



BREVARD COLLEGE
PUBLIC INFRACTIONS REPORT
May 13, 2011

A. INTRODUCTION.

This case was resolved through the summary disposition process, a cooperative endeavor in which the Committee on Infractions reviews infractions cases submitted in written form. This process is used as an alternative to a formal hearing and may be utilized only when the NCAA enforcement staff, the member institution and involved individuals agree to the facts of an infractions case and that those facts constitute major violations. The summary disposition report was reviewed by the committee during a March 2011 conference call. The committee accepted the findings in the report and penalties.

This case involved the former men's and women's track and field and cross country coach ("former head coach") at the institution sending 181 impermissible text messages to 15 prospective student-athletes between November 27, 2009, and February 19, 2010. Further, between July 2009 and February 2010, he placed more than one phone call per week to certain prospects. As the violations were being discovered in February and March 2010, the former head coach on three occasions provided false and misleading information to institutional representatives who were investigating the matter. The former head coach's lies to institutional personnel constituted unethical conduct.

A member of the South Atlantic Conference, the institution has an enrollment of approximately 650 students. The institution sponsors eight men's and eight women's intercollegiate sports. This was the institution's first major infractions case.

B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.

1-a. IMPERMISSIBLE TEXT MESSAGING. [NCAA Bylaw 13.4.5]

Between November 27, 2009, and February 19, 2010, the former head coach sent 181 impermissible text messages to 15 prospective student-athletes.

Explanation of Violation

The former head coach, the institution and the enforcement staff agreed with the facts in this finding and that major violations of NCAA legislation occurred. The committee finds that the violations occurred.

The former head coach acknowledged his involvement in the violations, stating that he commenced using text messages to communicate with student-athletes because he believed it to be their preferred method of communication. Seven of the 15 prospects to whom he sent texts enrolled at the institution, and some of them were interviewed. They stated that, of the texts they could recall, many were logistical in nature. For instance, the messages involved coordinating directions for official and unofficial visits to the institution's campus and/or assistance with registering with the NCAA Eligibility Center.

As will be set forth in Finding B-2 below, the former head coach was aware that text messages were not allowed under NCAA legislation.

1-b. IMPERMISSIBLE PHONE CALLS. [NCAA Bylaw 13.1.3.1]

On nine separate occasions between July 17, 2009, and February 26, 2010, the former head coach impermissibly placed more than one call per week to prospective student-athletes.

Explanation of Violation

The former head coach, the institution and the enforcement staff agreed with the facts in this finding and that major violations of NCAA legislation occurred. The committee finds that the violations occurred.

During his interview with the enforcement staff as part of the investigation into this matter, the former head coach acknowledged an understanding that it was impermissible to call prospective student-athletes more than once per week. His phone records showed that he made a total of 13 impermissible calls to eight prospects, lasting anywhere from one to 23 minutes. As he reviewed the records, he explained that brief calls most likely represented instances when he either made no connection or left a voice message. Regarding the longer calls, which lasted for three, four, five, seven, eight, 21 and 23 minutes, the former head coach stated "I can't dispute the records."

Five of the eight prospects to whom the extra calls were made enrolled at the institution.

2. UNETHICAL CONDUCT. [NCAA Bylaw 10.1-(d)]

On three separate occasions in February and March 2010, the former head coach provided false and misleading information to institutional representatives during the investigation into Finding B-1.

Explanation of Violation

The former head coach, institution and enforcement staff agreed with the facts in this finding and that major violations of NCAA legislation occurred. The committee finds that the violations occurred.

Possible violations of texting and phone call legislation by the former head coach were first uncovered by the institution in January 2010. On February 1, 2010, as the investigation continued, the director of compliance ("director of compliance") received from another institution the name of one of the prospects to whom texts had supposedly been sent. On the same day, the director of compliance called the former head coach into his office to discuss the matter. Initially, in response to a question posed by the director of compliance, the former head coach stated his understanding that it is impermissible to send texts to recruits. When asked if he had ever sent a text to a prospect, the former head coach responded in the negative. The prospect later confirmed that the former head coach had texted him.

As the February 1 conversation ended, the director of compliance requested that the former head coach submit his telephone/text bill from January 2010 to the compliance office. In mid-February 2010, in response to the request, the former head coach provided the institution with an incomplete record that showed only text message activity from January 23-30, 2010. The director of compliance immediately requested the complete record. On or about March 2, the former head coach submitted a document he claimed to be his complete January bill. It was later determined that the bill had been manipulated to exclude the former head coach's monthly text message activity.

On March 5 2010, the former head coach was called into a meeting with the director of compliance and the director of athletics ("director of athletics"). In their presence the former head coach printed the official records from his on-line cell account, which showed that, from November 27, 2009, through February 19, 2010, the former head coach had made 155 text messages to prospects. The institution was unable to retrieve the former head coach's records back to January 2009, when he began his employment at the institution.

Once institutional personnel were able to review the actual cell records, they became aware that the records the former head coach submitted in mid-February and early March had been manipulated to exclude text-message activity with prospective student-athletes.

As with all other coaches on campus, the former head coach was educated regarding text message communication. Institutional records confirm he was present in rules education sessions on February 6, 2009, and August 4, 2009, when text-message legislation was

specifically reviewed. All coaches from other sports programs on campus who were interviewed reported being extensively educated regarding text messages. Nonetheless, the former head coach claimed that he "must not have retained the specific information pertaining to text message communication." His position is unpersuasive. Initially, the committee notes that, when asked by the director of compliance on February 1, 2010, if he knew the text message rule, the former head coach responded in the affirmative and recited the rule. Had he not "retained" the rule, he would not have been able to do so. Further, when the former head coach was asked during the same interview if he had sent texts to any prospects; he denied doing so. Had he not retained the information there would have been no reason to lie, as he would have been unaware that the texts were impermissible.

A further indication that the former head coach knew it was impermissible to send text messages is the fact that, when he presented his phone records to the director of enforcement in mid-February, he delivered incomplete records that excluded records of his texts to prospects. On or about March 2, he delivered a record he claimed to be complete, though he manipulated it so as to expunge the record of the text messages he had sent to prospects. Obviously, these actions were taken in an attempt to cover up knowing misconduct. To obtain the full and complete records, it was necessary for members of the athletics administration to be present while the former head coach retrieved them via computer on March 5.

C. PENALTIES.

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved major violations of NCAA legislation. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. The institution proposed penalties C-3, C-4, C-5, C-6 and C-7 when it submitted the summary disposition report. Those penalties were adopted by the committee. Additionally, the institution agreed to the imposition of penalties C-1, C-2, C-9 and C-10 by the committee. Therefore, there is no option to appeal by the institution. Finally, the committee imposed Penalty C-8 on the former head coach. The former head coach has the option to appeal Penalty C-8, should he so choose. [Note: The institution's corrective actions are contained in Appendix Two.]

1. Public reprimand and censure.
2. One year of probation from May 13, 2011, through May 12, 2012. The committee deviates from the presumptive minimum period of two years probation for the following reasons: a) The violations in this case were committed by one coach who knowingly disregarded the rules; b) That coach is no longer employed

by the institution; c) The offending coach, as well as all other athletics personnel, had been specifically educated regarding the rules the former head coach chose to violate; d) The institution thoroughly educated the coaching staff regarding relevant rules; e) The institution self-discovered the violations and was thorough in its investigation of the former head coach; f) There is no finding of lack of institutional control or failure to monitor; and g) The institution's self-imposed sanctions appropriately address the issues.

3. A 10 percent reduction in the number of athletics grants-in-aid equivalency scholarships in the sports of men's and women's cross country and track and field for the 2011-12 academic year. [Note: This limits scholarship monies at 2.25, which represents a reduction of 0.25 equivalent scholarships from the 2.5 combined budgeted athletics grant-in-aid awards for each of the men's and women's cross country and track and field programs.]
4. Suspended all off-campus contact in the sports of men's and women's cross country and track and field for a period of three months from April through June 2010.
5. Suspended all on- or off-campus recruiting activities for a period of 12 weeks from June 15 through September 7, 2010, including no telephone calls, on- or off-campus contacts, electronic correspondence, etc., in the sports of men's and women's cross country and track and field for a period of 12 weeks from June 15 through September 7, 2010. [Note: This excludes correspondence for the explicit purpose of providing pre-enrollment information for incoming 2010 fall recruits who had either signed a National Letter of Intent or an institutional financial aid agreement.]
6. Extended suspension of off-campus recruiting from September 7 through October 2010, resulting in a six-month suspension of off-campus recruiting (April through October 2010).
7. Suspended all official visits for prospects in men's and women's cross country and track and field programs during the 2011-12 academic year.
8. The former head coach knowingly violated rules regarding text messaging when he sent 181 to 15 prospects in a period of approximately three months. When confronted about the violations, he provided false and misleading information to institutional investigators and altered phone/text records in an attempt to conceal the violations. Therefore, the former head coach will be informed in writing by the NCAA that, due to his involvement in the violations of NCAA legislation found in this case, the committee imposes a two-year show-cause period upon

him pursuant to NCAA Bylaw 19.5.2.2-(l). During this period, which begins on May 13, 2011, and ends on May 12, 2013, the committee restricts the athletically related duties of the former head coach as follows:

- a. He must attend ethics training within 60 days of his hiring at any member institution;
- b. He is prohibited from making any phone calls to any prospective student-athletes prior to the prospect either signing a National Letter of Intent or, if the institution does not utilize the National Letter of Intent, until the calendar day the prospect signs an acceptance of the institution's written offer of admission and/or financial aid;
- c. Any employing institution shall file, within 60 days of hiring the former head coach (or, if he is employed at a member institution presently, 60 days after the release of this report), a report with the office of the Committees on Infractions detailing how it will monitor the former head coach so as to prevent the recurrence of the violations that occurred in this case. The institution shall also file a report within 60 days of the time the former head coach attends the training referenced in (a) above, detailing the training and confirming his attendance. Thereafter the institution shall file reports every six months until the end of the show-cause period, detailing its efforts to monitor the former head coach. If the institution chooses to contest these sanctions, it shall schedule an appearance before the Committee on Infractions.

9. During the period of probation, the institution shall:

- a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
- b. File with the office of the Committees on Infractions an annual compliance report indicating the progress made with this program by May 1, 2012. Particular emphasis should be placed on permissible pre-enrollment communication with prospective student-athletes. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.

10. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.
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As required by NCAA legislation for any institution involved in a major infractions case, Brevard College 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, May 13, 2011.

The Committee on Infractions advises 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. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations. An institution that employs an individual while a show-cause order is in effect against that individual, and fails to adhere to the penalties imposed, subjects itself to allegations and possible findings of violations.

NCAA COMMITTEE ON INFRACTIONS

Jean Paul Bradshaw
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APPENDIX ONE

CASE CHRONOLOGY.

2010

January 28 – The director of compliance was notified by another Division II member institution that the former head coach had sent text messages to a prospective student-athlete who was being recruited by both institutions. The director of compliance immediately notified the director of athletics, of the allegation and requested additional information from the other member institution, including the name of the prospective student-athlete involved.

February 1 – The director of compliance received the name of the prospective student-athlete from the other member institution. The director of compliance met with the former head coach.

February 23 – The director of compliance e-mailed the prospective student-athlete in question to obtain additional information. The prospective student-athlete responded on February 27, 2010, and confirmed that the head coach had sent him text messages during the period of his recruitment by the institution.

August 12 - The notice of inquiry was sent to the institution

2011

January 19 – The summary disposition report was sent to the NCAA Division II Committee on Infractions.

March 1 – The summary disposition report was reviewed by the NCAA Division II Committee on Infractions.

May 13 - Infractions Report No. 351 was released.

APPENDIX TWO

CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S JANUARY 19, 2011, SUMMARY DISPOSITION REPORT.

The institution has taken the following corrective actions upon discovery of violations involving impermissible recruiting activity on behalf of the former head coach.

- a. Accepted the former head coach's resignation immediately following the discovery of the violations.
- b. Conducted additional rules-education sessions with all athletics department staff pertaining to NCAA Bylaws 10.1, 13.1.3.1 and 13.4.5.
- c. Revised its policy and procedure for monitoring telephone calls and text messages. The policy change required coaches to identify all telephones being used for recruiting purposes with the requirement that detailed telephone and text-message records accompany monthly recruiting logs for personal cell telephones. It also specified that no personal telephones are permitted to be used for recruiting purposes if records cannot be provided. If coaches are issued institutional cell phones, they are not permitted to use any other telephones for the purpose of recruiting with the exception of a campus landline telephone using their issued long-distance code for calls. If the status of a telephone(s) used for recruiting changes, coaches are required to immediately complete a new declaration form and submit it to the director of compliance.
- d. Implemented enhancements of its rules-education program, including implementation of digital recordings of monthly rules-education sessions in an effort to provide a copy of these sessions to coaches or athletics staff who may miss due to an excused absence, as well as provide documentation of the session. A new program was developed requiring all new coaches to complete a comprehensive formal rules-education orientation program conducted by the director of compliance prior to being permitted to recruit off campus.
- e. Strengthened its athletics compliance program by hiring a compliance office assistant, who will assist the director of compliance in the day-to-day operations of the compliance department. The institution has expanded its efforts to monitor recruiting activity, including modification of monitoring procedures while increasing the number of monthly audits performed of sport program telephone records.
- f. Expanded the head men's and women's cross country and track and field coach position from part-time to full-time to ensure adequate participation and exposure to rules education, as well as sufficient time to properly monitor and document NCAA rules compliance within the program.

