



**UNIVERSITY OF MEMPHIS
PUBLIC INFRACTIONS DECISION
June 21, 2023**

I. INTRODUCTION

The NCAA Division I Committee on Infractions (COI) is an independent administrative body comprised of individuals from the NCAA Division I membership and the public charged with deciding infractions cases involving member institutions and their staffs.¹ This case involved impermissible recruiting contacts and a related head coach responsibility violation in the men's basketball program at the University of Memphis.

The panel processed Memphis' violations through the negotiated resolution (NR) process. Memphis agreed to the facts, violations, and penalties. The approved NR may be found at Appendix Two of this decision. The head men's basketball coach agreed that the impermissible recruiting contacts occurred but challenged the level of the violation. He also disputed the head coach responsibility allegation. This decision solely relates to the head coach's conduct.

The conduct at issue in this case is uncontested. It involves two in-person home visits with a prospect, prior to the time it was permissible to do so. First, on September 15, 2021, an assistant men's basketball coach traveled to Texas and made an in-home visit with a top-20, 2023 prospect and his parents. Two weeks later, the head coach also made an in-home visit with the prospect and his parents. The prospect had just begun his junior year of high school. Although NCAA rules allow men's basketball coaches to have in-person off-campus contact with prospects during their junior year, those visits must occur at the prospect's school.² The panel concludes that the impermissible contacts establish a Level II violation because it provided the men's basketball program with a recruiting advantage over other compliant programs.

The head coach is presumed responsible for both his and his assistant coach's impermissible recruiting visits. The head coach claimed that he should not be held responsible for the violations because he did not know NCAA rules prohibited in-person home visits and Memphis' compliance office failed to appropriately train his newly promoted director of recruiting on the institution's compliance software. The head coach did not rebut his presumed responsibility. Moreover, either he knew or should have known the visits were impermissible. He and his staff had been educated about recruiting contacts and specifically the prohibition around in-home visits. The

¹ Infractions cases are decided by hearing panels comprised of COI members. Panels issue decisions on behalf of the COI.

² A minor exception allows coaches to meet with prospects and their families at the prospect's home or school during the month of April.

head coach never asked or clarified whether in-home visits could occur prior to his assistant coach's or his visit. Notwithstanding, ignorance of the rules is not an excuse. Finally, when the head coach promoted the director of recruiting, he did not ensure that the director of recruiting received the proper training to do his job. The head coach is responsible for the director of recruiting. The panel concludes that a Level II head coach responsibility violation occurred.

The bylaws at issue are fundamental to the men's basketball recruiting landscape and Memphis' failure to follow them provided its men's basketball program with a competitive advantage over compliant programs. Moreover, the head coach's inattentiveness to compliance—particularly at a time when his program was under scrutiny related to a different infractions case—resulted in careless violations. Head coaches must remain diligent in monitoring their staff and promoting compliance at all times and cannot delegate those responsibilities to compliance staff members and administrators. The panel classifies the head coach's violations as Level II-Mitigated and prescribes a three-game suspension.

II. CASE HISTORY

The violations in this case came to light on October 5, 2021, when the parents of a highly rated 2023 men's basketball prospect posted a picture on social media of themselves, their son and the head Memphis men's basketball coach (head coach). The picture was taken in their home. The NCAA enforcement staff informed Memphis of the post, and Memphis investigated the matter. On January 4, 2022, Memphis self-reported to the enforcement staff impermissible recruiting contacts involving a then-assistant men's basketball coach and the head coach. On January 7, 2022, the enforcement staff issued a notice of inquiry and commenced a collaborative inquiry into the matter with Memphis.

On October 26, 2022, Memphis and the enforcement staff agreed to process the case via NR, and those parties submitted an NR to the COI on November 14, 2022. On November 18, 2022, the enforcement staff issued a notice of allegations (NOA) to the head coach. On December 9, 2022, and in accordance with NCAA Bylaw 19.5.12 (2021-22 Division I Manual), a three-member panel preliminarily approved the NR.³

On February 7, 2023, counsel for the head coach requested a 30-day extension of the deadline to file a response to the NOA. The next day, the chief hearing officer denied the request because counsel did not demonstrate any exceptional circumstances to support delaying the legislated timelines. *See* Bylaw 19.8.5.4.⁴ On February 17, 2023, counsel submitted a timely response to

³ Beginning on January 1, 2023, bylaws addressing negotiated resolution moved from Bylaw 19.5.12 (2021-22 Division I Manual) to Bylaw 19.10 as part of broader infractions reforms. The COI processed this case in accordance with the bylaws in effect prior to January 1, 2023.

⁴ In reaching his decision, the chief hearing officer reviewed recently adopted Bylaw 19.8.5.4, which states that extensions shall not be granted absent exceptional circumstances. The membership adopted the bylaw to address the timeliness of the infractions process and made it immediately effective.

the NOA. On March 16, 2023, the enforcement staff submitted its written reply. On May 23, 2023, a five-member panel held a videoconference to resolve the head coach's contested issues.

III. FINDINGS OF FACT

Memphis hired the head coach in April 2018. He was previously a star men's basketball student-athlete at Memphis in the early 1990s. Following a lengthy NBA career, the head coach returned to the Memphis community and embarked on a youth coaching career at the middle school, high school and American Athletic Union (AAU) levels.

The Memphis men's basketball program began recruiting the prospect in summer 2021. On June 15, 2021—the first date a permissible call may be made to a prospect finishing his sophomore year—the assistant coach and head coach spoke with the prospect for approximately two minutes. At that time, the prospect had finished his sophomore year at a high school in Dallas, Texas. The prospect was a five-star top-20 sophomore who began his junior year in the 2021-22 academic year. Although the head coach asserted that he took responsibility for recruiting the five-star prospects, the assistant coach was the prospect's primary recruiter. At the infractions hearing, the head coach admitted that he extended a scholarship offer to the prospect through the assistant coach. On September 15, 2021, the assistant coach traveled to Dallas to visit with the prospect at his high school. However, due to scheduling issues, the assistant coach made an in-home visit where he showed the prospect and his parents a PowerPoint presentation and discussed Memphis' style of play. The visit lasted 15 to 20 minutes.

Two weeks later, the head coach also traveled to Dallas. Although the head coach had personal objectives in mind on this trip, he acknowledged that he intended to visit a different prospect while in the area. Specifically, the head coach traveled to Dallas to see his son play in a basketball tournament and attend a golf outing with friends but also intended to visit a different prospect that he was personally recruiting. The head coach stated that while in Dallas on October 1, 2021, his director of recruiting and/or the assistant coach texted him and asked him to go see the prospect. The head coach confirmed that his schedule would allow him to visit the prospect and then either the director of recruiting or his assistant coach sent him the prospect's address. The head coach drove to the prospect's home and visited with the prospect and his family for 10 to 15 minutes and talked about Memphis' style of play. During the visit, the family took a picture with the head coach and later posted it on social media. The head coach wore a Memphis shirt on the visit.

When interviewed by the enforcement staff, the assistant coach and the director of recruiting stated that they knew the prospect was in the 2023 class and that he was a junior. However, the head coach stated that he did not know the prospect was a junior at the time of his visit. All three—the head coach, assistant coach and director of recruiting—asserted that they did not know NCAA bylaws prohibited in-person visits until April of a prospect's junior year. However, when the then-director of compliance reported the violations to the NCAA enforcement staff, she stated that the coaches “forgot” the applicable rules. Although the head coach asserted that his personal philosophy was to ask questions about potential red flags and to “call before you act” neither he,

the assistant coach nor the director of recruiting ever consulted with compliance about the visits. The head coach specifically stated that he believed he “could visit any student-athlete at any time.” In his second interview with the enforcement staff, in his NOA response and at the infractions hearing, he also stated that had he known it was a violation, he would not have gone. The head coach continued to reinforce these positions at the infractions hearing.

Memphis provided regular rules education to the men’s basketball staff. On December 1, 2019, the compliance staff conducted a rules education session on recruiting. Among other topics, it included requirements for logging contacts with prospects in the institution’s compliance software and emphasized that all in-person contacts prior to April of a prospect’s junior year must occur at the prospect’s school. It further covered that in-home visits could only occur during the month of April. Both the head coach and assistant coach signed the attendance form associated with the December 1 education session. In her interview with the enforcement staff, the then-director of compliance stated that she provided rules education to the men’s basketball staff on how to correctly use the institution’s compliance software to log evaluations, calls, and visits on September 14, 2021. Unfortunately, neither the assistant coach nor the head coach attended that rules education session. The next day, the assistant coach visited the prospect.

In addition to asserting he did not know the rule prohibiting in-home contacts, the head coach also blamed the error, in part, on the fact that the prospect’s year was not accurately entered into Memphis’ compliance software. The head coach assumed that the director of recruiting was adequately trained on the system but never verified that it had occurred. In his response to the NOA and at the infractions hearing, the head coach asserted that it was not his responsibility to train or secure training for the director of recruiting on the recruiting software. The head coach claimed that had the prospect’s year been correctly entered into the compliance software, the software would have identified the violation and prevented it. However, as a general practice, the director of recruiting did not log coaches’ contacts until after they occurred and the coach informed the director of recruiting about it. Here, the director of recruiting did not log the head coach’s visit until after it occurred and did not upload the itinerary documenting the visit to the compliance software until roughly one month after the visit occurred. Although the compliance technology could be accessed by any of the coaches from their respective phones, the head coach stated at the hearing that he never logged into the compliance program.

IV. ANALYSIS

The violations in the contested portion of this case involved the head coach’s impermissible in-home visit with a prospect and his related head coach responsibility violation. Both violations are Level II.

A. IMPERMISSIBLE RECRUITING CONTACTS [NCAA Division I Manual Bylaw 13.1.1.1.2 (2021-22)]

On October 1, 2021, the head coach had impermissible off-campus recruiting contact with a 2023 prospect at his home during the prospect's junior year of high school. The head coach acknowledged the impermissible contact but argued the violation should be classified as Level III. The panel concludes the violation occurred and is Level II.

1. NCAA legislation relating to impermissible recruiting.

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

2. The head coach engaged in an impermissible recruiting contact with the prospect and his family at their home prior to the period when such contacts were permissible.

On October 1, 2021, the head coach visited a prospect and his family in their home for 10 to 15 minutes. While there, the head coach discussed Memphis' style of play and took a photo with the prospect and his parents. The head coach's visit occurred two weeks after his assistant coach made a similar visit. The head coach acknowledged that the conduct occurred and triggered a recruiting violation. The head coach argued that the violation was Level III. The panel concludes that the conduct violated Bylaw 13 and is Level II.

Bylaw 13 governs recruiting. Bylaw 13.1.1.1.2, in relevant part, expressly states that contacts that occur during a prospect's junior year must occur at the prospect's institution. The bylaw permits one exception during the month of April, where in-person off-campus visits may occur at the prospect's home or institution. Among other examples, Bylaw 19.1.3 identifies that Level II violations provide more than a minimal competitive or recruiting advantage.

The head coach's in-home visit occurred in October, not April. Importantly, it also occurred after the head coach had offered the prospect a scholarship. The head coach arrived at the prospect's home wearing Memphis clothing and discussed Memphis' basketball program. Further, the head coach's visit occurred on the heels of his assistant coach's in-home visit with the same prospect and at the behest of the assistant coach and/or Memphis' director of recruiting. Thus, even if the head coach was not personally recruiting the prospect and did not intend to gain a recruiting advantage, his program was and did. Engaging in an in-home visit with one of the top prospects in the country when other programs could not do so distinguished Memphis from all other programs that were recruiting the prospect. More importantly, the visit involved the head coach, making the visit appear important to both the head coach and the program.

The COI has regularly concluded that impermissible recruiting contacts—even those of a more limited nature—are Level II. *See Louisiana State University* (2022) (concluding that Level II violations occurred when an assistant coach and assistant recruiting director had impermissible contacts during the COVID-19 dead period); *University of Utah* (2019) (concluding via SDR that Level II recruiting violations occurred when the head men's basketball coach and three coaching staff members had impermissible contact with a prospect at his high school during a designated quiet period); and *Baylor University* (2016) (concluding that Level II violations occurred when

two assistant coaches engaged in contact with a prospect prior to the permissible contact period at sites where the prospect was competing). *See also University of South Carolina, Columbia* (2017) (concluding via SDR that Level II recruiting violations occurred when two assistant football coaches had impermissible contacts and conducted impermissible tryouts with prospects handpicked by high school coaches who were friends with one of the assistant coaches).⁵

The head coach claimed, however, that the violation should be Level III because he did not know the bylaw prohibiting in-home contacts. Claimed ignorance or misunderstanding of the rules is not an adequate defense in the NCAA's infractions process. The COI has routinely rejected such claims. *See United States Air Force Academy* (2023) (rejecting an assistant coach's claim that he did not know arranging for prep school coaches to meet with prospects during the COVID-19 dead period violated recruiting rules); *University of Akron* (2021) (rejecting the associate athletic director's claim that he did not know that his advance provision of scholarship money constituted an impermissible loan); and *University of California, Los Angeles* (2016) (asserting that an associate head coach should have known his conduct violated fundamental benefits legislation). As established by these cases, involved individuals are not required to intentionally commit rules violations to establish Level I or Level II violations. The conduct in and of itself is sufficient. Here, the head coach was educated on the specific rule and attested via signature that he attended the rules education session where it was covered. Regardless of his lack of claimed knowledge, he should have known he could not visit the prospect and the prospect's family at their home. Thus, pursuant to Bylaw 19.1.3, the panel concludes that a Level II violation occurred.

B. HEAD COACH RESPONSIBILITY [NCAA Division I Manual Bylaw 11.1.1.1 (2021-22)]

In the fall of 2021, the head coach failed to meet his responsibility as a head coach. The head coach failed to promote an atmosphere of compliance in his program, leading to two impermissible in-home contacts—the first by his assistant coach and the second by the head coach himself. The head coach assumed the in-home visits were permissible and failed to ask any questions. Further, the head coach failed to take active steps to promote compliance education for his newly appointed director of recruiting. The panel determines that the head coach failed to rebut his presumed responsibility and concludes that the head coach responsibility violation is Level II.

1. NCAA legislation relating to head coach responsibility.

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

2. In September and October of 2021, the head coach failed to promote an atmosphere of compliance when he did not ensure that his and his staff's recruitment of the prospect complied with fundamental recruiting legislation.

⁵ Although *Utah* was decided through the summary disposition process and may be viewed as less instructive under COI IOP 5-14, the panel cites it, and select other cases decided via summary disposition, because it involved similar underlying conduct and violations.

On September 15, 2021, the assistant coach visited the prospect and the prospect's family at their home. Two weeks later, the head coach also visited the prospect and the prospect's family at their home. Despite previously receiving education on the timeline for in-home visits, the head coach never inquired about the permissibility of the visits prior to them occurring and never questioned their permissibility after they occurred. The head coach unduly relied on his newly appointed director of recruiting. The head coach cannot rebut his presumed responsibility under Bylaw 11.

Pursuant to Bylaw 11.1.1.1, a head coach shall promote an atmosphere of compliance within his or her program and shall monitor the activities of all institutional staff members who report directly or indirectly to the head coach. A head coach is presumed responsible for the actions of those who directly or indirectly report to the head coach. Head coaches can rebut the presumption only by demonstrating that they promoted an atmosphere of compliance and monitored their staff.

Generally, the head coach's approach to compliance was not adequate, which is particularly troubling because the conduct occurred while the head coach and his program were in the midst of a separate infractions case. The head coach claimed that he prioritized compliance and adopted a policy to ask questions and "always call before you act." Unfortunately, his characterization is inconsistent with his and his staff's actions in this instance. Neither the head coach, assistant coach or director of recruiting inquired about the permissibility of in-home visits. Instead, and despite being specifically educated about the rule in December 2019, all assumed that in-home visits with a junior prospect were permissible.

The head coach attempted to deflect blame, asserting that the director of recruiting incorrectly logged information related to the prospect in Memphis' compliance software. According to the head coach, it was not his responsibility to train the director of recruiting on the software. The head coach further claimed that if the director of recruiting had been properly trained and the information was entered correctly, the system would have alerted the basketball staff to a potential violation before it occurred.

The head coach's statements and reasoning are flawed. As an overarching principle, the head coach is responsible for the culture of compliance in his program. It is a shared responsibility, but ultimate responsibility rests with the head coach. The head coach is correct in that it would be unlikely he would personally train his newly appointed director of recruiting on the nuances of compliance software. But it is his responsibility to ensure that his staff members—director of recruiting included—receive necessary compliance training and education to do their respective jobs. The head coach failed to do so. Instead, he assumed the director of recruiting would receive education. If compliance was a priority to the head coach, he would have made sure that his director of recruiting knew recruiting legislation inside and out and knew how to operate Memphis' compliance software.

Moreover, the head coach, assistant coach and director of recruiting all discussed a general practice of providing the director of recruiting information *after* a recruiting evaluation or contact took place. Therefore, regardless of the erroneous entry, if the visit was logged *after* the fact, then the compliance system would not have notified the head coach of a potential violation *before* the visit.

The head coach's approach to compliance came at a time when the head coach and his program were in the midst of a different infractions matter.⁶ Additionally, the head coach was relatively new to NCAA rules—with his only prior coaching experience being at the high school and AAU levels. During this time, the panel would have expected the head coach to be extra cautious before acting. Instead, the head coach's inattention to perhaps the most important rule for recruiting junior prospects resulted in two impermissible in-home visits. The head coach did not take any steps to stop or prevent the recruiting violations from occurring in his program. In that way, he did not set the proper tone of compliance. The head coach did not know or did not remember the rule against in-home visits. He did not ensure that his director of recruiting received the necessary education to do his job properly. And when asked to visit the prospect, he did not follow his own advice and consult compliance before acting.

The COI has regularly concluded that head coaches cannot rebut their presumed responsibility when they are personally involved in violations. *See The Ohio State University* (2022) (concluding that a head women's golf coach could not rebut her presumed responsibility when she required student-athletes to practice in excess of daily and weekly CARA limitations); *University of Utah* (2019) concluding via SDR that the head men's basketball coach failed to rebut his presumed responsibility when he was personally involved in violations and failed to confirm with the compliance staff that his off-campus recruiting activities and a prospect's visit were permissible); and *California State University, Sacramento* (2018) (concluding via SDR that a head men's tennis coach could not rebut his presumption of responsibility when he was personally involved in some of the violations, failed to consult with compliance about potential NCAA rules violations, and he failed to monitor the recruiting activities of his assistant coach). As these cases demonstrate, when a head coach is personally involved in violations, it is difficult to demonstrate that the head coach promoted an atmosphere of compliance.

To be clear, a head coach's involvement does not need to be the commission of an intentional violation. By their nature, intentional violations are more egregious and may trigger additional aggravating factors. When unintentional violations occur, additional context and the actions of the head coach are important to rebut the presumption of responsibility. For example, in *University of the Pacific* (2017) the COI concluded that a head baseball coach rebutted his presumed responsibility when he specifically sought input and approval from the individual responsible for compliance and financial aid prior to awarding financial aid that resulted in a violation. That did not occur here. There were any number of actions the head coach could have taken that would have prevented the violations from occurring. He did not take them.

Consistent with Bylaw 19.1.3-(e), the COI regularly concludes that Level II head coach responsibility violations result from underlying Level II violations. *See Siena College* (2020) (concluding that the head coach responsibility violation for the head men's basketball coach was Level II because it derived from underlying Level II benefits and impermissible coaching

⁶ On March 4, 2020, the Division I Infractions Referral Committee referred a case involving the Memphis men's basketball program to the Independent Accountability Resolution Process. Throughout the spring, summer and fall of 2020, the independent process developed a case management plan and the complex case unit initiated its investigation into the Memphis men's basketball program, culminating in the issuance of an NOA on April 19, 2021.

violations); *University of California, Santa Barbara (UCSB)* (2019) (concluding that the head coach responsibility violations for the head track and water polo coaches were Level II because they derived from underlying Level II CARA and benefit violations, respectively); and *University of Northern Colorado* (2017) (concluding that the head coach responsibility violation for the head men's basketball coach was Level I because it derived from underlying Level I academic misconduct violations). As in these cases, the head coach responsibility violation is Level II because it derives from underlying Level II violations.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the panel concludes that this case involved Level II violations of NCAA legislation. Level II violations provide or are intended to provide more than a minimal advantage but less than a substantial or extensive recruiting, competitive or other advantage.

The panel determined the below-listed factors applied and assessed the factors by weight and number. See Bylaws 19.9.2, 19.9.3 and 19.9.4 (2021-22 Division I Manual). Based on its assessment, the panel classifies the head coach's case as Level II-Mitigated.

Aggravating Factors

Bylaw 19.9.3-(g): Multiple Level II violations by the involved individual; and
Bylaw 19.9.3-(h): Persons of authority condoned, participated in, or negligently disregarded the violation or related wrongful conduct.

The head coach did not agree that Bylaw 19.9.3-(g), *Multiple Level II violations by the involved individual*, should apply because he did not believe he was responsible for any Level II violations. Specifically, he asserted that his involvement in the underlying recruiting violations constituted a Level III violation, and no head coach responsibility violation should apply. The panel concludes that both violations occurred and are Level II. The COI regularly applies the factor when the second violation is derivative of the underlying violation. See *Mercer University* (2021) (determining Bylaw 19.9.3-(g) applied when the head coach arranged for a prospect to receive impermissible benefits and participate in impermissible tryouts and that conduct supported a head coach responsibility violation); and *Rutgers, The State University of New Jersey, New Brunswick* (2017) (determining Bylaw 19.9.3-(g) applied where the head coach committed multiple Level II violations, including impermissibly contacting a student-athlete's dance instructor in an attempt to arrange an academically-related extra benefit and head coach responsibility). Although the COI applied full weight in these cases, the panel assesses the factor less weight in this limited circumstance. Here, the underlying violations involve two, roughly 15 minute, in-person contacts. While the recruiting advantage associated with those contacts support Level II violations, the brevity in number and duration of the visits warrant this factor receiving less weight.

The panel applies Bylaw 19.9.3-(h), *Persons of authority condoned, participated in, or negligently disregarded the violation or related wrongful conduct*, because the head coach was directly involved in the impermissible contacts. The head coach claimed that he did not know his visit was impermissible. However, when self-reporting the violations, Memphis' self-report stated that the head coach "forgot" the applicable rule. Either way, the head coach did not follow his own expectations and verify that his visit was permissible. At best, the head coach negligently followed the request of his director of recruiting. As previously stated, ignorance of the rules is not an excuse, and here, negligent conduct supports application of the aggravating factor. The COI consistently applies this factor to head coaches who personally participate in violations. *See Siena* (applying the factor to the head men's basketball coach who personally violated benefits and coaching activity legislation and failed to meet his responsibilities as head coach) and *UCSB* (applying the factor to the head cross country and track coach and head water polo coach who were personally involved in multiple violations).

Mitigating Factors

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.

The enforcement staff and the head coach agreed with the mitigating factors identified above. The panel applies these mitigating factors and gives them normal weight.

Penalty for Level II-Mitigated Violations

Head Coach Restriction: The head coach was directly involved in impermissible off-campus recruiting activities. Further, the head coach violated NCAA head coach responsibility legislation because he is presumed responsible for the impermissible off-campus recruiting activities and could not demonstrate that he promoted an atmosphere of compliance. The head coach bears ultimate responsibility for what occurred in his program. He could have taken steps to prevent the violations from occurring but did not. Bylaw 19.9.5.5 and the Figure 19-1 penalty guidelines contemplate head coach suspensions to address head coach responsibility violations. Therefore, the head coach shall be suspended for 10 percent of the season, which equates to a three-game suspension. The suspension shall be served during the first three games of the regular season in the 2023-24 academic year. During the period of suspension, the head coach is prohibited from performing all coaching and recruiting activities and may not have any contact with members of his men's basketball staff, student-athletes or prospective student-athletes. The provisions of this suspension require that the head coach not be present in the facility where the contests are played and have no contact or communication with men's basketball coaching staff members or student-athletes during the suspension period. The prohibition includes all coaching activities for the period of time that begins at 12:01 a.m. on the day of the contest and ends at 11:59 p.m. that day. During that period the head coach may not participate in any coaching activities including, but not limited to, team travel, practice, video study, recruiting and team meetings. The results of those contests from which the head coach is suspended shall not count toward the head coach's career

record. Any employing institution may not utilize Bylaw 11.7.1.1.2 to replace the head coach during the period of suspension.

Although each case is unique, the COI regularly prescribes suspensions for Level II head coach responsibility violations. *See Ohio State University* (2022) (accepting Ohio State's self-imposed 15 percent suspension associated with the head women's golf coach's Level II-Mitigated violations); *Mercer University* (2021) (prescribing a 30 percent suspension associated with a head coach's Level II-Standard conduct that included a Level II head coach responsibility violations); and *Georgia Institute of Technology* (2021) (prescribing a 15 percent suspension associated with a head coach's personal involvement in violations and head coach responsibility violation that resulted in a Level II-Standard classification).

The COI advises the head coach to take every precaution to ensure that he or any employing institution observes the terms of the suspension. The COI will monitor the head coach during the effective period. Any action by the head coach contrary to the terms of the penalty or any additional violations will cause the COI to consider prescribing more severe penalties or may result in additional allegations and violations.

NCAA DIVISION I COMMITTEE ON INFRACTIONS
Norman Bay
Cassandra Kirk
Gary Miller, Chief Hearing Officer
Joe Novak
Dave Roberts

APPENDIX ONE
Bylaw Citations

Division I 2020-21 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 the program and shall monitor the activities of all institutional staff members involved with the program who report, directly or indirectly, to the coach.

13.1.1.1.2 Exception Men's Basketball. In men's basketball, off-campus recruiting contacts shall not be made with an individual (or the individual's family members) before the opening day of the individual's junior year in high school. Contacts that occur during a prospective student-athlete's junior year during recruiting periods other than the April recruiting periods may occur only at the prospective student-athlete's educational institution. During the April recruiting periods (including days of such a period in May) of a prospective student-athlete's junior year, contacts may occur at either the prospective student-athlete's educational institution or residence.

APPENDIX TWO

NEGOTIATED RESOLUTION⁷

University of Memphis – Case No. 020050

December 9, 2022

I. CASE SYNOPSIS

The University of Memphis (Memphis) and NCAA enforcement staff agree with the violations and penalties detailed below.

During the summer of 2021, the Memphis men's basketball staff noticed and began recruiting a 2023 men's basketball prospective student-athlete (prospect) from a high school in Dallas. The prospect was a national top-20 sophomore and later began the 2021-22 academic year as a junior.

On September 15, 2021, an assistant men's basketball coach traveled to Dallas with the intention of making an in-home visit with the prospect and his parents. The assistant coach showed the prospect and his parents a PowerPoint presentation and discussed Memphis' style of play. The visit lasted approximately 15 to 20 minutes. The assistant coach knew the prospect was a junior but was not aware that NCAA legislation prohibited in-home visits with juniors until the April recruiting period.

Similarly, on October 1, the head men's basketball coach traveled to Dallas with the intention of making an in-home visit with the prospect and his parents. The head coach visited with the family for approximately 10 to 15 minutes and talked about Memphis' style of play. Also, the family took a picture with the head coach and posted it to social media, noting that it was a second in-home visit by Memphis. Like the assistant coach, the head coach knew the prospect was a junior but was not aware of the prohibition of in-home visits.

Around October 8, the enforcement staff became aware of the family's social media post and recognized potential NCAA violations. After the enforcement staff sent a letter of inquiry to Memphis requesting a review of the matter, the institution immediately investigated and self-reported the violations.

⁷ In reviewing this agreement, the hearing panel made editorial revisions pursuant to NCAA Division I COI Internal Operating Procedure (IOP) 4-9-1-2. These modifications did not affect the substance of the agreement. In addition, pursuant to NCAA Bylaw 19.5.12.4, this agreement has no precedential value.

II. PARTIES' AGREEMENTS

A. Agreed-upon findings of fact, violations of NCAA legislation and violation levels.

1. [NCAA Division I Manual Bylaw 13.1.1.1.2 (2021-22)] (Level II)

The institution and enforcement staff agree that in September and October 2021, the head coach and an assistant coach had impermissible off-campus recruiting contacts with a 2023 prospect at his home in Texas, during the prospect's junior year in high school. Specifically, on September 15, the assistant coach met with the prospect and his parents for approximately 15 to 20 minutes, discussed Memphis basketball schemes and how he could develop the prospect's basketball talent and showed them a PowerPoint presentation. Additionally, on October 1, the head coach met with the prospect and his parents for approximately 10 to 15 minutes and discussed the team's style of play.

2. [NCAA Division I Manual Bylaw 11.1.1.1 (2021-22)] (Level II)

The institution and enforcement staff agree that between September and October 2021, the head coach is presumed responsible for the violations detailed in Agreed-Upon Finding of Fact No. 1 and did not rebut the presumption of responsibility. Specifically, the head coach did not demonstrate that he promoted an atmosphere for compliance due to his knowledge of and personal involvement in the impermissible recruiting contacts detailed in Agreed-Upon Finding of Fact No. 1.

B. Agreed-upon aggravating and mitigating factors.

Pursuant to NCAA Bylaw 19.5.12.1.3-(e), the parties agree that the aggravating and mitigating factors identified below are applicable. The parties assessed the factors by weight and number and agree that this case should be properly resolved as Level II – Mitigated for the institution.

In reaching a standard classification for the institution, the parties agreed that significant weight should be given to the mitigating factors in Bylaw 19.9.4-(b) (prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties) and 19.9.4-(c) (affirmative steps to expedite final resolution of the matter) because the institution (1) expeditiously investigated and self-reported the violation after receiving the letter of inquiry, (2) ceased recruitment of the prospect (who was and continues to be nationally ranked) and (3) agreed to negotiate a resolution. Also, while there are two Level II violations in this case, one is a derivative of the underlying violation. Therefore, the parties agreed not to give the Bylaw 19.9.3-(g) "multiple Level II violations" aggravating factor substantial weight.

Institution:

1. Aggravating factors (Bylaw 19.9.3).

- a. A history of Level I, Level II or major violations by the institution [Bylaw 19.9.3-(b)].
 - b. Multiple Level II violations [Bylaw 19.9.3-(g)].
 - c. Persons of authority condoned, participated in or negligently disregarded the violation of wrongful conduct [Bylaw 19.9.3-(h)].
2. Mitigating factors (Bylaw 19.9.4).
- a. Prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties [Bylaw 19.9.4-(b)].
 - b. Affirmative steps to expedite final resolution of the matter [Bylaw 19.9.4-(c)].
 - c. An established history of reporting Level III violations [Bylaw 19.9.4-(d)].⁸

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None.

IV. REVIEW OF OTHER ISSUES

None.

V. PARTIES' AGREED-UPON PENALTIES⁹

All penalties agreed upon in this case are independent and supplemental to any action that has been or may be taken by the NCAA Division I Committee on Academics through its assessment of postseason ineligibility, historical penalties or other penalties.

Pursuant to Bylaw 19.5.12.1.3-(e), the parties agree to the following penalties:

⁸ The institution reported 46 Level III or secondary violations from 2018 to 2022, approximately nine violations each year.

⁹All penalties must be completed during the time period identified in this decision. If completion of a penalty is impossible during the prescribed period, the institution shall make the Committee on Infractions aware of the impossibility and must complete the penalty at the next available opportunity.

Core Penalties for Level II – Mitigated Violations (Bylaw 19.9.5)

1. Probation: A one-year extension of the existing probationary period to conclude September 26, 2026.
2. Financial penalty: The institution shall pay a fine of \$5,000 to the NCAA.
3. Recruiting restrictions:
 - a. The institution shall prohibit the men's basketball program from all recruiting communications for two weeks during the 2022-23 academic year.
 - b. The institution prohibited the head coach and assistant coach from all off-campus recruiting activities for 15 days during the 2021-22 academic year (self-imposed).
 - c. The institution reduced the number of recruiting-person days in men's basketball by four during the 2021-22 academic year (self-imposed). The institution shall reduce the number of recruiting-person days in men's basketball by four during the 2022-23 academic year.
 - d. The institution shall reduce the number of official visits in men's basketball by two during the 2022-23 academic year.

Additional Penalties for Level II – Mitigated Violations (Bylaw 19.9.7)

4. The institution terminated the recruitment of the prospect. (self-imposed)
5. Public reprimand and censure through the release of the negotiated resolution agreement.
6. During this period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for recruiting and certification legislation.
 - b. Submit a preliminary report to the office of the Committees on Infractions by February 15, 2023, setting forth a schedule for establishing this compliance and educational program.

- c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by October 15, 2023. Particular emphasis shall be placed on rules education and monitoring related to recruiting activities and specifically in-home visits.
 - d. Inform prospects in the men's basketball program in writing that the institution is on probation for one year 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 a National Letter of Intent.
 - 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 programs 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 the men's basketball program. 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.
7. Following the receipt of the final compliance report and prior to the conclusion of probation, the institution's president shall provide a letter to the Committee on Infractions affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

VI. PARTIES TO THE CASE

A. In agreement with the negotiated resolution (the parties).

The institution and enforcement staff.

B. Not in agreement with the negotiated resolution.

The head coach.

VII. OTHER AGREEMENTS

The parties agree that this case will be processed through the NCAA negotiated resolution process as outlined in Bylaw 19.5, and a hearing panel comprised of members of the NCAA Division I Committee on Infractions will review the negotiated resolution. The parties acknowledge that the negotiated resolution contains agreed-upon findings of fact of NCAA violations and agreed-upon aggravating and mitigating factors based on information available at this time. Nothing in this resolution precludes the enforcement staff from investigating additional information about potential rules violations. The parties agree that, pursuant to Bylaw 19.1.2, the violations identified in this agreement occurred and should be classified as Level II – Mitigated.

If a hearing panel approves the negotiated resolution, the institution agree that they will take every precaution to ensure that the terms of the penalties are observed. The institution acknowledges that they have or will impose and follow the penalties contained within the negotiated resolution, and these penalties are in accordance with those prescribed in Bylaws 19.9.5, 19.9.6, 19.9.7 and 19.9.8. The office of the Committees on Infractions will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations may be considered grounds for prescribing more severe penalties or may result in additional allegations and violations.

The parties acknowledge that this negotiated resolution may be voidable by the Committee on Infractions if any of the parties were aware or become aware of information that materially alters the factual information on which this negotiated resolution is based.

The parties further acknowledge that the hearing panel, subsequent to its review of the negotiated resolution, may reject the negotiated resolution. Should the hearing panel reject the negotiated resolution, the parties understand that the case may be submitted through a summary disposition report (Bylaw 19.6) or notice of allegations (Bylaw 19.7) and prior agreed-upon terms of the rejected negotiated resolution will not be binding.

Should a hearing panel approve the negotiated resolution, the parties agree that they waive NCAA hearing and appellate opportunities.

VIII. DIVISION I COMMITTEE ON INFRACTIONS APPROVAL

Pursuant to NCAA Bylaw 19.5.12, the panel approves the parties' negotiated resolution agreement. The panel's review of this agreement is limited. Panels may only reject a negotiated resolution agreement if the agreement is not in the best interests of the Association or if the agreed-upon penalties are manifestly unreasonable. See Bylaw 19.5.12.2. In this case, the panel determines the agreed-upon facts, violations, aggravating and mitigating factors, and classifications are appropriate for this process. Further, the parties classified this case as Level II – Mitigated for Memphis. The agreed-upon penalties align with or exceed the ranges identified for

core penalties for Level I-Mitigated cases in Figure 19-1 and Bylaw 19.9.5 and the additional penalties available under Bylaw 19.9.7. Pursuant to Bylaw 19.5.12.4, this negotiated resolution has no precedential value.

The COI advises Memphis that it should take every precaution to ensure that it observes the terms of the penalties. The COI will monitor the institution while it is on probation to ensure compliance with the penalties and terms of probation and may extend the probationary period, among other action, if the institution does not comply or commits additional violations. Likewise, any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for prescribing more severe penalties and/or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Norman Bay

Cassandra Kirk

Gary Miller, Chief Hearing Officer

APPENDIX

UNIVERSITY OF MEMPHIS' CORRECTIVE ACTIONS

1. NCAA rules education for men's basketball staff regarding first date of permissible contact and other recruiting legislation.
2. Letters of admonishment for head coach and assistant coach.
3. The institution requested the prospect to remove the related picture from social media platforms.