

CASE SUMMARY

Kentucky swimming and diving coach violated practice rules

School previously agreed to violations in swimming and diving, football

Former Kentucky swimming and diving head coach Lars Jorgensen violated head coach responsibility and practice rules when he and his coaching staff directed swimming and diving student-athletes to participate in countable athletically related activities beyond what is allowed under NCAA rules, according to a decision released by a Division I Committee on Infractions panel.

In August, the Division I Committee on Infractions approved a negotiated resolution in which the school agreed to the violations and penalties in this case. The Division I Committee on Infractions [publicly announced the agreement](#) so the school could immediately begin serving penalties while awaiting the committee's final decision for Jorgensen, who contested the case against him. Jorgensen's case was resolved via written record hearing.

The swimming and diving violations in this case occurred over the course of three academic years, when Jorgensen and his staff treated "voluntary" practices the same as required practices. The infractions panel noted that the culture fostered by Jorgensen emphasized "going above and beyond to produce swimmers who could compete at the highest levels" and viewed CARA requirements as "obstacles to excellence rather than an avenue to achieve success and excellence holistically, by allowing appropriate time to focus on physical, mental and emotional well-being."

Student-athletes reported not knowing whether practices were voluntary or mandatory and stated in interviews that they felt pressured — and in some cases, were pressured by their peers at the direction of the coaching staff — to attend voluntary practices.

As a result, the program exceeded the allowable number of hours of weekly countable activities and did not provide required weekly days off or required flex days off.

Under NCAA rules that took effect in January 2023, Jorgensen is automatically responsible for the violations that occurred within his program after that date. For the violations that occurred prior to that date, he could not rebut the presumption of responsibility due to his personal involvement in the violations and his failure to promote an atmosphere of compliance and monitor his staff.

The panel classified the case as Level II-aggravated for Jorgensen. In addition to the penalties approved by the Division I Committee on Infractions in August, the committee used the Division I membership-approved infractions penalty guidelines to prescribe a

three-year show-cause order for Jorgensen restricting him from all athletically related activities. Additionally, should he become employed by an NCAA member school during that time, he shall be suspended for 50% of the first season of his employment.

Members of the Committee on Infractions are drawn from the NCAA membership and members of the public. The panel members who reviewed this case are:

- Douglas Archie, senior associate athletic director for compliance at Ohio State.
- Kendra Greene, senior woman administrator and senior associate athletics director for internal operations at North Carolina Central.
- Jeremy Jordan, dean of the David B. Falk College of Sport and Human Dynamics at Syracuse.
- Susan Cross-Lipnickey, senior woman administrator and senior associate athletics director for compliance and student-athlete resources at Xavier and chief hearing officer for the panel.
- Stephen Madva, attorney in private practice.
- Vince Nicastro, deputy commissioner and chief operating officer of the Big East Conference.
- Jill Redmond, deputy commissioner of the Missouri Valley Conference.



**UNIVERSITY OF KENTUCKY
PUBLIC INFRACTIONS DECISION
December 18, 2024**

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 violations in two sport programs—football and men’s and women’s swimming and diving—at the University of Kentucky (Kentucky). This decision involves the violations in the swimming and diving program, which included violations of practice and head coach responsibility legislation.

The panel processed violations for Kentucky through a separate negotiated resolution (NR) process, in which the institution agreed to the facts, violations and penalties. The approved NR can be found at Appendix Two of this decision. The former head men’s and women’s swimming and diving coach, Lars Jorgensen, contested his alleged violations.² Thus, this decision solely relates to Jorgensen’s conduct.

For three academic years, from August 2020 through May 2023, Jorgensen and his coaching staff directed swimming and diving student-athletes’ participation in countable athletically related activity (CARA) beyond the legislated limits. The excess CARA was part of the culture Jorgensen fostered, which emphasized going above and beyond to produce swimmers who could compete at the highest levels. Within this culture, CARA limits were viewed as an obstacle to excellence rather than an avenue to achieve success and excellence holistically, by allowing appropriate time to focus on physical, mental and emotional well-being. As Jorgensen’s response to the notice of allegations stated, “It is difficult approaching impossible in the sport of swimming to be an elite athlete only training 144 days,” the maximum permitted under NCAA legislation.

The specific CARA overages at issue in this case occurred primarily because Jorgensen and his coaching staff treated purportedly “voluntary” practices the same as required countable practices. In particular, the voluntary practices were not initiated by student-athletes, and coaching staff members conducted the workouts. With remarkable consistency across more than two dozen interviews, then and former student-athletes reported that they often did not know when practices

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

² Pursuant to a provision of NCAA Bylaw 19.11.1 that became effective on January 10, 2024, infractions decisions must identify by name all involved individuals and boosters who committed Level I or Level II violations.

were required and when they were voluntary. Even when the student-athletes knew certain practices were voluntary, many reported that they felt pressure from the coaching staff to attend, or they received pressure from teammates at the behest of the coaching staff.

This lack of distinction between required and voluntary activities meant that practices during this period—regardless of whether they were intended to be voluntary—were countable. As a result, multiple CARA violations occurred within the swimming and diving program, including CARA hours beyond the weekly limit, failure to provide required weekly days off, and failure to provide additional required flex days off. In addition to these violations, Jorgensen and his coaching staff also violated legislation prohibiting post-competition CARA when they asked four student-athletes to re-swim their events after the student-athletes failed to qualify for finals at the 2023 NCAA Women’s Swimming Championships. The panel concludes that this conduct constitutes a collective Level II violation.

Jorgensen’s conduct also supports a head coach responsibility violation. Consistent with current head coach responsibility legislation that took effect on January 1, 2023, Jorgensen is automatically responsible for the violations in his program that occurred after that date. With respect to the violations occurring prior to that date, Jorgensen did not rebut the presumption of responsibility. Specifically, due to his direct involvement in the violations and his general indifference toward, and disregard for, CARA rules, Jorgensen did not demonstrate that he promoted an atmosphere of compliance and monitored the staff members who reported to him. Because the violation stems from underlying Level II violations, the panel concludes that the head coach responsibility violation is likewise Level II.

The panel classifies this case as Level II-Aggravated for Jorgensen. Utilizing the NCAA membership’s current penalty guidelines, the panel prescribes a three-year show-cause order for Jorgensen, as well as a 50 percent suspension should he become employed during the term of his show-cause order.

II. CASE HISTORY

This case involves bifurcated case paths. Kentucky and the NCAA enforcement staff agreed to resolve the institution’s portion of the case via NR, which the panel approved on July 30, 2024. With respect to Kentucky, the NR is final, and the institution’s agreed-upon penalties went into effect on the date of the agreement’s approval.

The violations in the swimming and diving program came to light near the end of the 2022-23 academic year as the institution conducted postseason exit interviews and surveys with student-athletes. Kentucky’s compliance office initiated an internal investigation, which included interviews with 36 individuals within the program (29 student-athletes and seven coaches and staff members) and review of CARA logs and playing season documents. In June 2023, Kentucky submitted a self-report to the NCAA enforcement staff detailing several instances of CARA violations in the swimming and diving program.

On May 7, 2024, the enforcement staff issued a notice of allegations (NOA) related to Jorgensen's alleged conduct. Approximately one month later, the parties informed the COI chair that they agreed to resolve Jorgensen's case on the written record pursuant to Bylaw 19.9.2. The chair approved the resolution method and, consistent with Bylaw 19.9.2.2.1, established a deadline of August 9, 2024, for Jorgensen's written response to the NOA. On that date, Jorgensen's counsel submitted a request for an extension of time to August 23, 2024, citing exceptional circumstances. The chief hearing officer granted the request but warned that no further extension requests would be entertained. Jorgensen submitted his response to the NOA on August 23, 2024. On October 9, 2024, the enforcement staff submitted its written reply. The panel deliberated via videoconference on November 4, 2024.

III. FINDINGS OF FACT

From August 2020 through May 2023, Jorgensen and his coaching staff required and directed student-athletes' participation in CARA beyond the legislated limits. The conduct of Jorgensen and his coaching staff touched on multiple areas of CARA legislation, including weekly limits, required days off and post-competition activities. As a result of this conduct, swimming and diving student-athletes exceeded the permissible CARA limit by at least 96 hours each year, and the student-athletes did not receive 37 required days off.

Throughout this nearly three-year period, Jorgensen and his coaching staff treated "voluntary" practices the same as required countable practices. This practice is supported by Jorgensen's own statements during his interview with the institution and the enforcement staff. Specifically, Jorgensen admitted that coaching staff members conducted the student-athletes' workouts during voluntary practices. When asked whether he knew that coaches could not conduct the workouts under the relevant safety exception legislation, he said "yes."³ Jorgensen also admitted that student-athletes generally did not initiate or request the voluntary practices, stating, "[n]o, I don't think our kids went up to us every single day and asked for permission for voluntary practices." He acknowledged, however, that he was aware that activity must be initiated and requested solely by a student-athlete in order to be considered voluntary under NCAA rules. Jorgensen reaffirmed his knowledge of the rules in his response to the NOA.

Jorgensen's statements are consistent with information reported by multiple swimming and diving student-athletes. Across more than two dozen interviews, student-athletes consistently reported that they observed little to no difference between CARA and purportedly voluntary activities. In particular, student-athletes stated that coaching staff members were present at voluntary practices and conducted the workouts. Among other things, the coaches' conduct included planning the workouts, timing the student-athletes, walking up and down the pool deck, providing instruction, and yelling if the student-athletes were not swimming fast enough. One former swimming and diving student-athlete, who Kentucky later hired as an assistant coach, stated that she did not notice

³ As a general matter, a coach's presence during otherwise voluntary activity converts that activity to CARA. In swimming and diving, however, a safety exception permits coaches to be present during voluntary workouts to provide safety or skill instruction to avoid injury. They may not, however, conduct the workout. *See* Bylaw 17.22.7.

a difference in coaches' conduct during CARA and voluntary activities throughout her tenure with the program, which spanned from summer 2017 through spring 2023. During activities that were supposed to be voluntary, she said she was "instructed by [Jorgensen] to time and to keep encouraging the athletes and . . . running things as normal[.]"

Multiple student-athletes also confirmed that they did not request or initiate the purportedly voluntary practices; rather, they viewed them as required practices the coaching staff expected them to attend. Some student-athletes said they received calls from coaching staff members—or from other team members at the direction or encouragement of the coaching staff—if they missed a voluntary practice. One student-athlete reported that Jorgensen and another coaching staff member suggested that he participate in an extra practice every Thursday morning at the beginning of his freshman year. The student-athlete said he felt "a little bit pressured to do it" and did not feel like he could decline the extra practice. Another student-athlete reported that after he and a few other student-athletes missed a voluntary practice, the coaching staff required them to make up the missed workout during practice the next day. He also noted that the workout was more difficult than the regularly scheduled workout for that day. As described by one student-athlete, the team culture was such that "you didn't really ask questions . . . you just showed up and you swam when you were told to swim."

In spring 2022, the institution's compliance monitoring systems identified limited CARA violations in the swimming and diving program, including weekly CARA overages both in and out of season and CARA on required days off. The institution self-reported the violations, which the NCAA enforcement staff processed as a Level III case in January 2023. As a result of the Level III violations, the athletics compliance office provided enhanced rules education to the swimming and diving coaching staff.

Additionally, at the compliance office's direction, the coaching staff took certain steps to more clearly communicate which practices were required and which were voluntary. In addition to noting the voluntary practices in a team management app used by the program, the staff also began noting on a whiteboard and verbalizing which practices were voluntary. Additionally, the staff wrote "voluntary" on workout sheets they gave the student-athletes at practice. However, multiple student-athletes reported that the practices still did not feel voluntary because the coaching staff expected them to be there. As one student-athlete put it, "I see the word voluntary or required day off, but we're still expected to go." Another student-athlete explained that, from her perspective, knowing certain practices were voluntary made things "a little bit worse because there was not really a change in the [coaches'] attitude, but they had to let us know that it was voluntary." According to several student-athletes, little, if anything, changed. The coaching staff continued to conduct the workouts during these designated "voluntary" practices just as they did during required practices.

In addition to the general lack of distinction between CARA and voluntary activities, Jorgensen and his coaching staff also failed to differentiate between in-season and out-of-season schedules. The team consistently practiced approximately 20 hours per week and received only one day off, despite NCAA legislation limiting CARA to eight hours per week and requiring two days off

outside the playing season. Numerous student-athletes stated that they did not know when the playing season began because there was no difference in their training schedule. One student-athlete stated, “We would get [to campus in the fall] and it was immediately like 20-plus hour weeks” before the season began.

As it relates to required days off—both weekly days and the 14 additional flex days required during the academic year—student-athletes reported that they typically received no more than one day off per week year-round. When one student-athlete learned during her interview that CARA legislation requires two days off outside the playing season, she responded, “That’d be nice. We didn’t have that.” The same student-athlete reported that she received only two and a half days off after postseason competition, when she believed the team was supposed to receive a full week off. She explained, “[Jorgensen] said I didn’t need it. And that . . . if I did take it, he said I wouldn’t be swimming good in June.” Another student-athlete said he had “literally no idea” what a flex day was because he “never got one of those.”

As a result, according to the institution’s self-report, the coaching staff conducted required practices on 12 of the 16 required flex days for the men’s team and 12 of the 14 required flex days for the women’s team during the 2022-23 academic year.⁴ The institution also determined that from February 2022 through April 2023, during weeks in the playing season, the coaching staff failed to provide student-athletes the required weekly day off on 15 occasions. Additionally, on two occasions in September and November 2022, during the playing season, the coaching staff required men’s and women’s swimming and diving student-athletes to participate in approximately 35 minutes and one hour and ten minutes, respectively, of CARA beyond the 20-hour weekly limit.⁵

Additional overages occurred in spring 2023, when Jorgensen and the coaching staff required four student-athletes to re-swim their events after they failed to qualify for finals at the NCAA Women’s Swimming Championships. Jorgensen stated in his interview and written response to the NOA that he believed this to be permissible because the competition was not yet over for all competitors. He also stated that the activity was voluntary, and he was trying to create a “teaching moment” for the four student-athletes. Three of the four student-athletes participated in interviews with the institution. They stated that having to re-swim their events felt like a punishment, and they were angry and upset about it at the time.

Jorgensen’s desire to create these “teaching moments” and an elite culture within the swimming and diving program was apparent in his general approach to CARA. During his interview with the institution, he addressed his practice of routinely starting practices three minutes early, stating “it’s the culture, it’s the belief of just going a little bit above and beyond[,] of [the] power of one more.” Similarly, in his response to the NOA, he stated that “it is difficult approaching impossible

⁴ As part of its penalties for the program’s previous Level III violations, the institution increased flex days for the men’s team by two for the 2022-23 academic year.

⁵ The institution’s self-report was based on: (1) student-athletes’ year-end exit interviews, time management plan surveys and individual reports; (2) the compliance staff’s review of CARA logs and playing season documents; and (3) the compliance staff’s interviews with 29 student-athletes and seven coaches and/or staff members.

in the sport of swimming to be an elite athlete only training 144 days,” *i.e.*, the legislated length of the NCAA swimming season.

In terms of CARA compliance, Jorgensen relied heavily on one of his assistant coaches who was responsible for handling the CARA logs. When asked how he supervised or assisted the assistant coach with this duty, Jorgensen stated, “I mean, [he’s] real smart. I thought that he was handling that stuff. If we had questions, he would run stuff by me but for the most part, he handled that area.” However, despite his reliance on the assistant coach to deal with the administrative side of CARA, Jorgensen sometimes dismissed his advice on other aspects of CARA compliance. For example, another member of the coaching staff recalled the assistant coach cautioning that they could not time the student-athletes during a voluntary practice. Jorgensen, however, disregarded this advice and told the other staff member to continue timing. On another occasion, the assistant coach reported that he confronted Jorgensen after the assistant coach observed coaches on the pool deck with student-athletes leading an abdominal workout before practice. In general, according to one staff member, “all the rules came from [the assistant coach.] [The assistant coach] would remind [Jorgensen] of the rules and he would choose what to do with that.” The same staff member reported that Jorgensen told her the compliance staff was out to get them.

IV. ANALYSIS

The violations in the contested portion of this case involved Jorgensen’s direction of impermissible CARA for swimming and diving student-athletes, as well as his violation of head coach responsibility legislation. The CARA and head coach responsibility violations are Level II.

A. IMPERMISSIBLE CARA [NCAA Division I Manual Bylaws 17.1.7.5 (2020-21); 17.1.7.2-(a) (2020-21 through 2022-23); 17.1.7.1, 17.1.7.4, 17.1.7.7 and 17.1.7.8 (2021-22 and 2022-23) and 17.1.7.3.2.1 and 17.1.7.9 (2022-23)]⁶

From approximately August 2020 through May 2023, Jorgensen and his coaching staff directed swimming and diving student-athletes’ participation in CARA beyond the limits established by the membership. As a result, student-athletes exceeded the permissible limit by at least 96 hours

⁶ As an additional subpart of the overall CARA allegation, the NOA alleged that Jorgensen and the coaching staff violated Bylaw 17.1.7.6 (2020-21 through 2022-23) when they failed to provide a day off for civic engagement on the first Tuesday after the first Monday in November (*i.e.*, Election Day) in 2020, 2021 and 2022. The panel could not identify any record information supporting this allegation for 2020. For 2021, the institution’s Level III self-report identified that CARA occurred on Election Day, and that violation was adjudicated as part of the Level III case. Prior to the 2022 election, the membership amended the legislation to provide an exception for teams practicing or competing in the championship segment. *See* Bylaw 17.1.7.6.1. Those teams can engage in CARA on Election Day as long as the institution provides them with a day off for civic engagement within 15 days of Election Day. The panel cannot discern from the record whether Jorgensen and the coaching staff complied with this amended legislation. Accordingly, the panel does not conclude that a violation of Bylaw 17.1.7.6 occurred. Because this portion of the allegation relates only to three days of allegedly impermissible CARA, the panel’s non-finding has no material impact on the overall violation, aggravating or mitigating factors, or penalties. Nor does it affect the agreed-upon violations in the NR between the institution and the enforcement staff. The NR is final pursuant to Bylaw 19.10.6.

each year, and the student-athletes did not receive 37 required days off. The CARA violations are Level II.

1. NCAA legislation relating to CARA.⁷

Bylaw 17 governs playing and practice seasons. Among other things, the bylaw establishes when student-athletes may engage in CARA during and outside the playing season. Bylaw 17.02.1 defines CARA as any required activity with an athletics purpose involving student-athletes and at the direction of, or supervised by, one or more members of the coaching staff. Student-athletes' participation in CARA is limited to 20 hours per week during the playing season (Bylaw 17.1.7.1) and eight hours per week outside the playing season (Bylaw 17.1.7.2-(a)). Additionally, Bylaws 17.1.7.4, 17.1.7.7 and 17.1.7.8 require one day off per week during the playing season and two days off per week outside of the playing season.⁸ On top of the weekly required days off, Bylaw 17.1.7.9 requires an additional 14 days off during the regular academic term (either outside of or during the playing season). Finally, Bylaw 17.1.7.3.2.1 prohibits CARA following competition.

During times when CARA is not allowed, student-athletes may engage in voluntary workouts that they initiate on their own. Pursuant to Bylaw 17.02.19, an activity is voluntary if all of the following conditions are met: (1) the student-athlete is not required to report back to a coach or other athletics department staff member; (2) the activity is initiated and requested solely by the student-athlete; (3) the student-athlete's attendance and participation in the activity is not recorded for purposes of reporting it to coaching staff members or other student-athletes; and (4) the student-athlete is not subjected to penalty if they choose not to participate in the activity. In swimming and diving, Bylaw 17.22.7 provides a safety exception that permits coaches to be present during student-athletes' voluntary workouts and provide safety or skill instruction to avoid injury. However, they are prohibited from conducting the workouts.

2. Jorgensen and his coaching staff violated CARA legislation when they conducted workouts during purportedly “voluntary” practices that were not requested or initiated by student-athletes, failed to provide required days off and conducted post-competition workouts.

From August 2020 through May 2023, Jorgensen's drive for his team to be elite caused him and his coaching staff to run afoul of CARA legislation in multiple ways. Primarily, voluntary practices were not truly voluntary because they were not requested by the student-athletes and the workouts were conducted by the coaching staff. As a result, Jorgensen and his coaching staff failed to provide required days off both during and outside of the playing season and exceeded weekly limits on CARA hours. Additionally, Jorgensen conducted impermissible post-competition workouts with four women's swimming student-athletes. Taken together, this conduct constitutes a collective Level II violation.

⁷ The full text of all bylaws cited in this case can be found at Appendix One.

⁸ Bylaw 17.1.7.8 was previously codified at Bylaw 17.1.7.5 in the 2020-21 Division I Manual.

Jorgensen’s own statements confirm that voluntary practices were led by the coaching staff and generally were not requested by the student-athletes. Moreover, student-athletes uniformly reported that they believed they were expected to attend these practices and there would be consequences for non-attendance—*e.g.*, a call from a coaching staff member or another team member at the direction of the coaching staff, or perhaps a more strenuous workout during the next practice. Student-athletes also reported that the staff coached them during purportedly voluntary practices in the same manner they coached the team during required practices—by drawing up the workouts, timing the student-athletes, providing instruction, and yelling at them to go faster, among other things. These coaching activities went beyond safety or skill instruction. Stated directly, they were akin to practice and therefore exceeded the scope of the safety exception for swimming and diving. Under these circumstances, it did not matter whether the practices were designated “voluntary” either verbally, in the team management app, or on the swimming facility’s whiteboard. The coaching staff’s actions—led by Jorgensen—created a perception among student-athletes that the practices were required.

Jorgensen argued, however, that the practices could not have been required because the coaching staff did not take attendance and did not sanction student-athletes who were absent by reducing scholarships, benefits or travel opportunities. He maintained that any pressure student-athletes felt to attend voluntary practices was either self-imposed or came from their teammates. As noted above, however, the coaching staff exerted pressure in other ways. More fundamentally, Jorgensen’s argument does not negate his own admission that the workouts were conducted by the coaching staff and were not requested or initiated by the student-athletes. Thus, these practices do not meet the definition of “voluntary” under Bylaw 17.02.19.

With no distinction between CARA and purportedly voluntary activities, all practices during this time period were countable and resulted in multiple violations of Bylaw 17. First, from August 2020 through May 2023, Jorgensen and the coaching staff utilized the same 20-hour training schedule for out-of-season practice as it utilized for in-season practice. Because there is an eight-hour weekly limit on CARA outside the playing season, this means the staff required student-athletes to participate in approximately 12 hours of CARA beyond the legislated limit for each week outside the playing season. Additionally, Jorgensen and the coaching staff provided student-athletes only one day off per week during this time even though two days off were required. This conduct violated Bylaws 17.1.7.2-(a) and 17.1.7.8.

The lack of differentiation between CARA and voluntary activities resulted in the denial of other required days off during this time period. From February 2022 through April 2023, during weeks in the playing season, Jorgensen and the coaching staff failed to provide the required weekly day off to student-athletes on 15 occasions. Additionally, on two occasions in September and November 2022, during the playing season, the men’s and women’s programs exceeded the 20-hour weekly CARA limit by 35 minutes and by one hour and 10 minutes, respectively. This conduct violated Bylaws 17.1.7.1, 17.1.7.4 and 17.1.7.7. During the 2022-23 academic year, Jorgensen and the coaching staff also failed to provide the required number of additional flex days to both programs in violation of Bylaw 17.1.7.9.

Finally, Jorgensen and the coaching staff violated Bylaw 17.1.7.3.2.1 when they conducted post-competition CARA with four women’s swimming student-athletes following their participation in the NCAA Women’s Swimming Championship. Jorgensen argued that the competition was not yet over, therefore the activity did not constitute post-competition CARA. However, the competition was unquestionably over for those four student-athletes. Moreover, the negative emotions they reported at being asked to re-swim their events demonstrates that their participation in the post-competition swim was not voluntary. The activity violated CARA legislation.

In past cases, the COI has concluded that otherwise voluntary activity becomes impermissible CARA when coaching staff members monitor or coach the activity. *See University of California, Santa Barbara (UCSB)* (2019) (concluding that the head track coach violated CARA legislation when he monitored student-athletes’ summer training and long runs on their weekly day off, including reviewing their training logs and providing feedback); *University of Houston* (2019) (concluding in a summary disposition report (SDR) that the head women’s volleyball coach violated CARA legislation by, among other things, requiring student-athletes to participate in pre-practice activities that she sometimes observed and participated in); and *San Jose State University* (2018) (concluding in an SDR that the head baseball coach and his staff converted voluntary activity to CARA when they required student-athletes to participate in certain pre- and post-practice activities and/or observed the activities). In each of these cases, the COI determined the CARA violations were Level II.

Additionally, in *UCSB*, the COI explained that a coach’s actions can create a perception that activity labeled “voluntary” or “optional” is actually required. In that case, the student-athletes knew the head track coach reviewed their training logs and would call or email them if they did not participate in the “voluntary” summer training and/or “day off” distance runs. Similar to Jorgensen, the head track coach in *UCSB* argued that the physical demands of distance running required more hours of activity than CARA legislation permits. The COI rejected that argument, observing that “CARA restrictions ensure that student-athletes in all sport programs have time to rest, recover and focus on their academic work.” *See UCSB*.

As in these cases, the conduct of Jorgensen and his coaching staff turned purportedly voluntary practices into impermissible CARA. Pursuant to Bylaw 19.1.3, and consistent with the cases referenced above, the panel concludes that the CARA violations are Level II. Because the swimming and diving student-athletes were engaged in countable activity beyond the legislated limits, Kentucky gained more than a minimal competitive advantage over other institutions that adhered to CARA limitations. Additionally, the CARA violations spanned three academic years and therefore were not isolated or limited in scope. The CARA violations in this case are consistent with the scope and nature of violations designated as Level II in previous cases.

B. HEAD COACH RESPONSIBILITY [NCAA Division I Manual Bylaw 11.1.1.1 (2020-21 through 2022-23)]

Jorgensen is presumed responsible for the CARA violations that occurred in his program from August 2020 through December 2022, and he did not rebut the presumption of responsibility. Specifically, Jorgensen did not demonstrate that he promoted an atmosphere of compliance in his program and monitored his staff. Additionally, Jorgensen is automatically responsible for the CARA violations that occurred in his program from January through May 2023. Accordingly, Jorgensen violated NCAA head coach responsibility legislation. The violation is Level II.

1. NCAA legislation relating to head coach responsibility.

Prior to January 1, 2023, Bylaw 11.1.1.1 established two affirmative duties for head coaches: (1) to promote an atmosphere of rules compliance and (2) to monitor those individuals in their programs who report to them either directly or indirectly. The bylaw also presumed that head coaches are responsible for the actions of those who report to them. Head coaches could rebut the presumption of responsibility by demonstrating that they promoted an atmosphere of compliance and monitored the activities of their staff members. Effective January 1, 2023, however, Bylaw 11.1.1.1 holds coaches automatically responsible for any violations that occur within their programs, regardless of their efforts to promote compliance or monitor their staff members.

2. When Jorgensen personally directed CARA violations and failed to monitor his staff's supervision of CARA, he violated head coach responsibility legislation.

From August 2020 through May 2023, Jorgensen failed to meet his responsibility to promote an atmosphere of compliance within his program. Most fundamentally, he was directly involved in CARA violations. He also established a tone and culture within his program that encouraged his staff to disregard CARA limitations, and he failed to monitor their interactions with student-athletes to prevent otherwise permissible activity from turning into CARA. Moreover, he failed to heed his staff's good faith advice when they raised concerns that certain conduct may violate CARA legislation. Jorgensen acknowledged that he was familiar with the relevant CARA rules at all times during the period in question. But he ignored those rules, instead treating voluntary activity the same as countable activity and following an in-season training schedule outside of the playing season. He cannot rebut the presumption of responsibility under Bylaw 11.1.1.1 (2020-21 and 2021-22 Division I Manual).

In his response to the NOA, Jorgensen made no effort to demonstrate that he promoted an atmosphere of compliance and monitored his staff. Instead, he stated that he did not withhold information from his coaching staff regarding compliance or somehow convey to them that they should not comply with NCAA legislation. But these arguments misunderstand the role of a head coach in promoting compliance. It is an *affirmative* duty to lead by example, foster a strong relationship between the coaching and compliance staffs, ask questions, look for red flags, and to receive, facilitate and provide education to the coaching staff, among many other things. Jorgensen did not demonstrate that he engaged in any of this conduct. Rather, he assigned CARA

responsibilities to another staff member, did not do anything to assist him in carrying out those duties, dismissed that staff member's advice and concerns, and told another staff member that compliance was out to get them. He also actively directed CARA violations. Even after Jorgensen's program was penalized for Level III CARA violations, he continued to disregard the rules. This is the opposite of an atmosphere of compliance.

In past cases, the COI has concluded that head coach responsibility violations occurred when coaches were personally involved in the violations and/or did not sufficiently monitor their staff or engage compliance on questions. See *UCSB* (concluding the head track coach could not rebut his presumption of responsibility when he was personally involved in directing CARA violations); *Houston* (concluding in an SDR that the head women's tennis coach could not rebut the presumption of responsibility because she knowingly required student-athletes' participation in impermissible CARA); and *California State University, Sacramento (Sacramento State)* (2018) (concluding in an SDR that the head women's tennis coach could not rebut the presumption of responsibility when he was personally involved in CARA violations and failed to consult compliance on several issues). In each of these cases, the head coach responsibility violations were Level II because they derived from underlying Level II CARA violations.

As in these cases, Jorgensen was directly involved in violations, failed to engage compliance in a positive and meaningful manner, and did not monitor his staff. Consistent with this precedent and Bylaw 19.1.3, the panel concludes that Jorgensen's head coach responsibility violation is Level II because it stems from underlying Level II conduct.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the panel concludes this case involved Level II violations of NCAA legislation. Bylaw 19.1.3 defines a Level II violation as a violation that provides or is intended to provide more than a minimal but less than a substantial or extensive recruiting, competitive or other advantage.

The panel determined the below-listed aggravating and mitigating factors applied and assessed the factors by weight and number. Based on its assessment, the panel classifies Jorgensen's case as Level II-Aggravated.

Aggravating Factors

Bylaw 19.12.3.2-(a): Multiple Level I and/or multiple Level II violations;

Bylaw 19.12.3.2-(d): Persons of authority condoned, participated in or negligently disregarded the violation or wrongful conduct;

Bylaw 19.12.3.2-(f): Conduct or circumstances demonstrating an abuse of a position of trust; and

Bylaw 19.12.3.2-(i): Intentional, willful, or blatant disregard for NCAA bylaws.

Jorgensen contested the application of these factors, arguing principally that the factors do not apply because he did not commit any violations. The panel determines that all four aggravating factors apply and affords each factor normal weight.

Bylaw 19.12.3.2-(a), *Multiple Level I and/or multiple Level II violations*, applies because Jorgensen is responsible for two Level II violations.

The panel also determines that Bylaw 19.12.3.2-(d), *Persons of authority condoned, participated in or negligently disregarded the violation*, applies to Jorgensen. The COI has consistently applied this factor and its predecessor, Bylaw 19.9.3-(h), to head coaches who personally participated in or directed violations, or who disregarded violations.⁹ See *University of Michigan* (2024) (applying the factor to the former head football coach, who was directly involved in violations when he met in-person with prospects during the COVID-19 recruiting dead period, and who disregarded the potential for violations by noncoaching staff members when he failed to monitor their interaction with student-athletes during practice); *Florida International University (FIU)* (2023) (applying the factor to the former head softball coach, who engaged in impermissible contacts with prospects during the COVID-19 recruiting dead period); and *Missouri State University* (2021) (applying the factor to the former head women’s volleyball coach, who personally engaged in multiple violations and had awareness of other violations committed by her staff). As a head coach, Jorgensen was unquestionably a person of authority. He not only personally participated in the violations, but also condoned and encouraged his staff members’ disregard of CARA limits. The factor applies.

The enforcement staff identified Bylaw 19.12.3.2-(f), *Conduct or circumstances demonstrating an abuse of a position of trust*, because Jorgensen directed student-athletes’ participation in excess CARA. In past cases, the COI has applied this factor and its predecessor, Bylaw 19.9.3-(j), when an individual in a position of trust (often a coach) directly involves a prospect or student-athlete in violations. See *California State University, Northridge (CSUN)* (2022) (applying the factor to a head men’s basketball coach, who involved coaches, staff, prospects, and prospects’ family members in recruiting violations during the COVID-19 recruiting dead period) and *Georgia Institute of Technology* (2019) (applying the factor to an assistant men’s basketball coach, who took a prospect to a prominent booster’s home and a strip club during the prospect’s official visit). The COI has also applied this factor in at least one past case involving CARA violations. See *Houston* (applying the factor to a head women’s volleyball coach, who directed student-athletes’ participation in impermissible CARA). Here, Jorgensen disregarded CARA limits, which exist to promote student-athlete wellbeing. Furthermore, he abused student-athlete trust when he did not clearly communicate which practices were voluntary so that they could make an informed decision whether to participate. Writing the word “voluntary” on a whiteboard does not establish clear communication when all other conduct demonstrates that the activity is required. The panel determines that the factor applies.

⁹ Although new aggravating and mitigating factors went into effect on January 1, 2023, and apply in this case, some of the factors, like Bylaw 19.9.3-(h) (2022-23 Division I Manual) and Bylaw 19.12.3.2-(d) (2023-24 Division I Manual) are identical. For precedential purposes and guidance, the panel references past iterations of aggravating and mitigating factors where appropriate.

With respect to Bylaw 19.12.3.2-(i), *Intentional, willful or blatant disregard for the NCAA constitution and bylaws*, the COI has regularly applied this factor and its predecessor, Bylaw 19.9.3-(m), to individuals who violate NCAA rules knowingly. *See FIU* (applying the factor to the head softball coach, who knowingly ignored COVID-19 recruiting dead period rules by having in-person contact with prospects); *Louisiana State University (LSU)* (2022) (applying the factor to an assistant football coach who intentionally positioned himself to have in-person contact with a prospect on two occasions during the COVID-19 recruiting dead period); and *DePaul University* (2019) (applying the factor to the associate head men's basketball coach, who knowingly arranged for an assistant operations director to violate recruiting and coaching activity legislation). Like the coaches in these cases, Jorgensen knew his conduct was impermissible. In both his interview and his response to the NOA, he acknowledged his awareness of the relevant CARA rules. Yet, he knowingly chose to break those rules and encouraged his staff to do the same. Jorgensen's knowing and intentional conduct warrants application of this factor.

Mitigating Factor

Bylaw 19.12.4.2-(e): The absence of prior conclusions of Level I, Level II, or major violations by the involved individual.

Jorgensen agreed with the one mitigating factor identified by the enforcement staff and did not propose any additional mitigating factors for his conduct. The panel agrees that Bylaw 19.12.4.2-(e) applies, and it affords the factor normal weight.

Penalties for Level II-Aggravated Violations

1. **Show-Cause Order:** Jorgensen directed and allowed his staff to direct impermissible CARA for three academic years. His conduct resulted in student-athletes participating in significantly more CARA than the membership's legislation permits. Jorgensen is responsible for the violations in his program and did not rebut the presumption of responsibility due to his direct involvement in violations and failure to monitor his staff. Accordingly, Jorgensen shall be subject to a three-year show-cause order from **December 18, 2024, through December 17, 2027**. In accordance with Bylaw 19.12.6.4 and COI Internal Operating Procedure (IOP) 5-16-1, any institution employing Jorgensen during the three-year show-cause period shall restrict him from all athletically related activities. Any NCAA member institution employing Jorgensen during the three-year show-cause period shall abide by the terms of the show-cause order unless it contacts the Office of the Committees on Infractions (OCOI) to make arrangements to show cause why the terms of the order should not apply.
2. **Suspension:** Should Jorgensen become employed in an athletically related position at an NCAA member institution during the three-year show-cause period, the employing institution shall suspend him from 50 percent of the first season of his employment. Because the show-cause order restricts Jorgensen from all athletically related activity, the suspension is subsumed within the show-cause order. The provisions of this suspension

require that Jorgensen not be present in the facility where the contests occur and have no contact or communication with swimming and diving 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 first contest and ends at 11:59 p.m. on the day of the last contest. During that period, Jorgensen 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 Jorgensen is suspended shall not count toward his career coaching record.

Although each case is unique, these show-cause and suspension penalties generally align with other recent cases involving CARA violations as well as other Level II-Aggravated conduct. *See Houston* (prescribing a two-year show-cause order and concurrent 30 percent suspension for the head coach's Level II-Aggravated case, which involved CARA and head coach responsibility violations); *UCSB* (prescribing a one-year show-cause order and concurrent 30 percent suspension for the head track coach's Level II-Standard case, which involved CARA and head coach responsibility violations); and *Sacramento State* (prescribing a two-year show-cause order and 10 percent suspension for the Level II-Standard conduct of the head men's tennis coach, who arranged impermissible housing for three prospects, was directly involved in CARA violations and violated head coach responsibility legislation).

Outside of the CARA context, the COI has generally prescribed three-year show-cause orders and concurrent suspensions for Level II-Aggravated cases. *See LSU* (prescribing a three-year specific show-cause order restricting the assistant football coach from off-campus recruiting as a result of his Level II-Aggravated conduct, which included recruiting violations during the COVID-19 recruiting dead period) and *Sam Houston State University (2017)* (prescribing a three-year show-cause order and concurrent 30 percent suspension for the Level II-Aggravated conduct of the head women's tennis coach, who engaged in recruiting, benefits, and head coach responsibility violations).

Although CARA cases have more often involved two-year show-cause orders, the panel determined that a three-year show-cause order is appropriate to address Jorgensen's conduct due to: (1) the Aggravated classification of his case; (2) the three-year duration of the violations; and (3) Jorgensen's knowing failure to abide by the rules even after the institution self-reported Level III violations of the same nature and provided enhanced rules education and monitoring.

The COI advises Jorgensen to take every precaution to ensure that he or any employing institution observes the terms of the show-cause order and suspension. The COI will monitor Jorgensen during the effective period. Any action by Jorgensen contrary to the terms of the penalties 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

Douglas Archie

Kendra Greene

Jeremy Jordan

Susan Lipnickey, chief hearing officer

Steve Madva

Vince Nicastro

Jill Redmond

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 his or her program and shall monitor the activities of all institutional staff members involved with the program who report, directly or indirectly, to the coach.

17.1.7.2-(a) Weekly Hour Limitations – Outside the Playing Season – Sports Other Than Football. Outside the playing season, from the institution's first day of classes of the academic year or September 15, whichever occurs earlier, to one week prior to the beginning of the institution's final examination period at the conclusion of the academic year, only a student-athlete's participation in required weight training, conditioning and skill-related instruction shall be permitted. A student-athlete's participation in such activities per Bylaw 17.02.1 shall be limited to a maximum of eight hours per week with not more than four hours per week spent on skill-related workouts. All countable athletically related activities outside the playing season are prohibited one week prior to the beginning of the institution's final examination period for the applicable academic term through the conclusion of the institution's academic term.

17.1.7.5 Required Day Off – Outside of the Playing Season. Outside of the playing season during the academic year, all countable athletically related activities (per Bylaw 17.02.1) are prohibited during two calendar days per week.

Division I 2021-22 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.

17.1.7.1 Daily and Weekly Hour Limitations – Playing Season. A student-athlete's participation in countable athletically related activities (see Bylaw 17.02.1) shall be limited to a maximum of four hours per day and 20 hours per week.

17.1.7.2-(a) Weekly Hour Limitations – Outside the Playing Season – Sports Other Than Football. Outside of the playing season, from the institution's first day of classes of the academic year or September 15, whichever occurs earlier, to one week prior to the beginning of the institution's final examination period at the conclusion of the academic year, only a student-

athlete's participation in required weight training, conditioning and skill-related instruction shall be permitted. A student-athlete's participation in such activities per Bylaw 17.02.1 shall be limited to a maximum of eight hours per week with not more than four hours per week spent on skill-related workouts. All countable athletically related activities outside of the playing season are prohibited one week prior to the beginning of the institution's final examination period for the applicable academic term through the conclusion of the institution's academic term.

17.1.7.4 Required Day Off – Playing Season. During the playing season, all countable athletically related activities (per Bylaw 17.02.1) shall be prohibited during one calendar day per week, except during participation in one conference and postseason championship and any postseason bowl games or National Invitation Tournaments, and during participation in NCAA championships.

17.1.7.7 Required Day Off – Playing Season. During the playing season, all required athletically related activities (per Bylaw 17.02.14) shall be prohibited during one calendar day per week, except during participation in one conference and postseason championship and any postseason bowl games or National Invitation Tournaments, and during participation in NCAA championships. Health and medical activities (e.g., medical evaluations or treatment for prevention and/or rehabilitation of injuries) or activities that are academically related (e.g., meetings with academic advisor, tutoring sessions) are permitted on the day off.

17.1.7.8 Required Days Off – Outside of the Playing Season. Outside of the playing season during the academic year, all required athletically related activities (per Bylaw 17.02.14) are prohibited during two calendar days per week. Health and medical activities (e.g., medical evaluations or treatment for prevention and/or rehabilitation of injuries) or activities that are academically related (e.g., meetings with academic advisor, tutoring sessions) are permitted on the days off.

Division I 2022-23 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.

17.1.7.1 Daily and Weekly Hour Limitations – Playing Season. A student-athlete's participation in countable athletically related activities (see Bylaw 17.02.1) shall be limited to a maximum of four hours per day and 20 hours per week.

17.1.7.2-(a) Weekly Hour Limitations – Outside of the Playing Season – Sports Other Than Football. Outside of the playing season, from the institution's first day of classes of the academic

year or September 15, whichever occurs earlier, to one week prior to the beginning of the institution's final examination period at the conclusion of the academic year, only a student-athlete's participation in required weight training, conditioning and skill-related instruction (including film review and team meetings related to technical and tactical instruction) shall be permitted. A student-athlete's participation in such activities per Bylaw 17.02.1 shall be limited to a maximum of eight hours per week with not more than four hours per week spent on skill-related workouts. All countable athletically related activities outside of the playing season are prohibited one week prior to the beginning of the institution's final examination period for the applicable academic term through the conclusion of the institution's academic term.

17.1.7.3.2.1 Countable Athletically Related Activities Prohibited After Competition.

Countable athletically related activities may not be conducted at any time (including vacation periods) following competition, except between contests, rounds or events during a multiday or multievent competition (e.g., double-headers in softball or baseball, rounds of golf in a multiday tournament).

17.1.7.4 Required Day Off – Playing Season. During the playing season, all countable athletically related activities (per Bylaw 17.02.1) shall be prohibited during one calendar day per week, except during participation in one conference and postseason championship and any postseason bowl games or National Invitation Tournaments, and during participation in NCAA championships.

17.1.7.7 Required Day Off – Playing Season. During the playing season, all required athletically related activities (per Bylaw 17.02.14) shall be prohibited during one calendar day per week, except during participation in one conference and postseason championship and any postseason bowl games or National Invitation Tournaments, and during participation in NCAA championships. Health and medical activities (e.g., medical evaluations or treatment for prevention and/or rehabilitation of injuries) or activities that are academically related (e.g., meetings with academic advisor, tutoring sessions) are permitted on the day off.

17.1.7.8 Required Days Off – Outside of the Playing Season. Outside of the playing season during the academic year, all required athletically related activities (per Bylaw 17.02.14) are prohibited during two calendar days per week. Health and medical activities (e.g., medical evaluations or treatment for prevention and/or rehabilitation of injuries) or activities that are academically related (e.g., meetings with academic advisor, tutoring sessions) are permitted on the days off.

17.1.7.9 Additional Required Days Off. An institution shall provide a student-athlete with 14 additional days off during the playing season (including vacation periods during the season) or outside the playing and practice season during a regular academic term when classes are in session. Required athletically related activities are prohibited on such days. However, a student-athlete may participate in voluntary activities. The seven-day discretionary period (see Bylaw 17.1.7.11.7) at the conclusion of the championship segment does not count toward this

requirement. Health and medical activities (e.g., medical evaluations or treatment for prevention and/or rehabilitation of injuries) or activities that are academically related (e.g., meetings with academic advisor, tutoring sessions) are permitted during the days off.

NEGOTIATED RESOLUTION¹

University of Kentucky – Case No. 020233

July 30, 2024

I. CASE SYNOPSIS

The University of Kentucky (Kentucky) and NCAA enforcement staff agree with the violations and penalties detailed below. The parties also agree this case should be resolved as Level II – Standard for the institution. Finally, Lars Jorgensen (Jorgensen), former head swimming and diving coach, disputes the violations set forth in this agreement and will resolve his matter by written record hearing.

Violations in the football program.

The case originated in February 2022 when an individual reported to the institution that some football student-athletes employed at Kentucky's Albert B. Chandler Hospital (Hospital) may have received compensation for work not performed. As a result, the institution investigated the allegations in a cooperative endeavor across multiple departments, including the police, internal audit, general counsel, human resources, health care, student conduct and compliance. The institution's investigation determined that violations occurred involving the hourly, part-time employment of football student-athletes in the Hospital's patient transport department.

Specifically, in 2018, a Hospital administrator had previously contacted a now former member of the football program's administrative staff regarding available part-time positions in the patient transport department that could require physical strength and might be suitable for student-athletes. Over time, the former staff member recommended this position to several student-athletes who were looking for employment opportunities. Many of the student-athletes properly worked and received appropriate compensation. However, other football student-athletes took advantage of lax supervision by a former Hospital employee who did not adequately review their reported hours and concealed their improper use of a clock-in/clock-out system at the Hospital. Those behaviors resulted in them receiving compensation for hours they did not work because they were not present for shifts. Based on those findings, the institution declared four student-athletes ineligible for violations of NCAA Bylaw 12.4.1 and sought their reinstatement. The institution also identified four other student-athletes who had transferred to other institutions that may have committed the same violation. The institution self-reported the violations to its conference office October 3, 2022, which was later forwarded to the enforcement staff in February 2023. After receipt, the enforcement staff began a collaborative investigation with the institution.

The collaborative investigation developed additional facts and violations involving three additional football student-athletes. It also produced information regarding the institution's

¹ In reviewing this agreement, the hearing panel made editorial revisions pursuant to NCAA Division I Committee on Infractions (COI) Internal Operating Procedure (IOP) 4-7-1-2. These modifications did not affect the substance of the agreement.

compliance systems related to student-athlete employment. The gathered information demonstrated that athletics department staff members, including members of the football program and compliance staffs, were aware of the Hospital's employment of student-athletes and had appropriate monitoring systems in place. In fact, when the compliance staff contacted the former Hospital supervisor and inquired about the student-athletes' work, she misled the compliance staff and indicated the student-athletes were properly working. The collaborative investigation revealed that no athletics department staff members knew or reasonably should have known that football student-athletes might have been receiving compensation for work not performed.

Violations in the swimming and diving program.

During the football investigation and at the end of the 2022-23 academic year, the institution detected through exit interviews/surveys with swimming and diving student-athletes countable athletically related activity (CARA) violations in the men's and women's swimming and diving program.² The institution's prompt and thorough investigation revealed that swimming and diving coaches oversaw voluntary activities in the same manner as CARA by timing the student-athletes and conducting the workouts. Additionally, because the student-athletes did not initiate and request the voluntary workouts, they became CARA. The institution self-reported these violations to the enforcement staff in June 2023.

The institution previously self-detected a limited number of almost identical CARA violations in March 2022, provided additional rules education to the swimming and diving coaches and self-reported the violations to the enforcement staff as Level III violations. However, the collaborative investigation revealed additional systemic CARA violations dating back to August 2020.

Finally, the facts demonstrated that the institution did not have adequate compliance monitoring systems to deter and detect the CARA violations. While the institution provided education directly to the swimming and diving coaches regarding CARA and had other basic compliance systems – such as the maintenance and review of CARA logs – in place, institutional staff lacked a sufficient physical presence on the swimming pool deck and failed to perform an adequate number of spot checks, which is a NAAC reasonable monitoring standard.³ Further, while the institution self-reported some CARA violations in 2021-22 and 2022-23, the length and scope of the CARA violations showed the institution's compliance system were ineffective overall as they did not deter or detect the violations for three academic years.

² While the violations involved the swimming and diving program, they include only swimming student-athletes and coaches.

³ During the 2020-21 academic year, the institution's compliance personnel were not permitted to attend swimming and diving practices in person due to the institution's COVID-19-related restrictions.

II. PARTIES' AGREEMENTS

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

1. [NCAA Division I Manual Bylaws 12.4.1, 12.11.1 and 16.8.1 (2020-21 and 2021-22)] (Level II)

The institution and enforcement staff agree that from the spring of 2021 through March 2022, at least 11 football student-athletes received compensation for work not performed while employed in the patient transport department at the Hospital. At times, the football student-athletes left the job site to attend practices, workouts or other activities while remaining clocked in for their shifts at the Hospital. The resulting excess payments ranged from \$254 to \$13,631 per student-athlete and totaled approximately \$48,940. As a result of the violations, eight student-athletes competed in 13 contests and received actual and necessary expenses while ineligible.

2. [NCAA Division I Manual Bylaws 17.1.7.2-(a), 17.1.7.6 and 17.1.7.8 (2020-21 through 2022-23); 17.1.7.1, 17.1.7.4 and 17.1.7.7 (2021-22 and 2022-23); and 17.1.7.3.2.1 and 17.1.7.9 (2022-23)] (Level II)

The institution and enforcement staff agree that from at least August 2020 through May 2023, Jorgensen and the coaching staff directed men's and women's swimming and diving student-athletes' participation in CARA beyond NCAA legislated limitations. The CARA overages primarily occurred because the coaching staff impermissibly conducted men's and women's swimming and diving student-athletes' voluntary workouts, and the student-athletes did not initiate and request the activities. As a result, men's and women's swimming and diving CARA exceeded the permissible limit by at least 96 hours each year and the student-athletes did not receive 37 required days off. Specifically:

- a. From approximately August 2020 through May 2023, for each of the weeks outside the playing season, the swimming and diving coaching staff required men's and women's swimming and diving student-athletes to participate in approximately 12 hours of CARA beyond the eight-hour weekly limit. Also, the swimming and diving coaching staff provided the men's and women's swimming and diving student-athletes only one day off each week even though two days off per week were required. [NCAA Bylaws 17.1.7.2-(a) and 17.1.7.8 (2020-21 through 2022-23)]
- b. From February through March 2022, August through September 2022 and in April 2023, during weeks in the playing season, the swimming and diving coaching staff failed to provide the weekly required day off to men's and women's swimming and diving student-athletes on 15 occasions. Also, on two occasions in September and November 2022, during the playing season, the swimming and diving coaching staff required men's and women's

swimming and diving student-athletes to participate in approximately 35 minutes and one hour and 10 minutes, respectively, of CARA beyond the 20-hour weekly limit. [NCAA Bylaws 17.1.7.1, 17.1.7.4 and 17.1.7.7 (2021-22 and 2022-23)]

- c. From August through September 2022, in November 2022 and March through April 2023, the swimming and diving coaching staff failed to provide 14 additional days off to men's and women's swimming and diving student-athletes during the regular academic term. [NCAA Bylaw 17.1.7.9 (2022-23)]
- d. On November 3, 2020; November 2, 2021; and November 8, 2022, the swimming and diving coaching staff failed to prohibit CARA on the first Tuesday after the first Monday in November for civic engagement. [NCAA Bylaw 17.1.7.6 (2020-21 through 2022-23)]
- e. In March 2023, the swimming and diving coaching staff conducted CARA with four women's swimming student-athletes following their participation in the NCAA women's swimming championship even though post-competition activities are prohibited. [NCAA Bylaw 17.1.7.3.2.1 (2022-23)]

3. [NCAA Division I Manual Bylaw 11.1.1.1 (2020-21 through 2022-23)] (Level II)

The institution and enforcement staff agree that from at least August 2020 through December 2022, Jorgensen is presumed responsible for the violations detailed in Agreed-Upon Findings of Fact Nos. 2-a, 2-b, 2-c and 2-d, and did not rebut the presumption of responsibility. Specifically, Jorgensen did not demonstrate that he promoted an atmosphere for compliance due to his personal involvement in the violations. Additionally, between January and May 2023, Jorgensen is responsible for the violations detailed in Agreed-Upon Findings of Fact Nos. 2-a, 2-b, 2-c, and 2-e.

4. [NCAA Division I Manual Constitution 2.8.1 (2020-21 and 2021-22) and Bylaw 8.01.3 (2022-23)] (Level II)

The institution and enforcement staff agree that from at least August 2020 through May 2023, the scope and nature of the violations detailed in Agreed-Upon Finding of Fact No. 2 demonstrate that the institution violated the NCAA principle of rules compliance when it failed to adequately monitor its men's and women's swimming and diving program to ensure compliance with applicable NCAA legislation. Specifically, the institution failed to adequately monitor the men's and women's swimming and diving program's CARA, establish sufficient policies and procedures to effectively deter and prevent CARA violations and detect in a timely manner CARA violations.

B. Agreed-upon aggravating and mitigating factors.

Pursuant to Bylaw 19.10.3-(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 – Standard for the institution.

Institution:

1. Aggravating factors (Bylaw 19.12.3.1).
 - a. Multiple Level I and/or multiple Level II violations for which the institution is responsible [NCAA Bylaw 19.12.3.1-(a)].
 - b. Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct [Bylaw 19.12.3.1-(e)].
 - c. One or more violations caused ineligible competition [NCAA Bylaw 19.12.3.1-(f)].
 - d. Intentional, willful or blatant disregard for NCAA bylaws by a person with institutionally derived authority [NCAA Bylaw 19.12.3.2-(i)].
2. Mitigating factors (Bylaw 19.12.4.1).
 - a. Institution self-imposed meaningful corrective measures and/or penalties [NCAA Bylaw 19.12.4.1-(c)].
 - b. Affirmative steps to expedite final resolution of the matter [Bylaw 19.12.4.1-(d)].
 - c. An established history of self-reporting Level III or secondary violations (i.e., at minimum, five violations per year for the previous five years) [NCAA Bylaw 19.12.4.1-(e)].⁴
 - d. The absence of prior conclusions of Level I, Level II or major violations committed by the institution within the past 10 years [NCAA Bylaw 19.12.4.1-(h)].

⁴ The institution reported 71 Level III violations over the past 5 years, an average of approximately 14 per year.

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None

IV. REVIEW OF OTHER ISSUES

None

V. PARTIES' AGREED-UPON PENALTIES⁵

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 19.10.3-(e), the parties agree to the following penalties:

Core Penalties for Level II – Standard Violations (Bylaw 19.12.6)

1. Two years of probation from **July 30, 2024, through July 29, 2026.**
2. The institution shall pay a fine of \$5,000 (self-imposed) and an additional fine equivalent to 10% of the gross payout received by the Southeastern Conference as a result of Kentucky's participation in the 2022 Citrus Bowl, in which multiple ineligible Kentucky football student-athletes competed.

Additional Penalties for Level II – Standard Violations (Bylaw 19.12.8)

3. During the 2022-23 academic year, the institution imposed a one-week coaching suspension for the head swimming and diving coach from all CARA and safety exception workouts during the 144-day playing season. Also, the institution reduced the swimming and diving program's 2022-23 playing season from 144 to 132 days for the women's swimming and diving program and 144 to 134 days for the men's swimming and diving program. Additionally, the institution added two flex days for the men's swimming and diving program. Further, the institution issued a letter of reprimand to the head swimming and diving coach and two associate head coaches. The conference imposed a one-competition head coach

⁵ All penalties must be completed during the time periods 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.

suspension and required the head coach to attend the NCAA regional rules seminar prior to the beginning of the 2023-24 academic year. (Self-imposed)

During the 2023-24 academic year, the institution imposed a ban on swimming and diving CARA for the first two weeks of the 2023 fall term and an additional week following completion of the playing season. Also, the institution reduced the swimming and diving program's 2023-24 playing season from 144 to 130 days. Additionally, the institution added 10 flex days for the swimming and diving student-athletes, a total of 24 for 2023-24. (Self-imposed)

Further, the institution shall impose a ban on swimming and diving CARA for the first week of the 2024 fall term; reduce the swimming and diving program's 2024-25 playing season from 144 to 138 days; and add 10 flex days for the swimming and diving student-athletes, a total of 24 for 2024-25.

4. Public reprimand and censure through the release of the negotiated resolution agreement.
5. Vacation of team and individual records: Ineligible participation in the football program occurred during the 2021 football season as a result of violations in this case. Therefore, pursuant to Bylaws 19.12.8-(g) and 31.2.2.3 and Committee on Infractions Internal Operating Procedure 5-15-9, the institution shall vacate all regular season and conference tournament wins, records and participation in which the ineligible student-athletes competed from the time they became ineligible through the time they were reinstated as eligible for competition. Further, if the ineligible student-athletes participated in NCAA postseason competition at any time they were ineligible, the institution's participation in the postseason contests in which the ineligible competition occurred shall be vacated. The individual records of the ineligible student-athletes shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes shall be retained. Further, the institution's records regarding the affected sport program, as well as the records of the head coach, shall reflect the vacated records and be recorded in all publications in which such records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media plus institutional, conference and NCAA archives. Any institution that may subsequently hire the affected head coach shall similarly reflect the vacated wins in his career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins toward specific honors or victory "milestones" such as 100th, 200th or 500th career victories. Any public reference to the vacated records shall be removed from the athletics department stationery, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in the affected sport program shall be returned to the Association.

Finally, to aid in accurately reflecting all institutional and student-athlete vacations, statistics and records in official NCAA publications and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA media coordination and statistics office and appropriate conference officials to identify the specific student-athletes and contests impacted by the penalties. In addition, the institution must provide the media coordination and statistics office with a written report detailing those discussions. This written report will be maintained in the permanent files of the media coordination and statistics office. The written report must be delivered to the office no later than 14 days following the release of this decision or, if the institution appeals the vacation penalty, at the conclusion of the appeals process. A copy of the written report shall also be delivered to the office of the Committees on Infractions at the same time.

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 (OCOI) by September 15, 2024, setting forth a schedule for establishing this compliance and educational program.
 - c. File with the OCOI annual compliance reports indicating the progress made with this program by May 15 during each year of probation. Particular emphasis shall be placed on rules education and monitoring related to student-athlete employment and CARA limits.
 - d. Inform prospects in the football and swimming and diving program in writing that the institution is on probation for two years and detail the violations committed. If a prospect takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospect signs 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 website "landing page" and in the media guides for the football and swimming and diving program. Permissible website posting locations include the main navigation menu or a sidebar menu. The link may not be housed under a drop-

down menu. Further, the link to the posting (i.e., the icon or the text) must be titled "NCAA Infractions Case." With regard to the content of the posting, 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.

Jorgensen

C. Not participating in the case.

None

VII. OTHER AGREEMENTS

The parties agree that this case will be processed through the NCAA negotiated resolution process as outlined in Bylaw 19.10, and a hearing panel comprised of members of the NCAA 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 19.1.3, the violations identified in this agreement occurred and should be classified as Level II – Standard.

If a hearing panel approves the negotiated resolution, the institution agrees 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 19.12.6, 19.12.7, 19.12.8 and 19.12.9. 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 hearing panel will issue instructions for processing of the case pursuant to hearing resolution (Bylaw 19.8) or limited resolution (Bylaw 19.9) 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 19.10.1, 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 19.10.4. 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 – Standard for Kentucky. The agreed-upon penalties align with the ranges identified for core penalties for Level II – Standard cases in Figure 19-1 and Bylaw 19.12.6 and the additional penalties available under Bylaw 19.12.8. Pursuant to Bylaw 19.10.6, this negotiated resolution has no precedential value.

The COI advises Kentucky 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.

University of Kentucky - Case No. 020233

NEGOTIATED RESOLUTION

July 30, 2024

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NCAA COMMITTEE ON INFRACTIONS PANEL

Susan Lipnickey, chief hearing officer

Steve Madva

Vince Nicastro

APPENDIX

UNIVERSITY OF KENTUCKY'S CORRECTIVE ACTIONS

1. Upon review of the initial report of time and wages earned, the Hospital suspended and terminated the employment of all student-athletes in the patient transport department with no eligibility for rehire. Additionally, the institution will no longer permit any student-athlete to work in UK Healthcare unless there is a specific academic reason associated with such employment. In those instances, the executive associate director of athletics for compliance is required to conduct an in-person meeting with the student-athlete and approve the employment.
2. The involved supervisor over patient transport was terminated for inappropriate or unsuitable job performance and/or gross negligence of oversight May 26, 2022.
3. The institution declared four football student-athletes ineligible, self-imposed competition withholding and repayment penalties, and sought reinstatement of the student-athletes.
4. The institution suspended the former men's and women's head swimming and diving coach in early May 2023.
5. The institution sought and obtained the resignation of the former head men's and women's swimming and diving coach June 28, 2023.
6. The institution has provided additional CARA-related rules education to the men's and women's swimming and diving coaching staff.