



LENOIR-RHYNE UNIVERSITY
PUBLIC INFRACTIONS DECISION
AUGUST 25, 2016

I. INTRODUCTION

The NCAA Division II Committee on Infractions is an independent administrative body of the NCAA comprised of individuals from the Division II membership and the public. The committee decides infractions cases involving member institutions and their staffs. This case involved the men's basketball program at Lenoir-Rhyne University.¹ It centered on recruiting violations that led to unethical conduct by former members of the men's basketball coaching staff. The case also involved a failure to promote an atmosphere for compliance by the former head men's basketball coach. The committee considered this case through the cooperative summary disposition process. In this instance, the institution and the enforcement staff agree to the primary facts and violations as fully set forth in the Summary Disposition Report (SDR). However, the two involved individuals in this case, the former head men's basketball coach and a former assistant coach, refused to be interviewed by the enforcement staff and failed to participate in the processing of this case. Because the institution agreed to the violations and penalties, and the two involved coaches did not participate in the case, none has the opportunity to appeal.

The institution and the enforcement staff agreed that, during April 2015, members of the men's basketball staff, including the former head men's basketball coach, violated NCAA recruiting legislation associated with a visit to the institution's campus by two prospective student-athletes. During this visit, the two prospects received impermissible benefits and the coaches administered tryouts for both that violated NCAA rules. Shortly thereafter, when the institution began an investigation into the matter, a then assistant men's basketball coach influenced a men's basketball student-athlete to provide false or misleading information to the institution's compliance staff. Later, the former head men's basketball coach and a former assistant men's basketball coach failed to cooperate with the enforcement staff's investigation. Finally, as the result of the violations in his program, the former head men's basketball coach failed in his responsibility to promote an atmosphere for compliance. The committee concludes that the former head men's basketball coach and a former assistant men's basketball coach committed major violations of NCAA legislation when they violated NCAA recruiting rules, engaged in unethical conduct and the former head men's basketball coach failed to promote an atmosphere for compliance.

After reviewing the institution's and the enforcement staff's principal factual agreements and respective explanations surrounding those agreements, the committee accepts the SDR and

¹A member of the South Atlantic Conference and Bluegrass Mountain Conference (swimming only), the institution has an enrollment of approximately 2,300 students. It sponsors 11 women's and 11 men's sports. This is the institution's first major infractions case.

concludes that those agreements constitute major violations of NCAA bylaws. The committee notes that the institution self-detected the underlying recruiting violations that triggered this case and promptly initiated an internal investigation. As a result, this case did not include a failure to monitor or lack of institutional control.

The committee determines that the following principal penalties are appropriate: one year of probation, recruiting restrictions and a three-year show-cause order for both the former head men's basketball coach and the former assistant men's basketball coach. Other penalties are detailed in the penalty section of this decision.

II. CASE HISTORY

On April 13, 2015, during a recruiting dead period, the institution's compliance coordinator entered the institution's gymnasium and saw two men's basketball prospective student-athletes participating in pick-up basketball games with the men's basketball team. The compliance coordinator also noticed an assistant men's basketball coach (former assistant coach) and another staff member observing the games. The compliance coordinator immediately recognized a potential NCAA recruiting violation because the two prospects were on campus during a recruiting dead period.² He questioned the former assistant coach who confirmed that the individuals were prospective student-athletes.

The institution immediately initiated an internal inquiry. The institution submitted a self-report to the enforcement staff in late June 2015. After reviewing the report, the NCAA enforcement staff joined the institution in an investigation. The enforcement staff issued a written notice of inquiry on October 1, 2015. During the investigation, the enforcement staff made repeated requests to interview the former head men's basketball coach (former head coach) and the former assistant coach. Neither consented to be interviewed. In early March 2016, the enforcement staff provided a draft notice of allegations via certified mail to both coaches, notifying them of their opportunity to participate in the processing of the case. Neither coach responded. The enforcement staff also provided the draft notice of allegations to the institution. Shortly thereafter, the institution agreed to process the case through summary disposition.

On June 9, 2016, the enforcement staff submitted the SDR to the NCAA Division II Committee on Infractions. The committee reviewed the SDR by teleconference on July 18, 2015. The following day, the committee notified the institution that it accepted the proposed factual findings, violations and the self-imposed penalties. The committee proposed additional penalties pursuant to NCAA Bylaw 32.7.1.4.3. The committee also sent letters to both the former head coach and the former assistant coach informing them of proposed show-cause orders and their opportunity to contest the penalties. The institution accepted the additional proposed penalties in a July 28, 2016, email from the institution's president to the Office of the Committees on Infractions (OCOI).

² A recruiting "dead period" is a period of time during which it is not permissible to make in-person recruiting contacts or evaluations on or off the member institution's campus or to permit official or unofficial visits by prospective student-athletes to the institution's campus.

The former head coach's wife notified the OCOI via email that her husband was retired and did not wish to participate in the processing of the case. The former assistant coach did not respond.

III. PARTIES' AGREEMENT

A. PARTIES' AGREED-UPON FACTUAL BASIS AND VIOLATIONS OF NCAA LEGISLATION

The institution and the enforcement staff jointly submitted an SDR that identifies an agreed-upon factual basis and violations as established by NCAA legislation. The SDR identifies:

1. [NCAA Division II Manual Bylaws 13.02.4.4, 13.2.1, 13.6.1.1 and 13.11.1 (2014-15)]

The enforcement staff and institution agree that in April 2015, the former head coach permitted two men's basketball prospective student-athletes (prospects 1 and 2) to visit the institution's campus at no cost even though it was a dead period. Additionally, this visit constituted a second paid visit for prospect 1. Further, the men's basketball staff conducted an impermissible tryout of the two prospects during their visit. Specifically:

- a. On April 13, 2015, and during the dead period, the former head coach arranged for an assistant men's basketball coach to drive prospects 1 and 2 from their hometown to the institution's campus, a distance of approximately 330 miles, at no cost. The assistant men's basketball coach also provided the prospective student-athletes with a meal and snacks during the trip. The value of the impermissible benefits was approximately \$183.
- b. On April 13, 2015, and during the dead period, the former head coach and other members of the men's basketball staff conducted an impermissible tryout of prospects 1 and 2 when they evaluated the prospective student-athletes participating in pick-up basketball games with men's basketball student-athletes in the institution's gymnasium.
- c. Between April 13 and 14, 2015, and during the dead period, the former head coach and other members of the men's basketball staff provided prospects 1 and 2 with local transportation, an overnight stay at a hotel and meals at no cost. The value of the impermissible benefits was approximately \$125.
- d. On April 14, 2015, and during the dead period, the former head coach arranged for an assistant men's basketball coach to drive prospects 1 and 2 from the institution's campus back to their hometown at no cost. The assistant men's basketball coach also provided the prospective student-athletes with a meal and snacks during the trip. The value of the impermissible benefits was approximately \$183.

2. [NCAA Division II Manual Bylaws 10.01.1, 10.1 and 10.1-(d) (2014-15)]

The enforcement staff and institution agree that on or about April 23, 2015, the former assistant coach violated the principles of ethical conduct when he knowingly influenced a student-athlete to provide false or misleading information to the institution's compliance staff regarding the student-athlete's involvement with prospects 1 and 2's impermissible visit, as outlined in Violation No. 1. Specifically, the former assistant coach instructed student-athlete 1 to tell the compliance staff that he neither had dinner with nor spent time with the prospective student-athletes during the visit.

3. [NCAA Division II Manual Bylaws 10.01.1, 10.1, 10.1-(a) and 19.01.3 (2015-16)]

The enforcement staff and institution agree that between October 1, 2015, and January 18, 2016, the former assistant coach violated the NCAA principles of ethical conduct when he refused to furnish information relevant to the investigation of possible violations of NCAA legislation when requested to do so by the enforcement staff. Further, the former assistant coach violated the responsibility to cooperate legislation by failing to make full and complete disclosure of relevant information when requested to do so by the enforcement staff.

Specifically, even though the enforcement staff requested the former assistant coach's participation in an interview October 1, 13 and 14, 2015, and January 7, 2016, the former assistant coach failed to respond to those requests and to participate in an interview. At the time of these requests, the former assistant coach was not an employee of the institution.

4. [NCAA Division II Manual Bylaws 10.01.1, 10.1, 10.1-(c) and 11.1.2.1 (2014-15)]

The enforcement staff and institution agree that the scope and the nature of the violations detailed in Violation Nos. 1 and 2 demonstrate that the former head coach violated NCAA head coach's responsibility and ethical conduct legislation when he failed to promote an atmosphere for compliance by his knowing involvement in violations of the recruiting legislation. Specifically:

- a. The former head coach violated ethical conduct legislation when he engaged in and directed others to engage in impermissible recruiting activities, including the provision of impermissible benefits, as outlined in Violation No. 1.
- b. The former head coach violated head coach's responsibility legislation when he failed to promote an atmosphere for compliance by: (1) directly engaging in and allowing others to engage in the impermissible recruiting activities outlined in Violation No. 1 after he was told the visit would be impermissible; and (2) being present for and permitting an assistant men's basketball coach to instruct a men's

basketball student-athlete to provide false and misleading information as outlined in Violation No. 2. [NCAA Bylaw 11.1.2.1 (2014-15)]

5. [NCAA Division II Manual Bylaws 10.01.1, 10.1, 10.1-(a) and 19.01.3 (2015-16)]

The enforcement staff and institution agree that between October 1, 2015, and January 18, 2016, the former head coach violated the NCAA principles of ethical conduct when he refused to furnish information relevant to the investigation of possible violations of NCAA legislation when requested to do so by the enforcement staff. Further, the former head coach violated the responsibility to cooperate legislation by failing to make full and complete disclosure of relevant information when requested to do so by the enforcement staff. Specifically, even though the enforcement staff requested the former head coach's participation in an interview October 1, 13 and 14, 2015, and January 7, 2016, the former head coach responded and refused to participate in an interview. At the time of these requests, the former head coach was not an employee of the institution.

IV. SECONDARY VIOLATION

[NCAA Division II Manual Bylaw 13.6.2-(a), (b) and (c) (2014-15)]

The enforcement staff and institution agree that on October 11, 2014, the men's basketball staff provided two prospects student-athlete with an impermissible official paid visit to the institution's campus.

Specifically, the men's basketball staff failed to: (a) obtain a copy of the two prospects' high school transcripts; (b) ensure that one of the prospects was registered with the NCAA Eligibility Center; and (c) place the two prospects on the institutional request list prior to their visit to campus.

V. REVIEW OF CASE

The submitted SDR fully details the parties' positions in the infractions case and includes the agreed-upon primary facts and violations. After reviewing the parties' principal factual agreements and the respective explanations surrounding those agreements, the committee accepts the parties' SDR and concludes that the facts constitute major and secondary violations of NCAA legislation. Specifically, the institution agrees that its men's basketball staff committed five major violations and one secondary violation. The major violations fell in three areas: (1) an impermissible official visit and tryout; (2) unethical conduct; and (3) head coach responsibility.

With regard to the impermissible visit and tryout, the institution agreed that it violated recruiting legislation when the former head coach permitted two prospects to visit the institution during a recruiting dead period and engage in tryouts. For one of the prospects, it was the second paid visit

to the institution's campus. Members of the men's basketball staff provided expenses for both prospects in conjunction with the visit. This conduct violated NCAA Bylaw 13.

NCAA Bylaw 13.02.4.4 defines a dead period as that period of time when it is not permissible to make in-person recruiting contacts or evaluations on or off the member institution's campus or to permit official or unofficial visits by prospective student-athletes to the institution's campus. Further, NCAA Bylaw 13.6.1.1 specifies that an institution may finance only one visit to its campus for a prospective student-athlete. In addition, NCAA Bylaw 13.2.1 precludes institutional staff members from making arrangements for or giving or offering any financial aid or other benefits to a prospective student-athlete other than those allowed by NCAA regulations. Finally, NCAA Bylaw 13.11.1 prohibits institutions from conducting tryouts on its campus or elsewhere.

When the former head coach permitted prospects 1 and 2 to visit the institution during a dead period and receive expenses associated with the visit, violations of NCAA Bylaw 13.02.4.4 occurred. A violation of NCAA Bylaw 13.2.1 also occurred because the provision of expenses under these circumstances was a benefit not allowed by NCAA rules. Moreover, because this was the second expense-paid visit to the institution campus by prospect 1, a violation of NCAA Bylaw 13.6.1.1 occurred. Finally, when the men's basketball staff evaluated the two prospects while they engaged in pickup games with members of the men's basketball team, this met the definition of a tryout. Consequently, a violation of the tryout rule, NCAA Bylaw 13.11.1, occurred.

This case also involved four instances of unethical conduct. The former assistant coach committed unethical conduct when he knowingly influenced a student-athlete to provide false and misleading information. Similarly, both he and the former head coach refused to furnish information relevant to the investigation. The former head coach also knowingly allowed prospects to visit campus during dead periods and arranged for impermissible benefits and tryouts. Further, the former head coach was present and took no action when the former assistant coach instructed a student-athlete to provide false information. Finally, the head coach refused to furnish information relevant to the investigation. The actions of the two coaches constituted unethical conduct in violation of NCAA Bylaw 10.

NCAA Bylaws 10.01.1 and 10.1 require institutional staff members to conduct themselves in an ethical manner and with honesty and sportsmanship at all times. Subsection (d) of NCAA Bylaw 10.1 specifically prohibits institutional staff members from providing false or misleading information to the NCAA or institution regarding possible rules violations. This subsection also precludes institutional staff members from influencing others to provide false information. NCAA Bylaw 10.1-(a) specifies that refusing to furnish information relevant to an investigation when requested to do so by the NCAA constitutes unethical conduct. Moreover, NCAA Bylaw 19.01.3 requires institutional staff members to cooperate fully with the NCAA enforcement staff, "to further the objectives of the Association and its enforcement program." Finally, NCAA Bylaw 10.1-(c) specifies that knowing involvement in offering or providing a prospective student-athlete an impermissible inducement or benefit constitutes unethical conduct.

When the former assistant coach influenced a student-athlete to provide false or misleading information, he engaged in unethical conduct and violated NCAA Bylaw 10.1-(d). Similarly, when the former head coach and the former assistant coach refused repeated requests to be interviewed by the enforcement staff, they violated NCAA ethical conduct legislation. As former institutional staff members, both individuals had an obligation to furnish knowledge relevant to potential violations of NCAA legislation. They did not fulfil that obligation. When the former head coach and the former assistant coach refused to be interviewed by the enforcement staff, they engaged in unethical conduct as outlined in NCAA Bylaw 10.1-(a) and violated the cooperative principle as set forth in NCAA Bylaw 19.01.3. Further, the former head coach knowingly engaged and directed others to engage in recruiting violations as set forth in Violation No. 1. Finally, the former head coach was present for and permitted the former assistant coach to instruct a student-athlete to provide false and misleading information. The former head coach's conduct constitutes unethical conduct and a violation of NCAA Bylaws 10.01.1, 10.1 and 10.1-(c).

As it relates to head coach responsibility, the former head coach's knowing involvement and permission of recruiting and unethical conduct violations demonstrate that he failed to promote an atmosphere for compliance. His conduct violated NCAA Bylaw 11. NCAA Bylaw 11.1.2.1 requires head coaches to promote an atmosphere for compliance and to monitor the activities regarding compliance of all assistant coaches. The former head coach was directly involved in the impermissible recruiting and tryout violations. Likewise, he was present and permitted his former assistant coach to engage in unethical conduct. The former head coach's actions are directly contrary to the expectations required of head coaches. He failed to meet his responsibilities as a head coach and violated NCAA Bylaw 11.1.2.1.

This case also involved an agreed-upon secondary recruiting violation. The violation occurred when the men's basketball staff provided two prospective student-athletes with an impermissible paid visit to the institution. NCAA Bylaw 13.6.2 outlines requirements that must be met before an institution can provide a paid (official) visit to a prospective student-athlete. Specifically, NCAA Bylaw 13.6.2-(a) requires a prospect to provide the institution with a current transcript while NCAA Bylaw 13.6.2-(b) necessitates that prospects be registered with the NCAA Eligibility Center. Further, NCAA Bylaw 13.6.2-(c) requires prospects to be placed on the institution's institutional request list (IRL) with the NCAA Eligibility Center. When the men's basketball staff failed to obtain a copy of the two prospects' high school transcripts, ensure that one of the prospects was registered with the NCAA Eligibility Center, and place the two prospects on the IRL prior to their visit to campus, violations of NCAA Bylaw 13.6.2-(a), (b) and (c) occurred.

VI. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the committee concluded that this case involved major violations of NCAA legislation. The institution, through its former men's basketball staff, committed major infractions involving the recruitment of two prospective student-athletes. Later, during the subsequent investigation by the institution and the enforcement staff, the former head coach and the former assistant coach engaged in unethical conduct and refused to cooperate with the investigation. Further, the former head coach failed to promote an atmosphere

for compliance. The institution also committed a secondary recruiting violation involving a failure to obtain required documents associated with the official visit of two prospects.

In prescribing the penalties, the committee considered the institution's cooperation in the processing of this case. NCAA Bylaws 19.01.3 and 32.1.4 address cooperation during the infractions process. The committee concludes that the cooperation exhibited by the institution was consistent with its obligation under the bylaws. Because the institution agreed to the factual findings and violations, as well as the additional penalties prescribed by the committee, there is no opportunity to appeal. The former head coach and the former assistant coach did not participate in the processing of this case. Therefore, they also have no opportunity to appeal.

The committee prescribes the following penalties. Those self-imposed by the institution are noted. The institution's corrective actions are contained in the appendix.

Penalties and Disciplinary Measures (NCAA Bylaw 19.5.2)

1. Public reprimand and censure.
2. One year of probation from August 25, 2016, through August 24, 2017. (Institution proposed.)³
3. A reduction in the number of days that can be used to evaluate or contact prospects off-campus by eight weeks (April 1, 2016, through May 31, 2016). (Institution imposed.)
4. A ban on official visits in men's basketball for the 2015-16 academic year. (Institution imposed.)
5. A ban on tryouts in men's basketball for the 2015-16 academic year. (Institution imposed.)
6. A reduction in the number of days that can be used to evaluate or contact prospects off-campus by four weeks during the 2016-17 academic year. (The institution will reduce by two weeks from September 7, 2016, through September 21, 2016, and by two weeks from June 15, 2017, through June 29, 2017. (Institution proposed.)
7. The former head coach permitted two prospective student-athletes to visit the institution's campus during a recruiting dead period. Further, he violated NCAA head coach's responsibility and ethical conduct legislation through his knowing involvement in recruiting violations. Finally, the former head coach also violated NCAA ethical conduct and cooperation legislation when he failed to provide information to the enforcement staff and failed to cooperate with the investigation.

Therefore, pursuant to NCAA Bylaw 19.5.2.2, the committee prescribes a three-year show-cause order for the former head coach. The show-cause period shall run from August 25, 2016,

³ Institutions may propose probationary periods but only the Committee on Infractions can prescribe probation and its associated requirements. Probationary periods always commence with the release of the infractions decision.

through August 24, 2019. If the former head coach becomes employed at a member institution during the term the show cause is in effect, he and the member institution shall contact the Office of the Committees on Infractions (OCOI) to schedule an appearance before the committee. The purpose of the appearance shall be to consider whether the member institution should be subject to the show-cause provisions of NCAA Bylaw 19.5.2.2, which could limit the former head coach's athletically related duties at the new member institution for a designated period.

8. The former assistant coach violated the principles of ethical conduct and the cooperative principle when he influenced a men's basketball student-athlete to provide false information to the institution regarding the impermissible visit of two prospective student-athletes. Further, the former assistant coach also violated NCAA ethical conduct and the cooperative principle when he failed to provide information to the enforcement staff and failed to cooperate with the investigation.

Therefore, pursuant to NCAA Bylaw 19.5.2.2, the committee prescribes a three-year show-cause order for the former assistant coach. The show-cause period shall run from August 25, 2016, through August 24, 2019. If he becomes employed at a member institution during the term the show cause is in effect, he and the member institution shall contact the Office of the Committees on Infractions (OCOI) to schedule an appearance before the committee. The purpose of the appearance shall be to consider whether the member institution should be subject to the show-cause provisions of NCAA Bylaw 19.5.2.2, which could limit the former assistant coach's athletically related duties at the new member institution for a designated period.

9. During 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 OCOI by October 15, 2016, setting forth a schedule for establishing this compliance and educational program;
 - c. File with the OCOI one annual compliance report indicating the progress made with this program by June 30, 2017. Particular emphasis shall be placed on compliance education pertaining to recruiting and the monitoring of coaches' recruiting activities. The report must include documentation of the institution's fulfillment of the penalties adopted and prescribed by the committee;
 - d. Inform in writing all prospective student-athletes in the sport of men's basketball that the institution is on probation for one year and explain the violations committed. The information must be provided in writing and for the full term of probation. The

information must be provided before a prospective student-athlete signs a National Letter of Intent and no later than when the NCAA Eligibility Center provides a prospective student-athlete with the institution's academic data (see NCAA Bylaw 13.3.1.2); and

- e. For the full term of probation, publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement including 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 or "landing" webpage. The information shall also be included in the institution's men's basketball media guide (digital or paper form) and in an alumni publication. The statement must: (i) clearly describe the infractions; (ii) include the length of probation associated with the major infractions case; and (iii) give members of the general public a clear indication of what happened in the major infractions case to allow the public (particularly prospective student-athletes and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.
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, Lenoir-Rhyne 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 25, 2016. Further, the committee advises the institution that it should take every precaution to ensure that it observes the terms of the penalties. 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 will cause the committee to consider extending the institution's probationary period, prescribing more severe penalties, or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS

Douglas D. Blais

John D. Lackey

Julie A. Rochester, chair

Carey Snyder

Jane Teixeira

Christie L. Ward

APPENDIX

THE INSTITUTION'S CORRECTIVE ACTIONS AS IDENTIFIED IN THE JUNE 9, 2016, SUMMARY DISPOSITION REPORT.

1. Requested the resignation of the head men's basketball coach and terminated the assistant coaches.
2. Declared the involved prospects ineligible (they did not enroll).
3. Continue to require a coaching staff member to submit the official visit approval form and reinforce that they must receive either hard copy or email confirmation before they can conduct the visit.
4. Require that coaches request travel arrangements for official visits of the associate athletics director for compliance who will be the primary contact for booking such arrangements for all recruits.
5. Post dead period signage on all main athletics facility entrances indicating that coaches are not permitted to make any in-person recruiting contacts or evaluations, on or off campus, during the designated dead period time frame.
6. Immediately following the infraction, the compliance office reaffirmed NCAA Bylaws 13.02.4.4, 13.2.1, 13.6.1.1 and 13.11.1 with all coaches and plans to cover annually during the beginning of the year staff orientation compliance review.
7. The compliance office will conduct a compliance orientation with all new coaches (paid and volunteer) on all applicable NCAA Division II legislation while paying special attention to NCAA Bylaws 13.02.4.4, 13.2.1, 13.6.1.1 and 13.11.1.
8. A third party compliance software is being looked into for immediate implementation, pending approval from the chief financial officer.