



**Texas A&M International University**  
**Public Infractions Report**  
**August 19, 2011**

**A. INTRODUCTION.**

This case was resolved through the summary disposition process, a cooperative endeavor in which the NCAA Division II 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 report was reviewed by the committee during a July 13, 2011, conference call.

Following its initial review of the matter, the committee on July 14 requested additional information from the institution and proposed further penalties beyond those listed by the institution in the summary disposition report. In a letter dated July 28, the institution supplied the requested information and accepted the further penalties proposed by the committee.

The violations in this case occurred from April 2008 through April 2009 and involved academic fraud committed by six student-athletes ("student-athletes 1, 2, 3, 4, 5 and 6," respectively). Student-athletes 1, 5 and 6 were members of the men's basketball team while student-athletes 2 and 3 participated in women's basketball. Student-athlete 3 also was a member of the women's volleyball team. Student-athlete 4 participated in baseball and men's golf.

The institution from 2002-09 offered a University of Wisconsin College-Level Spanish Placement exam (Wisconsin Spanish test) that allowed students achieving a certain score to satisfy their foreign language credit requirements. All six of the student-athletes took the test. Prior to taking the exam, the six student-athletes obtained an "answer key" which they used to complete the test and meet institutional requirements for graduation. In the case of student-athletes 5 and 6, the test results were also used to certify their athletics eligibility. It was apparently fairly common knowledge that the answer key existed, which allowed the six student-athletes (as well as two other students who also used the key) to pass the answers among themselves or obtain them from others who possessed a copy of the document.

Student-athletes 5 and 6 were certified as eligible for athletics competition for the fall, 2008 semester despite being ineligible following the spring 2008 semester and not taking and passing the Wisconsin Spanish test until after the fall semester had begun. They

were both marginal students who did not have any background in a Spanish-speaking culture, yet no one questioned their ability to pass the Spanish test with high marks and on short notice with little preparation. The failure by the institution and head men's basketball coach ("former head coach") to recognize and/or heed possible warning signs that something was amiss with the test results, and the erroneous certification of the student-athletes based on the test results, constituted failure to monitor.

A member of the Heartland Conference, the institution has an enrollment of approximately 6,800 students. The institution sponsors five men's and six women's intercollegiate sports. This was the institution's first major infractions case. The institution became an active member of the NCAA Division II beginning with the 2008-09 academic year.

## **B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

### **1. UNETHICAL CONDUCT AND PARTICIPATION WHILE INELIGIBLE. [NCAA Bylaws 10.1-(b), 14.1.1, 14.1.10, 14.4.1, 14.4.3.2, 14.4.3.2.1]**

From April 2008 through April 2009, student-athletes 1, 2, 3, 4, 5 and 6 violated the principles of ethical conduct when they knowingly engaged in academic fraud. In addition, the institution violated NCAA progress-toward-degree legislation related to the certification of eligibility for student-athletes 5 and 6, who represented the institution in intercollegiate athletics competition at a time when they were ineligible to do so.

#### **Explanation of Violation**

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

Prior to graduating from the institution, all students must demonstrate a college-level proficiency in a foreign language. During the timeframe in which the violations occurred, that proficiency could be demonstrated in one of four ways, including the successful completion of the Wisconsin Spanish test. The test was administered in a campus testing center and was given in two sections, language usage and reading comprehension. Students who successfully passed the test received four letter grades in four institutional Spanish courses and 12 hours of institutional credits. Additionally, they met the institution's foreign language requirements for graduation. The test was perceived to be easily passable for those students who hailed from the vicinity of campus,

which is located near the Mexican border. For others, the prevailing opinion was that the test was difficult to pass.

Between April 2008 and April 2009, student-athletes 1, 2, 3, 4, 5 and 6 engaged in academic fraud by using an answer key to pass the Wisconsin Spanish test. As a result, the student-athletes earned 12 semester credit hours with passing grades (either "A's" or "B's") in four institutional Spanish courses and met the institution's foreign language course requirements for graduation. Because the institution used the grades to certify the continuing eligibility of student-athletes 5 and 6, the student-athletes competed while ineligible.

The fraud apparently began with student-athlete 4, who took the Wisconsin Spanish test on April 25, 2008, and passed with a grade of "A." When it was later discovered that his answers matched those of another student who had taken the test, the student whose answers matched student-athlete 4's was interviewed. The student stated that she tried to tutor student-athlete 4 in preparation for the test, but ended up texting him the answers while she was completing the test in the morning on the same day student-athlete 4 took it in the afternoon. It appears that the student's text became the "answer key" that was subsequently used by others taking the tests.

Student-athlete 4 admitted passing the answer key on to another individual who participated in intercollegiate athletics but is not one of the six student-athletes referenced in this case. That individual denied ever receiving the answer key from student-athlete 4, but student-athlete 1 later admitted to receiving the answer key from the individual. Student-athlete 4 also admitted passing the answer key on to student-athlete 6.

The answer key continued to be passed among those who took the tests. Student-athlete 2 acknowledged receiving the answers from student-athlete 3. They both took the Wisconsin Spanish test on April 24, 2009, and received four "A's." Once the fraud was discovered, all of their grades were changed to "F." Student-athlete 5 admitted to receiving the answer key from someone, but he claimed no recollection of who had provided it to him. The investigation revealed that he received the key from student-athlete 1.

Student-athlete 5 entered the 2008-09 academic year, his third academic year of full-time enrollment, with a grade-point average (GPA) of 1.67. Pursuant to NCAA rules, student-athlete 1 needed a GPA of 1.9 to be certified eligible for competition for the 2008-09 academic year. As the fall 2008 semester began on August 25 he was registered for a Spanish class, but he withdrew from the class and took the Wisconsin Spanish test on September 5, 2008. He passed with three grades of "A" and one "B." He was not a native

Spanish speaker, had not received Spanish language education and his permanent residence was not in the vicinity of the institution.

The athletics administration and the former head coach were aware of student-athlete 5's plan to withdraw from the Spanish class and take the Wisconsin Spanish test. They were also aware of his status as a marginal student, yet no one questioned his ability to take and pass the Wisconsin Spanish test with such high grades. After student-athlete 5 passed the courses, the institution's certification team applied his Wisconsin Spanish test grades to the 2008 second summer session, even though it had concluded in early August 2008, and improperly certified student-athlete 5 as eligible for the 2008-09 academic year with a GPA of 2.2. Subsequently, student-athlete 1 represented the institution in 23 contests for the 2008-09 academic year contrary to NCAA legislation.

On October 31, 2008, the institution informed student-athlete 6 that he was ineligible for the 2008-09 academic year due to the institution's miscalculation of the grades that student-athlete 6 needed for NCAA progress-toward-degree requirements. On November 1, 2008, the institution's dean of student success made arrangements for student-athlete 6 to take the Wisconsin Spanish test as a last resort for him to gain eligibility for the 2008-09 academic year. She stated that she did so based on a request from the former head coach. Student-athlete 6, after receiving the answer key from student-athlete 4, took the exam alone and received 12 credit hours of "A" that the institution immediately applied to his transcript and used to certify him as eligible for the 2008-09 academic year. Subsequently, student-athlete 6 represented the institution in 26 contests for the 2008-09 academic year contrary to NCAA legislation. As was student-athlete 5, student-athlete 6 was a poor student who was not a native Spanish speaker, had not received Spanish language education and was not a native of an area where Spanish is commonly spoken. Nonetheless, no one questioned his ability to pass the Wisconsin Spanish test with high marks on short notice.

**2. FAILURE TO MONITOR BY THE INSTITUTION. [NCAA Constitution 2.8.1]**

The scope and nature of the violations detailed in Finding B-1 demonstrate that the institution's certification team failed to monitor certain aspects of its certification process and determine the validity of the information on which the certification of the eligibility of student-athletes 5 and 6 was based.

### **Explanation of Violation**

The institution and the enforcement staff were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The committee finds that the violations occurred.

When it certified student-athletes 5 and 6 as eligible to compete in 2008-09, the institution's certification team failed to sufficiently monitor and review all the information available regarding their circumstances. Among the factors that should have called into question their ability to attain eligibility for 2008-09 were the following: (a) both student-athletes were poor students who had failed to meet progress-toward-degree rules after the 2008 spring semester; (b) both were advised to go to summer school to ensure their continued NCAA eligibility; (c) both were unable to rectify their eligibility status through their summer courses; (d) during the 2008 fall semester, both student-athletes took the Wisconsin Spanish test as a last resort in order to ensure their continued NCAA eligibility for the 2008-09 academic year; (e) both had minimal, if any, preparation for the Wisconsin Spanish test; (f) both had minimal, if any, Spanish language education; and (g) both are not from Spanish-speaking cultures.

Regarding student-athlete 5, he did not complete any Spanish courses either in high school or at the junior college he attended prior to transferring to the institution. Due to his deficient academics, he did not compete at the institution during the spring 2008 semester, and he remained ineligible following that semester because he only passed six credit hours with a 0.5 GPA.

The institution's director of compliance ("former compliance director") and the former head coach were aware that student-athlete 5 completed the first 2008 summer session with nine credits and a 1.0 GPA, which did not allow him to regain his eligibility. Even though he was urged to do so, student-athlete 5 took no classes during the second summer session, thus he remained ineligible as the fall 2008 semester began. The institution's athletics academic coordinator ("academic coordinator") made student-athlete 5 aware of the Wisconsin Spanish test, and she, the former head coach and the former compliance director were all aware that student-athlete 5 took the test and the grades he achieved. Even though student-athlete 5 took the test after the fall semester began, the grades were credited to the second summer session and he was declared eligible.

As if his academic record to that point was not enough to put the coaches and administration on notice, there were further indications that student-athlete 5 may not have legitimately earned his grades on the Wisconsin Spanish test. In an interview with the enforcement staff in September 2010, the institution's head women's volleyball coach ("former head volleyball coach") stated that she reported concerns about student-athlete

5's ability to pass the Wisconsin Spanish test to the director of athletics ("former director of athletics"), who was a member of the certification team. Specifically, the former head volleyball coach was in the gym when the former compliance director told the men's basketball coaching staff that student-athlete 5 had passed the test and mentioned the grades he had earned. When one of the coaches asked student-athlete 5 to say "I got four A's" in Spanish, the young man could not do so. The former head volleyball coach stated that she later expressed her concerns in a meeting she had with the former director of athletics and the former compliance director. No follow-up was done or investigation undertaken regarding her report.

The situation involving student-athlete 6 was similar to that of student-athlete 5. Student-athlete 6 did not complete any Spanish courses at the junior college he attended prior to transferring to the institution and, due to his poor academics, he was placed on academic suspension following the 2008 spring semester. He completed six credits in the summer of 2008 but was still lacking the necessary 1.9 cumulative GPA as the fall semester began. The former head coach and former compliance director notified student-athlete 6 on October 31, 2008, that he was ineligible.

At the same time they informed him of his ineligibility, the former head coach and former compliance director asked student-athlete 6 if he knew any Spanish and if he could pass the Wisconsin Spanish test. Although student-athlete 6 responded with doubts concerning his ability to pass the test, he was encouraged to take it by the former head coach, who noted that other student-athletes had taken and passed the test. It was arranged for student-athlete 6 to take the test the next day. Yet, despite his poor academic record, his lack of preparation for the test, his own stated concerns that he was not sure he could pass the test and the fact that he achieved four grades of "A," no one questioned the legitimacy of the test results. His grades were misapplied back to the 2008 summer session and he was certified as eligible for NCAA competition without any further review or consideration.

**3. FAILURE TO MONITOR BY THE FORMER HEAD COACH. [NCAA Bylaw 2.8.1]**

The scope and nature of the violations detailed in Finding B-1 demonstrate that the former head coach failed to monitor certain aspects of the institution's certification process for student-athletes 5 and 6. Specifically, the former head coach failed to (a) sufficiently review all the information available to him before the institution certified as eligible student-athletes 5 and 6 and (b) detect the fact that student-athletes 5 and 6 committed academic fraud on the Wisconsin Spanish test when information regarding their inability to pass the exam was available.

**Explanation of Violation:**

The former head coach and the enforcement staff were in agreement with the facts of this finding and that those facts constituted violations of NCAA legislation. The committee finds that the violations occurred.

As set forth in the narrative for Finding B-2 above, the former head coach did not heed multiple warning signs that the results attained by student-athletes 5 and 6 on the Wisconsin Spanish test were suspect. He was aware of their status as marginal students and that they were ineligible for competition as the fall 2008 semester began. He knew that student-athlete 5 took the Wisconsin Spanish test on September 5, 2008, and did not question the young man's ability to score three grades of "A" and one "B" on the test.

Regarding student-athlete 6, the former head coach was one of two individuals who informed the young man on October 31, 2008, that he was ineligible for competition. During the same conversation, the former head coach encouraged student-athlete 6 to take the Wisconsin Spanish test even as student-athlete 6 expressed doubts in his ability to successfully pass it. According to student-athlete 6, the former head coach told him to talk with friends who had previously taken the test "and learn the tricks of the trade." The former head coach also suggested he talk with student-athlete 1, who had already taken and passed the test.

With little to no preparation, student-athlete 6 took the test the next day and achieved four grades of "A." Along with the athletics administration, the former head coach did not question the test results.

**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. The penalties proposed by the institution in the summary disposition report were adopted by the committee, and the institution also agreed to the imposition of penalties C-1, C-2, C-7 and C-10. Because the findings and penalties were agreed upon by the institution and committee, there is no option to appeal. [Note: The institution's corrective actions are contained in Appendix Two.]

1. Public reprimand and censure.
2. Two years of probation from August 19, 2011, through August 18, 2013.

3. Vacation of all games in which student-athletes 5 and 6 competed during the 2008-09 season while ineligible. The vacations shall be facilitated in accordance with NCAA Bylaw 19.5.2.2-(e), with the individual records of student-athletes 5 and 6 also vacated. Further, the record of the former head coach shall be reconfigured to reflect the vacated results. The vacated records shall be recorded in all publications in which men's basketball records are reported, including, but not limited to, institution media guides, recruiting material, electronic and digital media and institutional and NCAA archives. Any public reference to the vacated contests and statistics shall be removed from any public areas, institutional publications and any other forum in which they may appear.
4. To ensure that all institutional, student-athlete and coaching vacations, statistics and records are accurately reflected in official NCAA publications and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA director of statistics to identify the specific student-athletes and contests impacted by the penalties. In addition, the institution must provide the NCAA statistics department a written report detailing those discussions with the director of statistics. This document shall be retained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than 45 days following the release of the infractions report.
5. Permanent ineligibility for any student-athlete involved in the academic fraud who remains enrolled at the institution with eligibility remaining.
6. Reductions in the number of financial aid awards. Financial aid awards in the sport of men's basketball were reduced from a 7.58 equivalency award for the 2008-09 academic year to a 3.32 for the 2009-10 academic year.
7. During the term of probation, reduction by one week the period of off-campus recruiting that may occur during the recruiting period of March.
8. All individuals involved in eligibility and certification decisions, including, but not limited to, the faculty athletics representative, the undergraduate admissions counselor, academic compliance coordinator, compliance coordinator and appropriate personnel from the registrar's office shall attend an NCAA Regional Rules Seminar prior to the end of the probationary period.
9. The academic coordinator was reassigned to a position (undergraduate admissions counselor) that does not include contact with prospective or enrolled student-athletes or representatives of the institution's athletics interests.

10. Because this case involved academic fraud, the president of the NCAA shall, pursuant to NCAA Bylaw 19.5.2.7, forward a copy of this report to the appropriate regional accrediting agency.
11. During this 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' eligibility for admission, financial aid, practice or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by October 1, 2011, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by July 15 of each year during the probationary period. Particular emphasis should be placed on proper certification of continuing eligibility and safeguards against academic fraud. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.
12. 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, Texas A&M International University 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, August 19, 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.

NCAA COMMITTEE ON INFRACTIONS

Jean Paul Bradshaw

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## **APPENDIX ONE**

### **CASE CHRONOLOGY.**

#### **2009**

April 8 – An anonymous source left a voicemail message with the Heartland Conference office alleging that NCAA violations occurred within the men's basketball program at the institution. Shortly thereafter, the Heartland Conference commissioner contacted the former director of athletics and relayed the information from the voicemail message. After initial internal inquiries and discussions occurred, Texas A&M International's president contacted the NCAA director of enforcement for secondary infractions to discuss the institution's investigation.

#### **2010**

February 26 - The institution submitted a self-report to the NCAA enforcement staff.

May 18 - The enforcement staff contacted the institution's president regarding the enforcement staff's decision to conduct additional review of the reported violations.

June 18 - The notice of inquiry letter was sent.

#### **2011**

June 24 – The summary disposition report was submitted to the NCAA Division II Committee on Infractions.

July 13 – The NCAA Division II Committee on Infractions reviewed the summary disposition report.

July 14 – The Committee on Infractions requested further information from the institution.

July 28 – The institution responded to the committee's request for further information.

August 19 – Infractions Report No. 355 was released.

## **APPENDIX TWO**

### **CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S JUNE 24, 2011, SUMMARY DISPOSITION REPORT.**

The associate director of compliance no longer reports to the athletics director, but instead to the vice president for student success and the president.

The institution changed the position of athletics academic coordinator to academic compliance coordinator.

The institution now requires all student-athletes who seek to take a placement exam to obtain prior approval from the compliance coordinator and the academic coordinator.

The institution changed placement tests to an electronic format, with questions rotating so that each test taker is receiving the questions in an order different from others.

Students no longer receive letter grades for such exams regardless of performance.

All students (athletes and non-athletes) involved received four F's for the classes covered by the exam. After the F's were recorded, all GPAs were recalculated.

In November 2010, the institution added a co-faculty athletics representative to assist with the responsibilities carried by that position.

The former director of athletics, former director of compliance and former head coach are no longer employed by the institution.