

**DECISION OF THE
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
DIVISION I INFRACTIONS APPEALS COMMITTEE**

Decision No. 569
(Appeal from NCAA Division I Committee on Infractions
Remand Infractions Decision)

California State University, Northridge

Northridge, California

June 28, 2024

Includes:

- Decision Summary
- Full Decision

NCAA DIVISION I INFRACTIONS APPEALS COMMITTEE

DECISION SUMMARY

**FOR CALIFORNIA STATE UNIVERSITY, NORTHRIDGE
(Appeal from NCAA Division I Committee on Infractions
Remand Infractions Decision)**

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**NCAA DIVISION I INFRINGEMENTS APPEALS COMMITTEE
DECISION SUMMARY
FOR CALIFORNIA STATE UNIVERSITY, NORTHRIDGE
(APPEAL FROM NCAA DIVISION I COMMITTEE ON INFRINGEMENTS
REMAND INFRINGEMENTS DECISION)**

JUNE 28, 2024

Appeal From an NCAA Division I Committee on Infractions Decision From Remanded Case

This is the second appeal of a men's basketball case by California State University, Northridge. The original Committee on Infractions decision was issued Dec. 16, 2022. The university appealed the probation and fine penalties. Additionally, it appealed the application of two aggravating factors and a failure to apply two mitigating factors.

In its Sept. 28, 2023, decision, the NCAA Division I Infractions Appeals Committee found that the aggravating factor regarding the intentional, willful and blatant disregard of NCAA rules should not have been applied to the university's case. Additionally, the mitigating factor regarding implementation of a compliance system designed to ensure rules compliance and control standards should have been applied to the university's case.

Given these determinations by the Infractions Appeals Committee, the probation and fine penalties were vacated, and the case was sent back (remanded) to the Committee on Infractions for reassessment of the classification of the case and the probation and fine penalties consistent with the Infractions Appeals Committee's Sept. 28, 2023, decision.

The Committee on Infractions reviewed the case in light of the Infractions Appeals Committee's determinations and issued an updated decision Nov. 15, 2023, with an additional appendix that addressed the reclassification of the case and reassessment of penalties.

Key Points in the Committee on Infractions' Nov. 15, 2023, Remand Decision (APPENDIX THREE)

- The hearing panel assigned minimal weight to the additional mitigating factor in NCAA Bylaw 19.9.4-(e) (implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches' control standards).
- The hearing panel maintained the classification of the case as Standard after the removal of one aggravating factor and provided minimal weight to the mitigating factor added.
- The hearing panel maintained the previous three-year probation penalty but reduced the financial penalty to \$5,000 and 0.5% of the men's basketball budget. The hearing panel also noted that certain penalties were applied during the original appeal (i.e., serving one year of the probation and payment of \$5,000) and would be appropriately credited.

Issues Raised on Appeal and Reviewed by the Infractions Appeals Committee

CSUN appealed the following penalties that were prescribed by the Committee on Infractions:

1. Penalty V.1 — three years of probation.
2. Penalty V.2 — a fine of \$5,000 plus 0.5% of the men's basketball budget.

CSUN argued that the hearing panel abused its discretion by its assignment of minimal weight to the mitigating factor [Bylaw 19.9.4-(e)], its weighing of the remaining aggravating and mitigating factors, its continued classification of the case as Standard, and its prescription of probation and fine penalties.

Determination and Rationale by the Infractions Appeals Committee

The Infractions Appeals Committee determined that the Committee on Infractions appropriately reassessed the classification of the case and penalties as directed by the Infractions Appeals Committee. The Committee on Infractions did not abuse its discretion in its weighing of aggravating and mitigating factors and its reassessment of penalties. The hearing panel outlined its rationale that made it clear that it completed a sufficient review as directed by the Infractions Appeals Committee's Sept. 28, 2023, decision. The reduction of the previous fine and the rationale for the reduction is consistent with the hearing panel's discretion. All appealed items are AFFIRMED.

Members of the Infractions Appeals Committee for this Appeal

- Ellen M. Ferris, committee chair and senior associate commissioner for governance and compliance at the American Athletic Conference.
- Jonathan Alger, president of James Madison.
- Tom Goss, insurance company chairman and executive.
- Alejandra Montenegro Almonte, attorney in private practice.
- Allison Rich, director of athletics at New Hampshire.
- David Shipley, law professor and faculty athletics representative at Georgia.
- Julie Vannatta, retired senior associate general counsel for athletics at Ohio State.

Appellate Review and Timeline

- This appeal was reviewed on the written record.¹ The case was considered by the Infractions Appeals Committee April 26 and May 14, 2024.
- Key Dates:

Nov. 15, 2023	Committee on Infractions issues remand decision.
Dec. 4, 2023	Submission of a notice of intent to appeal by CSUN.
Jan. 10, 2024	Submission of the written appeal by CSUN.
Feb. 12, 2024	Submission of the Committee on Infractions response.
Feb. 28, 2024	Submission of the rebuttal by CSUN.
April 26 and May 14, 2024	Infractions Appeals Committee deliberations.
May 15 to June 27, 2024 ²	Decision drafting and review by the Infractions Appeals Committee.
June 28, 2024	Infractions Appeals Committee decision released.

Full Decision of the Infractions Appeals Committee

The full decision of the Infractions Appeals Committee, which includes the details of the violations, penalties, and the committee's determinations and rationale, is available on the Legislative Services Database for the Internet (LSDBi).

¹ A review on the written record means that the Infractions Appeals Committee reviewed the documents submitted by CSUN, the appeals advocate for the Committee on Infractions, and the enforcement staff submittal, if any, to resolve the appeal. An oral argument was not requested by CSUN for this appeal.

² Note, this timeline includes the 17-day decision review and release process.

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I. INTRODUCTION.

California State University, Northridge appealed to the NCAA Division I Infractions Appeals Committee specific penalties prescribed by the NCAA Division I Committee on Infractions. In this decision, the Infractions Appeals Committee addresses the issues raised by CSUN (hereinafter referred to as CSUN or appellant).

II. BACKGROUND.

In response to the Infractions Appeals Committee's September 28, 2023, decision to remand the infractions case, the Committee on Infractions issued the Remand Infractions Decision No. 569 November 15, 2023, in which the hearing panel included violations of NCAA legislation in the men's basketball program.³ On the basis of those findings, the Committee on Infractions maintained a determination that this was a Level II-Standard case and prescribed penalties accordingly.

This case centered on violations of NCAA bylaws governing recruiting.

After the Committee on Infractions issued its remand infractions decision, CSUN filed a timely notice of appeal December 4, 2023.⁴ A written appeal was filed January 10, 2024. The Committee on Infractions filed its response February 12, 2024. CSUN filed its rebuttal to the Committee on Infractions response February 28, 2024. The case was considered by the Infractions Appeals Committee on the written record April 26 and May 14, 2024 (see Section X below).

III. FINDINGS OF FACT AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.

See Committee on Infractions decision for CSUN Page Nos. 3 through 7. A copy of the decision may be accessed via the NCAA Legislative Services Database for the Internet (LSDBi) by clicking [HERE](#).

IV. ANALYSIS AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.

See Committee on Infractions decision for CSUN Page Nos. 7 through 17. A copy of the decision may be accessed via LSDBi by clicking [HERE](#).

³ A hearing panel of the Committee on Infractions 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. The Committee on Infractions proposed additional penalties to CSUN, which the institution objected to in part. After holding an expedited penalty hearing on the issue, the Committee on Infractions retained the contested penalties. ([Committee on Infractions Decision Page No. 27](#))

⁴Because the appeal from the remand Committee on Infractions' decision relates to the original appeal filed December 30, 2022, this appeal is considered under the same standard of review as the original appeal.

V. APPEALED FINDINGS OF VIOLATIONS FOUND BY THE COMMITTEE ON INFRACTIONS.

CSUN did not appeal any of the findings of violations. For the violations found by the Committee on Infractions, see Committee on Infractions decision for CSUN Page Nos. 7 through 17. A copy of the decision may be accessed via LSDBi by clicking [HERE](#).

VI. CORRECTIVE ACTION TAKEN AND PENALTIES (PROPOSED OR SELF-IMPOSED) BY THE UNIVERSITY [AND CONFERENCE].

See Committee on Infractions decision for CSUN APPENDIX ONE. A copy of the decision may be accessed via LSDBi by clicking [HERE](#).

VII. APPEALED PENALTIES PRESCRIBED BY THE COMMITTEE ON INFRACTIONS.⁵

CSUN appealed some of the penalties prescribed by the Committee on Infractions. The appealed penalties are:

- V.1. Probation: three years of probation from December 16, 2022, through December 15, 2025.
- V.2. Financial Penalty: CSUN shall pay a fine of \$5,000 plus 0.5% of the men's basketball budget.

For the other penalties prescribed by the Committee on Infractions and application of aggravating and mitigating factors, see Committee on Infractions decision for CSUN Page Nos. 17 through 30 and APPENDIX THREE. A copy of the decision may be accessed via LSDBi by clicking [HERE](#).

VIII. APPEALED AGGRAVATING FACTORS AND MITIGATING FACTORS.

The institution challenged the assignment of minimal weight to NCAA Bylaw 19.9.4-(e)⁶ and the overall re-weighing of remaining aggravators and mitigators in again classifying the case as Standard.

⁵ The descriptions of the penalties are copied from the Committee on Infractions decision. The Committee on Infractions further noted in Footnote No. 3 of APPENDIX THREE that "On January 11, 2023, the institution requested that the traditional stay of appealed penalties be lifted, and that the institution begin serving one year of probation and pay a \$5,000 fine. The IAC approved CSUN's request. CSUN's progress towards complying with its probationary and financial penalties shall be accounted for when determining its fulfillment of the penalties prescribed on remand." The remainder of the probation penalty (two years) and fine (0.5%) remain stayed. The institution did not request any additional lifting of the stay of penalties.

⁶ Bylaw 19.9.4-(e) - implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches' control standards.

For the application of other aggravating and mitigating factors, see Committee on Infractions decision for CSUN Page Nos. 17 through 30 and APPENDIX THREE. A copy of the decision may be accessed via LSDBi by clicking [HERE](#).

IX. ISSUES RAISED ON APPEAL.

In its written appeal, CSUN asserted that assigning minimal weight to Bylaw 19.9.4-(e),⁷ the reclassification of the case as Level II–Standard, and the length of probation and additional 0.5% financial penalty prescribed by the Committee on Infractions constituted an abuse of discretion.

X. APPELLATE PROCEDURE.

In considering CSUN’s appeal, the Infractions Appeals Committee reviewed the notice of intent to appeal; the record and transcript of the institution’s November 1, 2022, hearing before the Committee on Infractions, the Infractions Appeals Committee’s prior determinations in this case, and the submissions by CSUN and the Committee on Infractions referred to in Section II of this decision. The case was considered on the written record by the Infractions Appeals Committee April 26 and May 14, 2024.

XI. INFRACTIONS APPEALS COMMITTEE’S RESOLUTION OF THE ISSUES RAISED ON APPEAL.⁸

The Infractions Appeals Committee reviewed the remand decision in this case under the standard of review in place prior to January 1, 2023, which was applicable to this as well as the previous CSUN appeal [see Section II above]. The weighting of aggravating and mitigating factors, the resulting reclassification and the prescription of penalties may be set aside on appeal by the Infractions Appeals Committee on a showing by the appellant that weighting, reclassification and the prescription of the penalties was an abuse of discretion.

As we stated in the Alabama State University case:

“...we conclude that an abuse of discretion in the imposition of a penalty occurs if the penalty: (1) was not based on a correct legal standard or was based on a misapprehension of the underlying substantive legal principles; (2) was based on a clearly erroneous factual finding; (3) failed to consider and weigh material factors; (4) was based on a clear error of judgment, such that the imposition was arbitrary, capricious, or irrational; or (5) was based in significant part on one or more

⁷ The full text of this bylaw may be found in Footnote No. 6.

⁸ In this section of the decision, the cites to other infractions cases and NCAA bylaws will be linked to the full text of the infractions decisions and bylaws in LSDBi. Note, some of the bylaws referenced in this decision use previous bylaw numbers and will not be linked to LSDBi.

irrelevant or improper factors.” [[Alabama State University, Infractions Appeals Committee Report \(June 30, 2009\) Page No. 23](#)]

CSUN argued on appeal that the hearing panel demonstrated a clear error of judgment in making an arbitrary, capricious and irrational decision and by basing its decision in significant part on irrelevant or improper factors when it assigned only minimal weight to the mitigating factor regarding implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches’ control standards.⁹ Additionally, CSUN argued that the reclassification of the case as Standard failed to consider and weigh material factors and was based on a clear error of judgment resulting in an arbitrary, capricious, and irrational determination. Finally, CSUN argued that the continued prescription of three years of probation and recalculated fine of \$5,000 and 0.5% of the men’s basketball budget failed to consider material factors, was based on a clear error of judgment, and was based in significant part on irrelevant or improper factors.¹⁰

Specifically, CSUN argued that the hearing panel applied the same arbitrary analysis to its weighting of Bylaw 19.9.4-(e)¹¹ that it previously used to support its decision not to apply the mitigating factor to CSUN despite the Infractions Appeals Committee’s designation of its original reasoning in the previous decision as arbitrary.¹² Further, CSUN argued that continued classification of the case as Standard is inconsistent with case precedent, where no case has been classified greater than Mitigated in which a school has at least six mitigating factors and outnumbers the aggravating factors by at least two-to-one. Additionally, CSUN argued that, even if not merely a numerical review, it was arbitrary for the additional weight provided toward only one aggravating factor by the hearing panel to serve as the means to offset such a significant numeric discrepancy between aggravating and mitigating factors.¹³ Finally, in relation to the penalties assessed, CSUN argued that the penalties are inconsistent with the myriad of prior dead-period violations decisions and inexplicably remained at the high end of the guidelines despite the removal of one aggravator and addition of one mitigator.¹⁴

The Committee on Infractions argued that its determinations were reasonable considering this case’s facts, case guidance and NCAA legislation. Further, the hearing panel stated its determinations fall squarely within the discretion afforded to the Committee on Infractions by the membership in Bylaw 19.¹⁵

⁹ Bylaw 19.9.4-(e) - implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches’ control standards.

¹⁰ CSUN Written Appeal Page Nos. 7 and 8.

¹¹ The full text of this bylaw may be found in Footnote No. 9.

¹² CSUN Written Appeal Page Nos. 13 and 14.

¹³ CSUN Written Appeal Page Nos. 20 through 24.

¹⁴ CSUN Written Appeal Page Nos. 24 through 29.

¹⁵ Committee on Infractions Response Page No. 3.

With respect to the minimal weight afforded to Bylaw 19.9.4-(e),¹⁶ the hearing panel argued that it was within its discretion to afford minimal weight for the following reasons:

1. Its determinations were factually supported by the record.
2. The process for determining if a factor applies and, if applicable, what weight to afford the factor are related but separate.
3. That CSUN's compliance efforts were rudimentary and had shortcomings in communicating and monitoring its men's basketball staff. CSUN failed to adapt to the challenges caused by COVID-19.¹⁷

Further, the hearing panel argued it was well within its authority and discretion to retain the Standard classification after reviewing the remaining factors consistent with the Infractions Appeals Committee's determination. The hearing panel explained that it re-examined the classification for CSUN based upon the changed aggravating and mitigating factors, but noted that it still afforded significant weight to [Bylaw 19.9.3-\(b\)](#) (history of Level I, II or major violations).¹⁸ Finally, the hearing panel argued it was well within its discretion to retain penalties within the applicable penalty matrix and the fact that it reduced the financial penalty by half following the hearing panel's consideration of the decision of the Infractions Appeals Committee and the new factors before it contradicts any argument of an abuse of discretion.¹⁹

The Infractions Appeals Committee recognizes that the abuse of discretion standard being used in this case is a significantly high bar to overcome. Generally, this committee has found an abuse of discretion where there has been a glaring omission in articulated analysis in the record or the presence of information in a hearing panel's analysis that points to immaterial factors at play in the decision beyond the specific wording of the analysis.

CSUN argued that these factors have been met as to the hearing panel's weighting of the mitigator [Bylaw 19.9.4-(e)]²⁰ and overall reweighing of the other factors, but the record before this committee supports that the high bar for abuse of discretion was not overcome by CSUN.²¹

¹⁶ The full text of this bylaw may be found in Footnote No. 9.

¹⁷ Committee on Infractions Response Page Nos. 7 through 13.

¹⁸ Committee on Infractions Response Page Nos. 13 through 15.

¹⁹ Committee on Infractions Response Page Nos. 15 through 18.

²⁰ The full text of this bylaw may be found in Footnote No. 9.

²¹ The Infractions Appeals Committee acknowledges CSUN's arguments regarding information which it identified as not germane to their case and their belief the sentiments expressed in that language had an inappropriate impact on the hearing panel's analysis in this case. While the Infractions Appeals Committee agrees that such nongermane information should not have been included in the Committee on Infractions' decision, after a full review of the case record for this case, the included information on its own does not meet the high bar for abuse of discretion.

As we said in the original appeal decision, the authority to weight and weigh mitigating and aggravating factors to classify the case lies with the hearing panel.²² Also, the hearing panel is correct that once classification is determined, assessment of penalties within the penalty matrix will not be generally set aside absent a clear deviation. [Southern Methodist University Infractions Appeals Committee Decision \(April 21, 2016\)](#). CSUN's argument hinges on its belief that the hearing panel did not actually engage in applying the one additional mitigating factor and removing one aggravating factor. CSUN argued if these factors were appropriately weighted and weighed, there would be a change in the classification based on the previously articulated weighting of the other remaining factors. It argued, at the very least, this should have moved all penalties to the lowest end of the penalty matrix (Figure 19-1) boxes for the appealed penalties.

This case is one of a disagreement regarding the hearing panel's analysis of factors and the impact of that review. We find that the hearing panel engaged in a review that sufficiently considered the changed circumstances before it on remand. The hearing panel articulated its reasoning for assigning minimal weight to the mitigating factor, and it did not abuse its discretion in such reasoning or conclusion. Further, based on its review, the hearing panel made a downward modification of the financial penalty after its analysis of the changed circumstances. Thus, we do not find that the hearing panel abused its discretion.

XII. CONCLUSION.

Therefore, the Infractions Appeals Committee affirms the weighting of mitigating factor in Bylaw 19.9.4-(e),²³ the reclassification and penalties V.1 and V.2.²⁴

NCAA Infractions Appeals Committee

Ellen M. Ferris, chair
Jonathan Alger
Tom Goss
Alejandra Montenegro Almonte
Allison Rich
David Shipley
Julie Vannatta.

²² Due to a legislative change, in future appeals the Infractions Appeals Committee will have the authority to reclassify cases under certain circumstances.

²³ The full text of this bylaw may be found in Footnote No. 9.

²⁴ According to the Infractions Appeals Committee Internal Operating Procedures 4-4, any penalty that is appealed is automatically stayed through the course of the appeal process. This stay is triggered with the filing of the notice of appeal by the appellant and ends with the public release of the committee's decision. This stay was in place during this appeal, but a request was approved during the previous appeal for the probation penalty to run through the course of that appeal, as well as to allow for the payment of the \$5,000 portion of the financial penalty.