped the booster get treatment when the booster was going through a tough time in his life.

The head coach was roughly seven months into his tenure at Georgia Tech when the booster wanted to stop in Atlanta on a trip to New York. He visited the head coach, where, over the course of approximately 10 days, he attended practices and three or four home games.

During this visit, the booster officially became a representative of Georgia Tech's athletics interest when he purchased a meal for two Georgia Tech men's basketball student-athletes at a local Atlanta steakhouse on November 11, 2016. The booster's relationship with those two student-athletes would continue over the next year and he would continue to provide them with gifts and benefits. Those gifts and benefits included shoes in February 2017, an all-expense paid trip to the booster's home in Arizona in April 2017, and clothing in August 2017. The booster also provided one of the student-athletes an additional pair of shoes in September 2017. The total amount associated with these gifts and benefits was \$1,423. The booster told both student-athletes to never tell the head coach. Both student-athletes competed in the 2016-17 season after the cost-free meal at the steakhouse.

In his interview and at the infractions hearing, the head coach stated that both the booster and the student-athletes knew what they could and could not do, and the booster knew how important following the rules was to him. As far as access, the head coach indicated that the booster would attend practice, ride the bus with the team and interact with the student-athletes—including what the head coach described as engaging in typical fan behavior like asking for pictures with the players. The head coach believed the booster was never around the players without him being present. However, the head coach later learned that the booster would leave the practice facility with him but would then circle back to the facility after the head coach was gone.

While the booster was developing relationships with the head coach's new program, he continued to maintain relationships with individuals in the head coach's former program. One of those individuals was a student-athlete considering transferring from the head coach's previous institution. While the booster maintained a personal friendship with the transfer student-athlete and helped him through personal issues, their conversations turned from mentoring to recruiting in early February 2017. Specifically, on February 6, 2017, the booster sent text messages to the transfer student-athlete and invited him and a guest out to his home for a cost-free four-to-five-day trip. In the same text string, he mentioned that one of the Georgia Tech student-athletes who he provided gifts and benefits to was also coming out to visit him and suggested he come out then to "hang with him." The booster also mentioned that he recently purchased some shoes for one of the Georgia Tech student-athletes for an upcoming game and offered to purchase a pair for the transfer student-athlete. Four days later, the booster purchased a pair of shoes costing \$118 for the potential transfer student-athlete. The shoes arrived on February 14, 2017.

Around the same time, the booster made the head coach aware of his communications with the potential transfer. But the head coach did not report any concerns to Georgia Tech's compliance office. Instead, the head coach reminded the booster about NCAA rules and that the potential transfer's focus should be on his current athletic and academic responsibilities. When asked at the infractions hearing why he did not inform compliance, the head coach stated that he did not believe the booster triggered booster status. The panel also asked the Georgia Tech representatives if the

head coach handled the situation properly. The chief compliance officer stated that both she and the director of athletics agreed that "the situation was not handled properly."

Although the transfer student-athlete was in the middle of his season, the booster continued to have routine communication with him and introduced the idea of transferring to Georgia Tech, even stating "[y]ou want to visit GT... You got it! I will have a red carpet rolled out for you. . . [the head coach] is calling me later to discuss your situation. This is your ticket to the NBA!" Other exchanges were more direct. For example, the booster stated, "Listen carefully... [the head coach] told me that you would be very much welcomed to GT. He cannot be involved at this stage due to NCAA rules. All you have to do is tell me that you want to visit and you will have one.... Coach can communicate with you through me. Let's just say that I am your 'Family friend – Advisor.'" Recruiting conversations continued throughout the spring. The recruiting communications continued up to and past April 11, 2017, when the booster followed through on his offer and purchased two roundtrip airline tickets for the transfer student-athlete and his brother to visit the booster. The booster asked the transfer student-athlete to hold off on making any decisions regarding his transfer until his trip to visit the booster.

Also on April 11, 2017, Georgia Tech contacted the transfer student-athlete's institution and, consistent with the rules at the time, requested permission to contact him. The other institution granted the request. The head coach attempted to call the potential transfer twice, but they never spoke. One of the assistant coaches also tried to contact the transfer student-athlete. Later that evening, the booster again made the head coach aware of his communication with the transfer student-athlete. Although the head coach stated that he knew the booster would not do anything against the rules, he asked the booster to keep him in the loop on the transfer student-athlete because he did not want to waste his time. The booster ended the conversations stating, "He will be a Yellow Jacket if YOU want him. Period."

A week later, the head coach informed the booster that he was no longer attempting to contact the transfer student-athlete. The head coach also asked the booster not to try to convince the transfer student-athlete to come to Georgia Tech. The following day, the transfer student-athlete committed to another institution. The booster sent a series of text messages to the transfer student-athlete asking him to confirm whether it was true and expressing his frustration and disappointment.¹⁰ The booster cancelled the roundtrip airfare.

Although the head coach was generally aware of the booster and transfer student-athlete's ongoing relationship and conversations, select text messages in the record demonstrate that he mentioned following NCAA rules and not actively recruiting the transfer student-athlete.¹¹ Additionally, in his interview and at the infractions hearing, the head coach repeatedly stated that he never sensed

¹⁰ Despite the transfer student-athlete's commitment to the other institution, the booster continued texting him through May 6, 2017.

¹¹ The head coach has a personal process whereby he deletes text messages daily after responding and completing conversations. He also has a personal process whereby he forwards some texts to his wife. The head coach forwarded some of the texts from his conversations with the booster to his wife. Those texts were retrieved during the investigation.

any "red flags" about the booster's activities and that the booster, his staff and his student-athletes knew how important the rules were to the head coach.

On October 2, 2017, when their friendship abruptly ended, the booster informed the head coach that his two best players were ineligible and involved in a scandal. The head coach took action. He encouraged the booster to tell him if any players were involved in NCAA violations and immediately emailed the associate athletics director and chief compliance officer. The head coach requested that they attend practice and ask the team if any of them had accepted any gifts, money or anything else against NCAA rules. The head coach also texted his team and instructed them to tell him if they ever received anything from the booster. Both of the student-athletes responded that they had received shoes from the booster. The head coach then disclosed this to the associate athletics director and chief compliance officer.

A few days later, the student-athletes told the head coach about their visit to the booster's home. Again, the head coach reported it to the associate athletics director and chief compliance officer. In his interview and at the infractions hearing, the head coach reported that the booster became aggressive towards him and his program and that aggression prompted him to contact law enforcement. In his interview and at the infractions hearing, the head coach stated that the booster's actions were motivated by a scheme to extort him for money.

IV. ANALYSIS

The underlying violations occurred in the men's basketball program over about a year and stemmed from men's basketball staff members inviting two outside individuals into their program to interact with student-athletes and a prospect. Both individuals triggered booster status and their unique access resulted in them providing a prospect, student-athletes and a potential transfer student-athlete with benefits and inducements. The violations also involved the assistant coach's failure to meet ethical conduct standards and his responsibility to cooperate during the investigation. The case involved three violations: (A) a booster's involvement in impermissible recruiting activity, inducements and extra benefits during a prospect's official visit; (B) the assistant coach's unethical conduct and failure to cooperate; and (C) another booster's provision of extra benefits and inducements.

A. IMPERMISSIBLE RECRUITING ACTIVITY, INDUCEMENTS AND EXTRA BENEFITS IN CONJUNCTION WITH A PROSPECT'S OFFICIAL VISIT [NCAA Division I Manual Bylaws 12.11.1, 13.1.2.1, 13.2.1, 13.2.1.1-(e), 13.6.7.1, 13.6.7.4, 16.8.1, 16.11.2.1 and 16.11.2.2 (2016-17)]

In early November 2016, the assistant coach orchestrated interaction between a highly touted prospect, his host and a notable Georgia Tech booster on the prospect's official visit that resulted in a series of violations. Those violations included a trip to the booster's home; a trip to a strip club; provision of cash and a meal; and the booster sending impermissible text messages. Georgia Tech agreed that the violations occurred and that they were Level I. The assistant coach agreed

that the violations occurred but asserted they were Level III. The panel concludes that the violations are Level I.

1. NCAA legislation relating to impermissible recruiting activity, inducements and extra benefits.

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

2. On a significant prospect's official visit, the assistant coach contacted a notable booster to arrange a trip to the booster's home and attendance at a strip club, which also resulted in the prospect and his host receiving cash, an impermissible meal and the booster engaging in additional recruiting communication with the prospect.

From November 4 through 6, 2016, one of the top men's basketball prospects in the country took an official paid visit to Georgia Tech and, as a result of the assistant basketball coach directly involving a notable booster, serious recruiting inducement and extra benefit violations occurred. By involving the booster (a notable former Georgia Tech men's student-athlete) the assistant coach set in motion a series of events that included: visiting the booster's home; attending a strip club without paying a cover charge; the booster providing the prospect and his host with cash to use at the strip club; and receiving a free meal at a lounge the group visited after the strip club. The booster also sent impermissible text messages to the prospect the following day. As a result of the violations, Georgia Tech permitted the host to play while ineligible. The conduct resulted in Level I violations of Bylaws 12, 13 and 16.

Bylaw 13 generally outlines recruiting conduct. Bylaw 13.1.2.1 limits recruiting activity to authorized institutional staff members and specifically prohibits boosters from recruiting. Taken together, Bylaws 13.2.1 and 13.2.1.1-(e) prohibit institutional staff members and boosters from providing inducements, including cash, to prospects that are not generally available. Bylaws 13.6.7.1 and 13.6.7.4 prohibit boosters from providing entertainment and cash to prospects on official visits. Similar restrictions apply to current student-athletes. For example, Bylaws 16.8.1, 16.11.2.1 and 16.11.2.2 place restrictions on providing extra benefits to student-athletes. Bylaw 12.11.1 obligates institutions to withhold ineligible student-athletes from competition.¹²

Despite knowing that boosters could not be involved in recruiting, the assistant coach elevated the perceived importance of the highly touted prospect's official visit by intentionally contacting a booster to engage in a series of impermissible activities on the prospect's official visit. The booster was a former successful Georgia Tech men's basketball player and, at the time, was on the roster of the local NBA team. Further, the assistant coach contacted the booster with the intent of using the booster's status to gain inconspicuous access to the strip club (which he also knew was impermissible). The evening began at the booster's home, carried on with adult entertainment at a local strip club and concluded at a lounge where the prospect and his host ate for free. It also

¹² Pursuant to Constitution 6.4.2, institutions are subject to penalties for any violation of NCAA legislation by a booster.

involved the booster providing a total of \$600 to the prospect and host to use at the strip club and additional recruiting contact between the booster and prospect via text message the following day. When the assistant coach involved the booster in recruiting activities, violations of Bylaws 13.1.2.1, 13.6.7.1 and 13.6.7.4 occurred. Similarly, when the assistant coach set in motion events that led to the booster's involvement in recruiting, inducements and extra benefits, violations of Bylaws 13.2.1, 13.2.1.1-(e), 16.8.1, 16.11.2.1 and 16.11.2.2 occurred.¹³ Finally, the host became ineligible as a result of the extra benefits he received. When Georgia Tech permitted him to play while ineligible, the institution failed to fulfil its obligation to withhold an ineligible student-athlete from competition under Bylaw 12.11.1.

Adult entertainment has no place in the NCAA Collegiate Model. It is particularly abhorrent in the recruiting process where coaches and others in a position of trust are responsible for the well-being of high school students visiting their campus. The COI has previously concluded that such activity is inexcusable and results in Level I violations. *See University of Louisville* (2017) (concluding that Level I violations occurred when a director of operations arranged striptease acts and prostitution for prospects, student-athletes and others in a university dormitory); *see also University of Miami* (2013) (concluding, under the former infractions structure, that major violations occurred when a booster provided impermissible benefits to student-athletes when he purchased their admission, entertainment and beverages at strip clubs); and *University of Alabama* (2002) (concluding, under the former infractions structure, that major violations occurred when prospects on official visits and their student hosts were entertained by strippers on campus). Although more limited than *Louisville*, the nature of the conduct still results in Level I violations. Therefore, pursuant to Bylaw 19.1.1-(f) and (g), the panel concludes the violations are Level I.

B. UNETHICAL CONDUCT AND FAILURE TO COOPERATE [NCAA Division I Manual Bylaws 10.01.1, 10.1, 10.1-(c) and 19.2.3 (2017-18)]

The assistant coach failed to meet standards of ethical conduct and his responsibility to cooperate when the enforcement staff investigated the events surrounding the prospect's official visit. The assistant coach provided false and misleading information on two occasions and attempted to influence the host to also provide false and misleading information. The assistant coach agreed that he was not truthful in his first interview while maintaining that he never attempted to influence the host to change his story. The assistant coach believed his conduct could be classified as Level III. The panel concludes that the violations are Level I.

1. NCAA legislation relating to unethical conduct and cooperation.

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

¹³ Separate and apart from the assistant coach's conduct during the investigation, the panel observed that unlike *Louisville*, the enforcement staff did not allege that the assistant coach's conduct violated standards of conduct outlined in Bylaw 10. Although there are factual differences between the two cases (e.g., directly providing versus orchestrating), those differences appear to be minimal. The assistant coach acknowledged in his second interview and at the infractions hearing that he knew his actions were against the rules and his intent in calling the booster was to get the prospect (and host) into the strip club. However, a Bylaw 10.1 violation was not alleged, and the panel does not decide that issue here. Nor does the panel make additional allegations pursuant to Bylaw 19.7.7.4.

2. The assistant coach lied in both of his interviews and attempted to persuade the host to change his story.

The assistant coach lied in his interviews with the enforcement staff. He also tried to get the host to lie as part of a cover up. This conduct was clearly contrary to the obligations and responsibilities of institutional employees. The assistant coach's behavior resulted in Level I violations of Bylaws 10 and 19.

Bylaw 10 establishes ethical conduct standards. Bylaw 10.01.1 requires all staff members to act with honesty and sportsmanship. Bylaw 10.1 outlines specific behavior that is considered unethical conduct, identifying knowingly furnishing false and mislead information or influencing others to do so as an example under Bylaw 10.1-(c). Bylaw 19.2.3 obligates all current and former institutional employees to cooperate with the objectives of the Association and its infractions program. This includes making full and complete disclosures of all relevant information when requested by the enforcement staff.

On November 20, 2017, the enforcement staff interviewed the assistant coach about the prospect's official visit. He denied any involvement in the events that transpired. Later, the assistant coach contacted the enforcement staff and requested the opportunity to sit for a second interview. In the second interview, he admitted that he had lied. However, he also denied attempting to persuade the host to modify what he reported to the enforcement staff. The assistant coach suggested that the host lied in his interview. The facts and statements made by both the host and the associate athletics director, however, do not support the assistant coach's version of events.

The enforcement staff interviewed the host first. Concerned about what he reported, he attempted to contact the assistant coach but was unable to do so. The host immediately went to the associate athletics director and expressed sincere concern for the assistant coach. Shortly thereafter, the enforcement staff interviewed the assistant coach. Within three minutes of the completion of the assistant coach's interview, the host contacted the associate athletics director and reported that the assistant coach was attempting to contact him, later identifying that it was via an application designed to delete communications after they are read. Later the associate athletics director removed the host from practice after the host reported the assistant coach confronted him and told him to contact the chief compliance officer and tell her that he needed to change his story.

It is simply not credible that the host lied in his interview. The timeline of events and credible statements made by the host and associate athletics director support that after learning the subject matter of the enforcement staff's inquiry, the assistant coach attempted to contact the host and persuade him to tell a fabricated story—first through an application and then in-person at practice. The associate athletics director reported that the host was distressed and genuinely concerned about what his actions could mean for the assistant coach. Further, the host provided information against his interest, describing his personal receipt of extra benefits and personal involvement in the violations that occurred. The assistant coach admitted he lied in his first interview and the panel concludes that he then attempted to persuade the host to change his story and lie. When the assistant coach denied these attempts in his second interview, he further provided false and

misleading information. The assistant coach's actions violated Bylaws 10.01.1, 10.1, 10.1-(c) and failed to meet the responsibility of staff members under Bylaw 19.2.3.

The COI has consistently concluded that individuals who lie, attempt to influence others to lie and/or fail to meet their responsibility to cooperate commit Level I violations. See *University of the Pacific* (2017) (concluding that Level I violations occurred when a head coach and assistant coach were untruthful in their interviews and the head coach attempted to influence others to provide false and misleading information) and *University of Mississippi* (2016) (concluding that Level I violations occurred when two former women's basketball staff members denied their involvement in academic misconduct violations, personally deleted or instructed a student-athlete to delete relevant information and told the student-athlete to tell a false story). The assistant coach failed to understand the gravity of the situation. By lying during the investigation and attempting to influence a student-athlete to lie, he made his involvement in the official visit violations much worse. Pursuant to Bylaw 19.1.1-(c) and (d), the panel concludes the violations are Level I.

C. INDUCEMENTS, EXTRA BENEFITS AND IMPERMISSIBLE RECRUITING CONTACTS [NCAA Division I Manual Bylaws 13.1.1.3, 13.1.2.1, 13.1.3.5.1, 13.2.1 and 13.2.1.1-(b) (2016-17), 16.11.2.1, 16.11.2.2 and 16.11.2.2-(d) (2016-17 and 2017-18)]

The head coach granted his friend—who became an institutional booster—unique access to his basketball program and, using that access, the booster provided two Georgia Tech student-athletes and a potential transfer student-athlete with over \$2,400 in extra benefits and inducements. The booster also engaged in impermissible recruiting activity. The enforcement staff alleged the conduct as Level II violations. Georgia Tech agreed that violations occurred but disputed the level. The panel concludes that Level II violations occurred.

1. NCAA legislation relating to inducements, extra benefits and recruiting contacts.

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

2. Utilizing his unique access, over the course of approximately one year, the booster developed personal relationships with men's basketball student-athletes and provided those student-athletes with impermissible gifts and engaged in impermissible recruiting contacts.

From fall 2016 through early fall 2017, the booster provided impermissible benefits and inducements to two Georgia Tech men's basketball student-athletes and a student-athlete at the head coach's previous institution who was considering transferring to Georgia Tech. Through unique and unparalleled access provided to him by the head coach, the booster fostered personal relationships with men's basketball student-athletes and advanced those relationships by providing or arranging for cost-free shoes, clothing, meals, travel and lodging totaling \$2,424. The booster also overextended his personal relationship with the transfer student-athlete at the head coach's

previous institution by regularly attempting to recruit him to Georgia Tech. The booster's activity resulted in violations of Bylaws 13 and 16 for Georgia Tech. Those violations are Level II.

Among other things, Bylaws 13 and 16 prohibit boosters from recruiting and providing inducements and extra benefits. As it relates to recruiting activity, at the time of the conduct, Bylaw 13.1.1.3 prohibits institutional staff and boosters from contacting student-athletes at another institution until expressly granted permission by the student-athlete's current institution. After receiving permission, all other recruiting restrictions apply. Bylaw 13.1.2.1 only permits authorized institutional personnel to engage in recruiting activity and Bylaw 13.1.3.5.1 expressly prohibits boosters from engaging in telephonic communication with student-athletes. Regarding inducements, Bylaw 13.2.1 prohibits boosters from providing inducements and specifically prohibits the provision of clothing or equipment under Bylaw 13.2.1.1-(b). As it relates to current student-athletes, Bylaws 16.11.2.1, 16.11.2.2 and 16.11.2.2-(d) prohibit boosters from providing extra benefits and, specifically, providing transportation.¹⁴

The head coach asserted that he originally opened the doors of his former program to the booster (although, not a booster at that time) in what he viewed as a charitable gesture based on the booster's professed troublesome circumstances. The head coach provided the same type of treatment at Georgia Tech. The booster used his access to develop friendships with men's basketball student-athletes and advanced those friendships by providing them with and arranging for impermissible gifts. The booster triggered Georgia Tech booster status when, during a roughly 10-day visit, he took two Georgia Tech student-athletes out for a free meal at a local Atlanta Steakhouse. This meal, as well as the shoes, clothing, and cost-free trip to the booster's home, resulted in \$1,423 in extra benefits expressly prohibited by Bylaws 16.11.2.1, 16.11.2.2 and 16.11.2.2-(d). Standing alone, these violations are Level II.

Georgia Tech's violations also included the booster's impermissible recruitment of a potential transfer student-athlete as well as his provision of and arrangement for impermissible inducements to a transfer student-athlete from the head coach's previous institution. Although the head coach had departed, the booster maintained relationships with those affiliated with the head coach's former basketball program. With respect to one student-athlete, the booster maintained a personal friendship. In early February 2017, while the student-athlete was still competing in the 2016-17 season, the booster introduced the idea of transferring to Georgia Tech. The contact occurred prior to Georgia Tech requesting permission to contact and the booster informed the head coach about the possibility of the prospect transferring. The booster's aggressive recruiting continued with regular communication, resulting in violations of Bylaws 13.1.1.3, 13.1.2.1 and 13.1.3.5.1.

The booster also provided the transfer student-athlete with shoes and arranged for him and his brother to visit the booster and his girlfriend by purchasing roundtrip airfare in violation of Bylaws 13.2.1 and 13.2.1.1-(b). In light of the conversation surrounding the booster's purchase of the ticket and the fact that the booster cancelled the ticket as soon as he found out the transfer student-

¹⁴ Pursuant to Constitution 6.4.2, institutions are subject to penalties for any violation of NCAA legislation by a booster.

athlete committed to a different institution, the panel concludes the booster's intention for the trip was motivated by a recruiting purpose. The violations are also Level II.¹⁵

Although each case is unique, the facts and circumstances of this case align with recent contested cases involving Level II extra benefit and inducement violations. *See University of Connecticut* (2019) (concluding that Level II extra benefit violations occurred when a trainer, who was an institutional booster and occasionally invited to campus to attend games by the head coach, provided free basketball training sessions to three student-athletes valued at \$1,152) and *University of Mississippi* (2017) (concluding that, among other violations, an individual Level II violation occurred when a booster provided family members of a student-athlete with roughly \$2,000 of free lodging).¹⁶ *Mississippi* also involved inducement and benefit violations at the other ends of the spectrum. *See Mississippi* (concluding that a Level I violation occurred when a booster provided a student-athlete's mother's boyfriend with \$800 and the football program arranged for a student-athlete to access a different booster's hunting land on his official visit and later as an enrolled student-athlete). The facts and circumstances of this case align with the COI's past cases involving Level II violations.

While informative, the value of the benefit is only one of the factors the COI considers when determining the appropriate level. Here, the value was relatively low but not outside the ranges of Level II violations in past cases. But this case also involved the booster's intentional efforts to develop relationships with men's basketball student-athletes to benefit the head coach's program. The violations provided were not isolated or limited. They occurred for roughly one year and involved three pairs of shoes, clothing, meals, and two planned cost-free trips. Further, they provided (or were intended to provide) more than a minimal benefit to the student-athletes. Therefore, pursuant to Bylaw 19.1.2, the panel concludes the violations are Level II.¹⁷

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the panel concludes that this case involved Level I and Level II violations of NCAA legislation. Level I violations are severe

¹⁵ The extra benefit, inducement and recruiting contact violations were significantly aided by the booster's personalized access to the head coach's basketball programs. Additionally, the booster made the head coach aware of his ongoing conversations with the potential transfer student-athlete. The panel observes that this case involved the grouping of certain activity around certain dates (e.g., on April 11, 2017, the booster communicated with the transfer student-athlete, the booster communicated with the head coach, Georgia Tech requested permission to contact, the head coach attempted to call the transfer student-athlete and the booster purchased roundtrip airfare for the transfer student-athlete and his brother), as well as the absence of information related to the head coach and booster's communication. The panel was not presented with a Bylaw 11.1.1.1 head coach responsibility allegation. Based on the information contained in the record (or the absence of information in the record), the panel does not decide that issue here. Nor does the panel make additional allegations pursuant to Bylaw 19.7.7.4.

¹⁶ Portions of the *Connecticut* case are presently under appeal. Connecticut has not appealed this Level II violation.

¹⁷ The panel also notes that as of October 15, 2018, the membership has specifically identified "a violation of Bylaw 13.1.1.3 as it relates to contact with a student-athlete" as an example of Level II violations in Bylaw 19.1.2. Although not directly applicable to this case, it is informative on the severity of Bylaw 13.1.1.3 violations.

breaches of conduct that undermine or threaten the integrity of the Collegiate Model and provide or are intended to provide substantial or extensive advantages or benefits. Level II violations are significant breaches of conduct that provide or are intended to provide more than a minimal but less than a substantial or extensive advantages or benefits.

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

The panel determined that the below-listed factors applied and assessed the factors by weight and number. Based on its assessment, the panel classifies this case as Level I-Standard for Georgia Tech and Level I-Aggravated for the assistant coach.

Aggravating Factors for Georgia Tech

- 19.9.3-(a): Multiple Level I violations by the institution;
- 19.9.3-(b): A history of Level I, Level II or major violations by the institution;
- 19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct;
- 19.9.3-(i): One or more violations caused significant ineligibility; and
- ~~19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution and bylaws.~~¹⁸

Georgia Tech agreed that Bylaws 19.9.3-(a), (b), (h) and (i) applied to its case but requested that each receive minimal weight. The panel does not give minimal weight to these factors based on Georgia Tech's past infractions history and the facts and circumstances detailed in this case. The panel also determines that Bylaw 19.9.3-(m) applies to Georgia Tech.

The panel assigns significant weight to Bylaw 19.9.3-(b), *A history of Level I, Level II or major violations by the institution*. This is Georgia Tech's fifth major, Level I or Level II infractions case. More importantly, it is the third case in the past eight years. Although Georgia Tech's most recent case involved less significant recruiting text message and phone call violations, some of those violations occurred in the men's basketball program. That case also involved admitted failures in this institution's monitoring systems. Georgia Tech's 2011 case also had an element involving impermissible tryouts in the men's basketball program but centered on preferential treatment to a high-profile football student-athlete and the institution's failure to cooperate. Taken together, these cases show a pattern of compliance issues at Georgia Tech with specific issues that continue to arise within the men's basketball program. As such, the panel assigns significant weight to Bylaw 19.9.3-(b).

The COI has recently applied significant weight when recurring issues resulted in multiple cases over multiple years. *See Florida A&M University* (2019) (applying significant weight to Bylaw

¹⁸ The Division I Infractions Appeals Committee (IAC) vacated the panel's determination that Bylaw 19.9.3-(m) applied to Georgia Tech in *Georgia Institute of Technology*, IAC Decision No. 524 (2021).

19.9.3-(b) when FAMU had three cases involving similar issues over roughly a twenty-year period) and *San Jose State University* (2018) (applying significant weight because the COI concluded similar violations occurred in a case just two years prior).¹⁹ The panel also recently declined to apply minimal weight to Bylaw 19.9.3-(b) when requested by an institution due to the institution's recent infractions history in the same program. *See Connecticut* (rejecting Connecticut's argument for minimal weight because its prior case occurred a few years before the events in this case, involved the same program and similar violations).²⁰ Consistent with the COI's past rationale, the COI declines to apply minimal weight. Rather, based on the number of cases involving the men's basketball program over the past eight years, the panel applies significant weight to this factor.

The panel also declines to apply minimal weight to Bylaws (a), (h) and (i). With respect to Bylaw 19.9.3-(a), *Multiple Level I violations by the institution*, this case involved multiple intentional and significant Level I violations committed by the assistant coach while he was acting in his official capacity. Institutions remain responsible for the actions of their employees—particularly when they are operating within the scope of their employment. *See University of Louisiana at Lafayette* (2017).

For the same reasons Bylaw 19.9.3-(h), *Persons of authority condoned, participated in or negligently disregarded the violations*, does not warrant minimal weight. In addition to Georgia Tech's shared responsibility for the assistant coach's actions, the assistant coach was the prospect's primary recruiter and a primary reason the host chose to attend Georgia Tech. He was also the individual who orchestrated the events of the official visit. Likewise, the assistant coach had an obligation to be truthful when interviewed as a member of the men's basketball coaching staff. Further, he attempted to contact that host throughout the day and specifically asked him to change his testimony after the host reported to practice. Based on those actions, the factor is attributable to Georgia Tech and does not deserve minimal weight. The COI has regularly attributed the full factor to institutions when coaching staff members engage in violations. *See Connecticut* and *DePaul University* (2019).²¹

The panel also attributes normal weight to Bylaw 19.9.3-(i), *One or more of the violations caused significant ineligibility*. After being invited into the basketball program by members of the coaching staff, both boosters engaged in conduct that resulted in student-athletes' ineligibility. All three student-athletes then competed while ineligible over two men's basketball seasons. The scope and breadth of that conduct is not minimal, and neither is the weight the panel attributes to this factor. *See Mississippi* (2017) and *Monmouth University* (2018).

Finally, the panel attributes Bylaw 19.9.3-(m), *Intentional, willful or blatant disregard for the NCAA constitution or bylaws*, to Georgia Tech. At the in-person infractions hearing, the panel

¹⁹ The panel notes that *FAMU* is presently on appeal but for issues separate from the weight applied to Bylaw 19.9.3-(b).

²⁰ Portions of *Connecticut* are presently under appeal. Connecticut has not appealed its aggravating and mitigating factors.

²¹ Portions of *Connecticut* are presently under appeal. Connecticut has not appealed its aggravating and mitigating factors.

specifically asked the parties whether this factor should be limited to the assistant coach. The enforcement staff indicated that based on its interpretation of past COI decisions, it did not believe the factor applied to the institution for purposes of penalties. The panel disagrees with that assessment. As mentioned above, the assistant coach was operating in his official capacity as an assistant coach for Georgia Tech. In that capacity, he intentionally involved a booster in recruiting and orchestrated a prospect's visit to a strip club when he knew he could not. He further willfully did not tell the truth and misled investigators when being interviewed about those events and attempted to persuade the host to change his story prior during team activity. The COI has previously attributed this factor to institutions when employees commit intentional violations while acting in their official capacity. *See University of Oregon (2018); Louisville; and Southern Methodist University (2016).*

Mitigating Factors for Georgia Tech

19.9.4-(b): Prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties.

19.9.4-(c): Affirmative steps to expedite final resolution of the matter; and

19.9.4-(d): An established history of self-reporting Level III or secondary violations.

The panel applies normal weight to all three factors. The panel specifically commends the institution for taking swift action once the head coach learned that the booster he welcomed into his program may have committed violations.

Georgia Tech proposed two additional mitigating factors: Bylaw 19.9.4-(a), *Prompt self-detection and self-disclosure of the violations*, and Bylaw 19.9.4-(f), *Exemplary cooperation*. The panel determines that neither applies.

The panel does not apply Bylaw 19.9.4-(a) because Georgia Tech did not uncover violations related to the prospect's official visit nor did it uncover the violations committed by the booster whom the head coach welcomed into his program. Despite knowledge of and involvement in the conduct by the assistant coach and host, neither disclosed the conduct and the institution's monitoring systems did not detect the conduct. Further, Georgia Tech did not uncover the conduct related to the friend of the head coach and booster. Again, student-athletes who knew the conduct was wrong did not disclose the receipt of extra benefits to their coaches or administration. The violations came to light due to the fallout between the head coach and booster and, according to the head coach, were only disclosed as part of the booster's plan to extort him. Georgia Tech cannot take credit for the booster's personal scheme against the head coach as a means of detecting the violations. The panel acknowledges and appreciates the efforts related to the assistant coach's unethical conduct, but those efforts alone do not establish Bylaw 19.9.4-(a). Institutions are not required to uncover all violations, but self-detecting one of the three allegations in this case does not warrant applying Bylaw 19.9.4-(a) as a mitigating factor. The COI has previously declined to

apply the factor when both prompt self-detection and self-disclosure are not present. *See California Polytechnic State University* (2019) and *University of Hawaii at Manoa* (2015).²²

Similarly, the panel determines that Bylaw 19.9.4-(f) does not apply to this case. Georgia Tech acknowledged the significant overlap in Bylaws 19.9.4-(c) and (f) and the heightened standard for Bylaw 19.9.4-(f). The facts and circumstances of this case support Bylaw 19.9.4-(c) but do not rise to Bylaw 19.9.4-(f). Generally, Georgia Tech asserted that it: (1) retained outside counsel; (2) its counsel risked potential danger by visiting the friend/booster's home to conduct an interview; (3) facilitated an investigation into matters unrelated to this case; (4) led efforts with the institution's information technology department to review and consolidate phone email records; and (5) brought information related to the friend/booster to the enforcement staff's attention.

The arguments are largely misplaced and do not align with the COI's past analysis when assessing Bylaw 19.9.4-(f). *See Northern Colorado* (2017) (determining that the factor applied when the institution searched coaches' offices, inventoried the items found, imaged computer drives and email accounts, and obtained student-athletes' coursework submitted to other institutions when investigating potential academic violations) and *Oklahoma State University* (2015) (determining that the factor applied when, over 11 months, Oklahoma State assisted the enforcement staff in reviewing over 50,000 emails and other records and conducting roughly 90 interviews). The panel recognizes and appreciates Georgia Tech's efforts related to searching and consolidating phone records and emails, but those efforts support expediting final resolution of the matter. The additional efforts do not support exemplary cooperation.

Aggravating Factors for the Assistant Coach

- 19.9.3-(a): Multiple Level I violations by the assistant coach;
- 19.9.3-(d): Obstructing an investigation or attempting to conceal a violation;
- 19.9.3-(e): Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information;
- 19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct;
- 19.9.3-(i): One or more violations caused significant ineligibility;
- 19.9.3-(j): Conduct or circumstances demonstrating an abuse of position of trust; and
- 19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution or bylaws.

At the hearing, counsel for the assistant coach agreed that if the COI concluded that the assistant coach lied in his interview, attempted to influence the host to modify his story and then provided false and misleading information about those attempts, then all aggravators apply.²³ The panel

²² The panel notes that *Cal Poly* is on appeal for issues separate from the application of aggravating and mitigating factors.

²³ Counsel for the assistant coach conceded at the hearing that if COI concluded those violations occurred, Bylaw 19.9.3-(f), *Violations were premeditated, deliberate or committed after substantial planning*, would also likely apply. The COI declines to apply that aggravator to the assistant coach's conduct.

concludes that those violations occurred and that the facts and circumstances surrounding those violations support the application of all seven aggravating factors.

Mitigating Factor for the Assistant Coach

19.9.4-(h): The absence of prior conclusions of Level I, Level II or major violations by the assistant coach.

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

Core Penalties for Level I-Standard Violations (Bylaw 19.9.5)

1. Probation: Four years of probation from September 26, 2019, through September 25, 2023.
2. Competition penalty: During the 2019-20 academic year, the men's basketball program shall end its season with the last regular-season contest and shall not participate in postseason conference or NCAA tournament competition.

In accordance with Bylaw 14.7.2-(c), the COI recommends that the NCAA Division I Committee for Legislative Relief waive the one-year residency requirement for transferring student-athletes whose institution was placed on probation which included a postseason ban penalty.

3. Financial penalty: Georgia Tech shall pay a fine of \$5,000 plus two percent of the budget for the men's basketball program.²⁴
4. Scholarship reductions: Georgia Tech shall reduce the number of grants-in-aid awarded in men's basketball by a total of four scholarships by the end of the 2024-25 academic year. Because Georgia Tech served one scholarship reduction during the pendency of the appeal, Georgia Tech may apply that scholarship as a credit to the prescribed penalty. The panel provides Georgia Tech with the flexibility to take the remaining three scholarship reductions as it deems appropriate between now and the 2024-25 academic year. This penalty equates to

²⁴ Georgia Tech self-imposed a \$5,000 fine. The fine from the budget for the program must be calculated in accordance with COI IOPs 5-15-5-4 and 5-15-4-1.

a 7.69 percent reduction from the total number of scholarships available over a four-year period.²⁵

5. Recruiting restrictions:

Georgia Tech shall restrict recruiting in men's basketball during each academic year of the four-year probationary term (i.e., 2019-20, 2020-21, 2021-22 and 2022-23)²⁶:

- a. An eight-week ban on unofficial visits, including no scheduled unofficial visits and no complimentary tickets.
- b. A three-visit reduction from the permissible number of official visits.²⁷
- c. An eight week ban on recruiting communications.
- d. A reduction of 19 recruiting-person days from the permissible number of recruiting-person days in men's basketball.²⁸

Core Penalty for Level I-Aggravated Violation (Bylaw 19.9.5)

6. Show-cause order: The assistant coach admitted orchestrating the events that led to severe Level I violations on a highly touted prospect's official visit. Specifically, the assistant coach admitted that he contacted a well-known former Georgia Tech men's basketball player and booster to get the prospect, his host and him into a local strip club without incident. His direct involvement of the booster in the prospect's official visit was a violation in and of itself but set off a chain of Level I violations. The assistant coach failed to fulfill his obligation to cooperate and did not meet ethical obligations when he originally lied about his involvement in the official visit violations, attempted to persuade the host to change his truthful story and then lied about those attempts. Therefore, the assistant coach will be informed in writing by the NCAA that the panel prescribes a three-year show-cause order pursuant to Bylaw 19.9.5.4. The show-cause period shall run from September 26, 2019, through September 25, 2022.

²⁵ The panel modified Penalty No. 4 on remand to correspond with the panel's new scholarship penalty. The full analysis relating to the panel's decision on remand can be found at APPENDIX THREE.

²⁶ The recruiting restrictions represent a 15 percent reduction in recruiting visit, recruiting communication and off-campus recruiting opportunities rounded to the nearest whole number.

²⁷ Georgia Tech self-imposed a reduction of four official visits for each of the 2017-18/2018-19 and 2018-19/2019-20 rolling two years periods. To the extent that Georgia Tech has served the reduction of those eight total official visits, Georgia Tech may credit those visit reductions towards the additional official visit restrictions prescribed by the panel. Georgia Tech must transparently document when and how it utilized the credited official visits in its annual reports submitted to the Office of the Committees on Infractions (OCOI). Georgia Tech will need to calculate the three visit reductions from the applicable rolling two-year periods.

²⁸ Georgia Tech self-imposed a reduction of 14 recruiting person days for the 2018-19 men's basketball recruiting cycle. Therefore, Georgia Tech may credit those restrictions towards the additional recruiting person day restrictions prescribed by the panel. Georgia Tech must transparently document when and how it utilized the credited days in its annual reports submitted to the OCOI.

During that time period, any employing institution shall prohibit the assistant coach from engaging in any athletically related duties. If the assistant coach obtains employment or affiliation with another NCAA member institution during the show-cause period, the employing institution shall, within 30 days of hiring him, be required to contact the Office of the Committees on Infractions (OCOI) to make arrangements to show cause why the penalty should not apply or notify the OCOI that it will abide by the show-cause order and fulfill reporting requirements.

Although each case is unique, the show-cause order is consistent with those prescribed in prior cases. *See East Tennessee State University* (2018) (concluding Level I-Aggravated violations for head coach responsibility and unethical conduct and prescribing a five-year show-cause order restricting the coach from all athletically related activities.) and *University of the Pacific* (2017) (concluding Level-Aggravated violations occurred for an assistant coach knowingly providing improper recruiting inducements, failing to cooperate in the investigation and providing false and misleading information and prescribing an eight-year show-cause order from all athletically related activities). Like these cases, the show-cause order falls within the membership-approved penalty guidelines.

Additional Penalties for Level I-Standard Violations (Bylaw 19.9.7)

7. Public reprimand and censure through the release of the public infractions decision.
8. Vacation of team and individual records: Ineligible participation in the men's basketball program occurred as a result of violations in this case. Therefore, pursuant to Bylaws 19.9.7-(g) and 31.2.2.3 and COI IOP 5-15-6, Georgia Tech shall vacate all regular season and conference tournament records and participation in which the ineligible student-athlete competed from the time he became ineligible through the time he was reinstated as eligible for competition.²⁹ This order of vacation includes all regular season competition and conference tournaments. Further, if the ineligible student-athlete participated in NCAA postseason competition at any time he was ineligible, Georgia Tech's participation in the postseason contests in which the ineligible competition occurred shall be vacated. The individual records of the ineligible student-athlete shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes shall be retained. Further, Georgia Tech's records regarding its athletics programs, as well as the records of head coaches, shall reflect the vacated records and be recorded in all publications in which such records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media plus institutional, conference and NCAA archives. Any institution that may subsequently hire the affected head coach shall similarly reflect the vacated wins in his career records documented in media guides and other publications cited above. Head coaches with vacated wins on their

²⁹ Pursuant to Bylaw 19.9.7-(g), the COI may prescribe vacation of records when a student-athlete competes while ineligible. Among other examples, vacation is particularly appropriate when a case involves serious intentional violations or the direct involvement of a coach or booster. *See* COI IOP 5-15-6. None of these factors, however, are necessary for the COI to prescribe the penalty. *See Brigham Young University*, NCAA Division I Infractions Appeals Committee Report No. 506 (2019). The COI has consistently prescribed vacation in cases in which impermissible recruiting inducements and extra benefits resulted in ineligible competition. *See DePaul; Brigham Young University* (2018); and *Louisville*.

records may not count the vacated wins toward specific honors or victory "milestones" such as 100th, 200th or 500th career victories. Any public reference to the vacated records shall be removed from the athletics department stationary, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in men's basketball shall be returned to the Association.

Finally, to aid in accurately reflecting all institutional and student-athlete vacations, statistics and records in official NCAA publications and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA Media Coordination and Statistics office and appropriate conference officials to identify the specific student-athletes and contests impacted by the penalties. In addition, the institution must provide the NCAA Media Coordination and Statistics office with a written report detailing those discussions. This written report will be maintained in the permanent files of the NCAA Media Coordination and Statistics office. This written report must be delivered to the office no later than 14 days following the release of this decision or, if the institution appeals the vacation penalty, at the conclusion of the appeals process. A copy of the written report shall also be delivered to the OCOI at the same time.

~~9. The Level I recruiting violations occurred during a high profile prospect's official visit in conjunction with the men's basketball competition. Therefore, during the first two years of probation (the 2019-20 and 2020-21 academic years), Georgia Tech shall be prohibited from scheduling any official visits in conjunction with home men's basketball competitions.~~^{30 31}

10. Disassociation: Georgia Tech notified the assistant coach in writing on May 15, 2019, that Georgia Tech disassociated him for a three-year period ending on May 14, 2022. (Self-imposed.) Pursuant to Bylaw 19.9.7-(i), the disassociation shall include:

- a. Refraining from accepting any assistance from the assistant coach that would aid in the recruitment of prospective student-athletes or the support of enrolled student-athletes;
- b. Refusing financial assistance or contributions to Georgia Tech's athletics program from the assistant coach;
- c. Ensuring that no athletics benefit or privilege is provided to the assistant coach, either directly or indirectly; and
- d. Implementing other actions that Georgia Tech determines to be within its authority to eliminate the involvement of the assistant coach in the institution's athletics program.

³⁰ Although under the previous penalty structure, this penalty is similar to the visit restrictions prescribed by the COI in *Miami*, which specifically placed two years of additional restrictions on unofficial visits, an area where a significant amount of the recruiting violations occurred. In this case, because the conduct in Violation No. 1 occurred during an official visit in conjunction with a home contest, the COI prescribes additional recruiting restrictions in that area.

³¹ The Division I IAC vacated Penalty No. 9 in *Georgia Institute of Technology*, IAC Decision No. 524 (2021).

11. Disassociation: Georgia Tech placed disassociation restrictions on the former Georgia Tech men's basketball student-athlete and booster by limiting his involvement in any recruiting activity from April 2, 2019 through April 1, 2020. During that time period the booster is prohibited from having any arranged in-person contact with any Georgia Tech prospects or from being utilized by Georgia Tech in any otherwise permissible manner as part of its recruitment of student-athletes. Additionally, the booster is prohibited from accessing any Georgia Tech athletics facility in which a Georgia Tech prospect is known by any Georgia Tech athletic department representative to be present. (Self-imposed.)

Additionally, Georgia Tech shall disassociate the booster for a period of three years beginning with the release of this infractions decision on September 26, 2019 and ending on September 25, 2022.³² Pursuant to Bylaw 19.9.7-(i), the disassociation shall include:

- a. Refraining from accepting any assistance from the booster that would aid in the recruitment of prospective student-athletes or the support of enrolled student-athletes;
- b. Refusing financial assistance or contributions to Georgia Tech's athletics program from the booster or his business interests;
- c. Ensuring that no athletics benefit or privilege is provided to the booster, either directly or indirectly or his business interests; and
- d. Implementing other actions that Georgia Tech determines to be within its authority to eliminate the involvement of the booster in the institution's athletics program.

12. Disassociation: Georgia Tech disassociated the friend of the head coach and Georgia Tech booster on December 7, 2017. (Self-imposed.)³³ Pursuant to Bylaw 19.9.7-(i), the disassociation shall include:

- a. Refraining from accepting any assistance from the booster that would aid in the recruitment of prospective student-athletes or the support of enrolled student-athletes;
- b. Refusing financial assistance or contributions to Georgia Tech's athletics program from the booster or his business interests;

³² The panel prescribes a three-year disassociation to correspond with the time period and restrictions of Georgia Tech's self-imposed disassociation of the assistant coach. The assistant coach and the booster both were involved in the impermissible Level I violations that occurred on during the prospect's official visit, and therefore, the panel determines the length of their disassociation should be the same.

³³ Georgia Tech self-imposed a permanent disassociation of the booster. Pursuant to COI IOP 5-15-7, the COI does not prescribe periods of disassociation for longer than 10 years but does not prohibit institutions from self-imposing a period of disassociation for a period longer than 10 years. Georgia Tech also self-imposed a security restriction prohibiting the booster from accessing the Georgia Tech campus, or any off-campus facilities owned by Georgia Tech, including facilities utilized for Georgia Tech athletics events.

- c. Ensuring that no athletics benefit or privilege is provided to the booster, either directly or indirectly or his business interests; and
- d. Implementing other actions that Georgia Tech determines to be within its authority to eliminate the involvement of the booster in the institution's athletics program.

13. During the period of probation, Georgia Tech shall:

- a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for recruiting and certification legislation;
 - b. Submit a preliminary report to the OCOI by November 15, 2019, setting forth a schedule for establishing this compliance and educational program;
 - c. File with the OCOI annual compliance reports indicating the progress made with this program by August 15 during each year of probation. Particular emphasis shall be placed on rules education and monitoring related to official and unofficial visits and booster involvement in recruiting activity.
 - d. Inform prospects in the men's basketball program in writing that Georgia Tech is on probation for four years and detail the violations committed. If a prospect takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospect signs an NLI; and
 - e. Publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions decision located on the athletic department's main webpage "landing page" and in the media guides for men's basketball. 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.
14. Following the receipt of the final compliance report and prior to the conclusion of probation, Georgia Tech's president shall provide a letter to the COI affirming that Georgia Tech's current athletics policies and practices conform to all requirements of NCAA regulations.
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The COI advises Georgia Tech and the assistant coach that they should take every precaution to ensure that they observe the terms of the penalties. The COI will monitor Georgia Tech 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 Georgia Tech does not comply or commits additional violations. Likewise, any action by Georgia Tech or the assistant coach contrary to the terms of any of the penalties or any additional violations shall be considered grounds for prescribing more severe penalties and/or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Greg Christopher
Stephen Madva
Joel Maturi, Chief Hearing Officer
Kay Norton
David M. Roberts
E. Thomas Sullivan

APPENDIX ONE

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

Georgia Tech implemented numerous meaningful corrective actions in response to each of the three allegations in the NOA.

Allegation 1

While the institution implemented no corrective actions with respect to Allegation 1, the head coach asks all prospects, involved staff members and student-athlete hosts specific questions about their entertainment activities, and any involvement of adult entertainment, following each official visit. Additionally, the head coach now personally provides rules education and instruction regarding adult entertainment to student hosts prior to the initiation of official visits.

Allegation 2

Georgia Tech implemented corrective actions related to unethical conduct legislation in response to violations contained in Allegation 2. While Georgia Tech previously educated athletics staff members on ethical conduct obligations as part of its normal rules education functions, the university provided additional rules education to coaches and athletic staff members in response to Allegation 2. Specifically, additional rules education covered unethical conduct legislation, and the various ways that University employees can violate the principles of unethical conduct and failure to cooperate.

Allegation 3

Georgia Tech implemented compliance systems to enhance its monitoring of booster activities in response to the friend of the head coach and booster's conduct. Specifically, Georgia Tech implemented a procedure where the Compliance Office now pre-reviews and approves the travel party for away contests. Additionally, the University implemented a monitoring system requiring the Compliance Office to review post-travel trip expenses, including the attendee list for all meals associated with team travel. Finally, Georgia Tech implemented a compliance system to enhance monitoring related to complimentary tickets. Specifically, the University now requires the Compliance Office to review complimentary ticket request from staff members. Finally, staff members are now required to disclose information about their relationship with the third parties who they request tickets for.

APPENDIX TWO

Bylaw Citations

Division I 2016-17 Manual

12.11.1 Obligation of Member Institution to Withhold Student-Athlete From Competition.

If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 12.12 if it concludes that the circumstances warrant restoration.

13.1.1.3 Four-Year College Prospective Student-Athletes. An athletics staff member or other representative of the institution's athletics interests shall not make contact with the student-athlete of another NCAA or NAIA four-year collegiate institution, directly or indirectly, without first obtaining the written permission of the first institution's athletics director (or an athletics administrator designated by the athletics director) to do so, regardless of who makes the initial contact. If permission is not granted, the second institution shall not encourage the transfer and the institution shall not provide athletically related financial assistance to the student-athlete until the student-athlete has attended the second institution for one academic year. If permission is granted to contact the student-athlete, 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 (see Bylaw 13.02.1) 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.

13.1.2.1 General Rule. All in-person, on- and off-campus recruiting contacts with a prospective student-athlete or the prospective student-athlete's relatives or legal guardians shall be made only by authorized institutional staff members. Such contact, as well as correspondence and telephone calls, by representative of an institution's athletics interests is prohibited except as otherwise permitted in this section.

13.1.3.5.1 Representatives of Athletics Interests. Representatives of an institution's athletics interests (as defined in Bylaw 13.02.15) are prohibited from making telephonic communications with a prospective student-athlete or the prospective student-athlete's relatives or legal guardians.

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

students or their relatives or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability.

13.2.1.1 Specific Prohibitions. Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following:

- (b) Gift of clothing or equipment;
- (e) Cash or like items.

13.6.7.1 General Restrictions. An institution may provide entertainment, pursuant to Bylaw 13.6.7.5, on the official visit for a prospective student-athlete and up to four family members accompanying the prospective student-athlete within a 30-mile radius of the institution's main campus. Entertainment and contact by representatives of the institution's athletics interests during the official visit are prohibited. It is not permissible to entertain friends (including dates) of a prospective student-athlete at any time at any site.

13.6.7.4 Cash to Prospective Student-Athlete. The institution or representatives of its athletics interests shall not provide cash to a prospective student-athlete for entertainment purposes.

16.8.1 Permissible. An institution, conference or the NCAA may provide actual and necessary expenses to a student-athlete to represent the institution in practice and competition (including expenses for activities/travel that are incidental to practice or competition). In order to receive competition-related expenses, the student-athlete must be eligible for competition.

16.11.2.1 General Rule. The student-athlete shall not receive any extra benefit. The term "extra benefit" refers to any special arrangement by an institutional employee or representative of the institution's athletics interests to provide the student-athlete or his or her family members or friends with a benefit not expressly authorized by NCAA legislation.

16.11.2.2 Other Prohibited Benefits. An institutional employee or representative of the institution's athletics interests may not provide a student-athlete with extra benefits or services, including, but not limited to:

- (d) Transportation (e.g., a ride home with a coach), except as permitted in Bylaw 16.9.1, even if the student-athlete reimburses the institution or the staff member for the appropriate amount of the gas or expense.

Division I 2017-18 Manual

10.01.1 Honesty and Sportsmanship. Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

10.1 Unethical Conduct. Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

(c) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.

16.11.2.1 General Rule. The student-athlete shall not receive any extra benefit. The term "extra benefit" refers to any special arrangement by an institutional employee or representative of the institution's athletics interests to provide the student-athlete or his or her family members or friends with a benefit not expressly authorized by NCAA legislation.

16.11.2.2 Other Prohibited Benefits. An institutional employee or representative of the institution's athletics interests may not provide a student-athlete with extra benefits or services, including, but not limited to:

(d) Transportation (e.g., a ride home with a coach), except as permitted in Bylaw 16.9.1, even if the student-athlete reimburses the institution or the staff member for the appropriate amount of the gas or expense.

19.2.3 Responsibility to Cooperate. Current and former institutional staff members or prospective or enrolled student-athletes of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Committee on Infractions and the Infractions Appeals Committee to further the objectives of the Association and its infractions program. The responsibility to cooperate requires institutions and individuals to protect the integrity of investigations and to make a full and complete disclosure of any relevant information, including any information requested by the enforcement staff or relevant committees. Current and former institutional staff members or prospective or enrolled student-athletes of member institutions have an affirmative obligation to report instances of noncompliance to the Association in a timely manner and assist in developing full information to determine whether a possible violation has occurred and the details thereof.

APPENDIX THREE
Amended Determination on Remand

Remanded Classification and Penalty Determination

Recently, the panel reconvened to consider the remand in this case from the Division I Infractions Appeals Committee (IAC). The remand stemmed from Georgia Tech's appeal of the panel's classification of the case as Level I-Standard and corresponding postseason ban, scholarship reductions and additional recruiting restrictions.¹ On appeal, Georgia Tech argued that the panel abused its discretion when it attributed aggravating factor Bylaw 19.9.3-(m), *Intentional, willful or blatant disregard for the NCAA constitution and bylaws*, to Georgia Tech for the conduct of its assistant coach and classified Georgia Tech's case as Level I-Standard. Georgia Tech further argued the COI abused its discretion by linking the length of scholarship reductions to the four-year probationary period and prescribing tailored official visit restrictions as additional penalties. After vacating the panel's determination that Bylaw 19.9.3-(m) applied to Georgia Tech, the scholarship reductions and the additional official visit restrictions, the IAC remanded the case to the panel to re-examine the case classification and prescribe scholarship reductions consistent with the re-examined classification.

Following this direction, pursuant to Bylaws 19.9.2 and 19.9.2.2 the panel continues to classify the case as Level I-Standard. Consistent with Bylaw 19.9.5, which authorizes the COI to prescribe limitations on financial aid awards during a specified period, and the ranges identified for Level I-Standard scholarship reductions in Figure 19-1, the panel prescribes a four-scholarship reduction to be taken by Georgia Tech over a four-year period. Because Georgia Tech served one scholarship reduction during the pendency of the appeal, Georgia Tech may apply that scholarship as a credit to the panel's penalty. The panel provides Georgia Tech with the flexibility to take the remaining three scholarships as it deems appropriate between now and the 2024-25 academic year.

With regard to the classification, this case still involves four aggravating and three mitigating factors. Pursuant to Bylaw 19.9.2.2, the weight and number of these factors support a Level I-Standard classification. In fact, the number and weight associated with the original factors could have supported a Level I-Aggravated classification under Bylaw 19.9.2.1 because the original case involved five aggravating factors—including one that received significant weight—and only three mitigating factors. *See* Section V. After eliminating Bylaw 19.9.3-(m), this case *still involves* four aggravating factors—one involving significant weight—and three mitigating factors. The current four to three ratio of aggravating and mitigating factors and weight attributed to those factors in the original decision support a Level I-Standard classification and the panel's analysis with respect to those factors remains unchanged. This classification is further supported by the fact that the panel attributed significant weight to Georgia Tech's past infractions history under Bylaw 19.9.3-(b).

¹ Prior to the oral argument, Georgia Tech withdrew its appeal of the one-year postseason ban.

Consistent with the IAC's direction on remand, the panel then considered an appropriate scholarship penalty based on the range for Level I-Standard cases—5 to 15 percent reduction—in the membership-approved penalty guidelines. The panel also considered Georgia Tech's central argument on appeal—mainly that the COI abused its discretion by linking the penalty to the four-year probationary period.² Given the seriousness of the violations in this case and after the review of past cases, the panel prescribes a four-scholarship reduction. The penalties provide the panel with the flexibility to prescribe scholarship reductions in multiple ways; however, the COI provides that flexibility and discretion to Georgia Tech to implement remaining reductions as appropriate between now and the end of the 2024-25 academic year.

As noted herein, at the time of the original deliberations (and continuing to the present), the panel viewed the conduct of the institution and its personnel as extremely serious misconduct. The panel originally classified the case as Level I-Standard based on the unique facts of the case, the two different sets of violations, the involvement of institutional personnel and boosters in both sets of violations, and the admission by Georgia Tech that it did not handle all compliance issues properly. The panel determined that the loss of four scholarships was the appropriate scholarship penalty; however, it originally decided to spread the penalty over the four-year probationary period to allow for better continuity in the institution's men's basketball program. Georgia Tech appealed the linking of the penalty to the term of probation. Thus, on remand, the panel does not link the penalty to the probationary period, nor does it specifically require a certain number of scholarship reductions be taken in a particular year. Instead, the COI provides Georgia Tech with a one-scholarship credit, and flexibility and discretion on when and how to take those remaining reductions. This approach aligns with the COI's flexibility and decision making in another Level I-Standard case involving the men's basketball program. *See Southern Methodist University (SMU) (2015)*.

This penalty is appropriate because this case involved severe misconduct. More specifically, it involved two sets of independent violations in the men's basketball program. The panel fully detailed the facts and circumstances around those violations in its September 26, 2019, infractions decision and Georgia Tech did not appeal those facts or violations. Although the full details are thoroughly addressed in the original decision, the main points of the unchallenged conduct bear repeating because they serve as the underlying support for the panel's scholarship penalty.

The violations in this case generally fell into two categories: (1) multiple Level I recruiting-related violations stemming from a highly touted prospect's official visit and (2) multiple Level II extra benefit and recruiting violations carried out by a booster welcomed into the men's basketball program by the head men's basketball coach.

The Level I violations occurred on a highly touted prospect's official visit to Georgia Tech. The visit was important. Georgia Tech was in the process of reestablishing its men's basketball program and, at the infractions hearing, Georgia Tech's head coach acknowledged that there was

² Although the panel also expressly linked the core recruiting restrictions to the four-year probationary period, Georgia Tech did not appeal the panel's decision to link recruiting restrictions to probation as an abuse of discretion.

a certain "buzz" and public attention associated with the prospect's presence on campus. At the hearing, the assistant coach acknowledged that the men's basketball staff never thought the prospect would sign with Georgia Tech, but the fact that he took an official visit was "a big enough draw in the public's eye that it was worth wasting...an official visit for him to come to campus." The prospect's presence was noteworthy enough that he even met with Georgia Tech's president while on his visit. None of these events were problematic.

Other events, however, undermined the principles of responsible and upstanding recruiting. These included the assistant coach orchestrating contact between a booster (who was a basketball program alumnus and NBA player), the prospect and the student host. The contact also led to: (1) the prospect and his host visiting the booster's home; (2) a trip to a strip club where the booster got the cover waived and provided the prospect and his host with \$300 each to tip the strippers; and (3) the prospect and student host eating at a restaurant and lounge without paying. The booster also sent the prospect impermissible text messages in an effort to convince him to come to Georgia Tech. Finally, following the activity, the assistant coach asked the prospect and host not to tell anyone, lied when asked about it, pressured the student host to change his story and then lied about the cover up.³

The second set of violations stemmed from the head men's basketball coach welcoming a second booster into his program with open arms. Although the booster was described as atypical and the head coach befriended the booster at the head coach's previous institution, the head coach still provided him with unprecedented access to the program and Georgia Tech student-athletes. The booster proceeded to provide over \$2,400 in impermissible benefits to two men's basketball student-athletes and a potential transfer student-athlete from the head coach's former institution. He actively recruited the potential transfer, even purchasing round trip airfare for the transfer and his brother to come visit him in Arizona. At some point, the booster informed the head coach about his contacts with the potential transfer. Yet the head coach did not inform compliance. At the infractions hearing, Georgia Tech's chief compliance officer stated that she and the director of athletics agreed that "the situation was not handled properly."

³ The panel notes that the IAC vacated aggravating factor Bylaw 19.9.3-(m), *Intentional, willful or blatant disregard for the NCAA constitution and bylaws*, because it did not believe there was a sufficient nexus of action or inaction by the institution. The COI has and will continue to be intentional in distinguishing between institutional and involved individual accountability. Although the COI did not revisit the issue under the IAC's standard, the uncontested facts and violations appear to support a nexus between the conduct and Georgia Tech. Specifically, the violations occurred on the prospect's official paid visit to Georgia Tech. Institutions are limited in the number of official paid visits and institutional representatives acknowledged the "buzz" around having the prospect on campus. Moreover, Georgia Tech assigned the recruitment of the prospect to the assistant coach. He then, acting with the express authority of Georgia Tech to recruit the prospect, sought out the booster to involve him in the recruitment of the prospect. He intentionally committed violations on the official visit and later attempted to cover up those violations. Although Georgia Tech distanced itself from the conduct, it occurred after Georgia Tech extended an offer to the prospect to come to its campus. It occurred on or around Georgia Tech's campus when it was responsible for the prospect. Lastly, it occurred as a result of the actions of its assistant coach who was designated by Georgia Tech to recruit the prospect to the institution. Based on these uncontested facts, there appears to be a nexus between the institution's actions and the violations in this case.

Severe and significant violations are addressed with corresponding severe and significant penalties, so long as those penalties are within the membership's approved guidelines or otherwise appropriately explained. That appropriate penalty is four scholarship reductions.

Given the discretion authorized under Bylaw 19.9.5.3, which permits the COI to prescribe scholarship limitations laid out in the penalty guidelines over a specified period of time, and after considering the ranges associated with Level I-Standard scholarship reductions, the panel considered two options: (1) scholarship reductions at the high-end of the Level I-Standard range to be taken in each year of a two-year period; or (2) scholarship reductions in the middle of the range to be taken over a four-year period. Although effectuated differently, the cumulative total of four scholarship reductions appropriately addresses the Level I and Level II violations in this case, falls within the membership-approved ranges for Level I-Standard cases and aligns with past COI penalties.

Under the first potential approach, the panel recognizes that the Level I-Standard upper-end penalty of a 15 percent scholarship reduction equates to a 1.95 reduction in scholarships. The panel understood that men's basketball is a head count sport and therefore, when executed, the panel's penalty would equate to two scholarships. This penalty falls plainly within the ranges adopted for Level I-Standard cases. Any other interpretation would reduce the range for Level I-Standard scholarship reduction to 7.69 percent or, more simply, never more than one scholarship.

If the practical execution of the 15 percent reduction is viewed as a departure from the penalty guidelines under Bylaw 19.9.6 by Georgia Tech or the IAC, the panel believes that the egregious, severe and significant violations establish extenuating circumstances that warrant a two-scholarship reduction in each year of a two-year period. Specifically, the intentional involvement of adult entertainment and the involvement of a notable booster to entice a prospect to come to Georgia Tech establishes extenuating circumstances because it runs contrary to recruiting bylaws but also involves behaviors that the COI has previously described as abhorrent and having no place in college athletics. Likewise, the head coach welcomed a second booster into his program and, for all intents and purposes, turned him loose because he did not perceive the booster to be a threat. Worse, when he learned the booster engaged in potential recruiting violations, he failed to handle the situation "properly" and report the issue to compliance and/or his superiors. As such, if the 15 percent reduction is viewed as a deviation based on the "whole number" of scholarships that will be affected (i.e., two scholarships), then pursuant to Bylaw 19.9.6 the panel believes the facts and violations support extenuating circumstances and a deviation upwards to 2.0 scholarships or a 15.38 percent reduction in scholarships.⁴

The second potential approach, which the panel adopts, provides Georgia Tech with a less severe impact year-to-year (i.e., one scholarship reduction instead of two) but requires Georgia Tech to

⁴ As mentioned, a 15 percent scholarship reduction equates to 1.95 scholarships. Two scholarships divided by 13 overall scholarships equates to 15.38 percent.

serve scholarship reductions over a longer period (i.e., four years instead of two). The COI also recognizes the similarity between the panel's original penalty and the second option of one scholarship per year over a four-year period. This penalty, however, is not tied to probation.⁵ Instead, it derives from the cumulative total of appropriate scholarship reductions (i.e., four scholarship reductions) carried out in a manner more friendly to the institution's year-to-year total scholarship limits.

In assessing the two potential appropriate penalties, the panel considered the fact that Georgia Tech took a one-scholarship reduction during the 2020-21 academic year while its appeal was pending. The panel credits the one scholarship reduction to Georgia Tech, leaving three additional scholarship reductions to be served. The panel could be explicit in how it requires Georgia Tech to serve those remaining three scholarships but declines to do so. The key for the panel is that the egregious Level I and Level II violations warrant a reduction of four cumulative scholarships. The bylaws and penalty guidelines provide at least two different possibilities to achieve that reduction. Although either of the options described above are appropriate under the membership's penalty structure, in prescribing the second option, the panel provides Georgia Tech with the flexibility and discretion to take the remaining scholarship reductions over the next four academic years.

The panel's penalty, analysis and rationale closely aligns with the COI's decision in *SMU*. That case also involved Level I and Level II violations across the SMU men's basketball and golf programs. To address these severe and significant violations the COI prescribed high-end Level I-Standard scholarship reductions in two different programs.⁶ Specifically, the COI prescribed a 23 percent reduction in men's basketball and 25 percent reduction in men's golf to be taken in each year over a three-year period.⁷ The COI recognized that SMU self-imposed scholarship cuts and permitted them to credit those self-imposed penalties toward the Level I-Standard penalties prescribed by the COI. The COI adopts a similar methodology here. The number, length and consideration of self-imposed measures are consistent with the COI's decision in *SMU*. In fact, the panel's penalty (four scholarships over no more than four years) is substantially less than the penalty prescribed in *SMU* (nine scholarships over three years).

The panel is also concerned with the IAC's characterization of self-imposed penalties—specifically, the IAC statement that "cases with scholarship reductions that were self-imposed have

⁵ The panel does not believe linking a penalty (core or additional) to probation automatically establishes an abuse of discretion. The probationary period provides the COI with jurisdiction over an institution and the opportunity to continue to monitor an institution's compliance with prescribed penalties, as well as the institution's education and monitoring systems. This is particularly true when the COI's IOPs on scholarship reductions provide the probationary period as an express example of an appropriate period over which to prescribe scholarship reductions. See COI IOP 5-15-5-3.

⁶ At the time the COI decided *SMU*, the penalty guideline range for Level I-Standard scholarship reductions was 12.5 to 25 percent.

⁷ To be clear, the COI prescribed a reduction of nine scholarships to be taken over a three-year period in the men's basketball program. In a three-year period, a men's basketball program has 39 scholarships. Thus, the COI prescribed a 23 percent reduction from the total number of scholarships over that period and provided the institution with the discretion of when to take the scholarship cuts.

little or no precedential value." Although the IAC may deem cases involving self-imposed penalties of limited or no precedential value in the appellate process, the COI has and will continue to consider the penalties self-imposed by an institution during the COI's penalty deliberations and penalty phase of the cases for two primary reasons: (1) the COI adopts self-imposed penalties and (2) self-imposed penalties promote accountability.

With respect to the first reason, the COI adopts self-imposed penalties as its own. Therefore, all penalties are the COI's penalties. As a matter of recognition, however, the COI expressly notes which of its penalties were self-imposed by institutions. All penalties provide guidance to member institutions and help set transparent expectations and examples for institutions going through the infractions process.

Regarding the second reason, self-imposed penalties promote institutional accountability and further the cooperative principle. Institutions often self-impose penalties to demonstrate their commitment to holding themselves and their employees accountable for violations. Additionally, the NCAA membership has encouraged such behavior by recognizing it as a potential mitigating factor for institutions via Bylaw 19.9.4-(b), *Prompt acknowledgement of the violations, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties*. Thus, how institutions respond to potential violations, including self-imposing appropriate penalties, remains relevant and provides guidance to the COI when deciding infractions cases.