



THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

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GONZAGA UNIVERSITY PUBLIC INFRACTIONS REPORT

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

- I. Introduction.
- II. Findings of violations of NCAA legislation.
- III. Committee on Infractions penalties.

I. INTRODUCTION.

This case involved the men's basketball program at Gonzaga University and primarily concerned violations of NCAA bylaws governing recruiting funds, ethical conduct and institutional control.

Gonzaga University is a Division I institution and a member of the West Coast Conference. The university has an enrollment of approximately 4,461 students and sponsors seven men's and seven women's intercollegiate sports.

A. CASE CHRONOLOGY.

In mid-June 1997, a Gonzaga University (Gonzaga) athletics department employee notified the institution that the West Coast Conference had been



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sending the institution reimbursement payments for conference game basketball officials, but that the checks were not being deposited with the institution.

On June 17, 1997, the Gonzaga president notified an NCAA director of enforcement that the institution was investigating possible NCAA rule violations by the director of athletics, who had also been the head men's basketball coach. The

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president indicated that the possible violations impacted institutional control, budgeting, financial reporting and the institution's audit process.

On July 2, 1997, the institution placed the director of athletics on administrative leave pending the results of its internal investigation and notified the NCAA of its action. On July 15, the university's outside legal counsel, general counsel and vice-president for business affairs met with the director of enforcement and discussed new information developed by the institution.

On October 23, 1997, the enforcement staff participated with university officials in an interview of the director of athletics. The director of athletics' legal counsel was also present. On December 22, the institution notified the NCAA of the athletics director's resignation.

On January 7, 1998, the university's outside legal counsel provided the enforcement staff with a redacted copy of a December 5, 1997, memorandum from the university's president to the director of athletics outlining what the institution considered to be acts of misconduct by the director of athletics. University officials and the enforcement staff discussed the memorandum and the institution's internal inquiry at a January 16, 1998, meeting.

On January 28, 1998, the enforcement staff sent the university's general counsel a list of possible NCAA rule violations by the institution and the director of athletics. On February 20, the institution submitted to the NCAA a self-report of its findings regarding violations of NCAA legislation. On March 23, the enforcement staff sent the institution a letter of preliminary inquiry, and on April 3, the enforcement staff issued a letter of official inquiry to the institution and the former director of athletics. The university and the former director of athletics submitted responses to the official inquiry on May 4.

On May 15, 1998, the enforcement staff conducted a prehearing conference with representatives of the university, and on May 19 the staff conducted a prehearing conference with the former director of athletics.

On June 5, 1998, representatives of the NCAA enforcement staff, the institution and the West Coast Conference appeared at a hearing before the NCAA Division I Committee on Infractions. The former director of athletics involved in this case was also present.

B. SUMMARY OF THE FINDINGS OF VIOLATIONS.

The violations found by the committee may be summarized as follows:

- During the period 1990 through 1997, the university lacked appropriate institutional control in its athletics programs in that it failed to adequately monitor the director of athletics' use of university funds to pay recruiting and other athletics department expenses.
- During the period 1989 through 1997, the director of athletics violated the NCAA principles of ethical conduct.

C. SUMMARY OF THE PENALTIES.

In imposing the following penalties, the Committee on Infractions considered the corrective actions taken by the university, as detailed in Part III-A of this report. However, because of the involvement of the former director of athletics in the violations and the significant lack of institutional control which existed over a substantial period of time, the committee imposed the following penalties:

- Public reprimand and censure.
- Four years of probation.
- Requirement that the institution design an on-campus NCAA rules education program emphasizing the financial aspects of intercollegiate athletics, with annual reports to the committee during the period of probation.
- Requirement that the institution send specified individuals to an NCAA compliance seminar.
- Requirement that the institution establish procedures for annual internal audits of its compliance and fiscal control programs.
- Requirement that the institution employ an outside auditor to conduct a comprehensive audit of its athletics department.
- Recertification of current athletics policies and practices.
- Show-cause requirement regarding the former director of athletics for four years.

II. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.

Pursuant to NCAA Bylaw 32.5.2, allegations included in a letter of official inquiry are generally limited to violations occurring not earlier than four years before the date the notice of preliminary inquiry is forwarded to the institution or the date the institution notifies the enforcement staff of its inquiries into the matter. The committee finds, however, that the exception contained in Bylaw 32.5.2-(b) applies to this case. The acts of the former director of athletics, a senior athletics department administrator, constituted a pattern of willful violations on the part of the institution which began before but continued into the four-year period.

A. LACK OF INSTITUTIONAL CONTROL AND FAILURE TO CONTROL USE OF RECRUITING FUNDS. [NCAA CONSTITUTION 2.1 AND 6.01.1 AND BYLAW 13.15.1]

During the period 1990 through 1997, the university lacked appropriate institutional control in its athletics programs. The university failed to adequately monitor and review the activities of the director of athletics and head men's basketball coach as they related to his use of university funds not deposited with the institution and used, in part, to pay recruiting and other athletics department expenses.

Specifically, from December 18, 1981, to June 1997, the director of athletics was the sole signatory on a local bank account in the name of "Gonzaga University Athletics," which was maintained as a private account and was not disclosed to anyone outside the athletics department. From August 1990 through June 1997, the director of athletics misappropriated \$199,874 of university money by depositing it in the private account. Approximately \$178,874 of this amount was derived from at least 105 checks made payable to the university and sent to the director of athletics for appropriate disposition. Thirty-five of the checks, totaling \$110,354.65, were from the West Coast Conference for reimbursement of certain of the institution's athletically related expenses. The director of athletics acknowledged depositing other university-owned checks, allegedly of lesser amounts, in the bank account during the years 1981 through 1990, but the enforcement staff was unable to locate records identifying those checks and/or amounts. Approximately \$21,000 of the \$199,874 misappropriated by the director of athletics consisted of cash gate receipts, parking fees and program sales receipts from the institution's athletics events. Under the rules of the institution, the checks and the cash should have been reported or delivered to the institution's controller's office.

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It is important to note that the director of athletics also deposited personal funds into the private account. He contends that in order to recover the portion of the deposits that were personal without revealing the existence of the private account, he would pay his athletically related expenses out of the account and then obtain reimbursement from the university for those same expenses. He contends that he only used the misappropriated funds to supplement the university's athletics program. However, in part because he routinely destroyed the bank statements for the private account, only limited documentation exists as to how money in the account was spent. His recollection of his athletically related expenditures accounts only for some \$28,400. The director of athletics acknowledged, and the institution did not deny, that the use of these funds included the purchase of a used vehicle used by coaches during recruiting trips and the provision of meal and student host entertainment money during prospects' official visits.

While the committee finds that the institution violated Bylaw 13.15.1 in failing to control the director of athletics' use of recruiting funds, the committee does not find that the institution violated NCAA legislation regarding limitations on recruiting expenditures.

The institution failed to implement systems that would adequately monitor, identify and review the director of athletics' activities and use of these undisclosed funds. Specifically, no apparent systems were in place to:

1. Detect or prevent the director of athletics from misappropriating at least 105 university-owned checks totaling at least \$178,874.36 by depositing the checks into a non-university account which he controlled, and surreptitiously disbursing a portion of the funds back into the institution's athletics programs.
2. Identify and monitor instances when the director of athletics misappropriated or directed other university administrators to collect cash gate receipts, parking fees and program sales receipts received by athletics department personnel. The director of athletics estimated that during the period 1990 through 1997, approximately \$21,000 of such receipts and fees were not reported or delivered to the institution's controller's office.
3. Identify and monitor the director of athletics' attempts to manipulate the athletics department budget through falsification of expense claims and prepayments when he initiated, promoted, directed and participated in budget manipulation practices under which (1) false, fictitious expense claims were presented by himself and by certain university athletics administrators to the controller's office near fiscal year end, purportedly to

cover expenses previously incurred; and (2) vendors were solicited to accept prepayments for future expenses possibly to be incurred by the athletics department.

B. UNETHICAL CONDUCT AND FAILURE TO CONTROL USE OF RECRUITING FUNDS. [NCAA BYLAWS 10.01, 10.1-(c), 10.1-(d) AND 13.15.1]

During the period 1989 through 1997, the director of athletics failed to deport himself in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics. The director of athletics violated the principles of ethical conduct by (a) his knowing involvement in utilizing funds from a non-university bank account to pay for recruiting and other athletics department expenses; and (b) his provision of false and misleading information to the institution in order to prevent detection of misappropriated revenues when questioned or asked to provide information relating to the institution's athletics budget. Specifically:

1. The director of athletics knowingly misappropriated funds belonging to the institution by depositing the funds into a non-university bank account as described in Finding II-A. Because the director of athletics knowingly destroyed his bank records, it is not possible to determine what portion of the funds he used for athletics department purposes. The director of athletics knowingly used funds from the non-university account, however, for at least the following purposes: [Bylaw 10.1-(c)]
 - a. Provided men's basketball student-athletes with approximately \$400 per year to host recruits making official paid visits to the university's campus. [Bylaw 13.15.1]
 - b. Purchased in 1989 and maintained from 1989 through 1997 a used automobile. Men's basketball coaches as well as coaches in other athletics programs used the car for recruiting purposes. The car cost approximately \$8,800 and maintenance fees on the car were approximately \$900 per year. [Bylaw 13.15.1]
 - c. Provided approximately \$1,500 per year in meals to men's basketball prospective student-athletes. [Bylaw 13.15.1]
2. During the years 1991 through 1993 and 1995 through 1997, the director of athletics knowingly misrepresented and failed to disclose information to an outside accounting firm retained by the institution to conduct annual

NCAA-mandated fiscal control audits. The director of athletics purposefully withheld information concerning his misappropriation of payments from the West Coast Conference and his deposit of those payments into a nonuniversity bank account for subsequent redistribution into the institution's athletics program. The director of athletics also failed to report all cash gate receipts, parking fees and program sales generated as a result of university athletics events. [Bylaw 10.1-(d)]

3. The director of athletics knowingly allowed inaccurate and incomplete reports to be made to the NCAA regarding the institution's self-study of its budgetary controls and fiscal practices and procedures applicable to the institution's athletics programs. As a member of the institution's steering committee responsible for generating the 1995 NCAA Certification Self-Study Report, the director of athletics was responsible for the review of various drafts of the report and the final report submitted to the NCAA. The report contained inaccurate information concerning the institution's athletics budget and incomplete information regarding the institution's athletics income and expenses. The director of athletics knew the figures contained in the report were false and incomplete, but nevertheless allowed the report to be submitted to the NCAA. [Bylaw 10.1-(d)]

III. COMMITTEE ON INFRACTIONS PENALTIES.

For the reasons set forth in Parts I and II of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation.

A. CORRECTIVE ACTIONS TAKEN BY THE UNIVERSITY.

In determining the appropriate penalties to impose, the committee considered the institution's self-imposed corrective actions. Among the actions the university has taken or will take are the following:

1. Placed the director of athletics on administrative leave on July 2, 1997, and accepted his resignation on December 22, 1997.
2. Issued letters of reprimand to the assistant director of athletics, head men's basketball coach and assistant men's basketball coach addressing their responsibility for failing to report violations of NCAA legislation in a more timely manner.

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3. Required athletics department personnel to attend a university compliance seminar in May 1998, and announced its intention to hold such seminars on an annual basis.
4. Developed a document entitled "Gonzaga University Department of Athletics Institutional and Fiscal Control Policies and Procedures" which sets forth funds monitoring and fiscal control policies.

B. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.

The Committee on Infractions agreed with and approved of the actions taken by the university. The committee imposed additional penalties, however, because of the involvement of the director of athletics in the violations, and because of the university's failure to discover the misappropriation of funds, which represented a significant lack of institutional control existing over a substantial period of time.

The committee chose not to impose all of the presumptive penalties permitted under Bylaw 19.6.2.1, however, because the university gained little or no apparent recruiting or competitive advantage from the violations, promptly self-disclosed the violations to the NCAA enforcement staff, cooperated fully with and participated in the investigation and instituted appropriate corrective measures.

The penalties imposed by the committee are:

1. The institution shall be subject to public reprimand and censure.
2. The institution shall be on probation for four years, beginning June 5, 1998, the date of the hearing. The committee imposed a relatively lengthy period of probation due to the involvement of a senior athletics department administrator in significant violations over a substantial period of time, the lack of appropriate controls in the athletics department, and the fact that the remainder of the penalties imposed by the committee are more corrective than punitive in nature.
3. During this period of probation, the institution shall:
 - a. Design an on-campus NCAA rules education program emphasizing the financial aspects of intercollegiate athletics, including game contracts, conference and NCAA distributions, sponsorship agreements and game-related income (e.g., ticket sales, parking fees and concessions). The program shall include mandatory seminars for the director of athletics, faculty athletics

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representative, vice president for finance, all coaches and all other university personnel with responsibility in these areas.

- b. Submit a preliminary report to the director for the NCAA infractions committees by November 1, 1998, setting forth the institution's plan for this rules education program; and
 - c. File with the committee's director annual compliance reports indicating the progress made with this program by June 1 of each year during the probationary period. The reports must also include documentation of the university's compliance with the penalties imposed by the committee.
4. The institution shall select, within 90 days of the date of this report, a firm knowledgeable of intercollegiate athletics operations and experienced in the auditing of athletics departments to conduct a comprehensive audit of the institution's athletics department. The institution shall include in the preliminary report described in Section III-B-3(b) above a copy of its engagement letter with the firm, a description of the firm's qualifications and a statement defining the scope of the audit to be conducted. The audit shall be conducted within six months of the firm's engagement. The institution shall include in its second compliance report described in Section III-B-3(c) above a copy of the firm's audit report.
 5. The institution shall establish procedures for annual internal audits of its compliance and fiscal control programs, with emphasis on the control of receipts and expenditures.
 6. The institution shall send the director of athletics, the head men's basketball coach, and the vice president for finance to an NCAA compliance seminar during the 1998-99 academic year.
 7. The institution's president shall recertify in a letter to the committee that all of the university's current athletics policies and practices conform to all requirements of NCAA regulations.
 8. If the former director of athletics had still been employed in athletics at the institution, the university would have been required to show cause in accordance with Bylaw 19.6.2.2-(1) why it should not be subject to additional penalties if it had failed to take appropriate disciplinary action against him.

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9. The former director of athletics has been informed in writing by the NCAA that, due to his involvement in certain violations of NCAA legislation found in this case, if he seeks employment or affiliation in an athletically related position at an NCAA member institution during a four-year period (June 5, 1998 to June 5, 2002), he and the involved institution

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shall be requested to appear before the Committee on Infractions so that the committee may consider whether the member institution should be subject to the show-cause procedures of Bylaw 19.6.2.2-(I), which could limit the former director of athletics' athletically related duties at the new institution for a designated period.

As required by NCAA legislation for any institution involved in a major infractions case, Gonzaga University shall be subject to the provisions of NCAA Bylaw 19.6.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, June 5, 1998.

Should Gonzaga University or the director of athletics who participated in the processing of this case appeal either the findings of violations or penalties to the NCAA Division I Infractions Appeals Committee, the Committee on Infractions will submit a response to the members of the appeals committee, with a copy to any party who may appeal. This response may include additional information in accordance with Bylaw 32.10.5.

The Committee on Infractions wishes to advise the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods, and any action contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period, as well as 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 NCAA, 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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