



UNIVERSITY OF WISCONSIN-STEVENSON POINT
PUBLIC INFRACCTIONS DECISION
February 5, 2019

I. INTRODUCTION

The NCAA Division III Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division III membership and public. The COI is charged with deciding infractions cases involving member institutions and their staffs. This case involved the University of Wisconsin-Stevens Point's (UWSP's) failure to monitor the men's basketball program, which allowed playing and practice seasons and recruiting violations to continue over five academic years.¹ The head men's basketball coach also violated head coach responsibility legislation and the former athletics director (athletics director) engaged in unethical conduct. The COI considered this case through the cooperative summary disposition process in which all parties agreed to the primary facts and violations as fully set forth in the summary disposition report (SDR). The COI proposed additional penalties to UWSP and show-cause orders for the head coach and athletics director. UWSP and the head coach accepted their respective additional penalties and show-cause order and have no opportunity to appeal them. The athletics director contested his show-cause order but the COI maintained the penalty on review of his written submission contesting the penalty. He has the opportunity to appeal the show-cause order.

This case illustrates the consequences of a disconnect between rules education and monitoring systems and the ability to timely recognize, react to and stop violations. The agreed-upon violations center on UWSP's failure to recognize and adequately act on several indications that the men's basketball program routinely conducted impermissible athletically related activities outside of its declared playing and practice seasons. Some of these activities involved impermissible tryouts. Although the activities took place in a highly visible area and multiple individuals reported them to the athletics director, the violations continued over five academic years before UWSP identified and stopped them. The head coach acknowledged that he was personally involved in the violations and failed to promote an atmosphere for compliance. The athletics director also admitted that he acted unethically when he knowingly furnished false or misleading information during the investigation. UWSP gained an extensive competitive and recruiting advantage because of the violations. Institutions—including head coaches and athletics directors—must remain diligent in recognizing, reacting to and stopping violations, even with adequate rules education and monitoring systems in place.

The COI accepts the parties' factual agreements and concludes that major violations occurred. Utilizing NCAA bylaws authorizing penalties, the COI adopts and prescribes four years of

¹ A member of the Wisconsin Intercollegiate Athletic Conference (WIAC), UWSP has an enrollment of approximately 8,600 students. It sponsors nine men's and eleven women's sports. This is the institution's first major infractions case.

probation, a postseason ban, a \$2,500 fine, recruiting restrictions, an outside audit of athletics policies and procedures, playing and practice season restrictions, a 13-game suspension of the head coach and show-cause orders for the head coach and athletics director. The penalties section of this decision details these and other penalties.

II. CASE HISTORY

In October 2015, an individual submitted an anonymous letter to UWSP—with a copy to the enforcement staff—alleging that the men's basketball team impermissibly practiced outside the season. Shortly thereafter, the vice chancellor for student affairs met with the athletics director, head men's basketball coach and an assistant men's basketball coach to discuss the letter. Based on this meeting, the vice chancellor determined that the men's program did not commit violations. After the enforcement staff sent a letter of inquiry, UWSP investigated the matter and self-reported violations in April 2016. After receiving the response to the letter of inquiry, the enforcement staff decided the scope and nature of the violations necessitated further investigation. The parties conducted interviews from August 2016 through October 2017.

The parties submitted the SDR to the COI on May 4, 2018.² The COI initially reviewed the SDR on June 12, 2018. Following this review, the COI requested additional information regarding the agreed-upon violations. In response, the parties provided the COI an addendum to the SDR. On August 17, 2018, the COI reviewed the addendum, accepted the agreed-upon facts and violations, adopted the self-imposed penalties and UWSP's corrective actions, and determined that the violations warranted additional penalties.

On September 4, 2018, the COI proposed additional penalties. Specifically, the COI proposed a four-year probationary period, a ban on men's basketball official visits during this period, an outside audit of athletics policies and procedures, and public reprimand and censure to UWSP, and a two- and three-year show-cause order with restrictions for the head coach and athletics director, respectively. UWSP accepted the additional penalties on September 21, 2018. The head coach initially contested his show-cause order before he accepted it on October 18, 2018. The athletics director contested his show-cause order on September 19, 2018, and requested that the COI review the penalty based on a written submission, which he submitted one month later. The COI reviewed the written submission on November 13, 2018.

² Pursuant to COI Internal Operating Procedure (IOP) 5-15-4, the COI in future cases may view this decision as less instructive than a decision reached after a contested hearing because violations established through the summary disposition process constitute the parties' agreement.

III. PARTIES' AGREEMENTS

PARTIES' AGREED-UPON FACTUAL BASIS, VIOLATIONS OF NCAA LEGISLATION AND TYPE OF VIOLATIONS

The parties jointly submitted an SDR that identified an agreed-upon factual basis, violations of NCAA legislation and type of violations.³ The SDR identified:

1. [NCAA Division III Manual Bylaws 17.1.5, 17.3.2.1, 17.3.2.1.2 and 17.3.4 (2011-12 through 2015-16)]

UWSP and the enforcement staff agree that during the 2011-12 through 2015-16 academic years, the men's basketball coaching staff impermissibly directed, observed and engaged men's basketball student-athletes in athletically related activities outside the institution's declared playing seasons.⁴ Specifically, between the fall of 2011 and fall of 2015, the men's basketball coaching staff routinely observed and influenced, and at times participated in sport-specific activities of men's basketball student-athletes that took place outside the institution's declared playing and practice seasons. These impermissible sessions occurred five days per week over the course of approximately five weeks each fall and five weeks each spring.

2. [NCAA Division III Manual Bylaws 13.11.2.1 and 13.11.2.1.1 (2011-12 through 2014-15)]

UWSP and the enforcement staff agree that in spring semesters between March 2012 and April 2015, the men's basketball coaching staff impermissibly observed approximately 15 men's basketball prospects as they participated with men's basketball student-athletes in the activities detailed in Violation No. 1.

3. [NCAA Division III Manual Bylaw 11.1.2.1 (2011-12 through 2015-16)]

UWSP, the head coach and enforcement staff agree that during the 2011-12 through 2015-16 academic years, the head coach violated NCAA head coach responsibility legislation, as he is presumed responsible for the violations outlined in Violations Nos. 1 and 2 and did not rebut that presumption.⁵

³ This decision provides the agreed-upon factual basis, violations and type of violations as exactly stated in the SDR, except for shortening references to the parties.

⁴ UWSP and the enforcement staff agree the period of violations in this case appropriately begins at the beginning of the 2011 fall semester pursuant to Bylaw 32.6.3-(b).

⁵ The head coach agreed that a head coach responsibility violation occurred regarding his involvement in directing and engaging men's basketball student-athletes in athletically related activities outside the season as detailed in Violation No. 1; however, he did not believe that his involvement in observing student-athletes should be included in the head coach responsibility violation.

Specifically, the head coach did not demonstrate that he promoted an atmosphere of compliance within the men's basketball program due to his personal involvement in the violations.

4. [NCAA Division III Manual Constitution 2.8.1 (2011-12 through 2015-16)]

UWSP and the enforcement staff agree that between the 2011-12 academic year and the fall of 2015, the scope and nature of the violations detailed in Violations Nos. 1 and 2 demonstrate that the athletics director and institution violated the principle of rules compliance when they failed to adequately monitor the men's basketball program's compliance with NCAA playing and practice seasons and tryout legislation. Specifically, the athletics director and institution failed to recognize and/or adequately follow-up on multiple indications that the men's basketball program was routinely conducting athletically related activities outside of its declared playing and practice seasons, sometimes resulting in impermissible tryouts.

5. [NCAA Division III Manual Bylaws 10.1 and 10.1-(d) (2015-16 through 2017-18)]

The athletics director and the enforcement staff agree that on February 17 and October 11, 2016, and September 27, 2017, the athletics director violated the principles of NCAA ethical conduct when he knowingly furnished the enforcement staff and/or UWSP false or misleading information regarding his knowledge of the violations detailed in Violation No. 1. Specifically, the athletics director reported that he did not know the men's basketball coaching staff was observing and involved in out-of-season athletically related activities of men's basketball student-athletes, which is contrary to information reported by multiple individuals.

IV. REVIEW OF CASE

Agreed-Upon Violations

The SDR fully detailed the parties' positions and included the agreed-upon primary facts, violations and type of violations. After reviewing the parties' principal factual agreements and respective explanations surrounding those agreements, the COI accepts the parties' SDR, including the addendum to the SDR, and concludes that major violations occurred. Specifically, the COI concludes that UWSP failed to monitor the men's basketball program, which allowed impermissible athletically related activities and tryouts to continue, collectively, over five academic years.⁶ In addition, the head coach failed to promote an atmosphere for compliance

⁶ The full text of all bylaws violated in this case is at Appendix Two.

due to his personal involvement in violations. The athletics director also acted unethically when he knowingly furnished false or misleading information during the investigation.

Impermissible Athletically Related Activities and Tryouts

As agreed to by UWSP, over five academic years, the men's basketball coaching staff impermissibly directed, observed and engaged men's basketball student-athletes in athletically related activities outside the declared playing and practice seasons. Further, in the spring semesters during this period, the coaching staff impermissibly observed men's basketball prospects as they participated with the student-athletes in these activities. The coaching staff's conduct violated NCAA Bylaws 17 and 13. UWSP gained an extensive competitive and recruiting advantage because of the violations.

Bylaws 17 and 13 govern playing and practice seasons and recruiting, respectively. Bylaw 17 and its subparts restrict student-athletes and coaching staff members from engaging in athletically related activities outside the declared playing and practice season, which cannot begin earlier than October 15 and must end by the conclusion of the NCAA Basketball Championship. Bylaws 13.11.2.1 and 13.11.2.1.1 prohibit athletics staff from observing or conducting physical workouts or other recreational activities designed to test the athletics abilities of a prospect (i.e., tryouts).

In the fall of 2011, shortly after the athletics director assumed his position, the men's basketball coaching staff began directing, observing and engaging men's basketball student-athletes in drills and scrimmages against each other outside of the season. During the fall term, the sessions occurred five days per week for approximately five weeks from near the beginning of September until the start of official practice. During the spring term, the sessions occurred five days per week for approximately five weeks from late March until early May. The sessions continued until October 2015.

The coaching staff involved themselves in nearly all aspects of the sessions. Initially, the coaching staff facilitated scheduling and location. For instance, the staff reserved space for the sessions in the institution's main basketball facility through the facilities director. At the team's first meeting each year, the coaches advised the student-athletes when they would be able to avoid class and facility conflicts and be on the court to play and workout with one another. The coaches also communicated an expectation that the sessions occur outside the season.

Ensuring the sessions occurred in the gym, the coaching staff observed the student-athletes' activities from the balcony area overlooking the entire floor. The head coach typically observed only the portion of the sessions involving scrimmages. His assistant coaches, however, observed both the drills and scrimmage segments of the sessions.

Prior to and while observing the activities, the coaching staff directly influenced the activities during the sessions. The coaching staff generated workout sheets that listed various drills to be completed and provided space for the student-athletes to record their performances. In 2014 and 2015, the head coach selected teams for the scrimmages. Assistant coaches joined the student-

athletes as participants during the scrimmages on various occasions during the fall of 2015. In some instances, the coaches provided feedback to individual student-athletes during the sessions or information to a captain to pass on to the rest of the team. UWSP violated Bylaw 17 when the coaching staff directed, observed and engaged the student-athletes in the out-of-season activities.

The coaching staff also permitted men's basketball prospects visiting the institution to participate in the sessions. According to records collected during the visits, 15 prospects had itineraries listing an opportunity to play with the team. UWSP violated Bylaws 13.11.2.1 and 13.11.2.1.1 when the coaching staff observed prospects participating in the activities, which converted the activities into impermissible tryouts.

Pursuant to Bylaw 19.02.2, the COI concludes that the playing and practice seasons and recruiting violations are major because they gave UWSP an extensive advantage. The student-athletes' participation in the out-of-season activities provided them extra practice opportunities and skill instruction, and furnished the coaches with additional opportunities to assess player and team development. The COI has regularly concluded that impermissible athletically related activities yield a competitive advantage and are major violations. *See Occidental College* (2013) (concluding that student-athletes participated in impermissible out-of-season activities when they attended and took part in club team practices over roughly 15 months); and *Ohio Northern University* (2005) (concluding that student-athletes engaged in impermissible out-of-season activities when they participated in drills and lifted weights at the direction of coaches over a one-week period). Likewise, the impermissible tryouts enabled the coaching staff to evaluate prospects in a closed setting by watching them compete alongside student-athletes. For nearly half a decade, these violations gave UWSP an unfair competitive and recruiting advantage to the detriment of institutions that complied with the legislation.

Head Coach Responsibility

The head coach directly participated in these violations. He failed to promote an atmosphere for compliance within the program because of this personal involvement.⁷ He agreed that his conduct violated head coach responsibility legislation under Bylaw 11.

Bylaw 11 addresses the conduct of athletics personnel, including head coaches. Bylaw 11.1.2.1 specifies that a head coach must promote an atmosphere for compliance within his program and monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.

The head coach's personal involvement in impermissibly directing and engaging student-athletes in out-of-season athletically related activities during the 2011-12 through 2015-16 academic years violated Bylaw 11.1.2.1. The head coach distributed workout and skill instruction sheets to student-athletes for use during the impermissible sessions. Further, in 2014 and 2015, he

⁷ The head coach agreed with the enforcement staff that a head coach responsibility violation occurred regarding his involvement in directing and engaging the student-athletes in out-of-season athletically related activities. He did not, however, agree that his involvement in observing the student-athletes or prospects should be part of the head coach responsibility violation. The COI recognizes this area of disagreement and bases the head coach responsibility violation only on what both parties agreed to.

selected teams for scrimmages during the sessions. The head coach also authorized assistant coaches whom he considered graduate assistants to join the student-athletes as participants during the scrimmages, and they did so at times during the fall of 2015. The head coach did not ask the athletics director whether this involvement in out-of-season activities was permissible.

While the COI acknowledges the head coach's lack of previous violations, his actions demonstrated that rules compliance was not foremost on his mind as he conducted his program. The legislated restrictions on out-of-season athletically related activities are fundamental. The head coach, however, failed to inquire about the permissibility of his and the coaching staff's involvement in out-of-seasons activities with student-athletes. Consequently, he impermissibly directed and engaged student-athletes in these activities over five academic years.

The COI has consistently concluded that head coach responsibility violations occur when a coach is personally involved in violations. *See College of Staten Island* (2013) (concluding that a major violation occurred when the head coach provided impermissible recruiting inducements and benefits to prospects and student-athletes); *Occidental* (concluding that a major violation occurred due to the head coach's involvement in recruiting, benefits, and playing and practice season violations); *Illinois College* (2012) (concluding that major violations occurred when two head coaches knowingly sent impermissible text messages to prospects); and *Kean University* (2012) (concluding that a major violation occurred when the head coach failed to consult with the compliance office and committed financial aid and benefits violations). Like in these cases, the head coach failed to promote an atmosphere for compliance due to his personal involvement in violations. Further, pursuant to Bylaw 19.02.2 and consistent with these cases, this is a major violation because it resulted from major violations.

Failure to Monitor

UWSP, like the head coach, fell short of its legislated duties. UWSP agreed that it failed to monitor the men's basketball program's compliance with playing and practice seasons and recruiting legislation over five academic years. Even with rules education and monitoring systems in place, UWSP did not recognize and adequately act on multiple indications that the program routinely conducted out-of-season athletically related activities, sometimes resulting in impermissible tryouts.

NCAA Constitution 2.8.1 requires institutions to monitor their athletics programs to assure compliance with NCAA rules and regulations. Constitution 2.8.1 also requires institutions to identify rules violations and report any violations to the Association.

The investigation revealed multiple monitoring deficiencies and red flags that should have caused UWSP to recognize, react to and stop the violations. Chiefly, the impermissible activities took place in a highly visible area near offices for the athletics director and other athletics staff. The balcony from which the men's basketball coaches observed the workouts was a main pathway and the coaches' actions were easily visible to athletics administrators.

Notwithstanding his proximity to the activities, several athletics staff members alerted the athletics director to the head coach observing student-athletes during their out-of-season sessions. The head women's basketball coach informed the athletics director on multiple occasions over multiple years that she witnessed the men's basketball coaching staff observing out-of-season activities. She specifically advised the athletics director that she believed these observations were impermissible. The former physical education department chair told the athletics director in the fall of 2013 about the head coach's involvement in workouts and expressed concern that the coaching staff required too much of the student-athletes at-times outside the season, which risked injury. In April 2014, the then physical education department chair forwarded to the athletics director an email that the head coach wrote to her regarding spring off-season workouts. The email detailed the participants, activities included in the workouts and that the entire facility would be reserved for use by the team. Despite these alerts, the athletics director did not recognize, react to and stop the impermissible conduct. Further, he and other athletics staff failed to provide information concerning playing and practice seasons and other relevant legislation to those involved in scheduling facilities. Because of this, the schedulers did not recognize that holding courts for student-athletes during times where practices were impermissible created a risk of violations.

Remarkably, UWSP failed to adequately act on reports of potential violations even through the beginning of the investigation in this case. When an anonymous source provided information regarding playing and practices seasons violations to the institution in October 2015, the vice chancellor met with the athletics director, head coach and an assistant men's basketball coach to discuss the report. UWSP, however, did not identify violations and declined to conduct further investigation. UWSP did not detect violations until the enforcement staff directed it to conduct further inquiry in January 2016.

Institutions must identify violations and report them, especially with ample warnings of potential violations. It is particularly imperative that athletics directors act on these warnings. The COI has concluded that failure to monitor violations occur when athletics directors do not do so. See *Thomas More College* (2016) (concluding that a major violation occurred when the athletics director, head coach and compliance officer did not initially recognize an impermissible housing arrangement and failed to react when they recognized it, which allowed the arrangement to continue for months and an ineligible student-athlete to compete and receive expenses); and *Illinois* (concluding that a major violation occurred when the athletics director did not investigate potential violations involving a head coach's impermissible text messages). In this case, although the institution had adequate rules education and monitoring systems in place, it did not meet its obligation to identify and report the playing and practice seasons and recruiting violations. This failure was significant in light of the multiple red flags and alerts provided to the athletics director over five academic years. Pursuant to Bylaw 19.02.2 and consistent with *Thomas More* and *Illinois*, UWSP's failure to monitor is a major violation.

Athletics Director's Unethical Conduct

The athletics director acted unethically during the investigation into the violations. In three interviews, he reported to the enforcement staff and/or UWSP that he did not know the men's

basketball coaching staff was observing and involved in the out-of-season athletically related activities. This was contrary to information reported by multiple individuals. The athletics director agreed that his assertions were knowingly false or misleading. The conduct violated Bylaw 10.1.

Athletics directors, like all athletics staff, must conduct themselves in an ethical manner. Bylaw 10.1 identifies behaviors that constitute unethical conduct. As specified in Bylaw 10.1-(d), these behaviors include knowingly furnishing false or misleading information concerning involvement in or knowledge of matters relevant to a possible violation to the enforcement staff or institution.

The enforcement staff and/or institution interviewed the athletics director three times—on February 17 and October 11, 2016, and September 27, 2017—regarding potential violations. During each interview, the athletics director claimed that he did not recall anyone informing him that coaches were observing or directing out-of-season activities. The athletics director also maintained that he did not recall watching out-of-season men's basketball with any coaching staff members. Multiple individuals, however, contradicted these assertions. In addition, the athletics director worked in an area where these activities were easily observed and not concealed.

Multiple individuals outside the men's basketball program informed the athletics director that the head coach observed out-of-season activities. The head women's basketball coach repeatedly told the athletics director over multiple years that the men's basketball coaching staff was observing out-of-season activities, which she believed to be impermissible. The former physical education department chair expressed concern to the athletics director in the fall of 2013 regarding what the head coach required from student-athletes outside the season and told him about the head coach's involvement in workouts. In April 2014, the then physical education department chair forwarded an email to the athletics director she received from the head coach detailing his plans to be involved in off-season workouts.

In addition, the athletics director himself witnessed the impermissible observations. The head coach and an assistant coach stated that the athletics director stopped by while they were observing student-athletes in open gyms, especially early in the period of violations. In addition, the head women's basketball coach saw the athletics director standing with men's basketball coaches on at least one occasion while they were observing student-athletes before the start of the season. In fact, the out-of-season activities took place in a heavily trafficked area of the main basketball facility. The coaches did not conceal that they were viewing the activities on the court. Further, the coaches observed from an area that served as the pathway between sections of the facility.

The weight of information provided by multiple individuals during the investigation and the location of the impermissible activities demonstrated the athletics director's awareness of the playing and practice seasons violations. The athletics director knowingly furnished false or misleading information during his interviews with the enforcement staff and/or UWSP when he reported that he did not recall anyone informing him that coaches were observing or directing basketball activities outside the season and that he did not recall watching out-of-season men's

basketball with any coaching staff members. These denials constituted unethical conduct pursuant to Bylaw 10.1-(d).

Failing to give truthful information substantially damages the enforcement staff's and institution's ability to conduct a thorough and timely investigation. As the COI has recently warned, being honest and forthcoming during an investigation is critical to the infractions process. See *College of Mount Saint Vincent* (2018) (concluding that a major ethical conduct violation occurred when the athletics director provided false or misleading information regarding his knowledge of an impermissible recruiting inducement). Because of its impact on the process, in accordance with Bylaw 10.1-(d), the COI has consistently concluded that the knowing provision of false or misleading information during an investigation is unethical conduct. See *York College* (2017) (concluding that a major violation occurred when the head coach provided false or misleading information regarding his knowledge and role in impermissible student-athlete certification); *Staten Island* (concluding that a major violation occurred when the head coach provided false or misleading information regarding his involvement in arranging impermissible benefits); and *Illinois* (concluding that a major violation occurred when a head coach provided false or misleading information regarding his involvement in sending impermissible texts). In this case, the false or misleading information regarding the athletics director's knowledge of violations impacted the ability to conduct a thorough and timely investigation. This seriously undermines and threatens the integrity of the NCAA collegiate model. Pursuant to Bylaw 19.02.2, like in *Mount Saint Vincent*, *York*, *Staten Island* and *Illinois*, the ethical conduct violation is major because of this impact on the model.

Contested Penalty

After accepting the facts, violations, nature of violations, self-imposed penalties and corrective actions, the COI proposed additional penalties to the parties. UWSP and the head coach accepted the additional penalties. The athletics director, however, contested the duration of his three-year show-cause order and requested that the COI resolve his challenge on the basis of his written submission in lieu of an expedited penalty hearing. After reviewing the athletics director's written submission, the COI determines that no modifications to the proposed show-cause order are warranted. The duration of the order is appropriate due to the ethical conduct violation.

The COI prescribed a three-year show-cause order with restrictions for the athletics director. Specifically, during the three-year show-cause period, the show-cause order required the athletics director to attend two Regional Rules Seminars and receive ethics training. In prescribing the show-cause order, the COI evaluated mitigating and other relevant factors submitted pursuant to Bylaw 32.7.1.3. As part of this evaluation, the COI considered the athletics director's statement and overall position on the case, undated correspondence from the president at the member institution currently employing the athletics director and corrective actions that the athletics director and his current institution identified.⁸ Because of the agreed-

⁸ The corrective actions consisted of a three-month probationary period in which the athletics director will meet regularly with the associate athletics director for compliance and president to ensure full understanding of NCAA legislation, completion of a Division II compliance blueprint review and attendance at multiple Regional Rules Seminars.

upon ethical conduct violation, however, the COI determined that the three-year show-cause order with restrictions was warranted.

The athletics director accepted the restrictions of the show-cause order but contested its duration. Specifically, he attempted to distinguish the unethical conduct in *Hunter College* (2016) and *Southern Vermont College* (2009), which the COI cited in its correspondence to the athletics director proposing the show-cause order, with the unethical conduct in this case. In *Hunter*, an information systems employee falsified entrance exam records of student-athletes over several years. He also violated the NCAA cooperative principle. In *Southern Vermont*, the head coach knowingly permitted two ineligible student-athletes to compete during one term. The athletics director argued that he struggled to find similarity and correlation between the intentional conduct by the information systems employee and coach in *Hunter* and *Southern Vermont*, respectively, and his own conduct, which he described as an inability to accurately recollect events. He also asserted that his request to secure and complete an NCAA Division II compliance blueprint review at his current institution distinguished this case from *Hunter* and *Southern Vermont*. As an alternative to the show-cause order, the athletics director requested a period of probation. The athletics director's arguments, however, lack merit.

Although both *Hunter* and *Southern Vermont* involved staff members who engaged in different types of unethical conduct than the athletics director, the COI has determined that ethical conduct violations are serious offenses that warrant significant penalties. The athletics director appears to assert that knowingly providing false or misleading information during an investigation is not as serious as other unethical conduct and that the COI should accordingly prescribe a shorter show-cause period. Unethical conduct—whether providing false or misleading information during an investigation, falsifying exam records or permitting ineligible student-athletes to compete—however, is still unethical conduct. One kind of unethical conduct does not necessarily justify a less stringent penalty than another. Even further, as the athletics director acknowledged in the SDR and contrary to his position in the written submission, he *knowingly* furnished false or misleading information. This is not materially different than the intentional actions of the information systems employee and coach in *Hunter* and *Southern Vermont*, as asserted by the athletics director. In addition, while the COI considered that the athletics director secured and completed a compliance blueprint review at his current institution in proposing the show-cause order, the compliance blueprint review does not distinguish this case from the others. Like in *Hunter* and *Southern Vermont*, a multi-year show-cause order is warranted due to the athletics director's unethical conduct. Three years is particularly appropriate in light of the restrictions in the show-cause order, which the athletics director does not contest.

In addition, the probationary period requested by the athletics director as an alternative to the show-cause order is not proper under the legislation. As set forth in Bylaw 19.5.2, probation applies to institutions and not involved individuals. Instead, Bylaw 19.5.2-(q) specifically permits the COI to issue a show-cause order against an institutional staff member if that individual committed unethical conduct.

After fully considering the athletics director's position, the COI determines that no modifications to the proposed show-cause order are warranted. The three-year duration of the order is appropriate because the athletics director engaged in unethical conduct.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the COI concludes this case involved major violations of NCAA legislation. Major violations are not isolated or inadvertent and provide an extensive recruiting or competitive advantage.

Because UWSP and the head coach agreed to the facts and their respective violations and accepted the respective proposed additional penalties and show-cause order, they have no opportunity to appeal pursuant to Bylaw 32.7.1.4.1. The athletics director agreed to the facts and ethical conduct violation but contested the show-cause order. Therefore, in accordance with Bylaw 32.7.1.4.3, he may appeal the show-cause order. In prescribing penalties, the COI evaluated relevant mitigating and other factors submitted pursuant to Bylaw 32.7.1.3. As part of its evaluation, the COI considered UWSP's cooperation in all parts of the case and determines it was consistent with UWSP's obligation under Bylaw 32.1.3. The COI also considered UWSP's corrective actions as set forth in Appendix One, the corrective actions identified by the head coach and athletics director as contained in the SDR and the action taken by UWSP relative to the head coach. After considering all information relevant to the case, the COI prescribes the following penalties (self-imposed penalties are so noted):

Penalties for Major Violations (Bylaw 19.5.2)

1. Public reprimand and censure through the release of the public infractions decision.
2. Four years of probation from February 5, 2019, to February 4, 2023.⁹
3. During this period of probation, UWSP 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 ensuring compliance with NCAA legislation on certification and recruiting;
 - b. Submit a preliminary report to the NCAA Office of the Committees on Infractions (OCOI) by March 22, 2019, setting forth a schedule for establishing this compliance and educational program;

⁹ UWSP proposed a three and one-half year probationary period concluding on June 30, 2020. Institutions may propose probationary periods, but the authority to prescribe probation rests solely with the COI. Periods of probation commence with the release of the infractions decision.

- c. File with the OCOI a final compliance report indicating the progress made with this program by December 22, 2022. Particular emphasis shall be placed on rules education regarding recruiting and playing and practice seasons legislation;
 - d. Inform men's basketball prospects in writing that UWSP is on probation for four years and detail the violations committed. This information shall be provided to a prospect as soon as practicable after the prospect is recruited pursuant to Bylaw 13.02.8 and, in all instances, before the prospect signs a financial aid agreement or initially enrolls at the institution, whichever is earlier;
 - e. Publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport program and a direct, conspicuous link to the public infractions decision located on the athletics department's main webpage "landing page" and in the media guides for men's basketball. The institution's statement must: (i) clearly describe the infractions; (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.
4. Following the receipt of the final compliance report and prior to the conclusion of probation, UWSP's chancellor shall provide a letter to the COI affirming that UWSP's current athletics policies and practices conform to all requirements of NCAA regulations.
 5. The men's basketball team ended its 2016-17 season with the playing of its last regularly-scheduled in-season contest and did not participate in any postseason championship or other contest occurring after the last regularly-scheduled in-season contest, including conference tournament, NCAA championship, foreign tour or any other contest that met a legislated exemption to the maximum number of contests. (Self-imposed.)
 6. UWSP shall pay a \$2,500 fine. (Self-imposed.)
 7. UWSP has not provided official visits for men's basketball prospects since January 1, 2017. (Self-imposed.) UWSP shall continue to not provide official visits for men's basketball prospects through the probationary period.¹⁰
 8. UWSP shall retain the services of an outside entity to perform an audit of UWSP's athletics policies and procedures, with a particular emphasis on compliance policies and procedures and rules education. The audit shall ensure that the compliance policies and procedures comply with NCAA legislation. UWSP shall implement and abide by the reviewer's recommendations. The results of the audit and steps taken to implement and abide by the recommendations shall be included in the institution's final compliance report.

¹⁰ UWSP self-imposed a ban on official visits for men's basketball prospects from January 1, 2017, through June 30, 2020.

9. Show-cause order, athletics director. The athletics director violated ethical conduct legislation when he knowingly furnished false or misleading information to the enforcement staff and/or UWSP concerning his knowledge of violations on three separate occasions. Therefore, the athletics director shall be subject to a three-year show-cause order from February 5, 2019, to February 4, 2022. During this three-year show-cause period, the athletics director shall attend two Regional Rules Seminars and receive ethics training.

Any member institution employing the athletics director during the show-cause period that does not agree to the restrictions shall contact the OCOI to request an appearance before the COI to contest the show-cause order. If the employing institution agrees to the restrictions, it shall submit a plan detailing how it will monitor and adhere to the restrictions in the show-cause order by March 22, 2019. Thereafter, the institution shall file a report with the OCOI at the end of each year of the show-cause period detailing compliance with the show-cause order. The reports shall include verification that the athletics director attended two Regional Rules Seminars during the show-cause period and document the sessions attended and compliance education provided to him. The reports shall also include verification that the athletics director received ethics training during the show-cause period and document the substance of the ethics training.

Although each case is unique, the show-cause order is consistent with those prescribed in prior cases involving ethical conduct violations. *See Hunter* (prescribing a five-year show-cause order with a prohibition on involvement in testing and admissions processes related to prospects and student-athletes for a staff member who engaged in unethical conduct when he falsified and/or tampered with exam records over four academic years); and *Southern Vermont* (prescribing a four-year show-cause order for a head coach who engaged in unethical conduct when he knowingly permitted two ineligible student-athletes to compete during one term). Ethical conduct violations merit stringent penalties. In this case, because the athletics director knowingly provided the enforcement staff and/or institution false or misleading information, a three-year show-cause order with restrictions is appropriate.

10. Show-cause order, head coach. The head coach violated head coach responsibility legislation over five academic years. Specifically, the head coach did not promote an atmosphere for compliance within the men's basketball programs due to his personal involvement in directing and engaging men's basketball student-athletes in athletically related activities outside the playing and practice season from the 2011-12 through 2015-16 academic years. Therefore, the head coach shall be subject to a two-year show-cause order from February 5, 2019, to February 4, 2021. During this two-year show-cause period, the head coach shall attend one Regional Rules Seminar and receive ethics training. The COI acknowledges the 13-game suspension during the 2016-17 season, public announcement and letter of reprimand associated with the suspension and required attendance at the Regional Rules Seminar in 2016 as detailed in Penalties V-13, V-14 and V-15. The COI could have prescribed a more stringent show-cause order if UWSP had not taken this action.

Any member institution employing the head coach during the show-cause period that does not agree to the restrictions shall contact the OCOI to request an appearance before the COI

to contest the show-cause order. If the employing institution agrees to the restrictions, it shall submit a plan detailing how it will monitor and adhere to the restrictions in the show-cause order by March 22, 2019. Thereafter, the institution shall file a report with the OCOI at the end of each year of the show-cause period detailing compliance with the show-cause order. The reports shall include verification that the head coach attended one Regional Rules Seminar during the show-cause period and document the sessions attended and compliance education provided to him. The reports shall also include verification that the head coach received ethics training during the show-cause period and document the substance of the ethics training.

Although each case is unique, the show-cause order is consistent with those prescribed in prior cases involving head coach responsibility violations. *See Occidental* (prescribing a two-year show-cause order with required Regional Rules Seminar attendance and off-campus recruiting restrictions for a head coach who failed to promote an atmosphere for compliance because of his personal involvement in recruiting, benefits, and playing and practice seasons violations over two academic years); and *Kean* (prescribing a four-year show-cause order with required ethics training, required Regional Rules Seminar attendance, restrictions on communications with personnel and coaching suspension for a head coach who failed to promote an atmosphere for compliance because of her personal involvement in financial aid and benefits violations on multiple occasions and failure to consult with or involve the athletics department in the circumstances underlying the violations). In this case, because the head coach did not promote an atmosphere for compliance within the men's basketball program due to his personal involvement in the violations over a five-year period, a two-year show-cause order is appropriate.

11. UWSP delayed the first practice date for the men's basketball team for the 2017-18 season by three days from the first permissible date. UWSP shall also delay the first practice date for the men's basketball program for the 2018-19 and 2019-20 seasons by three days from the first permissible dates. (Self-imposed.)
12. UWSP forfeited three practices for the men's basketball team at the beginning of the 2016-17 season. (Self-imposed.)
13. UWSP suspended the head coach for 13 games from January 5, 2017, through February 18, 2017. During the suspension, UWSP did not permit the head coach to have any contact or communication with men's basketball student-athletes or men's basketball coaching staff members, or attend any practices or contests involving the men's basketball team. (Self-imposed.)
14. UWSP publicly announced the suspension of the head coach and placed a letter of reprimand in his file. (Self-imposed.)
15. As set forth in the corrective actions, UWSP required the head coach to attend the Regional Rules Seminar in 2016, required an athletics staff member to attend the Regional Rules Seminars in 2017 and 2018, and will require an athletics staff member to attend the Regional

Rules Seminar in 2019. Consistent with this correction action, UWSP shall require an athletics staff member to attend the Regional Rules Seminar in 2019.

As required by NCAA legislation for any institution involved in a major infractions case, UWSP shall be subject to the provisions of Bylaw 19.5.2.3 concerning repeat violators for a five-year period beginning on the effective date of the penalties in this case, February 5, 2019. The COI further advises UWSP 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 UWSP contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the probationary period, prescribing more severe penalties or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS

Christopher Bledsoe
Gail Cummings-Danson
Effel Harper
Tracey Hathaway
Gerald Houlihan, Chair

APPENDIX ONE

**UWSP'S CORRECTIVE ACTIONS AS IDENTIFIED IN THE
MAY 4, 2018, SUMMARY DISPOSITION REPORT**

1. UWSP shall clearly establish its commitment to NCAA rules compliance as evidenced by:
 - a. Clarifying the role, expectations and reporting structure of the individual identified as having primary overall compliance responsibility.
 - b. Establishing clear expectations for all athletics department staff as to reporting concerns or possible violations.
 - c. Training staff as to how to proceed when reported concerns appear to go unaddressed.
 - d. The chancellor addressing UWSP's athletics department staff (to include part-time and volunteer staff members) on the importance of, and UWSP's commitment to, rules compliance at the beginning of each academic year.
 - e. The vice chancellor for student affairs, who oversees athletics, completed the NCAA Division III athletics direct report workshop at the 2018 NCAA Convention.
2. UWSP will develop and immediately implement a comprehensive rules-education program to include:
 - a. Attendance at the Regional Rules Seminar in 2016, 2017, 2018 and 2019 by an athletics staff member with a special emphasis on attending those sessions pertaining to Bylaw 17. The attending staff member will be required to provide an educational session to all staff members upon return to campus. UWSP required the head men's basketball coach to attend the Regional Rules Seminar in 2016.
 - b. UWSP is currently conducting, and will continue to conduct, monthly rules education sessions for all athletics staff members. These sessions will focus primarily on Bylaws 13, 14, 15, 16 and 17, as well as those WIAC rules that are more restrictive than what the NCAA requires. At each meeting a head coach will develop and present to the group on a specific NCAA bylaw.
3. UWSP will restructure its compliance monitoring programs by:
 - a. Conducting a monthly meeting of the vice chancellor for student affairs, athletics director and compliance coordinator to discuss compliance-related matters, updates and concerns.
 - b. Requiring that all reservations of athletics facilities by coaching staff members outside the playing season are approved by the athletics director.
 - c. Requiring that itineraries for all campus visits by prospects be prepared and submitted to the compliance coordinator for review and approval at least 48 hours prior to the visit.

APPENDIX TWO

Constitution and Bylaw Citations

Division III 2011-12 Manual

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

11.1.2.1 Responsibility of Head Coach. It shall be the responsibility of an institution's head coach to promote an atmosphere for compliance within the program supervised by the coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.

13.11.2.1 Traditional Tryout. It is impermissible for an athletics department coaching staff member to observe or conduct physical workouts or other recreational activities designed to test the athletics abilities of a prospective student-athlete.

13.11.2.1.1 Permissible Observation of Recreational Activities. A coaching staff member who observes a prospective student-athlete engaging in recreational activities is not considered to be conducting a tryout, provided:

- (a) The documented job responsibilities for the coaching staff member include monitoring of an institutional facility for purposes of safety and facility security; and
- (b) The observation occurs while the coaching staff member performs this monitoring responsibility. This exception does not permit a coaching staff member to direct, supervise or provide instruction to prospective student-athletes, but permits a coaching staff member to stop any activity that is dangerous to a prospective student-athlete or other students.

17.1.5 Out-of-Season Athletically Related Activities. Student-athletes and members of the coaching staff shall not engage in athletically related activities outside the institution's declared playing season per Bylaw 17.02.1.1, except as otherwise noted in this bylaw.

17.3.2.1 On-Court Practice. A member institution shall not commence on-court preseason basketball practice sessions before October 15.

17.3.2.1.2 Prohibited Activities. Before the start of on-court preseason basketball practice per Bylaw 17.3.2.1, members of the institution's coaching staff may not be involved in athletically related activities with one or more team members at any location (see Bylaw 17.02.1.1).

17.3.4 End of Playing Season. All practice and competition shall be completed by the conclusion of the NCAA Basketball Championship.

Division III 2012-13 Manual

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

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17.3.4 End of Playing Season. All practice and competition shall be completed by the conclusion of the NCAA Basketball Championship.

Division III 2013-14 Manual

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

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- (b) The observation occurs while the coaching staff member performs this monitoring responsibility. This exception does not permit a coaching staff member to direct, supervise or provide instruction to prospective student-athletes, but permits a coaching staff member to stop any activity that is dangerous to a prospective student-athlete or other students.

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17.3.4 End of Playing Season. All practice and competition shall be completed by the conclusion of the NCAA Basketball Championship.

Division III 2014-15 Manual

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

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17.3.4 End of Playing Season. All practice and competition shall be completed by the conclusion of the NCAA Basketball Championship.

Division III 2015-16 Manual

2.8.1 Responsibility of Institution. Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

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:

(d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.

11.1.2.1 Responsibility of Head Coach. It shall be the responsibility of an institution's head coach to promote an atmosphere for compliance within the program supervised by the coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.

17.1.5 Out-of-Season Athletically Related Activities. Student-athletes and members of the coaching staff shall not engage in athletically related activities outside the institution's declared playing season per Bylaw 17.02.1.1, except as otherwise noted in this bylaw.

17.3.2.1 On-Court Practice. A member institution shall not commence on-court preseason basketball practice sessions before October 15.

17.3.2.1.2 Prohibited Activities. Before the start of on-court preseason basketball practice per Bylaw 17.3.2.1, members of the institution's coaching staff may not be involved in athletically related activities with one or more team members at any location (see Bylaw 17.02.1.1).

17.3.4 End of Playing Season. All practice and competition shall be completed by the conclusion of the NCAA Basketball Championship.

Division III 2016-17 Manual

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:

- (d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.

Division III 2017-18 Manual

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:

- (d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.