



**THE OHIO STATE UNIVERSITY**  
**PUBLIC INFRACTIONS DECISION**  
**November 14, 2017**

## **I. INTRODUCTION**

The NCAA Division I Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division I membership and the public. The COI decides infractions cases involving member institutions and their staffs.<sup>1</sup> This case involved the men's swimming program at The Ohio State University and centered primarily on recruiting violations and the failure of the former head men's swimming coach to promote an atmosphere of compliance.<sup>2</sup> A panel of the COI considered this case through the cooperative summary disposition process, in which all parties agreed to the primary facts and violations as fully set forth in the summary disposition report (SDR). The panel proposed additional penalties to Ohio State, which the institution accepted. The panel did not propose any additional penalties for the former head coach. Pursuant to NCAA Bylaw 19.6, neither party may appeal.

The violations in this case stemmed from a prospective student-athlete's presence on Ohio State's campus prior to enrollment. The prospect, an international men's swimming student-athlete, could not enroll at Ohio State for the fall 2016 semester due to delayed high school test scores. Thus, in September 2016, he moved to Columbus, Ohio, to train with the Ohio State Swim Club while waiting to enroll for the coming spring semester. As the COI has repeatedly warned, a prospect's presence in an institution's locale prior to enrollment creates an increased risk for violations of NCAA legislation. Here, the prospect's presence in Columbus led to recruiting violations falling into two categories: impermissible inducements and an impermissible tryout. As it relates to inducements, a former assistant men's swimming coach impermissibly arranged for the prospect to live in an off-campus house with five men's swimming student-athletes. Additionally, men's swimming student-athletes provided the prospect with access to the men's swimming varsity locker room and nutrition station, free use of Ohio State's recreational facility and approximately 25 meals from a campus dining facility. The meals and access to institutional facilities constituted impermissible recruiting inducements worth approximately \$758. With respect to the second category of recruiting violations, the former head coach conducted an impermissible tryout when he observed the prospect swimming in the institution's aquatics facility and asked him to demonstrate his butterfly technique for another prospect. The panel concludes that the recruiting violations are Level II.

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<sup>1</sup> Infractions cases are decided by hearing panels comprised of NCAA Division I COI members. Decisions issued by hearing panels are made on behalf of the COI.

<sup>2</sup> A member of the Big Ten Conference, The Ohio State University has a total enrollment of approximately 66,000 students. It sponsors 17 women's sports, 16 men's sports and three co-educational sports. This was Ohio State's sixth major, Level I or Level II infractions case. Ohio State had previous major, Level I or Level II infractions cases in 2011 (football), 2006 (men's basketball), 1994 (men's basketball and men's and women's track), 1978 (football) and 1957 (football).

The parties agreed that the former head coach did not rebut the presumption of responsibility for these violations. Specifically, he knew the prospect was on campus but failed to notify the compliance office or take appropriate steps to ensure the prospect's living arrangements and on-campus activities complied with NCAA legislation. These actions and inactions, as well as the former head coach's personal involvement in the impermissible tryout violation, demonstrate his failure to promote an atmosphere of compliance within the men's swimming program. This is a Level II violation of head coach responsibility legislation.

The panel accepts the parties' factual agreements and concludes that violations occurred. Because the violations occurred after October 30, 2012, the current penalty structure applies. After considering applicable aggravating and mitigating factors, the panel classifies this case as Level II-Mitigated for both Ohio State and the former head coach's violations. Utilizing the current penalty guidelines, the panel adopts and prescribes the following core penalties: a \$5,000 fine, a two-week ban on off-campus recruiting for the men's swimming program and a two-contest suspension for the former head coach.

## **II. CASE HISTORY**

The violations in this case came to light in late September 2016, after an academic advisor for men's swimming met with an international prospect (prospect) to discuss his attempts to enroll at Ohio State. During the meeting, the academic advisor became concerned about the prospect's presence on campus prior to enrollment and contacted Ohio State's compliance office. On September 27, 2016, the academic advisor and the prospect met with the director of compliance to discuss the situation. Following that meeting, the compliance staff conducted an investigation, which included formal interviews of the prospect and the former head men's swimming coach (head coach).<sup>3</sup> The compliance staff determined that the prospect's presence on campus had led to Level III violations of NCAA recruiting legislation. Accordingly, Ohio State submitted a self-report to the enforcement staff on October 27, 2016.

In November 2016, the Level III/secondary enforcement staff transferred the case to the Level I/II/major enforcement staff for review. The enforcement staff provided a verbal notice of inquiry to Ohio State on December 6, 2016. Between December 15, 2016, and April 5, 2017, Ohio State and the enforcement staff conducted a joint investigation. The enforcement staff held a teleconference with Ohio State and the head coach on April 12, 2017, to verbally review the draft notice of allegations (NOA) and discuss options for processing the case. On April 18, 2017, Ohio State and the head coach agreed to process the case via summary disposition. The enforcement staff provided the parties with access to a draft NOA and related documents on May 12, 2017.

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<sup>3</sup> The head coach retired from Ohio State on June 30, 2017, at the end of his 28th year as the institution's head men's swimming coach.

On August 21, 2017, Ohio State, the head coach and the enforcement staff submitted the SDR to the COI.<sup>4</sup> A panel of the COI reviewed the SDR on September 15, 2017. On September 19, 2017, acting pursuant to Bylaw 19.6.4.2 and COI Internal Operating Procedure (IOP) 3-9-2-3, the chief hearing officer requested additional information from the enforcement staff regarding the parties' agreements. One week later, the enforcement staff provided the panel with clarifying information regarding the extent of the former assistant men's swimming coach's involvement in the recruiting violations and the head coach's monitoring of the former assistant coach.<sup>5</sup> The panel proposed additional penalties to Ohio State on October 3, 2017. The additional penalties included the minimum \$5,000 fine required by the penalty guidelines (*see* Bylaw 19.9.5 and Figure 19-1), as well as public reprimand and censure. On October 8, 2017, Ohio State accepted the additional penalties.

### **III. PARTIES' AGREEMENTS**

#### **A. PARTIES' AGREED-UPON FACTUAL BASIS, VIOLATIONS OF NCAA LEGISLATION AND VIOLATION LEVELS**

Ohio State, the head coach and the enforcement staff jointly submitted an SDR that identified an agreed-upon factual basis, violations of NCAA legislation and violation levels.<sup>6</sup> The SDR identified:

**1. [NCAA Division I Manual Bylaws 13.2.1 (2015-16 and 2016-17), 13.2.1.1-(g) and 13.11.1 (2016-17)] (Level II)**

The institution and enforcement staff agree that between July and September 2016, members of the men's swimming program violated recruiting legislation regarding the prospect. As a result, the prospect received approximately \$758 in impermissible recruiting inducements and was involved in an impermissible tryout. Specifically:

- a. In July 2016, a then assistant men's swimming coach (assistant coach) arranged for the prospect to live in an off-campus house with five former and then men's swimming student-athletes. Thereafter, the prospect lived

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<sup>4</sup> Pursuant to COI Internal Operating Procedure (IOP) 3-9-2-1, future hearing panels may view violations established through the summary disposition process as less instructive than a decision reached after a contested process.

<sup>5</sup> The panel's questions and the enforcement staff's response are discussed in greater detail in Part IV below.

<sup>6</sup> This decision provides the agreed-upon factual basis, violations of NCAA legislation and violation levels exactly as stated in the SDR, except for shortening references to the parties.

in the house from September 1 to October 31, 2016. [Bylaw 13.2.1 (2015-16 and 2016-17)]<sup>7</sup>

- b. In September 2016, the prospect received approximately \$758 in impermissible recruiting inducements. Specifically:
  - (1) During September 2016, men's swimming student-athletes provided the prospect the access code to the men's swimming varsity locker room, which the prospect used for approximately 15 days. Additionally, because of this access, the prospect obtained approximately six free nutritional items from the athletics department's Fuel Stop, a nutrition station located within the institution's aquatics facility and available only to student-athletes. [Bylaws 13.2.1 and 13.2.1.1-(g) (2016-17)]
  - (2) During September 2016, the prospect had free use of the institution's recreational facility for approximately one month without purchasing the required membership. [Bylaws 13.2.1 and 13.2.1.1-(g) (2016-17)]
  - (3) During September 2016, various men's swimming student-athletes provided the prospect approximately 25 free meals at an on-campus dining facility using allocations from their meal plans. [Bylaws 13.2.1 and 13.2.1.1-(g) (2016-17)]
- c. In September 2016, the head coach impermissibly observed the prospect swimming when he instructed the prospect to show his butterfly technique to another prospective student-athlete, who was touring the institution's on-campus aquatics facility with the head coach. [Bylaw 13.11.1 (2016-17)]

**2. [NCAA Division I Manual Bylaw 11.1.1.1 (2015-16 and 2016-17)] (Level II)**

The institution, head coach and enforcement staff agree that from July through September 30, 2016, the head coach is presumed responsible for the violations detailed in Violation No. 1 and did not rebut the presumption. The head coach failed to demonstrate that he promoted an atmosphere for compliance regarding the prospect's living arrangements and presence on campus. Specifically:

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<sup>7</sup> Although the arrangement of housing was impermissible, the prospect paid the appropriate portion of the required monthly rent and utilities. As such, there is no monetary value for the impermissible recruiting inducement.

- a. During July 2016, the head coach was included on an electronic group message sent by an assistant swimming coach to members of the men's swimming team seeking off-campus housing for the prospect. Further, on or about August 28, 2016, the head coach received an email from the institution's swim club regarding the prospect's intention to move to the institution's locale prior to his enrollment in order to train with the institution's swim club. However, at no point prior to the prospect's arrival on campus did the head coach follow up with the prospect or seek guidance from compliance to ensure the prospect's living arrangements were permissible under NCAA legislation. [Bylaw 11.1.1.1 (2015-16 and 2016-17)]
- b. On or about September 2, 2016, the head coach met with the prospect at the institution's aquatics facility but failed to notify the compliance office of the prospect's presence on campus. Thereafter, the head coach again saw the prospect in the aquatics facility and, as noted in Violation No. 1-c, instructed him to demonstrate his butterfly technique to another men's swimming prospective student-athlete. However, the head coach again failed to notify the compliance office of the prospect's presence on campus or seek guidance regarding whether his observation of the prospect swimming was a violation of NCAA legislation. [Bylaw 11.1.1.1 (2015-16 and 2016-17)]
- c. From August 30 through September 30, 2016, the head coach failed to ensure that the prospect's living arrangements and on-campus activities complied with NCAA legislation. As a result, and as outlined in Violation No. 1-b, the prospect received approximately \$758 in impermissible recruiting inducements. [Bylaw 11.1.1.1 (2015-16 and 2016-17)]

## **B. PARTIES' AGREED-UPON AGGRAVATING AND MITIGATING FACTORS**

Pursuant to Bylaw 19.6.2-(g), the parties agreed to the following aggravating and mitigating factors:

Ohio State:

### **1. Aggravating factors [Bylaw 19.9.3]**

- a. A history of Level I, Level II or major violations.<sup>8</sup> [Bylaw 19.9.3-(b)]
- b. Person of authority condoned, participated in or negligently disregarded the violation(s) or related wrongful conduct. [Bylaw 19.9.3-(h)]

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<sup>8</sup> Ohio State had previous major infractions cases in 2011, 2006, 1994, 1978 and 1957.

2. Mitigating factors [Bylaw 19.9.4]

- a. Prompt self-detection and self-disclosure of the violation(s). [Bylaw 19.9.4-(a)]
- b. Prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties. [Bylaw 19.9.4-(b)]
- c. An established history of self-reporting Level III or secondary violations.<sup>9</sup> [Bylaw 19.9.4-(d)]
- d. The violations were unintentional, limited in scope and represent a deviation from otherwise compliant practices. [Bylaw 19.9.4-(g)]

Head coach:

1. Aggravating factors [Bylaw 19.9.3]

- a. Persons of authority condoned, participated in or negligently disregarded the violation(s) or related wrongful conduct. [Bylaw 19.9.3-(h)]

2. Mitigating factors [Bylaw 19.9.4]

- a. Prompt acknowledgment of the violation and acceptance of responsibility. [Bylaw 19.9.4-(b)]
- b. The violations were unintentional, limited in scope and represent a deviation from otherwise compliant practices. [Bylaw 19.9.4-(g)]
- c. The absence of prior conclusions of Level I, Level II or major violations committed by the individual. [Bylaw 19.9.4-(h)]

#### **IV. REVIEW OF CASE**

The SDR fully detailed the parties' positions in this case and included the agreed-upon primary facts, violations, violation levels and aggravating and mitigating factors. After reviewing the parties' principal factual agreements and respective explanations surrounding those agreements, the panel accepts the parties' SDR and concludes that Level II violations occurred.

This case centers on recruiting violations at Ohio State by members of the men's swimming program and the head coach's failure to promote an atmosphere of compliance within the program. The case arose from a scenario the COI has repeatedly warned can lead to violations: the prospect's presence in the institution's locale prior to enrollment. The recruiting violations included inducements and an impermissible tryout. These violations supported the parties' agreed-upon head coach responsibility violation.

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<sup>9</sup> Ohio State self-reported 154 Level III or secondary violations from the 2012-13 academic year to the present, an average of 30.8 violations per year.

## **Recruiting Violations**

Ohio State's recruiting violations began in July 2016, when the assistant coach impermissibly arranged for the prospect to live in an off-campus house with five men's swimming student-athletes. The violations continued when the prospect arrived in the institution's locale in September 2016 and members of the men's swimming team provided him with recruiting inducements, including free meals and access to institutional facilities. Around this same time, the head coach conducted an impermissible tryout of the prospect when he observed him swimming and asked him to demonstrate his technique for another prospect. The inducements and tryout violated recruiting legislation under Bylaw 13.

Recruiting offers and inducements are generally prohibited pursuant to Bylaw 13.2.1. Bylaw 13.2.1.1 identifies specific examples of prohibited inducements, including free or reduced-cost services, rentals or purchases of any type (Bylaw 13.2.1.1-(g)). With respect to tryouts, Bylaw 13.11.1 prohibits member institutions from conducting any physical activity at which a prospect demonstrates his or her athletic ability except as otherwise permitted by the bylaws.

In July 2016, the assistant coach sent an electronic group message to all members of the men's swimming program—including coaches, student-athletes and trainers—to ask whether anyone had a spare room for the prospect during the fall 2016 semester. One student-athlete responded that he and his four roommates, who were current and former men's swimming student-athletes, had an extra room in their house. The assistant coach gave the student-athlete's contact information to the prospect, who then sent a text message to the student-athlete to make arrangements to move in. The prospect arrived in Columbus on September 1, 2016, and immediately moved in with the five student-athletes. He paid approximately \$500 for his portion of the rent and utilities, which the parties agreed represented his fair share of the costs. Although there was no monetary value to the benefit, the assistant coach's arrangement of housing constituted an impermissible recruiting inducement in violation of Bylaw 13.2.1.<sup>10</sup>

The housing arrangement and the prospect's proximity to Ohio State's campus facilitated additional impermissible recruiting inducements. Men's swimming student-athletes provided the prospect with access to the varsity men's swimming locker room and Ohio State's recreational facility. Through his locker room access, the prospect also obtained nutritional supplements from the athletic department's nutrition staff. Additionally, rather than forfeiting the unused meals on their meal plans, men's swimming student-athletes gave their extra meals to the prospect. This resulted in the student-athletes providing the prospect with approximately 25 free

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<sup>10</sup> In its September 19, 2017, letter, the panel asked the enforcement staff to clarify why the SDR did not name the assistant coach as an involved individual. The staff, in consultation with the other parties, explained that the assistant coach's limited role in the housing violation did not rise to the level normally associated with putting an individual at risk for a show-cause order. Specifically, the staff explained that the assistant coach merely inquired as to housing availability and then facilitated contact between the men's swimming student-athlete and the prospect. He did not pressure the student-athletes to house the prospect, nor did he involve himself in the details of the living arrangement. The staff also noted that the assistant coach accepted a head coaching position at another NCAA member institution on or around August 30, 2016, and was largely absent from campus by the time the more significant recruiting violations took place in September 2016.

meals. The access to Ohio State's facilities, free meals and nutritional supplements were impermissible recruiting inducements in violation of Bylaws 13.2.1 and 13.2.1.1-(g).

The final recruiting violation concerns the head coach's impermissible tryout of the prospect. In early September 2016, the head coach came across the prospect swimming in the varsity pool during open swim time. He approached the prospect and asked him to demonstrate his butterfly technique for another men's swimming prospect who was touring the facility with the head coach. When the head coach witnessed the prospect demonstrate his athletic ability, he conducted an impermissible tryout in violation of Bylaw 13.11.1.

As several past cases demonstrate, there is an increased risk of violations when a prospect moves to the institution's locale prior to enrollment. *See, e.g., University of South Florida* (2017) (concluding a former assistant coach provided impermissible recruiting inducements to two prospects who stayed in the locale of campus prior to enrollment); and *Boise State University* (2011) (concluding coaches and others provided impermissible recruiting inducements to multiple prospects in multiple sports who traveled to the locale of campus prior to enrollment). The COI has repeatedly warned the membership of potential pitfalls that can occur in these circumstances. *See Radford University* (2012) (citing twelve previous cases in which the COI warned of the elevated risk of violations when prospects arrive early on campus). Specifically, the COI has explained that prospects who are on campus prior to enrollment are "responsible for all of their meals and lodging expenses," and "[t]hese situations can result in impermissible inducements/benefits being supplied by someone associated with the institution[.]" *University of Kansas* (2006). This case provides yet another example of the risks associated with a prospect's early arrival on campus.

Pursuant to Bylaw 19.1.2, the parties agreed and the panel concludes that the recruiting inducements and impermissible tryout are Level II violations because they provided the institution with more than a minimal but less than a substantial recruiting advantage. Furthermore, the inducements were not isolated or limited in nature, as they occurred throughout the month of September 2016.

In previous cases, the COI has concluded that the provision of recruiting inducements of a similar nature constituted Level II violations. *See Sam Houston State University* (2017) (concluding Level II violations occurred when a head women's tennis coach provided a prospect with tennis rackets, free membership in the Intercollegiate Tennis Association, tournament entry fees and transportation); *University of California, Los Angeles* (2016) (concluding a Level II violation occurred when an associate head football coach arranged for two prospects to receive housing and training services for three weeks at a private training facility); and *Coastal Carolina University* (2015) (concluding a Level II violation occurred when a head men's golf coach arranged for a prospect to have free individual golf lessons and access to a fitness center). Likewise, the COI has concluded that impermissible tryouts constitute Level II violations of recruiting legislation. *See Grambling State University* (2017) (concluding that a Level II violation occurred when a prospect living in the institution's locale practiced with the women's track team for a two-week period) and *Coastal Carolina* (concluding a Level II violation



occurred when the head men's golf coach witnessed a prospect demonstrate his abilities during five individual golf lessons). Here, where the prospect participated in an impermissible tryout at the request of the head coach and various individuals provided him with access to facilities and meals, a Level II classification is consistent with these past cases.

### **Head Coach Responsibility**

The recruiting violations in this case support the parties' agreed-upon head coach responsibility violation. The head coach was aware of the prospect's presence on campus, but did not alert the compliance office and did not ensure that the prospect's housing arrangement and on-campus activities complied with NCAA legislation. The panel concludes that this conduct was inconsistent with the head coach's responsibility under Bylaw 11 to promote an atmosphere of compliance within the men's swimming program. The panel also considered whether the head coach failed to monitor his staff, but defers to the parties' agreement regarding the head coach's monitoring obligation.

Bylaw 11 governs the conduct and ethics of athletics personnel. Bylaw 11.1.1.1 establishes an affirmative duty for head coaches to monitor their staff members and promote an atmosphere of compliance within their programs. Head coaches are presumed responsible for violations in their programs but may rebut this presumption by demonstrating they promoted an atmosphere of rules compliance and monitored their staff members.

The head coach did not demonstrate that he promoted an atmosphere of compliance and therefore did not rebut the presumption of responsibility. First, the head coach knew or should have known that the prospect was planning to move to Columbus prior to enrollment, but he did not seek guidance from the compliance staff regarding the permissibility of the prospect's living arrangement.<sup>11</sup> Second, even after he met with the prospect on campus on or around September 2, 2016, the head coach did not report the prospect's presence to the compliance staff or seek guidance. Nor did he do so after observing the prospect swim later that month. The head coach twice instructed the prospect to report to the compliance staff; however, he acknowledged that he did not adequately follow-up with the prospect and should have personally escorted him to the compliance office. Finally, from August 30 through September 30, 2016, the head coach failed to ensure that the prospect's on-campus activities complied with NCAA legislation. The head coach's lack of oversight enabled members of the men's swimming program to provide the prospect with approximately \$758 in impermissible recruiting inducements. In short, the head coach's lack of rigor and oversight regarding the prospect's presence on campus did not meet the high standards to which the membership holds head coaches.

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<sup>11</sup> During his interviews with Ohio State and the enforcement staff, the head coach reported that he was not aware of the prospect's plans to move to Columbus and was surprised to see him on campus in September 2016. The head coach acknowledged, however, that he was included in electronic communications—including the assistant coach's group message seeking housing for the prospect—that should have alerted him to the prospect's plans. Accordingly, the parties agreed that the head coach knew or should have known about the prospect's move.

In light of the assistant coach's involvement in the housing arrangement, the panel also considered whether the head coach failed in his Bylaw 11.1.1.1 duty to monitor his staff. In its September 19, 2017, letter to the enforcement staff, the panel requested clarification regarding the staff's decision not to allege a failure to monitor. The staff responded that the most significant violations in this case occurred once the prospect arrived in Columbus and after the assistant coach was no longer on campus. Thus, in the enforcement staff's view, the head coach was in the best position to prevent the recruiting violations that occurred after the prospect arrived on campus.

Pursuant to COI IOP 3-9, the panel defers to the parties' agreements and does not conclude that the head coach failed to monitor the assistant coach. The assistant coach had only a minimal role in the recruiting violations, the bulk of which occurred after he left Ohio State to accept a new coaching position. The panel concludes that the most significant recruiting violations in this case were attributable to the head coach's failure to promote an atmosphere of rules compliance as it relates to the prospect's presence on campus. As an experienced coach with a career spanning over three decades, the head coach should have been aware of the increased risk of violations when a prospect moves to the institution's locale prior to enrollment.

Consistent with Bylaw 19.1.2 and previous cases, the head coach responsibility violation is Level II because it resulted from underlying Level II violations. *See* Bylaw 19.1.2 (citing, as a specific example of a Level II violation, a head coach violation resulting from underlying Level II violations); *Sam Houston State* (concluding a head women's tennis coach who committed multiple Level II recruiting and extra-benefits violations also committed a Level II head coach responsibility violation); and *Florida International University* (2017) (concluding a head women's basketball coach who committed a Level II violation when he provided an impermissible \$600 cash benefit to one of his student-athletes also committed a Level II head coach responsibility violation). Thus, as the underlying recruiting violations in this case are Level II, the head coach's Bylaw 11.1.1.1 violation is likewise Level II.

## **V. PENALTIES**

For the reasons set forth in Sections III and IV of this decision, the panel accepts the parties' agreed-upon factual basis and violations and concludes that this case involved Level II violations of NCAA legislation. Level II violations are significant breaches of conduct that provide or are intended to provide more than a minimal but less than a substantial or extensive recruiting, competitive or other advantage, including violations that involve more than a minimal but less than a substantial or extensive impermissible benefit.

Pursuant to Bylaw 19.9.1, the panel prescribes penalties under the current penalty structure because the violations in this case occurred after October 30, 2012. In considering penalties, the panel first reviewed aggravating and mitigating factors pursuant to Bylaws 19.9.2, 19.9.3 and

19.9.4 to determine the appropriate classifications for the parties. The panel then used the current penalty guidelines (Figure 19-1) and Bylaw 19.9.7 to prescribe penalties.<sup>12</sup>

The parties agreed to two aggravating factors and five mitigating factors for Ohio State. The panel determines that all seven factors apply. With respect to the head coach, the parties agreed to one aggravating factor and three mitigating factors. The SDR notes that the head coach agreed only in part to the identified aggravating factor, Bylaw 19.9.3-(h): *Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct.* Specifically, the head coach agreed that he negligently disregarded the potential for a violation when he did not alert the compliance staff to the prospect's presence in the institution's locale. He did not agree, however, that he condoned or participated in any activities that lead to the violation. Because Bylaw 19.9.3-(h) uses the disjunctive "or," the head coach's agreement to negligent disregard is enough for the aggravating factor to apply. Accordingly, the panel determines that this aggravating factor and all three agreed-upon mitigating factors apply to the head coach's conduct.<sup>13</sup>

The panel assessed the aggravating and mitigating factors by weight and number. Based on its assessment, the panel classifies this case as Level II-Mitigated for Ohio State and for the head coach's violations.

Because Ohio State and the head coach agreed to the facts, violations and proposed penalties, they will have no opportunity to appeal. All penalties prescribed in this case are independent and supplemental to any action that has been or may be taken by the NCAA Division I Committee on Academics through its assessment of postseason ineligibility, historical penalties or other penalties. In prescribing penalties, the panel considered Ohio State's corrective actions, which are set forth in the Appendix. After considering all information relevant to this case, the panel prescribes the following penalties (self-imposed penalties are so noted):

#### **Core Penalties for Level II-Mitigated Violations (Bylaw 19.9.5)**

1. Financial penalty: Ohio State shall pay a \$5,000 fine.<sup>14</sup>
2. Recruiting restriction: Ohio State suspended off-campus recruiting for a two-week period that began on October 24, 2016. (Self-imposed.)

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<sup>12</sup> The membership recently adjusted and expanded the ranges in the penalty guidelines related to scholarship reductions and the duration of postseason bans, probation and show-cause orders. The adjusted guidelines became effective on August 1, 2017. Because the panel considered this case after that date, the panel used the adjusted guidelines to prescribe penalties.

<sup>13</sup> With respect to Bylaw 19.9.4-(g): *Violations were unintentional, limited in scope and represent a deviation from otherwise compliant practices*, the panel notes that the head coach intentionally asked the prospect to demonstrate his butterfly technique to another prospect. Nevertheless, the panel determines that this mitigating factor applies for two reasons: (1) the tryout was an isolated and limited incident; and (2) the majority of the other recruiting violations for which the head coach is presumed responsible were unintentional.

<sup>14</sup> The fine shall be paid consistent with COI IOP 4-15-2, Financial Penalty.

3. Head coach restriction: Ohio State suspended the head coach from coaching activities for two contests on November 11 and 12, 2016.<sup>15</sup> (Self-imposed.)

**Additional Penalties for Level II-Mitigated Violations (Bylaw 19.9.7)**

4. Public reprimand and censure.
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The COI advises Ohio State that it should take every precaution to ensure that the terms of the penalties are observed. The COI will monitor the penalties during their effective periods. Any action by Ohio State contrary to the terms of any of the penalties or any additional violations may be considered grounds for prescribing more severe penalties or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Norman C. Bay  
Alberto Gonzales  
Stephen A. Madva  
Vince Nicaastro  
Joe Novak  
David M. Roberts, Chief Hearing Officer  
Sankar Suryanarayan

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<sup>15</sup> The panel did not prescribe a show-cause order for the head coach because his sole violation in this case was a violation of head coach responsibility legislation.

**APPENDIX**

**OHIO STATE'S CORRECTIVE ACTIONS AS IDENTIFIED IN THE  
AUGUST 21, 2017, SUMMARY DISPOSITION REPORT**

1. Ohio State declared the prospect ineligible. If he attends Ohio State, the institution will request that his eligibility be restored by the student-athlete reinstatement staff.
2. Ohio State provided the former head coach with a letter of reprimand.
3. Ohio State required the former head coach to meet with the director of athletics, who communicated the institution's commitment to promoting an atmosphere of compliance.
4. Ohio State will provide an educational reminder to all coaches regarding the steps to take when a prospect arrives on campus prior to triggering student-athlete status.