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STATE UNIVERSITY OF NEW YORK AT BUFFALO INFRACTIONS REPORT

OVERLAND PARK, KANSAS--This report is organized as follows:

I. Introduction.

II. Violations of NCAA legislation, as determined by the Committee on Infractions.

III. Committee on Infractions penalties.

I. Introduction.

This case involved allegations of NCAA rules violations in the institution's Division II men's basketball program. The allegations and details of the university's investigation were reported to the NCAA enforcement staff in a letter from the president dated June 9, 1992. The institution's investigation was prompted by an article published in the May 4, 1992, edition of the university's student newspaper alleging possible violations of NCAA legislation during the 1989-90 academic year involving a student-athlete and an assistant men's basketball coach.

The allegations in this case related primarily to the provision of extra benefits to student-athletes in the form of a free airline ticket, a discounted airline ticket, free ground transportation to one student-athlete and free tickets to an exhibition professional basketball game to two student-athletes. All of the allegations related to a single member of the men's basketball coaching staff.

The university's internal investigation included various interviews with student-athletes and coaches by the institution's faculty athletics representative and the director of compliance. The university was unable to interview the involved former assistant men's basketball coach and a former airline employee who was a friend of the coach and who had been employed by airlines in both Buffalo (September 1987 through January 1989) and Chicago (February 1989 through October 1991).

After receipt of the institution's report, the enforcement staff conducted independent interviews, including two interviews with the former [Page 2] assistant men's basketball coach. On May 14, 1992, the enforcement staff sent a letter of official inquiry to the university and notified the former assistant coach of the allegations in which he was named and of his opportunity to respond.

At an NCAA regional compliance seminar held June 1-4, 1993, the faculty athletics representative and the director of compliance were provided with an opportunity to review all memoranda related to the enforcement staff's investigation. The university's response to the

official inquiry was submitted to the enforcement staff on July 16, 1993. Notwithstanding numerous attempts by the enforcement staff to ascertain whether the former coach intended to respond to allegations in the official inquiry involving him, no response was received from the coach.

On August 11, 1993, the enforcement staff contacted the former coach by telephone and asked if he had received the May 14, 1993, letter of official inquiry. The coach was nonresponsive regarding his receipt of the letter of official inquiry, but told the enforcement staff that he did not plan to respond to the official inquiry or have any further involvement with the investigation. On August 13, 1993, the enforcement staff sent a letter to the coach documenting his conversation with the enforcement staff and notifying him of his opportunity to appear at a hearing before the Committee on Infractions on September 17, 1993, and that his failure to appear at the September 17 hearing would result in a waiver of any opportunity to appeal either findings of NCAA violations made by the committee or sanctions, if any. He also was advised that a decision rendered by the committee could affect him at another NCAA member institution. Records indicate that the coach received and signed for the letter on August 18, 1993.

The enforcement staff and university representatives held a prehearing conference on August 31, 1993, via telephone conference call to discuss procedural matters and review issues that would be considered by the committee. During that conference call, the university agreed with the enforcement staff that the acknowledged self-reported violations in the letter of official inquiry were major in nature as defined in NCAA Bylaw 19.02.2.2 (1993-94 NCAA Manual). During the August 31 conference call, university representatives shared with the enforcement staff its communication with the coach whereby the coach acknowledged receipt of the August 13 letter from the enforcement staff and informed university representatives of his intent not to appear at the September 17 hearing. In light of the coach's previous indication that he did not intend to further participate, a prehearing conference was not conducted with the coach.

The university's chief business officer, the faculty athletics representative, the director of athletics, the current head men's basketball coach and the legal counsel for the State University of New York system appeared before the Committee on Infractions at a hearing on September 17, 1993. At that hearing, the committee found that several violations had occurred within the men's basketball program.

Although this is a major infractions case, the violations in this case were limited and resulted from a few acts by one assistant coach in several extra-benefit violations involving one student-athlete and another extra-benefit violation involving two student-athletes. [Page 3]

A summary of the violations in the men's basketball program is as follows:

- The provision of extra benefits in the form of a free airline ticket to a student-athlete as arranged by the assistant men's basketball coach.
- The provision of extra benefits in the form of a discounted airline ticket to a student-athlete by a representative of the university's athletics interests.

- The provision of free automobile transportation to a student-athlete by the assistant men's basketball coach.
- The provision of extra benefits in the form of free tickets to a professional basketball game to two student-athletes as arranged by the assistant men's basketball coach.
- Unethical conduct by the former assistant men's basketball coach.

The university admitted the violations related to the provision of extra benefits in the form of a free airline ticket, a discounted airline ticket, free automobile transportation and the free professional basketball tickets. The involved assistant men's basketball coach is no longer at the university. The university has a new head men's basketball coach and has taken additional steps to reinforce its compliance education program. It should be noted that a compliance review was conducted at the university in 1990 by the NCAA compliance services department at the invitation of the director of athletics as a part of the institution's efforts to review its athletics program. As a result of that review, the university took several significant steps to develop a sound compliance program.

In assessing the penalties required by Bylaw 19.5.2 in cases involving major violations, the committee took into consideration the limited nature of the violations, the university's prompt and thorough investigation of the allegations, and the actions taken by the university to reinforce its compliance program.

A summary of the penalties the committee imposed are:

- Reprimand and censure of the university's athletics program.
- A one-year probationary period.
- Development and implementation of a comprehensive educational program.
- Institutional recertification of all athletics policies and procedures.
- A show-cause requirement issued to the former assistant men's basketball coach. [Page 4]

II. Violations of NCAA legislation, as determined by the Committee on Infractions.

A. Violations reported by the university.

1. [NCAA Bylaw 16.12.2.1]

In August 1989, an assistant men's basketball coach arranged for a student-athlete to travel via commercial airline on or about August 27, 1989, from his home to Buffalo, New York, at no cost to the young man or his family, in order for the student-athlete to matriculate at the university. The student-athlete had completed enrollment by mail on August 23, 1989.

At some time following the young man's completion of enrollment by mail but prior to the beginning of classes, he telephoned the coach and told the coach that due to financial difficulties, he could not afford to travel to Buffalo to enroll at the university. During the telephone conversation, the coach instructed the student-athlete to go to a ticket counter at the airport and provide personal identification to a ticket agent, at which time a ticket would be issued to the young man for travel to Buffalo.

Subsequent to his conversation with the student-athlete, the coach telephoned the young man's mother and told her that she should call a friend of the coach who was an employee in customer relations at an airline to obtain relevant flight information. Arrangements were made through the airline employee for a free ticket on another airline.

On August 28, the young man was driven by his mother to the airport, at which time the student-athlete obtained a prepaid airline ticket, traveled to Buffalo, was met by two basketball student-athletes (upon the instructions of the coach) and traveled to the university.

2. [NCAA Bylaws 16.12.2.1 and 16.12.2.2]

In December 1989, a student-athlete received a round-trip airline ticket at a discounted rate for his personal travel as a result of a previously established relationship between the young man and his family with a representative of the university's athletics interests who also was a friend of the assistant men's basketball coach, as mentioned in Part II-A-1.

The student-athlete's mother purchased a round-trip airline ticket at a discounted rate for travel on December 22 between Buffalo, New York and the young man's home town, and on December 28 from the student-athlete's home town to Boston, Massachusetts. The young man's travel on December 22 allowed him to travel home for Christmas, while his travel on December 28 allowed him to join the basketball team, which was participating in a tournament.

Specifically, the student-athlete's mother called the coach's friend, who was an employee in customer relations at an airline, [Page 5] to inquire about relevant flight information. The friend made the flight arrangements and instructed the young man's mother to go to the ticket counter of another airline at the airport to obtain the round-trip ticket at a discounted rate. The student-athlete's mother was instructed that she must pay for the ticket prior to December 22, which she did.

Further, the coach drove the student-athlete to the Buffalo airport where the young man presented personal identification at the ticket counter and was provided a prepaid ticket for travel home on December 22, 1989.

Finally, on December 28, 1989, the student-athlete traveled from his home to Boston, where he received free prearranged taxi transportation to the hotel where the basketball team was staying.

3. [NCAA Bylaw 16.12.2.5]

During the fall of 1989, an assistant men's basketball coach provided extra benefits to two student-athletes. Specifically, the coach provided one of the young men with two tickets and the other young man with one ticket to an October 26, 1989, exhibition professional basketball game. The first young man had told the coach that he was a fan of one of the teams and wanted to go to the game, but because the game was sold out, he was unable to purchase tickets on his own. At a later date, the coach provided the tickets to this game to the first young man while in Alumni Arena on the university's campus, and the first young man attended the game with a former basketball student-athlete. The second student-athlete asked the coach for a ticket to the game, and the coach instructed him that a ticket would be available for him at the will-call window. The second young man obtained the ticket and attended the game.

B. Violation submitted by the NCAA enforcement staff.

[NCAA Bylaws 10.01.1 and 10.1-(c)]

The involved former assistant men's basketball coach did not, on all occasions, deport himself in accordance with the generally recognized high standards of honesty normally associated with the conduct and administration of intercollegiate athletics and violated the provisions of ethical conduct by his involvement in Parts II-A-1 and II-A-3 of this report by his knowing involvement in providing extra benefits to enrolled student-athletes.

III. Committee on Infractions penalties.

For the reasons set forth in this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation that occurred after September 1, 1985. NCAA Bylaw 19.5.2.2, as adopted by [Page 6] the Association's membership, requires prescribed minimum penalties, "subject to exceptions authorized by the Committee on Infractions in unique cases on the basis of specifically stated reasons," that include: (a) a two-year probationary period (including a periodic, in-person monitoring system and written institutional reports); (b) the elimination of all expense-paid recruiting visits to the institution in the involved sport for one recruiting year; (c) a requirement that all coaching staff members in the sport be prohibited from engaging in any off-campus recruiting activities for one recruiting year; (d) a requirement that all institutional staff members determined by the Committee on Infractions knowingly to have engaged in or condoned a major violation be subject either to termination of employment, suspension without pay for at least one year or reassignment of duties within the institution to a position that does not include contact with prospective or enrolled student-athletes or representatives of the institution's athletics interests for at least one year; (e) one year of sanctions precluding postseason competition in the sport; (f) one year of sanctions precluding television appearances in the sport, and (g) institutional recertification that the current athletics policies and practices conform to all requirements of NCAA regulations.

The Committee on Infractions determined that this was a unique case in which the institution should receive less than the full set of minimum penalties otherwise required by NCAA legislation. The factors included: the limited nature of the violations, the prompt and thorough investigation of violations by the university, the prompt reporting of violations to the NCAA; the university's cooperation in the processing of the case, and the initiation of effective remedial

actions, including the establishment of administrative procedures designed to ensure that the institution will comply with the principles of institutional control and rules compliance in the future. Therefore, the committee imposed the following actions:

A. The university shall be publicly reprimanded and censured, and placed on probation for a period of one year from the date these penalties are imposed, which shall be the date the 15-day appeal period expires or the date the institution notifies the executive director that it will not appeal, whichever is earlier, or the date established by NCAA Infractions Appeals Committee action in the event of an appeal by the university.

B. The State University of New York at Buffalo shall be subject to the provisions of NCAA Bylaw 19.5.2.3 concerning repeat violators for a five-year period beginning on the effective date of the penalties in this case.

C. During this period of probation, the institution shall: develop and implement a comprehensive educational program (e.g., seminars and testing) to instruct coaches and athletics department personnel on NCAA legislation; submit a preliminary report by January 1, 1994, setting forth a schedule for establishing this compliance and educational program, and file annual progress reports with the NCAA enforcement staff by July 1 of each year thereafter during the probationary period. [Page 7]

D. The institution shall recertify that all of its current athletics policies and practices conform to all requirements of NCAA regulations.

E. If the involved former assistant men's basketball coach still had been employed at the institution, the university would have been required to show cause in accordance with Bylaw 19.5.2.1-(m) why it should not be subject to additional penalties if it had failed to take appropriate disciplinary action against him.

F. Due to his involvement in certain violations of NCAA legislation found in this case, the former assistant men's basketball coach involved in this case will be informed in writing by the NCAA that in the event he seeks employment or affiliation in an athletically related position at an NCAA member institution during a three-year period (November 16, 1993, through November 15, 1996), he and the involved institution shall be requested to appear before the Committee on Infractions in order for the committee to consider whether that member institution should be subject to the show-cause procedures of Bylaw 19.5.2.1-(m), which could limit the former coach's athletically related duties at the new institution for a designated period.

Should the State University of New York at Buffalo appeal either the findings of violations or proposed penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit an expanded infractions report to the members of the NCAA Infractions Appeals Committee. This expanded report will include additional information in accordance with Bylaw 32.9.5. A copy of the report would be provided to the institution prior to the university's appearance before the appeals committee.

The Committee on Infractions wishes to advise the institution that when the penalties in this case become effective, the institution should take every precaution to ensure that their terms are observed. The committee intends to monitor the penalties during their effective periods, and any action contrary to the terms of any of the penalties shall be considered grounds for extending the institution's probationary period, as well as to consider imposing more severe sanctions in this case.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA Conventions directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

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