



**UNIVERSITY OF OREGON
PUBLIC INFRACTIONS DECISION
December 5, 2018**

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.¹ This case involved largely unrelated violations in four marquee sport programs at the University of Oregon: men's basketball, women's basketball, women's track and field, and football.² The men's and women's basketball violations centered on impermissible coaching activity and provided the underlying support for head coach responsibility violations in both programs. In women's track and field, the sole violation concerned academic misconduct. Finally, in football, the impermissible use of personalized recruiting aids resulted in a recruiting inducement violation.

Although occurring in different contexts, the men's and women's basketball violations share a common thread: impermissible staff participation in coaching activities that gave their programs the advantage of an extra coach. In both programs, noncoaching staff members were careless in their interactions with student-athletes and crossed the line between permissible logistical and conditioning activities and impermissible substantive coaching activities. In men's basketball, the director of basketball operations (DOBO) participated in and observed student-athletes' voluntary workouts both on- and off-campus in 2016 and 2017. During most of this time, the DOBO knew his conduct was impermissible but engaged in it nonetheless. Additionally, from 2013 to 2017, the DOBO participated in impermissible on-court activity when he served as a referee during team practices. Similarly, from late 2016 through spring 2017, assistant strength and conditioning coaches in the men's and women's basketball programs participated in on-court activities with student-athletes and, in the men's program, provided instruction. The participation of these staff members in coaching activities caused both programs to exceed their numerical limitation of four coaches each. The violations involving the DOBO and the women's assistant strength and conditioning coach are Level II. The more limited violation involving the men's assistant strength and conditioning coach is Level III.

¹ Infractions cases are decided by hearing panels comprised of COI members. Decisions issued by hearing panels are made on behalf of the COI.

² A member of the Pac-12 Conference, Oregon has a total enrollment of 22,980 students. It sponsors 11 women's and eight men's sports. This is Oregon's fourth major, Level I or Level II infractions case. The institution had previous cases in 2013 (football), 2004 (football) and 1981 (football, men's basketball and men's swimming and diving).

The underlying violations in the men's and women's basketball programs reflected on the leadership in both programs and support Level II head coach responsibility violations for the two head coaches. The head men's basketball coach failed to monitor the DOBO, particularly while the head coach was away from campus during the summer recruiting period. He trusted the DOBO to monitor the program and follow the rules in his absence but failed to ask the DOBO sufficient questions regarding his interactions with student-athletes. The head women's basketball coach, through his direct involvement in the violations, both failed to monitor and failed to promote an atmosphere of compliance in his program. He became too comfortable with the assistant strength and conditioning coach's presence around the women's team and relied on him to step into drills when the head coach was short-staffed. The head women's basketball coach invited and permitted this conduct despite knowing it violated NCAA legislation. While the head men's and women's basketball coaches are well-respected coaches with long careers and a history of compliance, both failed to sufficiently monitor the coaching activity in their programs.

Unrelated to the basketball violations but occurring around the same time, an adjunct instructor engaged in academic misconduct when he changed a women's track and field student-athlete's grade from an F to a B-. The grade change was the result of the adjunct instructor's desire to help a promising student who was having trouble keeping up with coursework due to her competition schedule. Despite good intentions, the grade change resulted in the student-athlete receiving unearned academic credit and led to her erroneous certification and subsequent ineligible competition. It also provided the final credit she needed to graduate. Oregon determined the grade change violated the institution's grading policy but *not* its academic misconduct policy. The institution revoked the B-, reinstated the F and rescinded the student-athlete's degree. Based on the unique and limited circumstances of this case, including the interpretations of two membership bodies, this is a Level II violation of academic misconduct legislation.

Finally, during fall 2016, the football program gained a recruiting advantage when it arranged for the use of personalized recruiting aids for 36 prospects during their campus visits. Specifically, the program created an electronic presentation that included each prospect's name, statistics and a high school highlight video. Oregon displayed the presentation in the football equipment area during the prospects' unofficial and official paid visits. This is a Level II recruiting violation.

The panel classifies this case as Level II-Standard for the institution and the violations of the DOBO and the head women's basketball coach. For the head men's basketball coach and the adjunct instructor, the panel classifies the violations as Level II-Mitigated. Utilizing the current penalty guidelines and bylaws authorizing additional penalties, the panel adopts and prescribes the following penalties: two years of probation, a fine of \$5,000 plus one percent each of the men's basketball and women's basketball budgets, vacation of records and a reduction in the number of countable coaches permitted at regular practice in the men's and women's basketball programs. Via show-cause orders, the panel also prescribes a two-game suspension for the head women's basketball coach and attendance at two NCAA Regional Rules Seminars for the DOBO. Based on the penalty ranges available for Level II-Mitigated violations, the panel prescribes no penalties for the head men's basketball coach and the adjunct instructor.

II. CASE HISTORY

The investigation that led to this case began in summer 2016, when a member of the athletics department staff observed the DOBO alone in the gymnasium with men's basketball student-athletes outside of regular practice times. The staff member reported this observation to the athletics compliance staff, who then secured and reviewed several hundred hours of security video from the institution's practice areas. On August 29, 2016, Oregon notified the enforcement staff that the institution had discovered videos showing the DOBO conducting individual workouts with men's basketball student-athletes. Oregon and the enforcement staff then began a cooperative investigation.

As the investigation progressed, potential violations in other sport programs surfaced and eventually became part of this case. Through Oregon's continued review of security video, the institution discovered and self-reported potential violations involving the assistant strength and conditioning coaches in both the men's and women's basketball programs. Additionally, in late December 2016, the enforcement football development staff provided the investigative team with information regarding potential recruiting violations in the football program.

Through robust monitoring, Oregon also discovered a potential violation involving an adjunct instructor who changed a final grade for a women's track and field student-athlete, allowing her to maintain eligibility.³ On December 23, 2016, Oregon self-reported the conduct as a Level III impermissible competition violation. However, the enforcement staff notified Oregon that it planned to include the grade change in this case as an alleged Bylaw 10.1-(b) academic misconduct violation.⁴ Oregon did not agree that the grade change constituted academic misconduct. Thus, before the COI engaged this case, Oregon and the enforcement staff framed the facts surrounding the grade change and submitted a joint interpretation request to the NCAA Academic and Membership Affairs (AMA) staff. On September 19, 2017, the AMA staff provided its interpretation, in which it stated that the facts supported an academic misconduct allegation. Oregon appealed the interpretation to the NCAA Division I Interpretations Committee and, later, the Division I Legislative Committee. Both committees affirmed the AMA interpretation. Additional detail regarding the interpretations relevant to this case is provided in Section III, Findings of Fact.

On December 18, 2017, the enforcement staff issued a notice of allegations (NOA) to Oregon, the DOBO, the head men's basketball coach, the head women's basketball coach and the adjunct

³ The panel was impressed with Oregon's monitoring efforts in this area and recognized them as a mitigating factor for the institution. See Section VI., Penalties.

⁴ Effective August 1, 2016, the membership moved academic integrity violations from Bylaw 10 to Bylaw 14. Because the violation in this case occurred prior to that time, it falls under Bylaw 10.

instructor.⁵ Oregon and all involved individuals submitted written responses to the allegations and participated in the infractions hearing on June 14, 2018.

The hearing generated new information related to Oregon's grading policy. Thus, following the hearing, the panel paused its deliberations and requested a new interpretation from the AMA staff regarding the academic misconduct allegation. Pursuant to Bylaw 19.7.8.2, this was a second engagement of the interpretive process due to a change in facts. On July 17, 2018, the AMA staff affirmed its initial pre-NOA interpretation. Oregon appealed to the Interpretations Committee, which also affirmed its earlier interpretation. On September 28, 2018, Oregon notified the chief hearing officer that it would not exercise its right to appeal to the Legislative Committee. The hearing panel resumed and completed its deliberations on October 22, 2018.

III. FINDINGS OF FACT

Coaching Activity in the Men's Basketball Program

The conduct that triggered the investigation in this case—and that forms the heart of the men's basketball allegations—occurred during summer 2016 when the DOBO participated in or observed student-athletes' individual voluntary workouts on at least 64 occasions. Oregon's investigation into this conduct revealed other coaching activity by the DOBO and, to a lesser extent, the assistant strength and conditioning coach. With respect to the DOBO, this activity included observing a student-athlete's voluntary workouts at a local high school track and refereeing during practice. The assistant strength coach also participated in individual voluntary workouts, as well as on-court basketball-related activities.

The DOBO's Presence During Voluntary Basketball Workouts

The DOBO was at the center of the conduct involving the men's basketball program. He joined the Oregon men's basketball staff in 2007 and has served as director of men's basketball operations throughout his tenure. When the head men's basketball coach arrived at Oregon in 2010, the DOBO was the only member of the previous staff the head coach retained. He assisted the head coach with the transition and became a valuable member of the staff over the next eight years. The DOBO was one of a group of long-time staff members the head coach trusted and relied on to monitor the program while he was away from campus recruiting.

During one of the head coach's travel periods in summer 2016, the DOBO began to involve himself in student-athletes' individual voluntary workouts. Specifically, from May 22 to August 19, 2016, the DOBO participated in and/or observed the voluntary workouts of three men's basketball student-athletes on at least 64 occasions. Two of the student-athletes were incoming freshmen who were not yet enrolled, and the third student-athlete was beginning his sophomore year. The workouts were never prearranged, and the DOBO did not request or initiate them. Rather, the

⁵ The NOA contained allegations related to the conduct of the men's and women's assistant strength and conditioning coaches but did not name them as parties to the case.

student-athletes contacted the DOBO and asked him to open the practice gym and give them access to equipment.

Most of the workouts took place with one of the two freshmen student-athletes (student-athlete 1). The DOBO described student-athlete 1 as a hard-working and highly motivated individual, who liked to put in a lot of extra time on the court. Although he was an incoming freshman, student-athlete 1 was already acquainted with the DOBO through his past participation in Oregon men's basketball camps. The two also bonded over their shared small-town background. Thus, during the summer of 2016, student-athlete 1 felt comfortable reaching out to the DOBO and asking him to open the practice gym. This often occurred late in the evening when student-athlete 1 wanted to "blow off steam" by performing shooting drills.

Although the DOBO would sometimes leave after opening the gym, at other times he would stay and observe or actively participate in the workouts. His participation included rebounding and passing, providing resistance during dribbling drills, holding a shooting stick for the student-athletes to shoot over and serving as a defender while student-athletes attacked the basket. The DOBO knew these activities were impermissible. At the infractions hearing, he described his involvement in student-athletes' voluntary workouts as "a very poor lapse in judgment." He explained that he was motivated by a desire to help the incoming freshmen student-athletes make a smooth transition to college life and to give them the workout time they wanted.

There is no conclusive information in the record demonstrating that the head men's basketball coach knew about the DOBO's involvement in student-athletes' workouts during summer 2016.⁶ Many of the workouts took place while the head coach was on the road recruiting. Additionally, while the workouts took place in the open and the DOBO made no attempt to conceal them, he also did not volunteer any information to the head coach. At the infractions hearing, the DOBO stated that he would have answered truthfully if the head coach had asked him about his on-court activities with student-athletes.

The head coach was aware, however, that the DOBO had engaged in similar conduct in the past. In approximately 2011-12, the head coach learned that the DOBO had been passing the ball or working out with a student-athlete the DOBO had coached in high school. The head coach spoke with the DOBO and informed him that this activity was not permissible. At the infractions hearing, the head coach stated that he did not engage in any heightened monitoring of the DOBO after that incident and the conduct did not recur over the next few seasons.

⁶ The enforcement staff pointed to two instances that could demonstrate the head coach's awareness of the DOBO's participation. First, one of the student-athletes reported that on one occasion when he worked out with the DOBO, the head coach walked through the gym and commented on the student-athlete's footwork. The head coach did not recall this encounter. Second, a June 24, 2016, security video from the practice gym briefly shows the head coach on the court with the DOBO, student-athlete 1 and two managers. During his interview, the head coach acknowledged that student-athlete 1 was probably getting up some shots. He stated, however, that the DOBO's presence there did not strike him as unusual because the institution was hosting a basketball camp at the time, the DOBO was director of the camp, and some of the camp activities took place in the practice gym.

When it did happen again in summer 2016, the head coach first learned of it through his interview in connection with this case. Thereafter, the head coach imposed disciplinary measures, including a one-month suspension of the DOBO in October 2016. When the DOBO returned to the office on November 1, 2016, the head coach prohibited him from attending any men's basketball practices for an additional month.

The DOBO's Observation of Student-Athlete 1's Track Workouts

Following this suspension—and while the investigation in this case progressed—the DOBO observed additional voluntary workouts by student-athlete 1, this time at a local high school track. Student-athlete 1 sometimes used the high school track for voluntary conditioning workouts when Oregon's track was unavailable. Because he did not have a car, the student-athlete would get rides to the track from friends, teammates and occasionally the DOBO. During April and May 2017, the DOBO drove student-athlete 1 to the high school track and watched him run on at least three occasions. At the student-athlete's request, the DOBO also timed his runs on one or two of these occasions. The DOBO believed this activity was permissible because student-athlete 1 was not engaged in basketball workouts.

During one of these workouts at the track, an individual observed the DOBO's presence with student-athlete 1 and reported it to the compliance staff. When the institution and the head men's basketball coach learned of the DOBO's continued engagement with student-athlete 1, they imposed additional disciplinary measures on the DOBO. In particular, the head coach restricted the DOBO's activities to office duties only. In doing so, the head coach prohibited the DOBO from having any interaction with men's basketball student-athletes outside of his office duties, including in training and workout settings. He also prohibited the DOBO from sitting on the bench during competition for the entire 2017-18 season.

The DOBO's Refereeing Activities During Practice

In reviewing security footage to determine the extent of the DOBO's participation in student-athlete workouts, Oregon discovered that the DOBO had been involved in other on-court activities with student-athletes when he acted as a referee during men's basketball practices. The DOBO's refereeing activity began in 2013 and ended in August 2016. During that time period, the DOBO refereed during men's basketball practices approximately 10 to 20 times per year.

Before the panel, the DOBO and the head men's basketball coach asserted that they believed the refereeing activity to be permissible at the time it was occurring. The DOBO thought it was allowed because he knew of other DOBOs at other institutions who refereed. The head coach and the DOBO also believed a member of the men's basketball staff had talked to the compliance staff and received approval for the DOBO to referee. The record is not clear on this point. The chief compliance officer recalled having a conversation with a coaching staff and giving her approval for refereeing activities; however, she could not be certain whether it was the men's basketball staff or another coaching staff at the institution. Likewise, neither the DOBO nor the head coach could state with certainty which member of the basketball coaching staff had talked to compliance.

Regardless of who asked, there is nothing in the record to refute that the DOBO, the head coach and the compliance staff all believed it was permissible for the DOBO to referee during practice. The chief compliance officer explained that she did not interpret the relevant legislation as applying to refereeing. Furthermore, both the compliance and men's basketball coaching staffs had missed a July 24, 2014, NCAA educational column expressly stating that a director of basketball operations may not referee during practice.

During a compliance meeting in early fall 2016, the compliance staff reported that it was impermissible for non-coaching staff members in softball to serve as umpires for the team. Based on this information, the head men's basketball coach surmised that it must also be impermissible for the DOBO to referee. The head coach directed the DOBO to stop refereeing and reported the conduct to the compliance staff.

The Assistant Strength Coach's On-Court Basketball-Related Activities

In late 2016, as Oregon and the enforcement staff investigated the DOBO's activities, the assistant strength and conditioning coach for men's basketball was engaged in similar conduct, though on a more limited basis. Specifically, from December 2016 through May 2017, the men's assistant strength coach participated in student-athletes' voluntary workouts and on-court basketball-related activities. The institution discovered this conduct through its review of security footage.

Like the DOBO, the assistant strength coach sometimes opened the gym and weight room for student-athletes who wanted to take part in extra workouts. The student-athletes always requested the workouts, which were not prearranged. During the workouts, the assistant strength coach would sometimes rebound and pass for the student-athletes when no managers were available. He also demonstrated footwork to them on one occasion. In total, the assistant strength coach participated in student-athletes' voluntary workouts on 12 occasions.

The assistant strength coach also participated in on-court basketball-related activities both before and during scheduled practices and before games. This included serving as a body defender for explosion-type activities, using a blocking pad to simulate contact and holding a stick while student-athletes exploded over it and shot lay-ups. The assistant strength coach engaged in these activities on eight occasions. He also rebounded and served as a body defender during pregame warm-ups on three occasions.

Coaching Activity in the Women's Basketball Program

Coaching activity by non-coaching staff members was not limited to the men's basketball program. In the women's basketball program, the assistant strength and conditioning coach engaged in similar conduct during the same time period. Specifically, from December 2016 through April 2017, the women's assistant strength coach engaged in on-court basketball-related activity during and after practices and participated in student-athletes' voluntary workouts. Some of this conduct took place at the request of the head women's basketball coach.

On 31 occasions, the women's assistant strength coach participated in on-court activities during and after practice, including stepping into drills. He did not run the drills but would participate when the team was short on male practice players. This included, for example, serving as a defender or scout player. Additionally, the women's assistant strength coach provided instruction to the student-athletes during drills on three occasions.

The women's assistant strength coach's participation during practice sessions sometimes came at the request of the head women's coach. The head coach explained that he was short on staff during the holiday season in December 2016 and turned to the women's assistant strength coach for assistance. The strength coach had spent a lot of time around the team while serving as an interpreter for a Spanish-speaking student-athlete, and the team grew accustomed to his presence. The head coach explained that the strength coach's on-court activities "started with kind of a momentary lapse of judgment when I asked him to pop into a drill here and there, and then that became more and more frequent."

The head coach admitted that he knew it was impermissible for the assistant strength coach to participate in on-court basketball-related activities and to provide instruction to student-athletes. He also acknowledged that he did not ask the assistant strength coach to participate in these activities during public practices, including when the team traveled for competition and during tournament play. At the infractions hearing, the head coach took full responsibility for the assistant strength coach's actions, admitting, "I think the rest of my staff was taking my lead. So this was on me."

Finally, the women's assistant strength coach participated in student-athletes' individual voluntary workouts on at least five occasions. During these workouts—which were captured by security camera—the women's assistant strength coach rebounded and demonstrated moves for the student-athletes. The head women's coach was not specifically aware that the women's assistant strength coach was participating in individual workouts but acknowledged that he "kind of assumed" it was happening.

The Track and Field Student-Athlete's Grade Change

During the 2016 winter quarter, the adjunct instructor changed a course grade for a senior women's track and field student-athlete (student-athlete 2), who was enrolled in an online section of his anthropology course. The alteration of the final grade from an F to a B- allowed the student-athlete to maintain her eligibility and earn her degree. Upon discovering the grade change, Oregon determined that it violated the institution's grading policy and therefore revoked the grade, reinstated the F and rescinded student-athlete 2's degree. The grade change and Oregon's grading policy were the subjects of lengthy interpretive processes both before and after the COI's engagement with this case.

The online course began in January 2016 and student-athlete 2 was a model student during the first two weeks of the course. She participated fully and submitted her assignments on time. The adjunct instructor awarded her all available points for the assignments she turned in during this

period. However, according to student-athlete 2, her track and field schedule soon began to interfere with her ability to participate in the course. Assignments and quizzes in the course were generally due on Thursdays and Fridays, and the student-athlete was often away from campus for competitions on these days. Thus, after the first two weeks of the course, student-athlete 2 stopped participating.

After a few weeks had passed with no word from the student-athlete, the adjunct instructor reached out to her via email. He recalled that she was a member of the track team, though he explained at the infractions hearing that he had no particular interest in sports. In his message, the instructor asked whether the student-athlete's track schedule was causing her to be less engaged in the course. The student-athlete responded almost immediately and confirmed that her competition schedule was making it difficult to keep up with the coursework. The adjunct instructor then offered to work through the course with her on a "more relaxed schedule." He instructed the student-athlete to complete the coursework as she had time and to contact him when she needed access to the quizzes.

Although the student-athlete agreed to this arrangement, she did not contact the adjunct instructor again or attempt to submit any assignments until shortly after the winter quarter ended. At this point, she submitted four writing assignments and her final project via email. She was unable to complete the remaining quizzes and discussion board assignments because the online portal for the class had closed. By this time, however, the adjunct instructor had already turned in his grades for the course, including an F for student-athlete 2.

The two communicated via email and the adjunct instructor expressed a desire to work with the student-athlete regarding her grade. Specifically, he offered to change her final grade from an F to an incomplete on the condition that she complete the course when he taught it again over the summer. When he attempted to make this change, however, the institution's online grading system would only permit him to change the F to another letter grade, not an incomplete.

When the adjunct instructor informed the student-athlete that he could not change the grade to an incomplete, she told him that an F would be a problem for her because she needed at least a D- to maintain eligibility for practice and competition. The adjunct instructor responded that a D- was not accurate because she had not earned it and because the work she submitted during the first two weeks of the course demonstrated A+ potential. Accordingly, the adjunct instructor proposed an alternative: He would change the student-athlete's final grade to a B-, which was a "grade-to-date" based on the assignments she submitted during the first two weeks of the course, plus the four papers she turned in after the course concluded. He had not graded those papers but looked them over and estimated they were in the C-/D+ range. However, the B- would be contingent on the student-athlete's agreement to re-take the course over the summer. At that point, he would change her B- to the grade she earned after completing all the coursework. Student-athlete 2 agreed, and the adjunct instructor used the institution's online grading system to change the F to a B-.

Unbeknownst to the adjunct instructor, the B- allowed the student-athlete to complete her graduation requirements and receive her degree. As a result, the institution advised her that she

was permitted under Bylaw 14.2.2.1.3.1 to compete during the spring quarter without being enrolled in any courses. On this basis, the institution certified her as eligible and permitted her to compete in four contests during spring 2016.

In May 2016, the institution's faculty athletics representative (FAR) conducted a routine review of all grade changes involving student-athletes during the winter 2016 quarter. When the FAR noticed the change in student-athlete 2's grade from an F to a B-, he became concerned. He contacted the adjunct instructor, who explained the circumstances and his agreement with student-athlete 2. The instructor, who had no training on NCAA rules, stated that he would have made the same accommodation for any other student, regardless of student-athlete status. The FAR then contacted the registrar, who reviewed the situation and determined that the grade change was contrary to Oregon's faculty grading policy. Under that policy, the adjunct instructor should have submitted a grade change request on paper and explained the reason for the change he sought. Based on the grading policy violation, Oregon rescinded the grade change, reinstated the F and withdrew student-athlete 2's degree.⁷ The institution also declared the student-athlete ineligible and pulled her from the opening round of the NCAA outdoor track and field championship moments before she was scheduled to compete.

The provost's office also reviewed the grade change under Oregon's academic misconduct policy. That policy is part of the institution's student conduct code and applies only to students, not faculty members. At the time, the senior vice provost for academic affairs (senior vice provost) was responsible for making determinations regarding academic misconduct. After reviewing the circumstances of student-athlete 2's grade change, the senior vice provost determined there was no basis for a finding of academic misconduct because the *student-athlete* had not acted fraudulently or deceitfully.

Because Oregon found no violation of its own academic misconduct policy, it believed that, pursuant to the April 16, 2014, Official Interpretation of Bylaw 10.1-(b), it was not required to report the grade change to the enforcement staff as a Bylaw 10.1-(b) academic misconduct violation. The enforcement staff disagreed, which led to the parties' joint interpretation request. In its September 19, 2017, interpretation, the AMA staff acknowledged the deference owed to institutional determinations pursuant to the 2014 Official Interpretation. However, the AMA staff stated that institutional policies that apply to faculty conduct—such as Oregon's grading policy—are part of the analysis used to determine whether academic misconduct has occurred under Bylaw 10.1-(b). Under that standard, AMA determined that the grade change met the standard for academic misconduct because: (1) Oregon determined it violated the institution's grading policy; (2) it resulted in the falsification of student-athlete 2's transcript; and (3) it was used to erroneously establish her eligibility to compete.

⁷ Student-athlete 2 later enrolled in another course and completed her degree.

On appeal, both the Interpretations Committee and the Legislative Committee agreed with the AMA staff.⁸ The Interpretations Committee stated that conduct can violate Bylaw 10.1-(b) even when an institution determines that academic misconduct did not occur under its own policies. Noting that the nature and terminology of academic integrity policies vary from institution to institution, the Interpretations Committee stated that policies related to grading are "clearly and inherently related to academic honesty and integrity." Based on these interpretations, the enforcement staff alleged a violation of Bylaw 10.1-(b) in the NOA.

At the infractions hearing, Oregon identified new facts related to student-athlete 2's grade change. Specifically, the institution clarified for the first time that what it had previously referred to as a grading "policy" was actually a set of grading guidelines promulgated by the registrar. The institution's general counsel explained that it is considered a "small 'p' policy" on campus because the guidelines do not go through the university senate's formal adoption process and are not posted in Oregon's policy library. The institution also identified that the senior vice provost was the individual with authority to make final determinations on campus regarding academic misconduct and had done so in this case.

Based on these new facts, the panel submitted its own interpretation request to the AMA staff.⁹ The staff responded, however, that there is no substantive distinction between a grading "policy" and grading "guidelines" that would change the outcome of its initial pre-NOA interpretation. On appeal, the Interpretations Committee agreed. Oregon did not pursue its final appeal option.

The Football Program's Use of Personalized Recruiting Aids

For a period of four months during fall 2016, the football program used personalized recruiting aids during prospects' unofficial and official paid visits. Specifically, the football program displayed the names and statistics of 36 visiting prospects on an electronic reader board located in the football facility.

At the time, the reader board was a new piece of technology for the football program. The institution added it to the facility during renovations prior to the 2016 season. Among other features, the board can display the team logo, images of the team's various game uniform options and messages to guests of the program. The board is located in the football facility's equipment area, which is not open to the general public.

At some point during the 2016 fall football season, a member of the football staff asked the chief compliance officer if the program could use the reader board to display information about prospects when they visited campus. The chief compliance officer approved this practice. Consequently, from August to November 2016, the football program posted personalized

⁸ Both the Interpretations Committee and the Legislative Committee are comprised of representatives from the membership.

⁹ As reflected in the panel's interpretation request, some panel members also had questions regarding apparent tensions between the principle of institutional academic autonomy and the bylaw interpretation on the particular facts of this case.

information on the reader board for 36 visiting prospects. This information included each prospect's name, height and weight, high school statistics and a high school highlight video.

In November 2016, the conference office contacted Oregon and advised the institution that posting visiting prospects' information on the reader board may violate NCAA legislation related to personalized recruiting. Oregon's compliance staff reviewed the relevant legislation and determined that the practice was contrary to that legislation. The compliance staff directed the football program to end the practice immediately and self-reported the violation.

IV. ANALYSIS

The violations in this case arose in four of Oregon's sport programs—men's and women's basketball, women's track and field, and football—and took place primarily from 2016 to 2017. The violations fall into four areas: (A) impermissible coaching activity by the men's basketball DOBO and the women's basketball assistant strength coach; (B) head coach responsibility failures by the head men's and women's basketball coaches; (C) academic misconduct involving the adjunct instructor's grade change for a women's track and field student-athlete; and (D) the football program's use of impermissible personalized recruiting aids. This case also involves one Level III violation in the men's basketball program.

A. IMPERMISSIBLE COACHING ACTIVITY IN THE MEN'S AND WOMEN'S BASKETBALL PROGRAMS [NCAA Division I Manual Bylaws 11.7.1.1.1.1.1 and 11.7.4 (2013-14); 11.7.3 and 11.7.6 (2013-14 through 2016-17); 13.11.1 (2015-16); 11.7.1.1 (2015-16 and 2016-17); and 11.7.6.2.1 (2016-17)]

Over a period of four years, non-coaching staff members in the men's and women's basketball programs engaged in impermissible coaching activities, which caused their respective programs to exceed legislated limits on countable coaches. In the men's basketball program, this conduct centered around the DOBO and occurred from 2013 through 2017. The women's basketball conduct involved the women's assistant strength coach and took place during the 2016-17 academic year. Oregon, the enforcement staff and the DOBO substantially agreed to the facts and that those facts constitute violations of NCAA legislation.¹⁰ The panel concludes that Level II violations occurred.

1. NCAA legislation relating to countable coach limitations and tryouts.

The applicable portions of the bylaws may be found at Appendix Two.

¹⁰ Because the NOA did not identify the women's or men's assistant strength coaches as involved individuals, they did not participate in the processing of this case. At the chief hearing officer's request, however, they attended the infractions hearing and answered the panel's questions regarding the allegations in which they were involved. The panel appreciates their participation and cooperation.

2. The men's basketball DOBO engaged in impermissible coaching activity when he observed and participated in student-athletes' voluntary workouts, both on- and off-campus, and when he refereed during practices.

From 2013 through 2017, the DOBO, a non-coaching staff member, took part in three categories of activity that are impermissible for directors of operations: (1) observing and participating in student-athletes' voluntary basketball workouts; (2) observing a student-athlete's voluntary conditioning workouts at a local high school track; and (3) serving as a referee during team practices. By engaging in these activities, the DOBO essentially functioned as a fifth coach—a competitive advantage for the men's basketball program. The DOBO's conduct constituted impermissible coaching activity under Bylaw 11. Additionally, because two of the student-athletes whose workouts he participated in were not yet enrolled, some of these activities were impermissible tryouts under Bylaw 13.

Bylaw 11 governs the conduct and ethics of athletics personnel. Pursuant to Bylaw 11.7.3, a noncoaching staff member with sport-specific responsibilities—such as a director of operations—may not participate in on-court activities and is prohibited from participating with or observing student-athletes who are engaged in nonorganized voluntary athletically related activities. Bylaw 11.7.6 limits the number of coaches for each sport and establishes that a men's basketball team can have no more than four coaches.¹¹ Under Bylaw 11.7.1.1, an institutional staff member must count against this coaching limit if, among other things, he provides technical or tactical instruction to a student-athlete at any time. Bylaw 13 governs recruiting and, through Bylaw 13.11.1., prohibits member institutions from conducting any physical activity (such as a practice session or tryout) at which one or more prospects demonstrate or display their athletics abilities.

The DOBO's interactions with men's basketball student-athletes frequently fell outside the clear lines NCAA legislation draws around the activities of operations directors. As a non-coaching staff member with sport-specific responsibilities, the DOBO violated Bylaw 11.7.3 merely by observing student-athletes' voluntary workouts. By actively participating in those workouts, he crossed the line even further, providing the kind of substantive instruction only coaches are permitted to give. Although he knew it was impermissible to do so, the DOBO involved himself in student-athletes' voluntary workouts on at least 64 occasions, including rebounding and passing, providing resistance during drills, holding a shooting stick and serving as a defender while student-athletes attacked the basket. The DOBO's substantive participation in the student-athletes' on-court activities violated Bylaw 11.7.3 and rendered him a countable coach under Bylaw 11.7.1.1. Furthermore, because two of the student-athletes were not yet enrolled on two of these occasions, these activities constituted an impermissible tryout in violation of Bylaw 13.11.1.

Less frequent but still concerning is the DOBO's involvement in student-athlete 1's workouts at a local track and his refereeing activity. With respect to the former, the DOBO violated Bylaw 11.7.3 when, on three occasions, he observed student-athlete 1's conditioning workouts at the track and participated in timing the student-athlete's runs. The panel is especially troubled that the

¹¹ For the 2013-14 manual year, Bylaws 11.7.3 and 11.7.6 were codified at Bylaws 11.7.1.1.1.1 and 11.7.4, respectively.

DOBO engaged in these activities *after* he had served a suspension for being involved in basketball workouts with the same student-athlete. As it relates to refereeing, the panel appreciates that the DOBO thought he had approval from compliance to engage in this activity. But Bylaw 11 clearly prohibits DOBO involvement in all on-court activities. The July 24, 2014, educational column further clarified that this prohibition specifically applies to refereeing. Thus, the DOBO's participation in refereeing over a span of approximately three-and-one-half years violated Bylaw 11.7.3.

Due to the competitive advantage this type of activity confers, the COI has previously concluded that Bylaw 11 violations occur when non-coaching staff members engage in on-court or on-field activities. *See University of Utah* (2018) (concluding that Bylaw 11 violations occurred when a head baseball coach instructed his director of operations to engage in on-field instruction and other impermissible activities, such as throwing batting practice and hitting baseballs for pitchers' fielding drills); *University of Northern Colorado* (2017) (concluding a Bylaw 11 violation occurred when, at the direction of the head men's basketball coach, a director of operations conducted impermissible on-court activities with an academic non-qualifier); and *University of Hawaii at Manoa* (2015) (concluding Bylaw 11 violations occurred when a men's basketball director of operations presented information during scouting sessions, rebounded for student-athletes and offered them on-court instruction during practice). The DOBO's conduct in this case aligns with the type of conduct that consistently gives rise to Bylaw 11 violations.

Pursuant to Bylaw 19.1.2, the panel concludes that the impermissible coaching and tryout violations are Level II. When viewed individually, each instance of impermissible coaching activity is relatively minor. But the cumulative effect of the violations rises to Level II because they gave Oregon more than a minimal competitive advantage over institutions that complied with the rules regarding coaching staff limits. By participating in drills and other on-court activities, the DOBO effectively gave Oregon the advantage of a fifth member of the coaching staff. This is also consistent with the cases cited above, all of which concluded that the coaching violations were Level II.

3. The women's basketball assistant strength coach engaged in impermissible coaching activity when he participated in student-athletes' voluntary basketball workouts and provided instruction during drills.

From December 2016 through April 2017, the women's basketball assistant strength coach also gave his program the competitive advantage of an extra coach when he participated in student-athletes' voluntary workouts and stepped into drills during regularly scheduled practice sessions. This conduct constituted impermissible coaching activity under Bylaw 11 and caused the women's basketball program to exceed its numerical limitation of four coaches.

As in men's basketball, Bylaws 11.7.6 and 11.7.1.1 set a limit of four coaches for a women's basketball team and define the activity that renders a staff member a countable coach. Specific to this allegation, Bylaw 11.7.6.2.1 limits the activities in which a strength and conditioning coach may engage. The bylaw states that a strength and conditioning coach can conduct flexibility,

warm-up and physical conditioning activities prior to any game and prior to or during any practice or other organized activities without being included in the limitations on number of coaches. Any activities beyond this will render a strength and conditioning coach a countable coach for purposes of Bylaw 11.7.6.

The assistant strength coach engaged in two types of impermissible coaching activity: (1) participation in basketball-related activities during voluntary workouts; and (2) engaging in drills and providing instruction during regularly scheduled practices. First, on at least five occasions, the assistant strength coach participated in student-athletes' voluntary workouts by rebounding and demonstrating basketball moves. These basketball-related activities went beyond the allowable flexibility, warm-up and conditioning activities permitted by Bylaw 11.7.6.2.1 and thus violated that bylaw. Additionally, the assistant strength coach participated in on-court, basketball-related activities during and after practice on 31 occasions. This included stepping into practice drills at the head coach's request and, on three occasions, providing instruction to student-athletes during drills. This conduct also violated Bylaw 11.7.6.2.1. Furthermore, when the assistant strength coach became substantively involved in student-athletes' workouts and provided instruction, his conduct caused the women's basketball program to exceed the limit of four coaches in violation of Bylaws 11.7.1.1 and 11.7.6.

Like the DOBO's conduct, the panel concludes that the assistant strength and conditioning coach's conduct resulted in Level II violations of NCAA legislation. By stepping into drills and providing instruction, the assistant strength coach was effectively functioning as a fifth coach for the women's basketball team. The head coach acknowledged that the assistant strength coach was providing instruction. Pursuant to Bylaw 19.1.2, this provided more than a minimal competitive advantage for the women's basketball program. Moreover, the frequency with which the assistant strength coach engaged in these activities elevates the conduct to a Level II violation. As discussed above, the COI has concluded in previous cases that coaching activity by non-coaching staff members constitutes Level II violations of Bylaw 11.¹² See *Utah*; *Northern Colorado*; and *Hawaii at Manoa*.

B. HEAD COACH RESPONSIBILITY [NCAA Division I Manual Bylaw 11.1.1.1 (2015-16 and 2016-17)]

During 2016 and 2017, both the head men's basketball coach and the head women's basketball coach failed to rebut the presumption of responsibility for the violations in their programs. Both head coaches failed in their responsibilities to monitor staff members who reported to them. Additionally, the head women's coach, through his involvement in the underlying violations, failed to promote an atmosphere of compliance in his program. The institution and both head coaches

¹² In Oregon's written materials and at the hearing, the institution argued that the assistant strength coach's conduct constituted a Level III violation. Oregon's argument relied on a previous Level III case involving a women's basketball director of operations who engaged in practice activities. As explained above, previous COI case precedent supports that this is a Level II violation. Furthermore, the COI does not consider Level III cases to be binding. Those cases are decided under a separate enforcement staff process that does not involve a membership committee. Additionally, the case summaries provided on the Level III database do not provide sufficient factual detail or analysis for the COI to make an informed determination as to the relevance of the case.

disputed these allegations. The panel concludes that both head coaches committed Level II violations.

1. NCAA legislation related to head coach responsibility.

The applicable portions of the bylaws may be found at Appendix Two.

2. The head men's basketball coach violated NCAA head coach responsibility legislation when he failed to monitor the DOBO's interactions with student-athletes.

From May 2016 through May 2017, the head men's basketball coach failed to meet his responsibilities as the head of his program as it related to monitoring his staff. He delegated authority to the DOBO, particularly while traveling, and did not ask sufficient questions to detect the multiple, unconcealed instances of impermissible coaching activity that occurred in his program. The head coach's failure to monitor the DOBO violated Bylaw 11 head coach responsibility legislation.

Bylaw 11.1.1.1 establishes two affirmative duties for head coaches: (1) to promote an atmosphere of rules compliance; and (2) to monitor those individuals in their program who report to them. With respect to the latter, the bylaw presumes that head coaches are responsible for the actions of their staff members. A head coach may rebut this presumption by demonstrating that he or she promoted an atmosphere of compliance and monitored his or her staff.

Here, the head coach failed to rebut the presumption because he did not demonstrate that he monitored the DOBO. While the head coach was away from campus on recruiting trips, he trusted the DOBO and other staff members to monitor the program and follow the rules. In the DOBO's case, that did not happen. He became too comfortable interacting with student-athletes and knowingly violated NCAA legislation by involving himself in their workouts. This happened on multiple occasions—at least 64 instances—and completely in the open. Had the head coach checked in with the DOBO during and after these trips and asked appropriate questions, he may have detected these violations. In fact, the DOBO stated during the hearing that he would have told the truth if the head coach had asked him about his interactions with student-athletes.

It was particularly incumbent upon the head coach to ask these questions in light of the DOBO's past involvement with student-athlete workouts in 2011-12. The head coach was aware that the DOBO had previously engaged in impermissible coaching activity with a student-athlete, yet he admitted that he performed no additional monitoring of the DOBO after that incident. Active follow-up and heightened monitoring in that situation may have prevented future violations.

This head coach responsibility violation illustrates the dangers that are present when a head coach becomes too complacent with longstanding and trusted staff members. At the infractions hearing, the head coach relied on his previous track record of compliance. But this is not enough to overcome the presumption of responsibility under Bylaw 11. Indeed, even a coach with a strong

record of compliance can make mistakes, including placing too much trust in staff members to follow the rules. The panel recognizes the head coach's promotion of an atmosphere of compliance, which is particularly evident in his detection and self-reporting of the DOBO's refereeing violation and his imposition of meaningful disciplinary action for the DOBO. But responsibility does not end there. In failing to monitor other aspects of the DOBO's interactions with student-athletes, the head coach did not meet all his responsibilities under Bylaw 11.1.1.1.

The COI has previously concluded that head coaches failed to monitor when they over-relied on staff members. See *California State University, Sacramento* (2018) (concluding that the head men's tennis coach did not meet his monitoring responsibility when he failed to supervise his staff member's recruiting efforts and involvement in arranging housing for incoming student-athletes); and *Syracuse University* (2015) (concluding that a head coach does not meet his monitoring responsibility by delegating duties to staff members and trusting them to follow rules without checking up on them). As these cases illustrate, head coaches must "trust but verify" when it comes to monitoring their staff members. And for purposes of head coach responsibility, verifying means actively performing steps to monitor.

Pursuant to Bylaw 19.1.2-(e), the head coach responsibility violation is Level II because it resulted from underlying Level II violations. See *Utah* (concluding a Level II head coach responsibility violation occurred when the head baseball coach instructed and permitted his operations director to engage in impermissible coaching activity); *Prairie View A&M University* (2018) (concluding a Level II head coach responsibility violation occurred when the head men's basketball coach knew his assistant coach was helping a student-athlete with payment for a course, but turned a blind eye to the conduct); and *Hawaii at Manoa* (concluding a Level II head coach responsibility violation occurred when the head men's basketball coach permitted and instructed an operations director to engage in coaching activities). Thus, as the underlying violations involving the DOBO are Level II, the head coach's Bylaw 11.1.1.1 violation is likewise Level II.

3. The head women's basketball coach violated NCAA head coach responsibility legislation through his personal involvement in the impermissible coaching violations and by failing to monitor his staff.

From December 2016 through April 2017, the head women's basketball coach failed to meet his Bylaw 11 responsibilities as the leader of his program. Specifically, he invited and permitted the women's assistant strength and conditioning coach to participate in on-court basketball-related activity with student-athletes that crossed the line into impermissible coaching activity. His knowledge of and participation in the violations demonstrates that he neither promoted an atmosphere of compliance nor monitored his staff. This violated Bylaw 11.1.1.1.

For a period of approximately five months, the women's assistant strength coach engaged in impermissible coaching activity that the head coach either should have been aware of, was aware of, and/or actively encouraged. First, the head coach should have been aware that the assistant strength coach was impermissibly participating in student-athletes' voluntary workouts. He stated that he had no specific awareness of this activity, but "kind of assumed" it was happening. His

failure to follow up, confirm his assumptions and take action to stop the violations, demonstrates a failure to take his compliance duties seriously and to actively monitor his staff.

Second, the head coach was aware of—and actively encouraged—the assistant strength coach's participation in basketball drills during practice. The head coach explained that he was short on staff during the time period of these violations and turned to the assistant strength coach as a person with whom the team had grown comfortable. He admitted, however, that he knew this was impermissible. Notably, he also acknowledged that he did not allow the assistant strength coach to engage in these activities in public settings, such as during team travel or open practices during the NCAA tournament. The head coach's efforts to conceal these activities during public practices demonstrate his awareness of their impermissibility. In short, through his active and knowing involvement in these violations, the head coach demonstrated a failure to promote an atmosphere of compliance in his program.

Like the head men's basketball coach, the head women's coach has a long track record of compliance. The panel appreciates his candor at the hearing and his admission to lapses in judgment. But the head coach's disregard for the rules governing impermissible coaching activity did not set the proper tone for compliance in his program. As the COI has made clear in its decisions, compliance starts at the top. A head coach's failure to follow the rules himself does not foster a positive atmosphere for compliance from the rest of the staff. *See Northern Colorado* (stating that "[t]he culture of a program begins with its leader" and concluding that the head men's basketball coach did not promote a culture of compliance when he was actively involved in academic misconduct violations).

Here again, pursuant to Bylaw 19.1.2-(e), the head coach responsibility violation is Level II because it resulted from underlying Level II conduct. This is also consistent with previous cases involving conduct of a similar scope and nature. *See Utah; Prairie View A&M; and Hawaii at Manoa.*

C. ACADEMIC MISCONDUCT IN THE WOMEN'S TRACK AND FIELD PROGRAM [NCAA Division I Manual Bylaws 10.01.1, 10.1 and 10.1-(b) (2015-16)]

During the 2016 winter quarter, the adjunct instructor knowingly arranged for a women's track and field student-athlete to receive unearned academic credit in order to maintain eligibility for competition. Oregon, the instructor and the enforcement staff substantially agreed to the facts but disagreed as to whether those facts constitute a violation of NCAA legislation. The panel concludes that the adjunct instructor committed a Level II violation.

1. NCAA legislation relating to academic misconduct.

The applicable portions of the bylaws may be found at Appendix Two.

2. The adjunct instructor violated NCAA academic misconduct legislation when he changed a student-athlete's grade in violation of Oregon's grading policy.

In March 2016, the adjunct instructor changed student-athlete 2's final grade from an F to a B- after she informed the instructor she needed a higher grade to maintain her eligibility. The grade change was contingent on the student-athlete's promise to retake the course during the summer term. Oregon used the unearned B- to certify student-athlete 2's eligibility for competition and practice during spring 2016. She subsequently competed in four contests while ineligible. Oregon and the instructor agreed that the grade change violated the institution's grading policy. Based on these facts and the interpretive guidance provided in this case, the panel concludes that the adjunct instructor's conduct constitutes academic misconduct pursuant to Bylaw 10.1-(b).

Bylaw 10 governs ethical conduct in collegiate athletics, with Bylaw 10.01.1 generally requiring student-athletes and those employed by or associated with an institution's athletics program to act with honesty and sportsmanship at all times. Bylaw 10.1 identifies several categories of unethical conduct, including knowing involvement in arranging for fraudulent academic credit or false transcripts for a student-athlete (Bylaw 10.1-(b)). An April 16, 2014, Official Interpretation of Bylaw 10.1-(b) explains that an institution has the authority to determine whether any academic misconduct has occurred consistent with its own policies applicable to all students. An April 16, 2014, Educational Column describes academic misconduct as an "umbrella term" that encompasses violations of an institution's policies related to academic honesty and integrity.

If an institution determines that academic misconduct occurred pursuant to its own policies, it is required to report a violation of Bylaw 10.1-(b) in the following circumstances: (1) if an institutional staff member is involved in arranging fraudulent academic credit or false transcripts; (2) if a prospective or enrolled student-athlete is involved in arranging fraudulent academic credit or false transcripts; or (3) if the academic misconduct results in an erroneous declaration of eligibility and the student-athlete subsequently competes for the institution.

In applying Bylaw 10.1-(b) to the facts of this case, the panel looked to the interpretations provided throughout the case. Within Division I, the NCAA Constitution empowers independent membership bodies—specifically, the Interpretations Committee and the Legislative Committee—with the authority to make interpretations of the constitution and bylaws. See Constitution 5.2.5 and 5.4.1. These bodies make official interpretations of general applicability and case-specific interpretations. Structurally and historically, official interpretations are binding on the COI to the extent they are applicable to the facts of the case. Case-specific interpretations are binding when they are based on the same operative set of facts.

Here, the interpretive bodies made case-specific interpretations in which they determined that grading policies are clearly and inherently related to academic integrity. Furthermore, they stated that an institution must report a Bylaw 10.1-(b) violation if it determines that the conduct at issue violated *any* policy related to academic integrity. According to these bodies, this is so even if the institution determined that the conduct did not violate its academic misconduct policy. They also determined that for purposes of Bylaw 10.1-(b), there is no substantive distinction between a grading policy and grading guidelines. These interpretations were based on the facts identified and framed by the panel in its July 5, 2018, post-hearing interpretation request. No new facts have come to light since then. Accordingly, the panel will follow the case-specific interpretations and

conclude that Oregon's grading policy is inherently part of its academic misconduct policy for purposes of Bylaw 10.1-(b).

The adjunct instructor's conduct therefore meets the standard for academic misconduct under Bylaw 10.1-(b): an institutional staff member awarded a student-athlete unearned academic credit that violated an academically-related institutional policy and resulted in the student-athlete's erroneous certification and subsequent ineligible competition. Thus, based on the interpretive guidance in this case, the panel concludes that the adjunct instructor violated Bylaw 10.1-(b) when he changed student-athlete 2's final grade from an F to a B- in contravention of the institution's grading policy.¹³

The COI's decision in *University of North Carolina at Chapel Hill* (2017) does not dictate a different result, as Oregon has argued. According to Oregon, *UNC* demonstrates that the COI cannot conclude academic misconduct occurred when the institution has not made that determination under its own policies. But two critical facts distinguish *UNC*, which involved academically deficient "paper courses" offered to student-athletes and non-student-athletes alike over a period of 18 years. First, *UNC* maintained that its institutional policies in place at the time did not prohibit such courses. Accordingly, the institution did not adjudicate the underlying conduct or conclude that any policy violations occurred. Here, by contrast, Oregon determined that the adjunct instructor's grade change violated the institution's grading policy. Second, because *UNC* took the position that the courses were permissible, the institution honored the grades and credit hours awarded in the courses. Oregon, however, rescinded student-athlete 2's grade and revoked her diploma.

Stated simply, when an institution determines an academically-related policy has been violated, the COI will defer to that determination. See *Syracuse* (concluding a Bylaw 10.1-(b) violation occurred when the institution determined a DOBO violated its academic integrity policy by re-writing a student-athlete's paper); and *Weber State University* (2014) (concluding a violation of Bylaw 10.1-(b) occurred when a math instructor used football student-athletes' login information to take their online quizzes and exams and the institution determined this conduct violated its academic integrity policy). Likewise, when an institution determines an academically-related policy has *not* been violated or there is no applicable policy that reaches the conduct, the COI will defer to that determination with respect to academic misconduct. See *UNC*. Here, in contrast, Oregon determined the adjunct instructor's conduct violated the institution's grading policy. Under the case-specific interpretations from the AMA staff and interpretive committees, this determination supports a Bylaw 10.1-(b) academic misconduct violation. Deference to the institution's determination is consistent with the cases cited above.

¹³ Oregon and the adjunct instructor argued that the instructor's conduct constituted an impermissible extra benefit under Bylaw 16.11.2.1. However, the adjunct instructor was adamant that he would have made the same accommodation for any student who came to him with a scheduling conflict or otherwise looking for help. He had no interest in or knowledge of Oregon athletics and was not motivated to help student-athlete 2 due to her status as a student-athlete. Accordingly, the panel cannot conclude that the grade change was an extra benefit.

Although Bylaw 19.1.1 lists academic misconduct as an example of a Level I violation, the panel concludes the violation in this case is Level II due to its limited scope. It was a one-time grade change that involved only the instructor and student-athlete 2 and occurred without the knowledge of any athletics staff members. It was a far cry from the more extensive and orchestrated academic fraud schemes the COI has designated as Level I in past cases. *See Northern Colorado* (concluding Level I academic misconduct violations occurred when the head men's basketball coach and four of his staff members completed online coursework for multiple prospects); *University of Mississippi* (2016) (concluding that Level I academic misconduct violations occurred when the DOBO and assistant basketball coach completed coursework for two prospects in five online courses); and *University of Southern Mississippi* (2016) (concluding Level I academic misconduct violations occurred when members of the men's basketball staff completed over sixty credit hours of coursework for seven prospects). The violation here is not so limited, however, as to be Level III. It was not inadvertent—the adjunct instructor knew he was making an accommodation in order to keep student-athlete 2 eligible for competition. Furthermore, the violation provided more than a minimal competitive advantage because it allowed student-athlete 2 to compete in four contests while ineligible. Thus, pursuant to Bylaw 19.1.2, the panel concludes the instructor's academic misconduct violation is Level II.

The panel recognizes that this decision might raise some questions among the membership regarding tensions between the principle of institutional academic autonomy and the bylaw interpretation on the particular facts of this case. Although this may be the final case processed and decided under the former Bylaw 10.1-(b) academic misconduct legislation, the current Bylaw 14 construct does not resolve these tensions. This issue deserves careful review by the membership to ensure there is clear guidance going forward.

Finally, the panel notes that this case highlights some challenges associated with the interpretive process that may also warrant review by the membership. The COI respects the interpretive authority and expertise of the interpretive committees and the AMA staff. There must also be sufficient room, however, for the COI to carry out its Bylaw 19.3.6 adjudicative authority based on the full record before it and the larger context of the case. Infractions hearings should focus on the panel's factfinding and determining how the bylaws apply to the facts rather than decisions made during the interpretive process based on a limited set of facts. The panel is aware that the membership is currently reviewing the interpretive process and suggests that this review include consideration of the interpretive issues highlighted by this case.

D. IMPERMISSIBLE USE OF PERSONALIZED RECRUITING AIDS IN THE FOOTBALL PROGRAM [NCAA Division I Manual Bylaws 13.4.1.8.3, 13.6.7.9 and 13.7.3 (2016-17)]

During fall 2016, the football program violated NCAA recruiting legislation when it arranged impermissible personalized recruiting aids for visiting prospects. Oregon and the enforcement staff substantially agreed to the facts and that a violation occurred. The panel agrees with the parties and concludes that the violation is Level II.

1. NCAA legislation related to personalized recruiting aids.

The applicable portions of the bylaws may be found at Appendix Two.

2. The football program violated recruiting legislation when it displayed personalized information about prospects on an electronic board during the prospects' campus visits.

From August through November 2016, the football program gained a recruiting advantage when it used an electronic reader board to display names, statistics and other personalized information for 36 prospects during their unofficial and official paid visits to campus. This conduct violated Bylaw 13 recruiting legislation.

Bylaw 13.4 regulates recruiting materials, including audio and video materials. Under Bylaw 13.4.1.8.3, an institution may produce a computer-generated recruiting presentation for a prospect, but the presentation may not be personalized to include the prospect's name, picture or likeness. Relatedly, Bylaws 13.6.7.9 and 13.7.3 prohibit the display of personalized recruiting aids in any areas a prospect may visit during official and unofficial visits, respectively.

Oregon agreed that the football program's use of an electronic reader board to display personalized information about prospects violated Bylaw 13. The football program acted appropriately in seeking advice from the compliance staff before using the reader board in this manner. However, the chief compliance officer erred in approving the practice, which resulted in violations. Specifically, in creating a display that included names, statistics and highlight videos for 36 prospects, the institution violated Bylaw 13.4.1.8.3. Furthermore, by displaying this information in the football equipment area for prospects to see during their official and unofficial visits, the institution violated Bylaws 13.6.7.9 and 13.7.3. The COI has previously concluded that Bylaw 13 violations occur when institutions utilize personalized recruiting materials. *See University of Mississippi* (2018) (concluding the football program's creation and use of personalized recruiting videos over three official visit weekends violated Bylaw 13).

Consistent with Bylaw 19.1.2, the institution's use of this personalized recruiting aid constitutes a Level II violation of NCAA legislation because it provided or was intended to provide more than a minimal but less than a substantial recruiting advantage. Institutions that engage in impermissible personal contacts with prospects gain a recruiting advantage over institutions that abide by the rules. *See Southern Methodist University* (2015) (concluding Level II violations occurred when a head men's golf coach sent impermissible text messages to prospects and observing that "[e]arly and regular personal contacts with prospects and their families are vital aspects of the recruiting process in any sport"). Furthermore, the institution used the electronic reader board as a personalized recruiting aid over a period of approximately four months, displaying prospects' personalized information on 36 occasions. Thus, the violations were not isolated or limited in nature and are appropriately designated as Level II. *See Mississippi* (2016) (concluding the football program's use of personalized recruiting videos over three official visit weekends constituted an isolated and limited Level III violation).

V. LEVEL III VIOLATION

IMPERMISSIBLE COACHING ACTIVITIES [NCAA Division I Manual Bylaws 11.7.1.1, 11.7.6 and 11.7.6.2.1 (2016-17)]

From December 2016 through May 2017, the men's basketball program permitted the men's assistant strength coach to participate in on-court basketball-related activities with the men's basketball team, which caused the institution to exceed the numerical limitation of four basketball coaches. Unlike the violation involving the women's assistant strength and conditioning coach, the panel concludes that this violation is Level III because it was more limited in scope and provided no more than a minimal competitive advantage. Specifically, there were significantly fewer instances of impermissible coaching activity for the men's assistant strength coach and the activity was less substantive in nature.

VI. PENALTIES

For the reasons set forth in Sections III, IV and V of this decision, the panel concludes that this case involved Level II and III violations of NCAA legislation. Level II violations are significant breaches of conduct that may compromise the integrity of the Collegiate Model. Level III violations are breaches of conduct that are isolated or limited and provide no more than a minimal advantage.

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 Bylaws 19.9.5 and 19.9.7 to prescribe penalties.¹⁴

The panel determined the below-listed factors applied and assessed the factors by weight and number. Based on its assessment, the panel classifies this case as Level II-Standard for Oregon, Level II-Standard for the violations of the DOBO and the head women's basketball coach and Level II-Mitigated for the violations of the head men's basketball coach and the adjunct instructor.

Aggravating Factors for Oregon

- 19.9.3-(b): A history of Level I, Level II or major violations by the institution;
- 19.9.3-(g): Multiple Level II violations by the institution;
- 19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct;
- 19.9.3-(k): A pattern of noncompliance with the sport program(s) involved; and

¹⁴ The membership recently adjusted and expanded the ranges in the penalty guidelines related to Level I-Aggravated violations. The adjusted cells became effective on August 8, 2018. Because this case is Level II-Standard, the adjusted cells were not applicable.

19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution and bylaws.

Oregon either fully or partially disagreed with each of these aggravating factors. With respect to Bylaw 19.9.3-(b), *A history of Level I, Level II or major violations*, the factor applies because Oregon had previous infractions cases in 1981, 2004 and 2013. Oregon acknowledged this history but asserted that the factor should not apply because the previous cases did not involve the women's basketball or women's track and field programs and the last major infraction involving men's basketball occurred in 1981. While the COI has often considered the amount of time between cases when determining how much weight to give this factor, it has never applied the factor on a sport-specific basis.¹⁵ The institution's overall history of infractions cases—including two cases in the past 14 years—warrants application of this aggravating factor. See *California State University, Sacramento* (determining the factor applied because the institution had previous infractions cases in 1972 and 2015); and *Southern Mississippi* (determining the factor applied because the institution had previous infractions cases in 1982, 1985 and 2013).

Oregon made a similar argument regarding Bylaw 19.9.3-(g), *Multiple Level II violations by the institution or involved individual*, contesting application of the factor because there were multiple violations only in men's basketball. Here again, the COI has not previously applied this factor according to the number of violations within an individual sport programs. The bylaw references the violations of the institution or involved individual. This case involved six Level II violations, and two of those had multiple subparts. Accordingly, the factor applies. See *North Carolina Central University* (2018) (determining the factor applied to the institution in a case that involved Level II violations across multiple sports).¹⁶

Bylaw 19.9.3-(h), *Persons of authority condoned, participated in, or negligently disregarded the violation*, applies because the DOBO participated in violations. Furthermore, the head women's basketball coach also condoned violations when he asked the assistant women's strength coach to participate in basketball drills. Oregon asserted that this factor should not apply because the DOBO is not a person of authority. But the COI has previously applied this factor for the violations of a director of operations. See *California State University, Northridge* (2016) and *University of Louisville* (2017). It likewise applies here.

With respect to Bylaw 19.9.3-(k), *A pattern of noncompliance with the sport program(s) involved*, the factor applies because the men's basketball program engaged in the same type of noncompliance—impermissible coaching activity—from 2013 through May 2017. Oregon protests that only one violation, the DOBO's refereeing, dates back to 2013. But the DOBO refereed multiple times over that period (10 to 20 times per year) and then engaged in further impermissible coaching activity when he involved himself in student-athletes' workouts on at least 64 occasions during the summer of 2016. One year later, after serving a suspension for this

¹⁵ The panel notes that Bylaws 19.9.3-(b) and 19.9.4-(h) were recently amended to remove the reference to "sport program." See *Brigham Young University* (2018) (noting this amendment and declining to apply Bylaw 19.9.4-(h) on a sport-specific basis). The decision in *Brigham Young University* is currently under appeal on an unrelated issue.

¹⁶ The decision in *North Carolina Central University* is currently under appeal on an unrelated issue.

conduct, the DOBO again participated in conditioning workouts with student-athlete 1. This is a clear pattern of noncompliance. *See Hawaii at Manoa* (determining the factor applied where the underlying violations in the men's basketball program—extra benefits and impermissible coaching activity—occurred over the course of one academic year).

Finally, Bylaw 19.9.3-(m), *Intentional, willful or blatant disregard for the NCAA constitution and bylaws*, applies because the DOBO repeatedly involved himself in student-athletes' voluntary workouts when he knew this conduct to be impermissible. Oregon agrees that the DOBO committed intentional violations but argues that this factor should only apply to the men's basketball program. However, this factor applies to institutions and involved individuals; the COI has never applied it on a sport-specific basis. *See Grambling State University* (2017) (applying the factor to the institution and the head men's golf coach for the coach's knowing violations of financial aid and extra benefits legislation); and *Lamar University* (2016) (applying the factor to the institution and the head men's golf coach for the coach's knowing violations of financial aid and extra benefits legislation). Moreover, the head women's basketball coach also knowingly disregarded NCAA legislation when he invited and permitted the women's assistant strength coach to step into basketball drills. This provides further support for the application of this factor.

The enforcement staff proposed one additional aggravating factor that the panel did not adopt: Bylaw 19.9.3-(n), *Other facts warranting a higher penalty range*. The enforcement staff suggested that this factor should apply due to the incorrect interpretation the compliance staff provided the football program regarding use of the electronic reader board. The panel declines to apply this factor based on a compliance official's isolated mistake.

Mitigating Factors for Oregon

- 19.9.4-(a): Prompt self-detection and self-disclosure of the violations;
- 19.9.4-(b): Prompt acknowledgment of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties;
- 19.9.4-(d): An established history of self-reporting Level III or secondary violations; and
- 19.9.4-(i): Other factors warranting a lower penalty range.

Oregon and the enforcement staff agreed to each of these factors and the panel determines that all four apply. In identifying Bylaw 19.9.4-(i), *Other factors warranting a lower penalty range*, the enforcement staff cited the time and resources Oregon spent reviewing surveillance footage to detect the violations in the men's and women's basketball programs. The panel determines that the factor applies for a different reason—namely, the institution's handling of the adjunct instructor's impermissible grade change. The institution detected the grade change as a result of the FAR's diligent monitoring. Thereafter, the registrar and other institutional officials acted quickly to rescind the grade, revoke the student-athlete's diploma and self-report the violation. Once Oregon learned of the grade change, the institution also prevented further ineligible participation by pulling the student-athlete from competition moments before she was scheduled to compete at regionals. The institution's prompt and thorough handling of the grade-change situation merits application of this factor.

Aggravating Factors for the Men's Basketball DOBO

19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct; and

19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution and bylaws.

The DOBO did not dispute these aggravating factors proposed by the enforcement staff. For the reasons discussed above with respect to the institution, the panel determines they also apply to the DOBO.

Mitigating Factor for the Men's Basketball DOBO

19.9.4-(h): The absence of prior conclusions of Level I, Level II or major violations committed by the DOBO.

Aggravating Factor for the Head Men's Basketball Coach

19.9.3-(k): A pattern of noncompliance within the sport program involved.

The head men's coach contested the application of this factor for the same reasons as the institution (i.e., only the refereeing violation dates back to 2013 and the other men's basketball violations occurred on a limited basis and during a short period of time). As explained above, the panel determines this factor applies because there was a clear pattern of noncompliance involving the same individual committing the same violations over and over, even after being disciplined. *See Hawaii at Manoa.*

Mitigating Factors for the Head Men's Basketball Coach

19.9.4-(b): Prompt acknowledgement of the violation and acceptance of responsibility; and

19.9.4-(h): The absence of prior conclusions of Level I, Level II or major violations committed by the head men's coach

The head men's coach also proposed three additional mitigating factors, but the panel determines that none of the three apply. First, Bylaw 19.9.4-(a), *Prompt self-detection and self-disclosure of the violations*, does not apply because the head men's coach failed to detect most of the DOBO's violations apart from refereeing. These violations—which occurred repeatedly and with no attempts to conceal—were ultimately detected and reported by outside observers. Thus, the factor does not apply. *See University of California at Los Angeles* (2016) (declining to apply the factor to an associate head coach when the violations were detected via anonymous tips).

Similarly, Bylaw 19.9.4-(e), *Implementation of a system of compliance methods*, does not apply because most of the impermissible coaching violations were not detected by the head coach's compliance system. The COI has most often applied this factor to institutions rather than individuals and only where the compliance system was in place at the time of the violations and

actually detected the violations. *See Rutgers, The State University of New Jersey, New Brunswick* (2017) (determining the mitigator did not apply because the violations at issue went undetected by the compliance office).

Finally, Bylaw 19.9.4-(g), *Violations were unintentional, limited in scope and represent a deviation from otherwise compliant practices*, does not apply because the violations were not limited. They occurred from 2013 through mid-2017. Even factoring out the refereeing violations, the DOBO engaged in impermissible coaching activity on at least 64 occasions during summer 2016 and then engaged in the same conduct three more times one year later. These are not limited violations.

Aggravating Factors for the Head Women's Basketball Coach

19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct.

Although the head women's coach admitted that he requested and allowed the assistant strength coach to participate in impermissible on-court activity, he nonetheless asserted that this factor should not apply because the violations occurred over a limited period of time. However, the assistant strength coach participated in on-court activity on 31 occasions and participated in basketball-related activity during student-athletes' voluntary workouts on at least five occasions. And with respect to the latter, the head coach admitted that he assumed this conduct was occurring, though he had no specific knowledge of it. The violations were not limited, the head coach condoned and/or negligently disregarded them and the factor applies. *See The Ohio State University* (2017) (determining the factor applied where the head men's swimming coach negligently disregarded violations that occurred over a three-month period).

Mitigating Factors for the Head Women's Basketball Coach

19.9.4-(h): The absence of prior conclusions of Level I, Level II or major violations committed by the head women's coach.

The head women's coach also proposed three additional mitigating factors, but the panel determines that none of the three apply. First, Bylaw 19.9.4-(b), *Prompt acknowledgement of the violation and acceptance of responsibility*, does not apply because the head women's coach did not acknowledge some of the violations until the enforcement staff showed him security camera footage during his interview. *See Appalachian State University* (2016) (determining the factor did not apply because the assistant football coach only acknowledged the violation after being questioned by the institution during an interview).

Second, Bylaw 19.9.4-(e), *Implementation of a system of compliance methods*, does not apply to the head women's coach for the same reason it does not apply to the head men's coach: the coach's compliance system did not detect the violations in this case.

Finally, Bylaw 19.9.4-(g), *Violations were unintentional, limited in scope and represent a deviation from otherwise compliant practices*, does not apply because the violations were neither limited nor unintentional. Again, the women's basketball violations involved 31 instances of impermissible on-court activity and five instances of involvement in a student-athlete's voluntary workout. Furthermore, the head women's coach encouraged the strength and conditioning coach to participate in the on-court activity by asking him to step into drills. These were not unintentional or limited violations even though they occurred over a relatively short period of time.

Aggravating Factors for the Adjunct Instructor

None.

The enforcement staff proposed two aggravating factors for the adjunct instructor, but the panel determines that neither applies. First, the staff proposed Bylaw 19.9.3-(3), *Unethical conduct*. Although the panel concluded that the adjunct instructor violated Bylaw 10.1-(b), which is an unethical conduct violation, the panel will not apply this factor based on the totality of the unique circumstances in this case. The panel notes that the circumstances that gave rise to this proposed aggravating factor may not recur in the future because of the 2016 legislative change that moved academic misconduct from Bylaw 10 to Bylaw 14.

The panel also determines that Bylaw 19.9.3-(h), *Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct*, does not apply. Although the adjunct instructor was a person of authority within his classroom, he had no authority in the athletics realm and no NCAA rules training.

Mitigating Factors for the Adjunct Instructor

Bylaw 19.9.4-(b): Prompt acknowledgement of the violation and acceptance of responsibility; and
Bylaw 19.9.4-(h): The absence of prior conclusions of Level I, Level II or major violations.

All of the penalties prescribed in this case are independent of and supplemental to any action the NCAA Division I Committee on Academics has taken or may take through its assessment of postseason ineligibility, historical penalties or other penalties. In prescribing penalties, the panel considered Oregon's corrective actions, which are contained in Appendix One. The panel prescribes the following penalties (self-imposed penalties are so noted):

Core Penalties for Level II-Standard Violations (Bylaw 19.9.5)

1. Probation: Two years of probation from December 5, 2018, through December 4, 2020.¹⁷

¹⁷ Periods of probation always commence with the release of the infractions decision.

2. Financial Penalty: Oregon shall pay to the NCAA a fine of \$5,000 plus one percent of each of the men's basketball and women's basketball budgets.¹⁸
3. Show-Cause Order—Head Coach Restrictions: The institution shall suspend the head women's basketball coach for two contests during the 2018-19 season. The head coach admitted that he had a lapse in judgment and permitted an assistant strength and conditioning coach to step into basketball drills and, on some occasions, provide instruction to student-athletes. Additionally, the assistant strength coach engaged in other impermissible coaching activity that the head coach was not specifically aware of but assumed was happening. The repeated instances of impermissible coaching activity in the women's basketball program demonstrated the head coach's failure to monitor his staff, and his personal involvement in the violations showed he did not promote an atmosphere of compliance within the program.

Therefore, pursuant to Bylaw 19.9.5.4, the institution shall suspend the head women's basketball coach from all coaching duties for two contests during the 2018-19 season. The provisions of this suspension require that the head coach not be present in the arena where the game is played and have no contact or communication with members of the women's basketball coaching staff and student-athletes during the two-game suspension period. The prohibition includes all coaching activities for the period of time which begins at 12:01 a.m. the day of the game and ends at 11:59 p.m. that day. During that period, the head coach may not participate in any activities including, but not limited to, team travel, practice, video study and team meetings. The results of the contest from which the head coach is suspended shall not count in his career coaching record. The institution or any other employing member institution shall adhere to this penalty and the reporting requirements during the 2018-19 academic year.

Although each case is unique, the head coach's suspension is consistent with those prescribed in recent Level II head coach responsibility cases. See *Prairie View A&M* (prescribing a one-game suspension and Regional Rules attendance for the head men's basketball coach); and *The Ohio State* (adopting the institution's self-imposed penalty of a two-contest suspension for the head men's swimming coach).

4. Show-Cause Order (DOBO): Based on the facts and violations in this case, the panel prescribes a two-year show-cause order for the men's basketball DOBO, during which time the institution shall require the DOBO to attend two NCAA Regional Rules Seminars. The DOBO engaged in impermissible coaching activity from 2013 through May 2017. Though he knew he was violating NCAA legislation by doing so, he repeatedly observed and participated in student-athletes' voluntary workouts. Therefore, the panel prescribes a two-year show-cause order pursuant to Bylaw 19.9.5.4. The show-cause period shall run from December 5, 2018, to December 4, 2020. Any NCAA member institution employing the DOBO during this two-year period shall require him to attend the 2019 and 2020 NCAA Regional Rules Seminars. Because Oregon took appropriate disciplinary measures relating to the DOBO, this show-cause order does not include any restrictions on the DOBO's athletically related duties.

¹⁸ The fine shall be paid consistent with COI Internal Operating Procedures 5-15-2 and 5-15-2-1.

Additional Penalties for Level II-Standard Violations (Bylaw 19.9.7)

5. Public reprimand and censure.
6. The men's basketball program shall reduce the number of countable coaches by one at regular practice for five hours during the 2018-19 academic year. The reduction must be of a countable coach who otherwise would have been present at practice. That countable coach cannot recruit or be present at the basketball facility during the penalty. (Self-imposed.)
7. The women's basketball program shall reduce the number of countable coaches by one at regular practice for ten hours during the 2018-19 academic year. The reduction must be of a countable coach who otherwise would have been present at practice. That countable coach cannot recruit or be present at the basketball facility during the penalty. (Self-imposed.)
8. Vacation of records: Oregon acknowledged that student-athlete 2 participated in women's track and field contests while ineligible. Therefore, pursuant to Bylaws 19.9.7-(g) and 31.2.2.3, Oregon shall vacate all regular season and conference tournament records and participation in which student-athlete 2 competed from the time she became ineligible through the time she was reinstated as eligible for competition.¹⁹ This order of vacation includes all regular season competition and conference tournaments. Further, if the ineligible student-athlete participated in NCAA postseason competition at any time she was ineligible, the institution's participation in the postseason shall be vacated. The individual records of the ineligible student-athlete shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes shall be retained. Further, the institution's records regarding its women's track and field program, as well as the records of the head women's track and field coach, shall reflect the vacated records and shall be recorded in all publications in which such records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media plus institutional, conference and NCAA archives. Any institution that may subsequently hire the affected head coach shall similarly reflect the vacated wins in his career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins toward specific honors or victory "milestones" such as 100th, 200th or 500th career victories.

Any public reference to the vacated contests shall be removed from the athletics department stationary, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in women's track and field shall be returned to the Association. Finally, to ensure that all institutional and student-athlete 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

¹⁹ Oregon self-imposed vacation of records, vacating all of student-athlete 2's records during the 2016 outdoor track and field season and reconfiguring all team records to reflect the vacated results. The panel adopts this self-imposed penalty but supplies the standard vacation language and requirements in Penalty No. 8 above.

the NCAA Media Coordination and Statistics office and appropriate conference officials to identify the specific student-athletes and contests impacted by the penalties. In addition, the institution must provide the NCAA Media Coordination and Statistics office with a written report detailing those discussions. This document will be maintained in the permanent files of the NCAA Media Coordination and Statistics office. This written report must be delivered to the office no later than 45 days following the release of this decision or, if the vacation penalty is appealed, at the conclusion of the appeals process. The sports information director (or designee) must also inform the Office of the Committees on Infractions (OCOI) of this submission to the NCAA Media Coordination and Statistics office.

9. During this period of probation, Oregon shall:

- a. Continue to develop and implement a comprehensive compliance and educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for NCAA recruiting and certification legislation;
- b. Submit a preliminary report to the OCOI by January 15, 2019, setting forth a schedule for establishing this compliance and educational program;
- c. File with the OCOI annual compliance reports indicating the progress made with this program by October 15 during each year of probation. Particular emphasis shall be placed on Oregon's rules education provided to coaches and non-coaching staff members regarding permissible interactions with student-athletes, on-court and on-field activity, and observation of and participation in student-athletes' voluntary workouts;
- d. Inform prospects in all affected sports programs in writing that Oregon is on probation for two years and detail the violations committed. If a prospect takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospect signs an NLI; and
- e. Publicize specific and understandable information concerning the nature of the violations by providing, at a minimum, a statement to include the types of violations and the affected sports programs and a direct, conspicuous link to the public infractions decision located on the athletic department's main webpage "landing page" and in the media guides for the men's basketball program. Oregon's statement must: (i) clearly describe the violations; (ii) include the length of the probationary period associated with the case; and (iii) give members of the general public a clear indication of what happened in the case to allow the public (particularly prospects and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.

10. Following the receipt of the compliance report and prior to the conclusion of probation, the institution's president shall provide a letter to the COI affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.
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The COI advises Oregon that it should take every precaution to ensure that it observes the terms of the penalties. The COI will monitor the penalties during their effective periods. Any action by Oregon contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending Oregon's probationary period, prescribing more severe penalties or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Norman Bay
Jody Conradt
Thomas Hill
Jason Leonard
Eleanor Myers, Chief Hearing Officer
Vincent Nicastro
Sankar Suryanarayan

APPENDIX ONE

**CORRECTIVE ACTIONS AS IDENTIFIED IN OREGON'S
MARCH 22, 2018, RESPONSE TO THE NOTICE OF ALLEGATIONS**

Oregon has taken, or will take, the following actions:

1. Oregon declared student-athlete 2 ineligible for competition prior to NCAA outdoor championship opening round. This action ended student-athlete 2's eligibility to compete on behalf of Oregon.
2. The DOBO was suspended during the month of October 2016. During the suspension, the DOBO was not allowed on campus (in any athletics facility).
3. The DOBO was restricted to office-only duties during the month of November 2016 and was not permitted to attend any practice activities.
4. In November 2017, based in part on the DOBO's involvement with a men's basketball student-athlete at a local track, the head men's coach formally restricted the DOBO's duties to only office work and specifically prohibited any interaction with men's basketball student-athletes outside of that necessary for his office duties or radio broadcasts to which he was assigned in lieu of interaction with the team during competition.
5. The men's assistant strength coach was issued a letter of reprimand and suspended from all athletically related duties for one week.
6. Additional rules education was provided to the men's basketball staff and all sports regarding permissible activities for noncoaching staff members, including members of the strength and conditioning staff.
7. The women's assistant strength coach was issued a letter of reprimand and suspended from all athletically related duties for one week.
8. Additional rules education was provided to the women's basketball staff and all sports regarding permissible activities for noncoaching staff members including members of the strength and conditioning staff.
9. Additional rules education was provided to the football staff regarding personalized recruiting materials during official and unofficial visits, along with permissible use of the reader board.

APPENDIX TWO
Constitution and Bylaw Citations

Division I 2013-14 Manual

11.7.1.1.1.1 Exception—Noncoaching Staff Member with Sport-Specific Responsibilities.

A noncoaching staff member with sport-specific responsibilities (e.g., director of operations, administrative assistant) may participate in organized activities involving only the coaching staff or may perform administrative duties (e.g., attend meetings involving coaching activities, analyze video of the institution's or opponent's team, track statistics during practice or competition). However, such an individual is prohibited from participating in instructional activities with student-athletes and any on-court or on-field activities (e.g., assist with drills, throw batting practice), and is prohibited from participating with or observing student-athletes in the staff member's sport who are engaged in nonorganized voluntary athletically related activities (e.g., pick-up games).

11.7.4 Limitations on Number of Coaches and Off-Campus Recruiters. There shall be a limit on the number of coaches (other than graduate assistant coaches per Bylaw 11.01.3, undergraduate assistant coaches per Bylaw 11.01.4 and volunteer coaches per Bylaw 11.01.5) who may be employed by an institution and who may contact or evaluate prospective student-athletes off campus in each sport as follows:

Sport	Limit
Basketball, Men's.....	4

Division I 2014-15 Manual

11.7.3 Noncoaching Staff Member with Sport-Specific Responsibilities. A noncoaching staff member with sport-specific responsibilities (e.g., director of operations, administrative assistant) is prohibited from participating in on-court or on-field activities (e.g., assist with drills, throw batting practice, signal plays) and is prohibited from participating with or observing student-athletes in the staff member's sport who are engaged in nonorganized voluntary athletically related activities (e.g., pick-up games).

11.7.6 Limitations on Number of Coaches and Off-Campus Recruiters. There shall be a limit on the number of coaches (other than graduate assistant coaches per Bylaw 11.01.3, undergraduate assistant coaches per Bylaw 11.01.4 and volunteer coaches per Bylaw 11.01.5) who may be employed by an institution and who may contact or evaluate prospective student-athletes off campus in each sport as follows:

Sport	Limit
Basketball, Men's.....	4

Division I 2015-16 Manual

10.01.1 Honesty and Sportsmanship. Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

10.1 Unethical Conduct. Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

- (b) Knowing involvement in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete[.]

11.1.1.1 Responsibility of Head Coach. An institution's head coach is presumed to be responsible for the actions of all institutional staff members who report, directly or indirectly, to the head coach. An institution's head coach shall promote an atmosphere of compliance within his or her program and shall monitor the activities of all institutional staff members involved with the program who report, directly or indirectly, to the coach.

11.7.1.1 Countable Coach. An institutional staff member or any other individual outside the institution (e.g., consultant, professional instructor) with whom the institution has made arrangements must count against coaching limits in the applicable sport as soon as the individual participates (in any manner) in any of the following:

- (a) Provides technical or tactical instruction related to the sport to a student-athlete at any time;
- (b) Makes or assists in making tactical decisions related to the sport during on-court or on-field practice or competition; or
- (c) Engages in any off-campus recruiting activities.

11.7.3 Noncoaching Staff Member with Sport-Specific Responsibilities. A noncoaching staff member with sport-specific responsibilities (e.g., director of operations, administrative assistant) is prohibited from participating in on-court or on-field activities (e.g., assist with drills, throw batting practice, signal plays) and is prohibited from participating with or observing student-athletes in the staff member's sport who are engaged in nonorganized voluntary athletically related activities (e.g., pick-up games).

11.7.6 Limitations on Number of Coaches and Off-Campus Recruiters. There shall be a limit on the number of coaches (other than graduate assistant coaches per Bylaws 11.01.3 and 11.01.4, undergraduate assistant coaches per Bylaw 11.01.5 and volunteer coaches per Bylaw 11.01.6) who

may be employed by an institution and who may contact or evaluate prospective student-athletes off campus in each sport as follows:

Sport	Limit
Basketball, Men's.....	4

13.11.1 Prohibited Activities. A member institution, on its campus or elsewhere, shall not conduct (or have conducted on its behalf) any physical activity (e.g., practice session or test/tryout) at which one or more prospective student-athletes (as defined in Bylaws 13.11.1.1 and 13.11.1.2) reveal, demonstrate or display their athletics abilities in any sport except as provided in Bylaws 13.11.2 and 13.11.3.

Division I 2016-17 Manual

11.1.1.1 Responsibility of Head Coach. An institution's head coach is presumed to be responsible for the actions of all institutional staff members who report, directly or indirectly, to the head coach. An institution's head coach shall promote an atmosphere of compliance within his or her program and shall monitor the activities of all institutional staff members involved with the program who report, directly or indirectly, to the coach.

11.7.1.1 Countable Coach. An institutional staff member or any other individual outside the institution (e.g., consultant, professional instructor) with whom the institution has made arrangements must count against coaching limits in the applicable sport as soon as the individual participates (in any manner) in any of the following:

- (a) Provides technical or tactical instruction related to the sport to a student-athlete at any time;
- (b) Makes or assists in making tactical decisions related to the sport during on-court or on-field practice or competition; or
- (c) Engages in any off-campus recruiting activities.

11.7.3 Noncoaching Staff Member with Sport-Specific Responsibilities. A noncoaching staff member with sport-specific responsibilities (e.g., director of operations, administrative assistant) is prohibited from participating in on-court or on-field activities (e.g., assist with drills, throw batting practice, signal plays) and is prohibited from participating with or observing student-athletes in the staff member's sport who are engaged in nonorganized voluntary athletically related activities (e.g., pick-up games).

11.7.6 Limitations on Number of Coaches and Off-Campus Recruiters. There shall be a limit on the number of coaches (other than graduate assistant coaches per Bylaws 11.01.3 and 11.01.4, student assistant coaches per Bylaw 11.01.5 and volunteer coaches per Bylaw 11.01.6) who may be employed by an institution and who may contact or evaluate prospective student-athletes off campus in each sport as follows:

Sport	Limit
Basketball, Men's.....	4
Basketball, Women's.....	4

11.7.6.2.1 Weight or Strength Coach. A weight (strength and conditioning) coach may conduct flexibility, warm-up and physical conditioning activities prior to any game and prior to or during any practice or other organized activities without being included in the limitations on number of coaches.

13.4.1.8.3 Computer-Generated Recruiting Presentations. An institution may produce a computer-generated recruiting presentation (e.g., using presentation software) to show to, play for or provide to a prospect student-athlete, subject to the following provisions:

- (a) The presentation may be posted to the institution's website;
- (b) The presentation may include general informational video/audio material that relates to an institution or its athletics programs and is not created for recruiting purposes;
- (c) The presentation may not be personalized to include a prospective student-athlete's name, picture or likeness; and
- (d) The presentation may not be created by an entity outside the institution.

13.6.7.9 Activities During Official Visit. An institution may not arrange miscellaneous, personalized recruiting aids (e.g., personalized jerseys, personalized audio/video scoreboard presentations) and may not permit a prospective student-athlete to engage in any game-day simulations (e.g., running onto the field with the team during pregame introductions) during an official visit. Personalized recruiting aids include any decorative items and special additions to any location the prospective student-athlete will visit (e.g., hotel room, locker room, coach's office, conference room, arena) regardless of whether the items include the prospective student-athlete's name or picture.

13.7.3 Activities During Unofficial Visit. An institution may not arrange miscellaneous, personalized recruiting aids (e.g., personalized jerseys, personalized audio/visual scoreboard presentations) and may not permit a prospective student-athlete to engage in any game-day simulations (e.g., running onto the field with the team during pregame introductions) during an unofficial visit. Personalized recruiting aids include any decorative items and special additions to any location the prospective student-athlete will visit (e.g., hotel room, locker room, coach's office, conference room, arena) regardless of whether the items include the prospective student-athlete's name or picture.