

NEGOTIATED RESOLUTION¹

Drury University – Case No. 020201

August 10, 2023

I. CASE SYNOPSIS

Drury University (institution) and the NCAA enforcement staff agree with the violations and penalties detailed below. The parties agree the case should be resolved as major for the institution.

On March 5, 2022, the Great Lakes Valley Conference (GLVC) office notified the institution it had not submitted several NCAA eligibility checklists as required by the conference. Previously, the GLVC sent multiple emails to the former compliance director requesting the eligibility checklists and did not receive a response.² At that time, the institution learned that not only did the former compliance director fail to submit the eligibility checklists, she also failed to complete them.

On March 7, 2022, the institution tasked the associate director of athletics for internal affairs (associate director of athletics) with completing and submitting the missing checklists. The associate director of athletics soon discovered that several student-athletes had not received final certification for initial eligibility or amateurism by the NCAA Eligibility Center. Further examination revealed that the former compliance director did not submit several eligibility checklists for the 2020-2021 and 2021-2022 academic years. The associate director of athletics notified the institution's president, director of athletics and faculty athletics of the institution of the certification issues March 8, 2022. The associate director of athletics contacted the enforcement staff that same day to discuss options for student-athletes who lacked final amateurism certification and were scheduled to compete. After working with the Eligibility Center and enforcement staff to resolve the immediate issues, the associate director of athletics withheld the remaining ineligible student-athletes from practice and competition. The associate director of athletics spent the next several weeks working on initial eligibility and amateurism certification through the Eligibility Center for the student-athletes on campus.

On May 2, 2022, the new assistant director of athletics for compliance (current compliance director) began her position at the institution and resumed the investigation to determine the extent of the violations. She reviewed the past five years of eligibility checklists, transfer eligibility certification and countable athletically related activities (CARA) logs to ensure the scope of the violations were limited to initial eligibility and amateurism certification. The current compliance director also contacted the remaining ineligible student-athletes and worked with them to obtain final initial eligibility and/or amateurism certification. Additionally, the current compliance director spoke with student-athletes, coaches and staff members to identify the circumstances surrounding the violations. The institution's program-wide review identified 50 student-athletes

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

² The institution hired the former compliance director August 1, 2019, and she left the institution February 28, 2022.

across 14 sports who practiced, traveled and/or competed without final initial eligibility and/or amateurism certification. On September 15, 2022, the institution submitted the results of its inquiry to the enforcement staff.

On November 9, 2022, the enforcement staff began a collaborative investigation with the institution. The investigation confirmed the violations reported by the institution. In her interview with the enforcement staff, the former compliance director reported feeling overwhelmed by her job responsibilities. The former compliance director simply did not have the time to complete the required eligibility checklists or to check for initial eligibility and amateurism certification. Because other staff members performed compliance tasks such as continuing eligibility, the institution's violations were isolated to initial eligibility and amateurism certification.

II. PARTIES' AGREEMENTS

Agreed-upon findings of fact and violations of NCAA legislation.

1. [NCAA Division II Manual Bylaws 12.1.1.1, 12.1.1.1.3, 12.1.1.1.3.1,¹ 14.01.1, 14.3.2.1,² 14.11.1, 14.12.1, 15.1.1, 16.8.1, 31.2.2.4 and 31.2.2.5 (2019-20 through 2021-22) and 14.11.2 and 14.11.2.1 (2020-21 through 2021-22)] (Major)

The institution and enforcement staff agree that during the 2019-20 through 2021-22 academic years, the institution failed to certify 50 student-athletes in 14 sports as eligible for competition. This resulted in 84 violations of amateurism and initial eligibility certification and/or financial aid legislation. As a result, the student-athletes competed in 284 contests and received actual and necessary expenses while ineligible or not certified. Specifically:

- a. Between the 2019-20 through 2021-22 academic years, 46 student-athletes in 14 sports practiced and competed while not certified for amateurism and/or initial eligibility. In addition, during the 2020-21 and 2021-22 academic years, four student-athletes in three sports practiced beyond the 45-day period without receiving final amateurism certification. They did not compete. [NCAA Division II Bylaws 12.1.1.1, 12.1.1.1.3, 12.1.1.1.3.1, 14.01.1, 14.3.2.1, 14.11.1, 14.12.1, 16.8.1, 31.2.2.4 and 31.2.2.5 (2019-20 through 2021-22)] (Major)
- b. During the 2019-20 through 2021-22 academic years, seven student-athletes in four sports received impermissible athletics financial aid without receiving final initial eligibility certification. [NCAA Division II Manual Bylaw 15.1.1 (2019-20 through 2021-22)] (Major)
- c. During the 2020-21 through 2021-22 academic years, the institution did not complete and retain on file 27 eligibility checklists for 14 sports. [NCAA Bylaws 14.11.1, 14.11.2 and 14.11.2.1 (2020-21 through 2021-22)]

2. [NCAA Division II Manual Constitution 2.8.1 (2019-20 through 2021-22)] (Major)

The institution and enforcement staff agree that from November 2019 through the 2021-2022 academic year, the scope and nature of the violations detailed above demonstrate that the institution violated the NCAA principle of rules compliance when it failed to adequately monitor its initial eligibility and amateurism certification processes to ensure compliance with NCAA amateurism and initial eligibility legislation. Specifically, the institution did not provide the necessary supervision of its NCAA certification system to verify the accuracy of student-athlete certification. The institution did not have the proper checks and balances in place when it failed to involve other individuals in the initial eligibility certification process. This resulted in multiple student-athletes participating while ineligible or not certified and receiving impermissible athletics aid.

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None.

IV. REVIEW OF OTHER ISSUES

The enforcement staff considered whether to allege a lack of institutional control in this case and/or name the former compliance director as having responsibility for the certification violations. The staff determined neither were appropriate. The institution agreed it fell short of its monitoring responsibilities when it placed all certification responsibilities with the institution's sole compliance officer, who had limited experience in NCAA compliance. The former compliance director's inexperience, coupled with the COVID-19 pandemic and extra demands associated with compliance during that unprecedented time hampered her ability to certify student-athletes. The institution hired a new compliance officer, who, with the enforcement staff, conducted a full audit of its compliance systems for the past five years, including a review of its continuing eligibility certification and financial aid systems. No other violations were identified during the course of the investigation; therefore, the enforcement staff determined this was a single point of failure caused by the inexperience of one person, which did not amount to a lack of institutional control or merit naming the former compliance director.

V. PARTIES' AGREED-UPON PENALTIES³

Pursuant to NCAA Bylaw 32.6.2.3-(e), the parties agree to the following penalties:

Penalties for Major Violations (Bylaw 19.5.2)

1. Public reprimand and censure through the public release of the negotiated resolution agreement.
2. Three years of probation from August 10, 2023, through August 9, 2026.⁴
3. 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 30, 2023, 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 June 15th, during each year of probation. Particular emphasis shall be placed on rules education and monitoring related to amateurism and initial academic eligibility.
 - d. Inform prospects in the baseball, men's basketball, men's cross country, men's golf, men's swimming, men's soccer, men's track and field, men's wrestling, women's bowling, softball, women's swimming, women's tennis, women's track and field and women's volleyball programs in writing that the institution is on probation for three 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

³ 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.

⁴ Institutions must serve probation during the prescribed penalty period.

and the affected sport programs and a direct, conspicuous link to the public infractions decision located on the athletics department's main webpage "landing page" and in the media guides for the baseball, men's basketball, men's cross country, men's golf, men's swimming, men's soccer, men's track and field, men's wrestling, women's bowling, softball, women's swimming, women's tennis, women's track and field and women's volleyball programs. The institution's statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the case; and (iii) give members of the general public a clear indication of what happened in the case to allow the public (particularly prospects and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.

4. The institution shall pay a fine of \$ 5,000 to the NCAA.
5. Vacation of team and individual records: Ineligible participation in the baseball, men's basketball, men's cross country, men's golf, men's swimming, men's soccer, men's track and field, men's wrestling, women's bowling, softball, women's swimming, women's tennis, women's track and field and women's volleyball sport programs occurred over a three-year time period as a result of violations in this case. Therefore, pursuant to Bylaw 19.5.2-(g) and Executive Regulations 31.2.2.4 and 31.2.2.5, 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 programs, as well as the records of the head coaches, 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 coaches shall similarly reflect the vacated wins in his/her 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 programs 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 OCOI at the same time.

6. The institution shall undergo an initial amateur and academic eligibility certification review of its athletics policies and procedures during the term of probation. The institution shall implement all recommendations made by the reviewers and shall provide a copy of the reviewer's report in its annual report.
7. During each year of the term of probation, the compliance officer and academic advisor shall attend NCAA Regional Rules Seminars. The institution shall provide in its annual compliance reports a list of the sessions the compliance officer and academic advisor attends at these seminars.
8. 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. OTHER AGREEMENTS

The parties agree that this case will be processed through the NCAA negotiated resolution process as outlined in Bylaw 32.6 (2022-23 Division II Manual), and the NCAA Division II Committee on Infractions will review the negotiated resolution. The parties acknowledge that the negotiated resolution contains agreed-upon findings of fact of NCAA violations 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 the violations identified in this agreement occurred and should be classified as major.

If the Committee on Infractions 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 acknowledge 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 Bylaw 19.5 (2022-23 Division II Manual).

The OCOI 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. Additionally, as required by NCAA legislation for any institution involved in a major infractions case, the institution shall be subject to the provisions of Bylaw 19.5.2.3 (2022-23 Division II Manual) concerning repeat violators for a five-year period beginning on the effective date of the penalties in this case, August 10, 2023.

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 Committee on Infractions, subsequent to its review of the negotiated resolution, may reject the negotiated resolution. Should the Committee on Infractions reject the negotiated resolution, the parties understand that the case may be submitted through a summary disposition report (Bylaw 32.8 (2022-23 Division II Manual)) or notice of allegations (Bylaw 32.7 (2022-23 Division II Manual)) and prior agreed-upon terms of the rejected negotiated resolution will not be binding.

Should the Committee on Infractions approve the negotiated resolution, the parties agree that they waive NCAA hearing and appellate opportunities.

VII. DIVISION II COMMITTEE ON INFRACTIONS APPROVAL

Pursuant to Bylaw 32.6.5 (2022-23 Division II Manual), the COI approves the parties' negotiated resolution agreement. The COI's review of this agreement is limited. The COI 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 32.6.3 (2022-23 Division II Manual). In this case, the COI determines that the agreed-upon facts, violations, and type of violations are appropriate for this process. The agreed-upon penalties align with the penalties available under Bylaw 19.5 (2022-23 Division II Manual) and with past case guidance. Pursuant to Bylaw 32.6.5 (2022-23 Division II Manual), this negotiated resolution has no precedential value.

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

NCAA DIVISION II COMMITTEE ON INFRACTIONS

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