A G E N D A

National Collegiate Athletic Association

Division I Amateurism Cabinet Teleconference

Dial-in number: 877/873-8018 June 21, 2012
Passcode: 8631087 1 p.m. Eastern time

1. Welcome and purpose of the call. (Jobrina Perez and Mark Hollis)

2. NCAA Working Group on Collegiate Model - Enforcement update. [Supplement No. 1] (Laura Wurtz)

3. Overview of Enforcement Working Group's Interim Report – April 2012. [Supplement No. 2] (Wurtz)

4. Review of February 16-17, 2012 NCAA Division I Amateurism Cabinet meeting report. [Supplement No. 3]

5. NCAA Working Group on Collegiate Model - Rules update. (Perez and Geoff Silver)

   - NCAA Bylaw 12 feedback discussion. [Supplement No. 4]

6. Summary of key items and takeaways.

7. Other business.

8. Future meeting dates.

   - September 12-13, NCAA national office, Indianapolis

9. Adjournment.

Transforming Intercollegiate Athletics Collegiate Model Working Group – Enforcement

Why do this?

- Culture of winning versus integrity.
  - Risk-reward analysis.
- Increase in third-party interference and influence.
- Public and membership distrust of the NCAA's ability to police itself.

Why do this?

- Violations:
  - Current violation structure lacks flexibility.
- Process:
  - Cases take too long and lack transparency.
  - Committee on Infractions' (COI's) workload unreasonable.
- Penalties:
  - Approach to penalties not understood, predictable or strong.
  - More emphasis on head coach responsibility.
- Expectations of shared responsibility unclear.

How we do this…

- Establish multi-level violation structure.
- Overhaul process.
- Develop penalty guidelines.
- Define shared responsibility.

Multi-level Violation Structure

- **Four proposed levels:**
  - Level I: Severe major (e.g., academic fraud).
  - Level II: Major (e.g., coaching limitations).
  - Level III: Secondary (e.g., limited early contact).
  - Level IV: Limited (e.g., recruiting correspondence).
- **Remaining Issues:**
  - Refine definitions.
  - More examples needed in report - creating resource library.

Modified Process

- Expanded Committee on Infractions (24).
- Use of 6- to 7-person panels of COI to hear Level I and II cases.
- Inclusion of current/former presidents, current/former directors of athletics and former coaches.
- Redesigned allegations; reference to evidence supporting charges.
- More streamlined approach to processing Level II cases.
- Traditional approach to Level III cases (secondary).
- Conference review of Level IV cases.
- **Remaining Issue:**
  - Implementation plan for additional COI members.

Penalty Structure

- Use of penalty guidelines for Level I and II cases.
- Use of core penalties:
  - Postseason bans, recruiting restrictions, fines, scholarship restrictions, meaningful probation and show cause orders.
- Aggravating and mitigating circumstances affect severity of penalties.
- Ranges of penalties.
  - Greater predictability and consistency.
- **Remaining Issues**:
  - Better understanding of how mitigating and aggravating factors apply.
  - Creating resource library with detailed analysis of last two years of cases.

Penalty Structure

LEVEL I	LEVEL II
Significant Aggravation	
Aggravation	Aggravation
Standard	Standard
Mitigation	Mitigation
Significant Mitigation	

Head Coach Responsibility

- If violations occur in coach's program, presumption of coach responsibility.
  - Results in head coach control violation (Bylaw 11.1.2.1).
  - Head coach suspended from 10 to 100 percent of the season.
- Level III (secondary) violations in football, men's and women's basketball.
  - Designated list of intentional Level III violations (serious secondary).
  - Head coach suspended from a contest when staff member commits violation.

President and Athletics Director Accountability

- **Findings of Lack of Institutional Control**.
  - President's name listed on public infractions report.
  - Athletics director's name listed on public infractions report.
  - Head coach's name listed on public infractions report.

- **Failure to Monitor**.
  - Athletics director's name listed on public infractions report.

Level I Case Example

- Assistant coach involves agent to recruit prospect; benefits provided by agent and coach knew.
  - Enforcement staff conducts investigation; issues allegations.
  - COI panel hears case; makes findings; decides what aggravation and mitigation exist.
  - COI panel applies penalty guidelines to coach and institution; issues decision in 4 weeks.
    - Standard Level I for institution.
    - Aggravation Level I for assistant coach.
    - Standard Level I for head coach for violating Bylaw 11.1.2.1.

Level I Case Example: Penalties Analysis

– Standard Level I for institution.

- Postseason ban: 1 to 2 years.
- Fine: 1 to 3% of total budget for basketball program.
- Scholarship reduction: 12.5 to 25%.
- Recruiting restrictions on program: 12.5 to 25%.
- Probation: 2 to 6 years.
  - Aggravation Level I for assistant coach.
    - 5- to 10-year show cause order; restriction on all athletics duties.
  - Standard Level I for head coach for violating 11.1.2.1
    - 20 to 50% suspension from season.

Effective Date and Implementation

- Adoption August 2012.
- Effective date August 2013.
- **Remaining issues**:
  - Impact on violations committed after August 1, 2012.
  - Impact on pending cases.
  - Plan for phasing in new COI members and panels.

Shared Responsibility and The Cooperative Principle

– **The Cooperative Principle**.

- Defining common expectations for all involved in major (Level I or II) infractions matters.
- Roles and responsibilities of institutions, conferences, at-risk coaches and enforcement staff.

2012 Timeline and Next Steps

- January 12: General concepts reported to Board.
- January 30: Working group provided preliminary report to membership.
- February to March: Input from membership and others.
- April 10: Working group revised proposals based on feedback.
- April 26: Interim report to Board and membership. Supportive of recommendations.
- May to June: Continued outreach - conference meetings; seminars.
- July: Working group will revise proposals as needed.

- August 2**:** Division I Board of Directors meeting. A majority of Enforcement Working Group recommendations have August 2013 effective date but some (e.g. amended rationale of Bylaw 11.1.2.1) have an August 2012 effective date.
- August –TBD: Enforcement Working Group continues to refine, resolve and educate the membership regarding the implementation of recommendations approved/ adopted by the Board.

Interim Report

NCAA Working Group on Collegiate Model - Enforcement
April 2012

INFORMATIONAL ITEM.

This is the most recent report of the Working Group on Collegiate Model – Enforcement. Since this group's preliminary report to the NCAA Board of Directors in January 2012, extensive outreach efforts have been and continue to be made to solicit feedback from the membership. This feedback has led to some changes in the interim recommendations of the working group from the January preliminary report, and more changes are anticipated for the final report in August as the outreach and feedback continue. At this point, the working group is seeking the Board's endorsement of the concepts being put forth regarding (1) a new violation structure, (2) a new violation processing structure, (3) a new penalty structure, (4) accountability and (5) the concept of shared responsibility.

The working group will use the feedback gathered to refine its proposals for final adoption by the Board in August 2012, with an expected effective date of August 2013. The working group is considering various implementation scenarios to determine the precise implementation date that allows for adequate notice for all members and affected individuals and also ensures that the new structure and processes are fully operational as soon as possible. The working group will consider violation date, discovery date and implementation of the new structure for different scenarios and propose an implementation schedule accordingly. The working group will develop a final effective date schedule and implementation plan for the new violation, process and penalty recommendations for the Board to consider during the August 2, 2012, meeting. The working group will seek Board action at the August 2, 2012, Board meeting with an immediate effective date for the following accountability recommendations (beginning on page 23 of this report): (1) an amendment to the rationale of NCAA Bylaw 11.1.2.1; (2) endorsement of the suspension of the head coach for designated list of secondary (Level III) violations that occur after August 2, 2012, in the sports of football and men's basketball and possibly, other sports; and (3) presidents', directors of athletics' and/ or head coaches' names included with Division I Committee on Infractions public infractions decision reports concerning findings of institutional major (Level I) and institutional control violations, and major (Levels I and II) failure to monitor violations.

A. Background.

History may well observe that 2011 was the year that intercollegiate athletics faced its most difficult challenges. However, 2011 may also be the year remembered as that in which higher education's presidents and chancellors committed to broad structural and environmental changes designed to re-center college sports on a set of enduring values.

Public trust in intercollegiate athletics has eroded and needs to be restored. The loss of trust creates urgency, but this loss of trust is not driving the urgency to make changes. Rather, the driving force is recognition by presidential leadership that the values of intercollegiate athletics have become muddied and need to be brought to the forefront of

the work we do. Significant change is not optional. Through a series of revelations that began with the 2011 New Year and extended through the fall, there has been mounting evidence that the historical management and control structure for intercollegiate athletics, from the development and implementation of national policy to the self-policing of violations, must be re-evaluated and subject to change. Among the most pressing issues are:

- A risk-reward analysis of the intentional violation of national policy that fails to deter violations and that often is based on financial pressure.
- An emphasis on winning that takes prominence over integrity.
- An ever-growing expectation for national policy to codify all behavior and avoid institutional or individual judgment and responsibility.
- An increase in third-party interference with, and influence on, prospective student-athletes, student-athletes and coaches, which is usually based upon money-making potential. Regulation of third-party conduct is difficult because these persons are not NCAA members and not subject to NCAA enforcement actions.
- The public relations impact of celebrity compensation packages for coaches, as well as the rising number of non-coaching personnel within a model that holds the athlete as an amateur.
- The loss of faith in the good intentions of intercollegiate athletics to serve as a co-curricular component of higher education.
- The perception that powerhouse coaches/athletics departments have greater authority than college or university presidents and governing bodies.
- Public distrust of the NCAA's ability to police itself. Membership distrust of the processes used to investigate violations and make decisions with serious consequences for institutions and individuals (coaches and student-athletes).
- The commercialization of intercollegiate athletics that pushes the perception of intercollegiate athletics toward the professional model.

As a result of the threats described above, NCAA President Mark Emmert and more than 50 presidents and chancellors gathered in August 2011 to examine in broad terms how to sustain the collegiate model and restore public trust in college sports and the NCAA. It was clear that presidents were "mad as hell" and resolved to take action. What emerged from the presidential retreat was a call for the transformation of intercollegiate athletics. The presidents identified five significant areas of concern: (1) standards and metrics for the academic success of Division I student-athletes; (2) the allocation of financial resources within intercollegiate rules; (3) the financial well-being of student-athletes; (4) a realigning of how rules governing intercollegiate athletics are determined and an enhanced expectation of shared responsibility at the campus, conference and national levels; and (5) the strong and swift enforcement of those rules that place the greatest emphasis on those violations that, if left unattended, most significantly denigrate the collegiate model.

The presidents emphasized that there are four acknowledged enduring values that are guiding the entirety of their efforts and will be the measures against which all policies and judgments will be tested:

- Student-athlete success is paramount, both academically and athletically.
- The collegiate model must embed the values of higher education, including shared responsibility and accountability; this model should be protected and sustained.
- In the collegiate model of athletics, amateurism is the student-participation model that guides the relationship between students and institutions.
- In the collegiate model of athletics, the guiding principle should be based upon fair opportunities to compete among institutions with similar commitments to inter-collegiate athletics.

The Working Group on Collegiate Model - Enforcement was formed to primarily focus on the fifth concern, along with contributing to a better definition and clearer expectation of shared responsibility (part of the fourth concern). As one of five committees or working groups addressing a broad spectrum of change, this is the interim report to the Board of Directors.

B. Introduction and Brief Overview of Proposed Concepts.

This working group was tasked with creating a multi-level NCAA rules violation structure and an enhanced penalty structure for NCAA rules infractions. This working group also was charged with re-establishing a sense of shared responsibility, among the interested individuals and entities in intercollegiate athletics, for NCAA rules compliance and enforcement. The group undertook this work pursuant to the Association's core purpose of governing competition in a fair, safe, equitable and sportsmanlike manner. The group also acted pursuant to the Association's principle of integrating intercollegiate athletics into higher education to ensure that the educational experience of the student-athlete remains paramount. In addition, the group's work was based upon the Association's enduring values of student-athlete success, the collegiate model, amateurism as a student model and competitive equity.

Finally, in undertaking this task, the group developed the following three guiding principles:

- The Principle of Fairness – Any new violation and penalty structure must be fair to all parties involved in the process and consider the interests of all member institutions that uphold integrity through rules compliance. Appropriate weight should be given to fair process considerations for those culpable for violations or otherwise involved and potential legal implications. In addition, the severity of penalties must have a direct correlation with the significance of the violations as identified by the membership and staff, as well as the NCAA enduring values.

- The Principle of Accountability – The new violation and penalty structures should be designed to hold those institutions, coaches, administrators and student-athletes who violate the rules accountable for their conduct, both at the individual and institutional levels. In addition, both the NCAA staff and membership (coaches, administrators, institutions and conferences) must be held accountable for the fairness of the process and must understand the shared responsibility of accountability to the intercollegiate model, regardless of the direct impact on those involved in violations.

- The Principle of Process Integrity – Any new structures must be designed to ensure effectiveness and efficiency in the process and its results. The new structures must be easily understood, legitimate, timely, respecting of confidentiality while transparent with the process, and sufficiently workable to establish clear and strict guidelines and boundaries.

Based on these guiding principles, the working group has (1) reached a number of conclusions regarding the NCAA's current violation, process and penalty structures, as well as the means by which responsibilities for enforcement efforts are currently shared among interested individuals and entities; (2) developed a series of recommended actions to improve the current structures and definition of shared responsibility for rules enforcement; and (3) identified the anticipated outcomes for each of the proposed actions. In sum:

- The violation structure: The working group believes that the NCAA must adopt a new violation structure. The new structure must appropriately recognize and categorize the varying levels of infractions, from most egregious to least offensive, and must emphasize those infractions that most clearly undermine the fundamental principles on which the rules are based. To address these issues, the working group recommends that the Association adopt a four-level violation structure to achieve this goal. Pursuant to the recommended violation structure, rules infractions will be categorized as Level I (most egregious), Level II (serious), Level III (currently solid secondary violations) and Level IV (minor or technical issues)[1]. The working group anticipates that the proposed four-level structure will provide member institutions and affected individuals with better notice of the alleged infractions, and the level of seriousness assigned the infractions, for which they will be held accountable if NCAA rules are violated. Further, the group anticipates that the proposed structure will better ensure that enforcement efforts are focused on those infractions that clearly violate NCAA enduring values.

[1] The working group continues to discuss alternative designations of the levels of the violations (rather than use the word "Level"), which includes the possibility of severe major (Level I), major (Level II), secondary (Level III) and limited (Level IV). The working group hopes to resolve this issue and provide the recommendation in its August 2012 report to the Board.

- The process: The working group believes that NCAA rules violations must be processed and resolved more efficiently and expeditiously, but that process integrity and fairness must be simultaneously enhanced. More transparency, where appropriate, will enhance the integrity of the process, and will increase the membership's understanding of how and why decisions are made. To address these issues, the working group recommends that the Association adopt new infractions case procedures that increase the size and composition diversity of the existing Committee on Infractions, from which panels of the committee may be assigned to hear the most serious infractions cases, and that other procedures be modified and introduced to more efficiently and fairly hear and resolve allegations of rules infractions. The working group anticipates that the proposed procedural changes will (1) result in a more efficient resolution of alleged rules infractions, (2) allow institutions and affected individuals more control over the means by which cases are heard and ultimately resolved, and (3) increase the overall integrity and the perceived fairness of the process and bring more transparency to more components of the process.

- The penalty structure: The working group believes that strong penalties must be imposed for those rules infractions that clearly violate the NCAA's enduring values. The working group also believes that the current penalty structure does not sufficiently deter serious rules violations. The group further believes that under the current penalty structure, some individuals and institutions have concluded that the risk/severity of NCAA penalties is worth the anticipated benefits and unfair advantages that flow from deliberate NCAA rules violations (the risk-reward analysis). Finally, the group believes that any penalty structure must recognize the efforts of college and university presidents, as those institutional leaders take steps to ensure fair play, rules compliance and accountability on their respective campuses. To address these issues, the group recommends that the Association adopt a set of penalty guidelines for the most serious rules violations. The proposed guidelines will set a range of penalties from which the Committee on Infractions may impose in given situations (along with other available penalties, as appropriate) depending upon the violation level in which the infractions fall.

  The group is considering a set of core penalties for inclusion in the penalty guidelines. The recommended core penalties include those (1) identified by the membership as most effectively deterring serious rules violations, and/or (2) identified by the group as those that have historically best addressed the gravity of the violations involved in infractions cases. The group recognizes that, in addition to possible core penalties, the Committee on Infractions must retain discretion to customize any imposed set of penalties, depending on the facts of each case, to include other penalties outside of those identified as core. Additionally, all penalties currently available to the Committee on Infractions for major violations, and those

available to enforcement staff for secondary violations, will remain. The group is proposing penalty ranges to apply the core penalties in Levels I and II cases. The proposed guidelines aim to find an appropriate balance in recommending any core penalties or penalty ranges to allow the Committee on Infractions sufficient discretion while also assuring stronger and consistently applied penalties. Finally, the guidelines include a framework by which the Committee on Infractions may take into account aggravating and mitigating circumstances, on a case-by-case basis that may affect the overall severity of any penalties to be imposed.

- Accountability of those in charge: The group believes that head coaches must set the tone and culture for rules compliance within sport programs, and any penalty structure must address negligent oversight within a particular sport that undercuts overall institutional and/or Association expectations. To change the culture, head coaches' suspensions, through show cause orders, should occur for the violations of their staff for Levels I and II violations when the coach has not promoted an atmosphere of compliance or monitored his/her staff, as well as in instances in which some Level III violations have occurred. Likewise, presidents and directors of athletics must take responsibility and be accountable for their oversight of the athletics program and for hiring coaches who violate the rules.

- Shared responsibility and institutional integrity: During the course of the group's meetings from September to December 2011, the group agreed that there are issues directly affecting the integrity of intercollegiate athletics that go beyond the scope of the group's charge related to shared responsibility. Nonetheless, the group believes that these issues warrant immediate and focused attention. The group focused on the phrase "institutional integrity" as a larger effort, beyond shared responsibility and institutional control. Institutional integrity is grounded in the notion of establishing universal industry standards and principles for member institutions, conferences, NCAA staff and committees to uphold. Part of this effort should aim to integrate athletics departments into the core of the institution, reaffirming institutional control of all operations.

  The group does not believe that the changes to the enforcement process, detailed in this report, completely solve this problem. While a more effective enforcement model, coupled with the work of the rules working group, are critical steps, reaching a common understanding of what standards should be met to sustain institutional integrity is equally (if not more) important. Institutions must be expected to achieve and sustain standards of excellence. Some of these standards are detailed below; however, with such focused attention surrounding this topic, the group expects the list will be refined. The group recommended at the January 2012 Board of Directors meeting that a separate group (with an extended timeline to 2013) be charged with defining institutional integrity. The enforcement working group's charge to better define shared responsibility should be part of the larger effort to define standards of

institutional integrity. This group is committed to defining shared responsibility as it relates to the process of investigations and other enforcement issues, and will share that work with the institutional integrity group for inclusion in the broader effort.

The enforcement working group recommends that the following be considered by the institutional integrity group:

- Adopting standards that are related to athletics compliance and auditing functions and designed to integrate athletics into the overall university compliance and auditing practices.
  - In considering such standards, the group should consider moving the reporting line of the athletics compliance office outside of the athletics department.
  - Such standards could also expand the role of institutional auditing to include, or at least recognize, institutional control of the athletics programs.
  - Such standards also could require regular audits of NCAA staff and committee decisions.
- Adopting standards that are related to institutional and conference reporting/ transparency.
  - Such standards could, for example, create uniform expectations for conference roles and responsibilities in major infractions investigations.
- Creating standards for achieving presidential and board oversight of athletics departments.
- Developing professional codes of conduct for all involved in intercollegiate athletics.
- Requiring professional training and certification of all Division I staff and coaches, including continuing certification criteria that, if not met, may result in revocation of certification.
- Developing an annual review and sign-off process by which the institution's president certifies that the institution is in full compliance with standards.

C. Narrative Description and Rationale for the Working Group's Recommendations.

1. Violation structure.

The working group examined the current NCAA violation structure. The group believes that the current secondary and major violation structure does not provide

sufficient discretion or flexibility to respond appropriately to either the most serious infractions or intentional violations that are currently labeled secondary. In addition, the group has determined that some current major violations should be handled through a different classification system that allows better delineation between individual and institutional responsibility for the infractions. As a result of these and other considerations, the working group is recommending a move from the current model (secondary/major) to a four-level violation structure.

The proposed violation structure would be composed of the following levels: [Note: See Footnote 1 on page No. 4 regarding the designation of levels.]

- Level I – The most egregious violations.
  - A Level I violation is a violation that seriously undermines or threatens the integrity of any of the NCAA enduring values (student-athlete success, the collegiate model, amateurism as a student model, competitive equity), which will be codified by the rules working group, including any violation that provides or is intended to provide a significant or extensive recruiting, competitive or other advantage, or significant or extensive impermissible benefit. Multiple Level II, III and/or IV violations collectively may be considered a Level I violation. Individual conduct that is unethical may be classified as a Level I violation, even if the underlying institutional violations are not considered Level I.
  - Types of Level I violations include, but are not limited to:
    - Lack of institutional control (LOIC).
    - Significant failure to monitor (FTM) violations (e.g., intentional, negligent disregard).
    - Academic fraud.
    - Compromising an NCAA infractions investigation and/or lying to NCAA investigators.
    - Other unethical-conduct violations.
    - Reckless indifference to or intentional conduct demonstrating lack of head coach control (e.g., multiple Level II and/or Level III violations in the program).
    - Bylaw 11.1.2.1 violation (responsibility of head coach) resulting from underlying Level I violation by individual associated with the sport program.
    - Cash and other benefits intended to secure a prospect's enrollment.
    - Intentional violations or a blatant disregard for rules.
    - Other significant or extensive recruiting violations that provide, or were intended to provide, a significant or extensive advantage.
    - Significant extra benefits provided to enrolled student-athletes.

- Level II – Serious violations that currently fall between major and secondary violations.

  - A Level II violation is a violation that provides or is intended to provide more than a minimal but less than a significant recruiting, competitive or other advantage; or includes more than a minimal but less than a significant impermissible benefit; or involves a pattern of systemic violations in a particular area. Multiple Level III and/or IV violations collectively may be considered a Level II violation. Some limited individual conduct that is unethical or dishonest may be classified as a Level II violation, even if the underlying institutional violations are not considered Level II.

  - Types of Level II violations include, but are not limited to:

    - Systemic violations that do not amount to a lack of institutional control (LOIC) or a significant failure to monitor (FTM).
    - Intentional violations that do not rise to a Level I violation.
    - Bylaw 11.1.2.1 violation (responsibility of head coach) resulting from underlying Level II violation by individual associated with the sport program.
    - Multiple recruiting violations (e.g., high volume of calls, violations related to the same prospect, etc.).
    - Multiple eligibility violations that do not amount to an LOIC or FTM (e.g., improper or lack of certification).
    - Multiple financial aid violations (e.g., improper awarding of aid).
    - Violations that provide more than a minimal, but less than an extensive/significant, advantage or benefit.

- Level III – Violations that provide no more than a minimal advantage or impermissible benefit that warrant NCAA enforcement staff review.

  - A Level III violation is a violation that is isolated or limited in nature; provides no more than a minimal recruiting, competitive or other advantage; and does not include more than a minimal impermissible benefit. Multiple Level IV violations collectively may be considered a Level III violation.

  - Types of Level III violations include, but are not limited to:

    - Inadvertent violations that are isolated or limited in nature.

- Violations that result in no more than a minimal recruiting advantage (e.g., impermissible evaluations and recruiters).
- Most extra-benefit, financial aid, academic eligibility and recruiting violations that are not extensive (e.g., loans, eligibility certification, etc.)

- Level IV – Minor or technical issues that do not rise to the level of a serious violation. (The working group notes that this level may not be necessary, or may not encompass many violations, depending on the adopted work of the rules working group.)

  - A Level IV issue is an action/inaction that is inadvertent and isolated; limited or technical in nature; and results in a negligible, if any, recruiting, competitive or other advantage or negligible, if any, impermissible benefit. Level IV issues will not impact eligibility.

  - Types of Level IV issues include, but are not limited to:

    - Camp brochures.
    - Recruiting correspondence related to size, paper limitations.
    - Institutional promotional activities.
    - No IRL activation prior to official visit.
    - Other minor, paperwork and technical violations.

The proposed multi-level violation structure provides greater flexibility than the current model. Under the proposed multi-level model, infractions may be more appropriately categorized and penalties may be imposed that better reflect the severity of the infraction. In addition, under the proposed system, a member institution may be charged with rules violations at a different level than those with which an individual is charged. For example, under the proposed model, the member institution may be charged with one level of infraction (based upon the underlying nature of the violation), and an affected individual may be charged at a higher level (based upon the underlying violation and then unethical conduct to try to cover up the violation; e.g., if the individual commits a Level III recruiting violation and then lies about it during the investigation). Finally, the four-level violation structure allows the enforcement staff to resolve the lesser infractions cases more efficiently and focus its primary resources on the most serious infractions cases. The end result, the working group believes, is that the proposed violation structure will result in greater accountability for the most serious offenders of NCAA legislation.

2. Process structure.

In order to ensure an effective and efficient enforcement program under the new multi-level violation structure, the group recommends that some changes be made to the NCAA Committee on Infractions process. The working group noted that the commitment and work of the committee has been exemplary despite an increasing workload. The expertise of the committee and value of a peer review model should be retained to hear and decide the most significant allegations of rules violations. However, the working group recommends that the committee be composed of a larger pool of individuals (a minimum of 24 voting members) from which panels will be composed. In addition, the working group recommends that the committee be composed of a more diverse group of persons to decrease individual workload and decrease the timeline for resolving cases.

The proposed committee would include among its members three to four individuals from each of the following categories:

- Current or former university presidents, vice presidents or other senior institutional administrators.
- Current or former directors of athletics.
- Former NCAA coaches.
- Representatives from conference offices.
- University faculty, including, but not limited to, faculty athletics representatives.
- Athletics administrators with compliance experience.
- Members of the general public with legal backgrounds.

The working group believes that greater committee diversity, including ethnic minority and gender diversity, is critically important to strengthen the committee and bring with it important perspectives not currently adequately reflected in the composition of the committee. With respect to former presidents and athletics directors serving on the committee, the working group believes their service on the committee must begin within five years of their retirement date to ensure those individuals are not too far removed from the relevant issues facing collegiate athletics.

In cases involving the most serious allegations of rules violations (Level I), the group recommends that either six or seven committee members be randomly selected from a minimum of three representative groups to hear the cases. Those randomly selected panels will hear cases for a minimum of 12 to 18 months before the panels are dissolved and new panels are created. The chair of the Committee on Infractions will assign an individual to serve as chair of each panel for the life of the panel and would retain the authority to identify substitute panel

members if conflicts arise. In addition, each panel would include an individual, selected by the chair, to serve as the individual responsible for conducting the press conference when the infractions report of the case is released (these individuals would be provided media training by NCAA staff). In cases involving allegations of Level II violations, the group proposes that three-member panels be selected to hear the cases in the same manner as noted above.

The chair of the Committee on Infractions would be selected through the governance process. The working group is currently determining the most effective way to select individuals to serve on the Committee on Infractions, as well as the most effective process for incorporating the additional members to ensure consistency and stability within the committee. The working group is considering phasing in additional Committee on Infractions members over a period of time, which could begin prior to the August 2013 implementation date. In addition, the working group is considering an interview process to screen Committee on Infractions nominees but is still in the process of establishing effective recommendations and modifications to the current process for selecting Committee on Infractions members.

By increasing the overall size of the committee, more committee panels are available to hear cases more efficiently. At the same time, the overall workload of each individual member is significantly reduced. It is expected that members will hear two to three Level I cases per year (if 24 total members), compared to the current approximate 10 to 12 hearings annually, in addition to cases processed via summary disposition. As a result, Level I and Level II violation cases can be scheduled more often and processed more expediently. The working group recommends that hearings for Level I cases be scheduled on a minimum of 10 occasions during a calendar year, and that hearings for Level II cases be scheduled each month.

Additionally, the working group recommends a number of other process modifications, applicable to cases categorized as Level I or II, including the following:

- Allow institutions and involved individuals to petition for a hearing by an expanded Committee on Infractions panel consisting of 11 members in Level I cases of Association-wide import (e.g., matters of first impression, change from previous precedent). The committee has the discretion to grant or deny such a petition or to expand the panel size on its own initiative.

- Increase the availability of written case submissions to the Committee on Infractions, for Level II cases, at the option of the institution and/or affected individuals, with agreement by the enforcement staff, even when there is disagreement on the facts, so that certain matters may be decided without the need for a hearing.

- Maintain some form of the summary disposition process allowing for written case submissions for Level I cases when all issues are agreed upon.

- Explore the development of a new summary disposition process so that the summary disposition report could also be used as the infractions report, with necessary additional comments added by the Committee on Infractions to explain any unique factors or rationale. For summary dispositions in which there is disagreement on the penalties, an expedited hearing will occur. If the committee decides some comment on the case or penalties is necessary, the committee may attach an abbreviated committee statement to the report.

- Redesign the notice of allegations to allow the member institution and/or involved individuals immediate access to the information on which the allegations are based. The enforcement staff would then prepare a position statement and/or document listing remaining issues (e.g., items of disagreement) to facilitate the hearing.

- Introduce the concept of a "Rocket Docket" (an expedited hearing) for Level II cases, at the request of the involved institution and/or involved individuals, whereby responses are due within 30 days of the receipt of the notice of allegations and a hearing is conducted within 30 days of the receipt of the response.

- Introduce the option of decreasing the amount of time between the notice of allegations and the institution's response from 90 to 60 days.

- Introduce the concept of a prehearing conference, with the Committee on Infractions panel chair presiding, in which preliminary issues are resolved prior to the full hearing of the infractions case including, when applicable, any disputes regarding the level at which the allegations have been charged.

- Conduct Level II hearings via videoconference, unless an in-person hearing is requested.

- Use of an online case materials submission system and videoconferencing.

- Introduce time expectations, which are not limits, especially for more complex cases or where additional information is sought by the committee during or

after the hearing, for the preparation of hearing transcripts (two weeks), as well as the issuance of infractions reports (four weeks).

- Add additional staff to support the office of the Committees on Infractions.

The working group believes that the proposed modifications will increase the efficiency with which a current major infractions case is completed. The group anticipates, for example, that the proposed process structure for less serious major infractions cases (now proposed as Level II cases) could decrease the total process timeline under the current system by as much as 50 percent. At the same time, the group believes that the proposed process options will allow institutions and affected individuals greater flexibility in choosing the manner in which the infractions case will be decided and the timeline under which the case may be brought to final resolution.

The working group recognizes that a larger Committee on Infractions and the use of panels to hear cases could lead to inconsistencies of the findings of violations and imposed penalties among different cases. Accordingly, the working group recommends that the entire Committee on Infractions be required to meet at least twice per year, with at least one in-person meeting, to discuss policy and procedural matters, discuss and review panel case decisions and rationale, and identify current trends in enforcement in order to anticipate new issues. The addition of more staff to support the office of the Committees on Infractions will allow an increased role by the Committee on Infractions staff with respect to committee deliberations and case precedent. Also, the committee staff would be responsible for conducting a comprehensive orientation program for new committee members, as well as routine and continuing education for all committee members. Furthermore, a periodic (e.g., every two years) outside audit of committee decisions could be conducted. Finally, the recommended penalty guidelines discussed below will assist in maintaining consistency with Committee on Infractions decisions, as the committee will be responsible for providing detailed explanations of any deviation from the penalty guidelines.

After consultation with the Infractions Appeals Committee, it does not appear that significant changes will be needed to the appeals process for Level I and Level II cases. However, the workload of the current five-member committee should be monitored with the option of expanding to a committee of 10 individuals, creating two pools of five individuals to hear Level I appeals and three pools of three individuals to hear Level II appeals. Each panel would include an individual to serve as vice-chair for a particular hearing. Other recommended appeal process modifications for Level I and Level II cases, include the following:

- Appeals can be considered via written submission, videoconference or in-person hearings.

- Designation, prior to each Committee on Infractions hearing, of an active committee member to serve as the NCAA membership advocate/ representative during the appeals process (similar to the current Committee on Infractions appeals coordinators). These individuals will attend Committee on Infractions hearings and deliberations, but will not participate, and will be staffed by the office of the Committee on Infractions.

- Introduce time limitations for the preparation of hearing transcripts (two weeks), as well as the issuance of appeals reports (four weeks).

With respect to matters categorized as Level III or IV, the working group recommends the following:

- In situations involving Level III violations, NCAA staff will continue to work with institutions, much the same as under the current secondary violations process, to determine whether infractions have occurred and, if so, the appropriate penalties to be imposed.

- In Level III matters, member institutions would continue to have access to a case precedent database, thereby allowing confirmation that staff-imposed penalties are consistent with those imposed in similar, previously decided situations.

- Appeals of Level III violations will be submitted in writing to a Committee on Infractions panel of three after the staff has reconsidered the appropriateness of the penalty.

- In situations involving Level IV issues, the conference with which the involved institution is associated will work with the institution to determine whether issues need to be addressed and, if so, the appropriate penalties to be imposed, if any. The working group also is exploring the possibility of a Level IV database.

- Any appeal opportunities for Level IV violations and penalties would be within the purview of the conference.

For cases involving multiple levels of violations and cases in which an individual is charged with a different level of violation than the institution, the highest level of violation will dictate the process. For example, if a case involves a coach being charged with a Level I violation and the institution being charged with a Level II violation, the case will be adjudicated using the process for Level I violations.

3. Penalty structure.

The working group examined the current NCAA penalty structure. The working group recognizes the widespread perception that the current penalty model leads to inconsistent and insufficient penalties and does not adequately deter some institutions and individuals from engaging in conduct contrary to the rules. As a result, for cases involving allegations of Level I and II violations, the working group recommends a range of penalties set out in Penalty Guidelines. The goals, in considering the proposed Penalty Guidelines in cases in which the most significant violations are substantiated, are to, among other things (a) provide member institutions (and the individuals associated with the member institutions) with notice of a range of potential penalties in given situations, as well as the factors that will be relied upon to adjust the severity of those penalties; (b) better ensure consistency in applying penalties among and between NCAA member institutions, and provide the Committee on Infractions some latitude to adjust the penalty on a case-by-case basis; (c) through mitigating factors that specifically recognize exemplary cooperation and self-reporting, foster a more expedient enforcement process without compromising the integrity or fairness of the process; (d) recognize and address the need for institutional leadership and responsibility for the overall intercollegiate athletics programs, whereby actions (or failures to act) of persons of authority are taken into account in the assessment of, and ultimately reflected in, the penalties imposed; (e) recognize and address those situations in which a head coach, or others within a program, fosters an environment within the program that is inconsistent with the institution's or Association's compliance expectations; and (f) recognize and respond to the perceived need to impose more severe penalties designed to deter the rule violation risk-reward analysis (for the institution and/or persons associated with the member institutions) and address any unfair advantage from the violation.

The working group incorporated the penalties identified by the NCAA membership, via the Presidential Retreat Survey, as those with the most significant impact on an institution and the most deterrent effect on other institutions and individuals. The working group also reviewed data obtained from previously decided NCAA infractions cases to discern penalty patterns and levels of penalty severity under given circumstances. Based upon all of the available information, including that specifically mentioned, the working group recommends that a number of penalties constitute core penalties and form the basis for the Penalty Guidelines: (a) competition limitations; (b) financial penalties; (c) scholarship limitations; (d) recruiting limitations (for recruiting cases); (e) probation; and (f) when applicable, show cause orders.

The working group is very cognizant of the fact that many institutional penalties have either a direct or indirect impact on student-athletes who may not have been

involved with the violations. Competition limitation (postseason bans) is the penalty with the most direct impact on these student-athletes. Scholarship reductions also have an impact on these student-athletes, but more indirectly. Conversely, postseason bans and scholarship reductions have been identified by the membership as being the most significant types of penalties, having the most deterrent effect and being the most effective penalties to address the advantages gained as a result of significant violations. The working group struggled with this dichotomy but ultimately concluded that protecting the interests of all member institutions by significantly penalizing those institutions that violate the rules is paramount. As a result, postseason bans and scholarship reductions must be utilized in the enforcement process. People (coaches, administrators, student-athletes) comprise institutions and sports programs, and there is no practical way to impose meaningful penalties on an institution without affecting some individuals who may not have had any involvement in or benefitted from the violations for which the institution is responsible. Nevertheless, the working group continues to consider options to offset the impact of institutional penalties on uninvolved student-athletes. In addition to the recommendations being made to speed up the process, which will assist in penalties being imposed more contemporaneously, the working group is exploring other options such as loosening transfer restrictions and the replacement of lost athletics opportunities with possible academic experiences.

Each of the penalties identified above includes varying degrees of severity. The working group believes that the severity of the penalty imposed must correspond with the significance of the rule violation(s) and the institution's and individual's actions before, during and after the investigation. The recommended core penalties are set out below:

a. Penalties that the group is considering for potential use in proposed penalty guidelines.

(1) Competition limitations.

- Limitations are imposed on the institution's participation in postseason play for varying lengths of time (depending upon the severity of the infractions) in given sports.

(2) Financial penalties.

- The institution is required to return revenue received from a given (fact-specific) event or series of events (e.g., revenues received for participation in a tournament, bowl game or televised broadcasts).

- A fine is imposed, the amount of which is based upon the severity of the infractions and a percentage of given economic factors (specific to the institution involved), including the amount of gross revenue (if any) generated from the involved sport.
- A reduction in, or elimination of, NCAA monetary distribution for sports sponsorship and/or grants-in-aid.

(3) Scholarship limitations.

- Limitations are imposed on the availability of athletics scholarships in head count sports [by number or percentage, depending upon the sports involved] for varying lengths of time in given sports. The severity of the numeric/percentage scholarship limitations and the length of time the limitations are imposed will correspond with the severity of the infractions in the case.
- Limitations are imposed on the availability of athletics scholarships in equivalency sports (by percentage) for varying lengths of time in given sports. The severity of the percentage imposed and the length of time the limitations are imposed will correspond with the severity of the infractions in the case.

(4) Recruiting limitations.

- Limitations are imposed upon the number of allowable official paid visits at the institution for varying lengths of time in given sport). The severity of the numeric recruiting limitations and the length of time the limitations are imposed will correspond with the severity of the infraction(s) in the case.
- Limitations are imposed upon the number of, or benefits that can be provided during, unofficial visits at the institution for varying lengths of time in given sports. The severity of the limitations and the length of time the limitations are imposed will correspond with the severity of the infraction(s) in the case.
- Limitations are imposed on the institution's off-campus recruiting efforts for varying lengths of time in given sports. The severity of the limitations and the length of time the limitations are imposed will correspond with the severity of the infraction(s) in the case.
- Limitations are imposed on the institution's other recruiting efforts, including contacts and evaluations, for varying lengths

of time in given sports. The severity of the numeric limitations and the length of time the limitations are imposed will correspond with the severity of the infraction(s) in the case.

(5) Show cause orders (if applicable in a given case).

- Length of show cause restrictions.
- Components of the show cause order (e.g., suspension of coach from games and/or season).
- Option to censure president, director of athletics, faculty athletics representative, etc.

(6) Probation.

- Conditions are imposed with which the institution must comply during a set period of time, the length of which is dependent upon the severity of the infraction(s). The committee has the discretion to determine which of the following should apply in a particular case. The working group recommends that probation include required action by institutional leaders acknowledging the violations and pledging rules compliance moving forward. Any accompanying public announcements would need to be approved by the office of the Committee on Infractions to ensure the appropriate message is being delivered. Many of the responsibilities tied to probation have fallen to the compliance staff of an institution. The working group recommends shifting the burden and responsibility to the president, director of athletics and coaching staff of the involved program. The suggested discretionary conditions include:

    - Submission of compliance reports during the period of probation.
    - Institutional publicity in alumni publications, media guides and recruiting materials of the violations committed, the terms of probation, and penalties imposed.
    - Institution's president shall meet with student-athletes and athletics department staff, and the president and/or director of athletics shall meet with booster groups to personally pledge his or her commitment to NCAA rules compliance and present his or her view of shared responsibility for preserving the integrity of intercollegiate athletics.

- Publicizing institutions on probation on the NCAA website, in Champion magazine and in NCAA championship game programs of the involved sport(s).
- Requiring institutions to provide a public service announcement during televised contests that it is on probation and the reasons for the probation being imposed.
- The implementation of a "monitorship" program by the office of the Committee on Infractions or a private company for institutions on probation in cases where an institution is found to lack institutional control and serious remediation is necessary.

In addition to these core penalties, other potential penalties, as set out in the current Bylaw 19.5.2, would remain available to the Committee on Infractions to impose.

- Vacation of contests and records.
- Public reprimand and censure.
- Full-/partial-season ban for involved sports.
- Disassociation of athletics representatives.
- Requirement that all institutional staff members serving on the NCAA Board of Directors or other committees or cabinets resign those positions and be precluded from serving for a period of time.
- Requirement that the institution relinquish its NCAA voting privileges for a period of time.
- Notification to regional accrediting agency of academic violations or questionable procedures.
- Recommendation by the Committee on Infractions to the Executive Committee that the institution's membership be suspended or terminated.
- Return of individual and team awards to the Association.
- Prohibition against television appearances.[2]
- Other penalties as appropriate.

The working group believes that the proposed Penalty Guidelines should afford the Committee on Infractions a more sophisticated structure by which it may consider certain aggravating and mitigating factors in particular infractions cases. The group recommends that the best means by which the committee may impose a penalty that falls within a more/less

[2] The working group does not believe this is currently a practical penalty; however, due to the uncertain future of television as a medium, it would be shortsighted to remove it as a potential option.

severe range of penalties is if it determines that certain aggravating and/or mitigating circumstances exist in Level I or II cases.

The group continues to refine the lists of aggravating and mitigating factors. The Committee on Infractions will determine the presence and weight of the individual factors in a given case and may balance these factors in the decision-making process. The proposed lists of factors follow:

Aggravating factors.

- Multiple Level I infractions were substantiated in the case.
- Multiple Level I infractions were committed by an at-risk individual.
- The violations were intentional, willful or demonstrated a blatant disregard for NCAA regulations.
- Persons of authority condoned, participated in or demonstrated negligent disregard for the infractions or underlying conduct.
- There is a prior history of Level I or II violations by the institution, sport program(s) or affected individual(s). [Note: Preliminarily, the weighting of prior infractions as an aggravating factor will be based on the proximity in time to the current infractions case. Further, the interim recommendation is that repeat-violator status will be retained as an aggravating factor, but the current enhanced penalties for repeat violator will be folded into the penalty guidelines.]
- The case involved an abuse of a position of trust.
- A pattern/multiple instances of violations were substantiated in the case (e.g., the infractions were not isolated or limited in scope).
- Lack of cooperation by the institution or involved individual during the investigation.
- The committee finds that action(s)/failure(s) to act compromised the investigation of the rule violation(s), whether by involved individual(s) or the institution.
- One or more infractions caused harm to a student-athlete or prospective student-athlete (either in terms of eligibility or otherwise).
- The case included a failure to monitor or lack of institutional control.
- The existence of extraordinary aggravating factors (as determined on a case-by-case basis).

Mitigating factors.

- The institution/affected individual self-detected and self-disclosed the rule violation(s).

- The institution/affected individual admitted the violation (a) prior to the time that the NCAA initiated a formal investigation (greatest weight), (b) prior to the conclusion of the NCAA investigation (some weight) or (c) prior to the NCAA Committee on Infractions hearing (least weight).
- The institution has an established history of self-reporting Level III violations.
- The institution had in place a system of compliance methods that were designed and implemented to ensure rules compliance. The committee finds that those involved met institutional/coaches control standards.
  - The working group is assembling a smaller group of experts to propose a clear definition of institutional control that considers the recent work of the Division 1A Athletics Directors and building on the Principles of Institutional Control document written by the Committee on Infractions in 1996-97. The group also will ensure that representatives from NAAC are involved given the group's leadership in establishing monitoring standards.
- The institution/affected individuals exceeded the expectations of cooperation during and after the investigation of rule violation(s). An institution and affected individual can exceed cooperation expectations while denying some or all of the allegations of wrongdoing against them.
- The violations are isolated or limited in scope.
- The institution accepted responsibility for the violation(s) (e.g., self-imposed actions) in a timely and effective manner.
- The existence of extraordinary mitigating factors (as determined on a case-by-case basis).

b. Classifications of Level I and Level II penalties.

The committee may determine whether the presence of one or more of the aggravating and/or mitigating factors exist and, if so, how those factors affect the classification of the case. As a result, the presence of some aggravating factors and no mitigating factors may elevate the case classification to "aggravation" or "significant aggravation." Conversely, if there are mitigating factors in a case and no aggravating factors, the case classification would be "mitigation" or "significant mitigation."

(See Attachment 1 for Penalty Guidelines Flow Chart.)

Level I	**Level II**
Significant aggravation	
Aggravation	Aggravation
Standard penalty	Standard penalty
Mitigation	Mitigation
Significant mitigation	

Based on the determined case classification, the penalties, as outlined in the penalty matrix, will apply unless extenuating circumstances are found by the committee.

(See Attachment 2 for the Penalty Guideline Matrix and Attachment 3 for penalty case examples.)

4. Accountability.

a. Head coach responsibility.

The working group believes head coaches are in the best position to create a culture of integrity and accountability. The working group examined what changes can be made to encourage coaches to direct their staffs and student-athletes to uphold the rules while also creating strong penalties when coaches fail to meet this responsibility.

The membership has acknowledged through Bylaw 11.1.2.1 that there is a level of responsibility that a head coach has for the administration of his/her program. When there is a failing by the head coach to carry out this responsibility, it is appropriate for there to be a penalty on the program, including the Committee on Infractions directing the institution, through a show cause order, to suspend the head coach from coaching-related activities for a specified period of time.

The working group recognizes that employment decisions related to coaches or any athletics personnel rest solely with our member institutions.

(1) The violation: Change emphasis from knowledge to responsibility for major (Levels I and II) violations.

For Levels I and II violations, Bylaw 11.1.2.1 (Responsibility of Head Coach) is the centerpiece of the working group's

recommendations. Since 2008, there have been 15 cases where a head coach was found to have violated this bylaw for either not promoting an atmosphere of compliance or for not monitoring his/her staff, or both. The rationale for Proposal No. 2004-102 notes that when a serious violation occurs in a program, the head coach is "presumed to have knowledge and, therefore, responsibility" for what happened. Rather than focusing on knowledge, or the presumption of it, the working group proposes that the bylaw be amended to presume only responsibility. The working group proposes that the Board of Directors adopt the amendment at the August 2, 2012, Board of Directors meeting. The amended rationale would then apply to all violations occurring after that date. Accordingly, if something happens in a program, the head coach is presumed responsible (instead of knowledgeable and, therefore, responsible) for not promoting an atmosphere of compliance and/or monitoring his/her staff. If the coach cannot overcome that presumption of responsibility by demonstrably showing what he/she did to both promote an atmosphere of compliance and monitor his/her staff, the coach is presumed responsible under this bylaw and will be charged for not upholding this rule.

[See Attachment 4 for Proposal No. 2004-102 (Bylaw 11.1.2.1).]

(2) The penalty guideline.

Violations of Bylaw 11.1.2.1 are considered either Level I or II as noted in the violation section of the report. The level of the violation will correspond with the underlying violation that occurred in the coach's program. For example, if an assistant coach commits a Level I violation, the Bylaw 11.1.2.1 violation is also Level I (and the same for Level II). The working group is recommending that the penalty guidelines emphasize that violations of this bylaw should result in a show cause order with suspension from contests as one of the show cause requirements. The number of contests involved will depend on the aggravating and mitigating factors present in the case. Thus, the employing institution of a head coach who violates this bylaw will withhold the coach from a certain number of contests pursuant to a show cause order unless the institution wants to appear before the Committee on Infractions in a subsequent hearing and show cause to the committee why the suspension should not be applied. The membership has consistently indicated (in the 2011 Presidential Retreat Survey and during presentations and meetings with

enforcement staff) that the penalty that has the most impact on coaches is suspension. The specific suspension requirements are recommended below:

- For the head coach who commits a Level II violation of this bylaw, his/her employing institution will withhold, pursuant to a show cause order, the coach from five percent (for a mitigated Level II) to 40 percent (for an aggravated Level II) of the institution's next games. The suspensions may include postseason contests and/or carry over to the next season.
- For the head coach who commits a Level I violation of this bylaw, his/her employing institution will withhold, pursuant to a show cause order, the coach from 10 percent (for a significant mitigated Level I) to 100 percent (for a significant aggravated Level I) of the institution's next games. The suspensions may include postseason contests and/or carry over to the next season.

Suspensions are currently a penalty available to the Committee on Infractions, and the committee has directed an institution to impose a suspension for a violation of Bylaw 11.1.2.1 in a previous infractions case and accepted an institutionally imposed suspension in another case. The working group recommends that at the August 2012 meeting, the Board of Directors support a recommitment to the original intent of Bylaw 11.1.2.1 with the clarifying amendment to the rationale, with an immediate effective date. The specific penalty guidelines for 11.1.2.1 violations would be effective August 1, 2013, or before as described in the introduction section, along with the other penalty guidelines. In the interim, the working group notes that the appropriate penalty for Bylaw 11.1.2.1 violations will be decided by the Committee on Infractions.

(3) Level III violations (currently secondary violations).

The American Football Coaches Association (AFCA) approached the enforcement staff and Committee on Infractions in the summer of 2010 requesting that suspensions be imposed for what the AFCA members deemed serious secondary violations. Since acting on that request, the enforcement staff has directed the institution to suspend five assistant football coaches for committing secondary violations. The working group proposes that suspension of head football coaches also occur when their staff

members commit these serious secondary violations. The working group currently is seeking feedback from the membership and the AFCA to evaluate which secondary violations (Level III) should warrant this penalty.

In 2009, the Board of Directors passed legislative reform to address issues in the men's basketball recruiting environment. A component of that reform included a head coach suspension by the institution at the direction of the enforcement staff from a contest when he or his staff committed specifically identified secondary violations. The working group currently is seeking feedback from the membership and the National Association of Basketball Coaches (NABC) to identify the types of Level III violations (currently secondary) that should result in suspension of the head coach, even if the violations are committed by assistant coaches or other members of the staff.

The working group proposes that the list of identified violations for both sports be examined and expanded as appropriate to address what are presumed to be intentional secondary recruiting violations that undermine the integrity of the sports, which are believed to have the biggest issues. The point is that head coaches can set the tone, and if a coaching staff member knows that the head coach will be suspended for acts of the staff members, there is a greater incentive for the head coach to set clear expectations of full compliance and for the staff to comply.

The working group seeks Board endorsement at the August 2012 meeting of the institutionally imposed suspensions at the direction of the enforcement staff for all violations occurring after August 2, 2012. The working group believes these steps would signal to the membership the important role and responsibility head coaches play in being stewards of intercollegiate athletics prior to the new violation structure and penalty guidelines being adopted.

The working group is supportive of including other sports that have similar problems with compliance with recruiting rules. The working group has discussed the application of the coaching suspensions with the women's basketball coaching community and is examining application to other sports.

In addition, the working group recommends that institutionally imposed suspensions of coaches for designated recruiting violations at the direction of the enforcement staff be publicly

released for Level III violations. Currently, secondary violations (Level III) are not made public. For suspensions to have the desired impact, however, others must know about the consequences of committing violations. In addition, the working group recommends that athletics department staff members' and coaches' violation histories, including Level III violations, be made available to member institutions that request such information. The only exception to making this information available would be for those Level III violations that are self-disclosed by the involved coach.

b. Accountability for presidents and directors of athletics.

In addition to coaches, the working group recognizes the need to address the accountability of an institution's president and/or director of athletics when major violations occur. Currently, and under the proposed Level I and Level II violations, if a president or director of athletics is directly involved in a violation, he or she will be charged with that violation and named in the allegation. There currently is no mechanism, however, to hold those individuals publicly accountable for violations that occur under their watch if they are not directly involved in violations. As a result, the working group believes some minimal level of public accountability for the leaders of an involved institution is appropriate for infractions cases involving a Level I lack of institutional control violation, or a Level I or Level II failure to monitor violation. Specifically, the names of leaders of the involved institution who held the positions at the time the violations occurred should be printed at the top of the public infractions report upon release. It is recommended that the persons identified in the public infractions report include the following:

(1) President of institution (for lack of institutional control cases).

(2) Director of athletics (for lack of control and failure to monitor cases).

(3) Head coaches of involved sports (for any violations involving the coach's program).

If appropriate, and when determined that the chair of the board or other board members had involvement in the violation(s), it would be at the discretion of the Committee on Infractions to include the name of the chair of the board on the public infractions report.

In addition, printing these names on the infractions report creates a record of names of individuals who: (1) oversaw the institution, the athletics department and specific sport programs at the time an institutional control or failure to monitor violation occurred; and (2) oversaw a sport program at the time a Level I and/or Level II violation occurred in that program. Therefore, even after leaving the involved institution, individuals could be held accountable for the violation that occurred while he/she was responsible for leading the institution, athletics department or sport program. Because of this, it would be possible for an institution to determine (through a database maintained by the NCAA) when and if a violation occurred under a specific individual's leadership prior to hiring that individual.

The above accountability measures would be effective August 2, 2012, for all violations occurring after that date.

5. Shared responsibility specific to compliance efforts and investigations.

Rules compliance cannot be achieved unless all of the interested parties (a) assume responsibility for identified roles in the compliance and enforcement processes over which they have control; (b) are held accountable for those deficiencies in the compliance and enforcement processes for which they have responsibility; and (c) are recognized, in a tangible and meaningful way, if the identified compliance and enforcement expectations are effectively met or exceeded. To address these needs, the working group recommends that the concept of shared responsibility be better defined and specific expectations be identified for given roles within the compliance and enforcement processes.

- For example, this working group recognizes that there is a lack of uniform expectations for conference office involvement related to enforcement issues. Similarly, institutional involvement in NCAA investigations varies widely. Some institutions exercise passive involvement in investigations, some purposefully participate minimally and others earnestly try to uncover the full facts, regardless of the impact. The working group believes that it must establish clear expectations for conference involvement in the enforcement process and for institutional cooperation in an investigation. The group is considering the best means of recognizing, within the new penalty structure, those situations in which institutional and individual action(s) exceed these specified expectations of cooperation. In addition, the group is considering the tools that will assist conferences and institutions in meeting or exceeding the specified expectations, including, for example, educational programs/training for compliance officers and national whistle-blower arrangements.

The working group intends to provide a final report on this issue to the Board in August 2012.

D. Desired Outcomes.

Ultimately, the working group wants those involved in intercollegiate athletics to believe that upholding the rules is paramount and violators will be dealt with swiftly, judiciously and seriously. Similarly, the working group aims to contribute to the larger effort by university presidents to restore public trust in intercollegiate athletics as an integral part of higher education rather than a stand-alone revenue stream.

The specific outcomes the working group expects from the changes to the violation, process and penalty structures are noted below:

1. Violation structure.

   A new violation structure that appropriately categorizes the severity of infractions and allows for different levels of accountability for institutions and individuals.

2. Process structure.

   a. A much faster mode for processing violations that delivers expediency without compromising process integrity or fairness.

      - Clear metrics for every stage of processing a case.

   b. Clear understanding of what aspects of enforcement and student-athlete reinstatement cases can be more transparent and corresponding transparency where appropriate.

3. Penalty structure.

   a. Strong penalties that are predictable, deter the risk-reward analysis and address any unfair advantage.

   b. Clear definition of institutional control.

      - Rewards/incentives for effective compliance programs.
      - Rewards/incentives for strong institutional action to address wrong-doing.

   c. Rewards/incentives for individuals acknowledging violations.

4. Accountability.

   a. Increased accountability for head coaches.

   b. Public accountability for presidents and directors of athletics.

5. Shared responsibility.

   a. Strengthened support for institutional leadership.

   b. Clear definition of shared responsibility and resulting expectations of individuals, institutions, conferences and the national office staff.

Findings of Violations

- Committee on Infractions determines violations.
- Committee on Infractions determines the level for each violation.

Determination of Circumstances

- Committee on Infractions reviews any proposed aggravating and mitigating circumstances for both the institution and involved individual.
- Committee on Infractions slots the institution's and the individual's case into the penalty guidelines based on the committee's determination on the aggravating or mitigating circumstances.

Application of Penalty Guidelines

- Committee on Infractions determines penalty from the range of penalties in the guideline for that particulcar slotting.
- Committee on Infractions has the option to deviate from the range in this slot if the committee articulates specific extenuating circumstances.

Proposed Penalty Matrix
(WORKING DRAFT)
Version No. 3 (January 30, 2012)

Violation Level I	**Violation Level II**	**Competition Penalties: Postseason Ban *Competition penalties may be used singularly or in combination**		
Significant Aggravation		3(+) years		
Aggravation		2 to 3 years		
Standard		1 to 2 years		
Mitigation	Aggravation	0 to 1 year		
Significant Mitigation	Standard	0		
	Mitigation	0		
Violation Level I	**Violation Level II**	**Financial Penalties: Fine (Percent of total budget for sport program)**	**Financial Penalties: Negate revenue from sport program for years in which violations occurred**	**Financial Penalties: Reduce or eliminate NCAA monetary distribution for sports sponsorhip and/or grants-in-aid**
Significant Aggravation		3 to 5% (+)	Impose this penalty if greater than percent of budget fine.	Alternative financial penalty.
Aggravation		2 to 4%	Impose this penalty if greater than percent of budget fine.	Alternative financial penalty.
Standard		1 to 3%		Alternative financial penalty.
Mitigation	Aggravation	0 to 1%		Alternative financial penalty.
Significant Mitigation	Standard	0 to .5%		Alternative financial penalty.
	Mitigation	0 to .25%		Alternative financial penalty.
Violation Level I	**Violation Level II**	**Scholarship Reductions of Involved Sport(s) Program(s)**		
Significant Aggravation		37.5 to 50% (+)	(Reduction taken at first available opportunity.)	
Aggravation		25 to 37.5%		
Standard		12.5 to 25%		
Mitigation	Aggravation	0 to 12.5%		
Significant Mitigation	Standard	0 to 5%		
	Mitigation	0 to 2.5%		

Proposed Penalty Matrix
(WORKING DRAFT)
Version No. 3 (January 30, 2012)

Violation Level I	**Violation Level II**	**Show-Cause Order**	**Restrictions**	
Significant Aggravation		10 (+) years	All athletically related duties	
Aggravation		5 to 10 years	All athletically related duties	
Standard		2 to 5 years	All athletically related duties	
Mitigation	Aggravation	1 to 3 years	All athletically related duties	
Significant Mitigation	Standard	1 to 2 years	All or partial coaching and recruiting duties (including game suspensions)	
	Mitigation	0 to 1 year	All or partial coaching and recruiting duties (including game suspensions)	
Violation Level I	**Violation Level II**	**Head Coach Restrictions (game suspensions via show cause for 11.1.2.1)**		
Significant Aggravation		60 to 100%		
Aggravation		40 to 75%		
Standard		20 to 50%		
Mitigation	Aggravation	15 to 40%		
Significant Mitigation	Standard	10 to 30%		
	Mitigation	5 to 20%		
Violation Level I	**Violation Level II**	**Recruiting Restrictions**		
Significant Aggravation		37.5 to 50% (+)		
Aggravation		25 to 37.5%		
Standard		12.5 to 25 %		
Mitigation	Aggravation	0 to 12.5%		
Significant Mitigation	Standard	0 to 5%		
	Mitigation	0 to 2.5%		
Violation Level I	**Violation Level II**	**Probation**		
Significant Aggravation		6 to 10 (+) years		
Aggravation		4 to 8 years		
Standard		2 to 6 years		
Mitigation	Aggravation	1 to 4 years		
Significant Mitigation	Standard	0 to 2 years		
	Mitigation	0 to 1 year		
NCAA/01/30/12/CSS:ajw				

Penalty Structure Examples
Version Three

Institution A

Summary of violations: This case involved violations of impermissible benefits and financial aid; ineligible participation; unethical conduct; and lack of institutional control in the softball and men's and women's tennis programs.

Specific violations:

- Ineligible participation and impermissible benefits – softball (Level I).
  - Former head softball coach permitted ineligible student-athlete to compete and receive impermissible expenses and athletically related aid.
- Impermissible benefits – tennis (Level I).
  - Former head tennis coach provided extra benefits and athletically related aid to five student-athletes, provided a recruiting inducement to two student-athletes, and provided 15 student-athletes with other benefits totaling $12,900.
- Unethical conduct – former head softball and tennis coach (Level I).
- Lack of institutional control – tennis and softball (Level I).
- Impermissible financial aid – men's tennis (Level III).
  - Institution over-awarded athletically related equivalency grants by .13 in men's tennis.

New penalty structure classification:

1. Sublevel classification - Level I.

2. Factors for institution.

   a. Aggravating.
      (1) Lack of institutional control.
   b. Mitigating.
      (2) Acknowledged violations prior to hearing.

3. Factors for involved individuals (former head softball and tennis coaches).

   a. Aggravating.
      (1) Unethical conduct.
      (2) Multiple Level I violations by head coaches.

4. New penalty structure conclusion.

   Assume for the sake of argument that there is one aggravating factor and one mitigating factor, which would place this institution in the **Standard** sublevel. For the two coaches, assume that there are no mitigating factors and two aggravating factors resulting in **Aggravation** sublevel.

Institution A: Imposed penalties vs. new penalty structure.

	Competition	Financial	Scholarship	Recruiting	Show Cause	Probation
Imposed Penalties	The institution self-imposed the following: Men's and women's tennis programs suspended from all competition for the spring 2007, fall 2007 and spring 2008 semesters. WSB: Not eligible to participate in 2009 postseason competition.	None.	The institution self-imposed the following: MTE: Total number of grants-in-aid reduced by one for both the 2008-09 and 2009-10 academic years. (22% cut.) WTE: Total number of grants-in-aid was reduced by one for both the 2008-09 and 2009-10 academic years. (12.5% cut.)	None.	4 years for former head tennis coach. 3 years for former head softball coach	4 years. Vacate all wins in which the ineligible softball and tennis student-athletes competed, and vacation of wins must be reflected in public records, etc.
New Penalty Structure (Standard for institution) (Aggravation for former head coaches)	1-2 year postseason ban. (MTE, WTE, WSB)	1-3% of the total budget per sport program. (Assuming WTE has a $1 million budget, this would be a fine of $10,000 to $30,000.)	12.5 to 25% reduction per sport. (Reductions would be greater than what was imposed. So, softball's 12 grants would be reduced by 1.5 to 3 grants for two years; WTE's 8 grants would be reduced by 1 to 2 grants per year for two years; MTE has 4.5 equivalencies and so there would be a reduction of .56 to 1.125 equivalency grants for two years.)	Not applicable.	Show cause of 5-10 years for the former head coaches.	2-6 years. Vacation of wins as noted above.

<u>Institution B</u>

Summary of violations: Violations in the men's basketball program regarding impermissible inducements and benefits involving representatives of the institution's athletics interests. Violations also occurred in the football program regarding academic fraud involving two former graduate assistant football coaches and impermissible inducements to prospective two-year college transfers.

Specific violations:

- Unethical conduct – former football graduate assistant (Level I).
  - Graduate assistant coach committed academic fraud with two junior college prospective student-athletes, which allowed the student-athletes to compete on the football team.
- Impermissible inducements - football (Level I).
  - Football staff provided impermissible assistance to seven prospective student-athletes.

- Impermissible benefits – men's basketball (Level I).
  - A representative of the institution's athletics interests provided two students-athletes various impermissible benefits totaling more than $5,000, including transportation, gifts, lodging, assistance in purchasing vehicles, cash, meals and other impermissible benefits.
- Multiple secondary violations (Level III).
  - Impermissible benefits in men's basketball, women's basketball and football.
- Lack of institutional control (Level I).

New Penalty Structure Classification:

1. Sublevel classification - Level I.

2. Factors for institution.

   a. Aggravating.
      (1) Lack of institutional control.

   b. Mitigating.
      (1) Institutional self-report.
      (2) Admission of violation prior to hearing.

3. Factors for involved individuals (former graduate assistant football coach).

   a. Aggravating.
      (1) Unethical conduct.

4. New penalty structure conclusion.

   Assume for the sake of argument that there is one aggravating factor and two mitigating factors, which would place this institution in the **Mitigation** sublevel of the penalty guidelines. There is only one aggravating factor and no mitigating factors for the former graduate assistant coach resulting in the **Aggravation** sublevel.

Institution B: Imposed penalties vs. new penalty structure.

	Competition	Financial	Scholarship	Recruiting	Show Cause	Probation
Imposed Penalties	None.	None.	FB: Reduce initial grants-in-aid in the sport of football by 3 for both 2007-08 and 2008-09 academic years. (limited to 22 each year from 25, a 12% cut). MBB: Shall not award more than 12 grants-in-aid during 2007-08 and 2008-09. (8% cut).	Limited the number of two-year college transfer football student-athletes to 3 for the 2005 and 2006 seasons. Reduced by 8 the number of official paid visits over the period of 2006-07 to 2007-08 academic years. (33% cut).	3-year show cause for former football graduate assistant coach.	3 years. Representative of the institution's athletics interests disassociated for four years.
New Penalty Structure (Mitigation for institution) (Aggravation for former graduate assistant coach)	0-1 year post-season ban for involved sports (MFB, MBB).	0-1% total budget. (Assuming FB has a $15 million budget, this would be a fine of $0 to $150,000. Assuming MBB has a budget of $5 million, this would be a fine of $0 to $50,000.)	0-12.5% scholarship reductions. (FB's 85 grants would be cut by 0 to 11 per year. MBB's 13 grants would be reduced by 0 to 2 per year.)	0-12.5% reduction in all recruiting activity. (This would apply to both football and men's basketball.)	5-10 years to graduate assistant FB coach.	1-4 years probation. Disassociation of representative as above.

<u>Institution C</u>

Summary of violations: Exceeding coaching staff limitations; playing and practice season violations; unethical conduct involving a former graduate assistant coach; failure to monitor.

Specific violations:

- Exceeding coaching staff limitations - football (Level II).
  - Program exceeded the permissible limit on the number of coaches by five when five quality control staff members engaged in on- and off-field coaching activities.
- Playing and practice season violations - football (Level II).
  - Football staff members monitored and conducted voluntary summer workouts, conducted impermissible activities outside of the playing season, required student-athletes to participate in summer conditioning activities for disciplinary purposes, and exceeded time limited for countable athletically related activities.
- Unethical conduct – former football graduate assistant (Level II).
  - Former graduate assistant failed to deport himself in accordance with the recognized standards of honesty and sportsmanship when he provided false information to the institution and enforcement staff.

- Failure to monitor - football (Level II).
  - Head coach and athletics department failed to monitor the duties of the quality control staff, the former graduate assistant coach and the limits for athletically related activities.

New Penalty Structure Classification:

1. Sublevel classification - Level II.

2. Factors.

   a. Aggravating.
      (1) Failure to monitor.
      (2) Unethical conduct.

   b. Mitigating.
      (1) Self-detection and self-disclosure of the violation.
      (2) Met institutional control standards.

3. Factors for involved individuals (former graduate assistant football coach).

   a. Aggravating.
      (1) Unethical conduct.

4. New penalty structure conclusion.

   Assume for the sake of argument that two aggravating factors and two mitigating factors would place this institution in the **Standard** sublevel of the penalty guidelines. There is only one aggravating factor and no mitigating factors for the former graduate assistant football coach, resulting in the **Aggravation** sublevel.

Institution C: Imposed penalties vs. new penalty structure.

	Competition	Financial	Scholarship	Recruiting	Show Cause	Probation
Imposed Penalties	Decrease in FB CARA by 130 hours beginning in June 2010 and ending no later than the conclusion of the 2011-12 year.	None.	None..	None.	None.	3 years.
New Penalty Structure (Standard for institution) (Aggravation for former graduate assistant coach)	0 years postseason ban.	0-.5% total budget. (Assuming FB has a $15 million budget, this would be a fine of $0 to $75,000.)	0-5% scholarship reductions. (FB's 85 grants would be cut by 0 to 4 per year.)	0-5% reduction in all recruiting activity. (This would apply to football.)	1-4 years to FB graduate assistant coach.	0-2 years.

Institution D

Summary of violations: Impermissible benefits; impermissible inducements; impermissible financial assistance to prospective student-athletes; failing to follow procedures for reporting banned drug use; impermissible tryout; impermissible contact; unethical conduct by the former head coach and three former assistant coaches; academic fraud; lack of institutional control.

Specific violations:

- Extra benefits– men's basketball (Level I).
  - Head coach (with some assistance from an assistant coach) provided $20,000 in extra benefits to one student-athlete. Also, head coach (with some assistance from an assistant coach) provided $10,000 in extra benefits to a second student-athlete.
- Recruiting inducements – men's basketball (Level I).
  - Head coach (with assistance from some assistant coaches) provided recruiting inducements to three prospective student-athletes (PSAs):
    - PSA No. 1 - $275.
    - PSA No. 2 - $2,100.
    - PSA No. 3 - $900.
  - Head coach donated $28,000, and secured another $87,000 in booster donations, to elite AAU basketball teams.
- Impermissible tryouts - men's basketball (Level II).
- Failure to follow banned drug procedures - men's basketball (Level I).
- Miscellaneous extra benefits - men's basketball (Level I).
- Miscellaneous recruiting inducements - men's basketball (Level I).
- Impermissible booster contact with PSA - men's basketball (Level I).
- Academic fraud in football - (Level I).
  - Tutor wrote papers for three football student-athletes.
- Unethical conduct - head coach - men's basketball (Level I).
  - Knowing involvement in serious violations. Asking a student-athlete and his mother to lie for him. Forging bank records and documents related to the mother and impersonating the student-athlete's father in an attempt to cover up. Asking other student-athletes and coaches to lie and suggest dead student-athlete was drug dealer with rolls of money. Lying to the institution and enforcement staff.
- Unethical conduct - assistant coaches - men's basketball (Level I).
- Lack of institutional control.
  - Failure to detect violations and head coach failed to create and maintain an atmosphere of compliance.

New penalty structure classification:

1. Sublevel classification - Level I.

2. Factors for institution.

   a. Aggravating.
      (1) Multiple level I violations.
      (2) Failure to monitor.
      (3) Repeat-violator status.
      (4) Persons of authority have demonstrated negligent disregard for the violations.
      (5) Academic fraud.

   b. Mitigating.
      (1) Institutional self-report.
      (2) Admission of violations prior to hearing.

3. Factors for involved individuals (former head and graduate assistant football coaches).

   a. Aggravating.
      (1) Unethical conduct.
      (2) Multiple Level I violations.

4. New penalty structure conclusion.

   Assume for the sake of argument that five aggravating factors and two mitigating factors would place this institution in the **Significant Aggravation** sublevel of the penalty guidelines. There are two aggravating factors and no mitigating factors for the former head football coach resulting in the **Significant Aggravation** sublevel.

Institution D: Imposed penalties vs. new penalty structure.

	Competition	Financial	Scholarship	Recruiting	Show Cause	Probation
Imposed Penalties	1 year – Postseason ban. 1 year – Schedule limited to conference games only. Granted transfer releases to all SAs on MBB team.	Forfeiture of share of revenue from the 2003-04 Big 12 tournament equaling $212, 500. (Assuming MBB has a budget of $5 million, this would be 4.25% of budget.)	13 to 9 for 2004-05 (30% reduction). 13 to 12 for 2005-06 (8% reduction).	Reduce expense paid visits from 12 to 8 in 2004-05 (33% cut) and 12 to 9 during both 2005-06 (25% cut) and 2006-07 (25% cut) recruiting years. Contact days reduced by five for each contact period from Sept. 2004 to April 2006. Reduce number of MBB coaches allowed to recruit off campus from three to two for the 2004-05 and 2005-06 seasons (33% cut).	10 year – Head coach. 8 year – Assistant coach. 5 year – Assistant coach. 5 year – Assistant coach.	5 years.
New Penalty Structure (Significant aggravation for institution) (Significant Aggravation for institutional staff)	3+ years postseason ban. 0-100% full-season ban for MBB (Optional penalty, not core.)	3-5% of the total budget per sport program. (Assuming MBB has a $5 million budget, this would be a fine of $150,000 to $250,000.)	37.5 to 50(+) % reduction per sport. In other words, a reduction from13 grants to 5-7+ grants.	37.5-50(+) % reduction in all MBB recruiting activity.	Show-cause of 10+ years on each involved institutional staff member.	6-10 + years probation.

2004-102 PERSONNEL -- CONDUCT OF ATHLETICS PERSONNEL -- RESPONSIBILITY OF HEAD COACH

Status: Adopted – Final.

Intent: To define the responsibilities of a head coach with regard to compliance with NCAA rules.

Bylaws: Amend 11.1.2 by adding new 11.1.2.1, as follows:

"11.1.2 Responsibility for Violations of NCAA Regulations. Institutional staff members found in violation of NCAA regulations shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, whether such violations occurred at the certifying institution or during the individual's previous employment at another member institution.

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

Source: NCAA Division I Board of Directors [Management Council (Committee on Infractions)].

Effective Date: Immediate.

Proposal Category: Amendment.

Topical Area: Personnel.

Rationale: The head coach has an obligation to promote a culture of compliance among the entire team, including assistant coaches, other staff and student-athletes. The head coach must monitor the activities of assistant coaches and staff to determine if they are acting in compliance with NCAA rules. Too often, when assistant coaches or other administrators involved with the program are involved in serious violations, head coaches profess ignorance regarding such violations while indicating such responsibilities were entrusted to their assistants. A head coach should be presumed to have knowledge and, therefore, responsibility for the actions of those individuals associated with his or her team whom the coach directly or indirectly supervises. However, a violation of the proposed bylaw will occur only in major-infractions cases, similar to institutional control allegations, or in very serious secondary cases. This proposal does not imply that every violation by a staff member or student-athlete involved in the head coach's program will be considered a lack of control on the part of the head coach. There is a rebuttable presumption that exists when situations indicate that the head coach has set a proper tone of compliance. Under such circumstances, the head coach would not be charged with a lack of control for activities that may result in NCAA rules violations.

Estimated Budget Impact: None.

Impact on Student-Athlete's Time (Academic and/or Athletics): None.

History

Mar 08, 2004: Submit; Submitted for consideration.

Apr 19, 2004: Mgmt Council 1st Review, Approved

Jan 09, 2005: Mgmt Council 1st Review; Gave initial approval and circulated the proposal for membership comment. (Unanimous Voice Vote)

Jan 11, 2005: Comment Period; Start of Comment Period

Mar 14, 2005: Comment Period; End of Comment Period; (Official Comment Totals: Support = 37, Oppose = 2, Abstain = 0)

Apr 11, 2005: Mgmt Council 2nd Review; Gave final approval and forwarded the proposal to the Board for approval. (Unanimous Voice Vote)

Apr 28, 2005: Adopted, Pending Possible Board Review, Adopted; Adopted the proposal. (Unanimous Voice Vote)

Apr 28, 2005: Adopted, Override Period; Start of Override Period

Jun 23, 2005: Adopted, Override Period; End of Override Period

Jun 23, 2005: Adopted; Adopted - Final

References

Legislative References		
Div.	**Number**	**Title**
I	11.1.2	Responsibility for Violations of NCAA Regulations.
I	11.1.2.1	Responsibility of Head Coach.

Other
Proposals: 0
Interpretations: 0
Educational Column: 0
Legislative Relief Waivers: 0

REPORT OF THE
NCAA DIVISION I AMATUERISM CABINET
FEBRUARY 16-17, 2012, MEETING

***KEY ITEMS*.**

1. **Panel Discussion - Agent Issues.** The NCAA Division I Amateurism Cabinet continued its discussion about issues pertaining to student-athletes' transition from the collegiate experience to professional status, the agent-selection process and whether student-athletes are receiving the most accurate and useful information regarding their potential future as professional athletes. The cabinet heard from a panel that included certified contract-advisors, coaches and a professional league representative.

2. **Update from the NCAA Division I Working Group on Collegiate Model – Rules Regarding NCAA Division I Bylaw 12.** The cabinet received an update on the Working Group on Collegiate Model – Rules regarding Phase I of the Bylaw 12 review. The cabinet discussed items relevant to its work and was generally supportive of the Phase I concepts. In addition to the concepts presented for Phase I, the cabinet discussed deregulating the employment legislation as well eliminating the 45-day practice period while amateurism certification status is pending.

3. **Media Plan Update.** The cabinet received an update from the NCAA communications staff regarding the current and future outreach plans regarding amateurism. The staff will continue to work with the cabinet to further develop a media action plan.

***ACTION ITEMS*.**

- **None.**

***INFORMATIONAL ITEMS*.**

1. **Panel Discussion - Agent Issues.** The Amateurism Cabinet continued its discussion about issues pertaining to student-athletes' transition from the collegiate experience to professional status, the agent-selection process, and whether student-athletes are receiving the most accurate and useful information regarding their potential future as professional athletes. The cabinet heard from a panel that included certified contract-advisors, coaches and a professional league representative. It was the general consensus of the cabinet that each sport has its own unique issues. The cabinet determined that it needs to continue to discuss new and diverse ways to educate student-athletes, NCAA coaches and administrators about the process of transitioning from the collegiate to professional ranks and that further discussion is necessary regarding a national agent registration program and professional sports counseling panel.

2. **September 28-29, 2011, Cabinet Meeting Report.** The cabinet reviewed and approved its September meeting report and took no action.

3. **Report of the November 30, 2011, NCAA Division I Communications and Coordination Committee Teleconference.** The cabinet received the report and took no action.

4. **Report of the November 18-20, 2011, NCAA Division I Student-Athlete Advisory Committee Meeting.** The cabinet received an update on recent and upcoming Student-Athlete Advisory Committee activities. The Student-Athlete Advisory Committee representative noted that Student-Athlete Advisory Committee involvement and influence at the conference and institutional levels is somewhat disconnected, or not as strong as the national level. The Student-Athlete Advisory Committee plans to build relationships at these levels in hopes of developing a stronger voice for student-athletes.

5. **Review of the Cabinet's Guiding Principles.** The cabinet reviewed its guiding principles and noted that the Rules Working Group is developing principles that align with the Association's enduring values. Once the working group completes its work, the cabinet will re-evaluate its guiding principles to ensure they are consistent with the principles established by the working group and that they are aligned with the enduring values of the Association.

6. **Litigation Update.** The committee received an update from the NCAA office of legal affairs.

7. **Update on NCAA Division I Working Group on Collegiate Model – Enforcement.** The cabinet received a review of the work and recommendations of the Enforcement Working Group. The cabinet members were encouraged to provide feedback from their institutions and conferences related to the concepts once the full report is available to the NCAA membership.

8. **Update from the Rules Working Group Regarding Bylaw 12.** The cabinet received an update on the Rules Working Group regarding Phase I of the Bylaw 12 review. The cabinet discussed items relevant to its work and was generally supportive of the Phase I concepts. In addition to the concepts presented for Phase I, the cabinet discussed including a concept that would deregulate the employment legislation to only require that

compensation for employment be the going rate for work actually performed. Under this concept, student-athletes would be permitted to use their image and/or athletics reputation to promote their employment. The cabinet noted some potential concerns with this concept, including permitting student-athletes to use institutional facilities for employment purposes. Further, the cabinet supported a recommendation by the Division I-A Athletics Directors Association Compliance and Enforcement Task Force to eliminate the 45-day practice period while amateurism certification status is pending. As a result, student-athletes would be permitted to practice pending final certification.

9. Update from the Rules Working Group Regarding Bylaw 16. The cabinet received an update on the work of the Rules Working Group regarding Bylaw 16. Following the update, the cabinet discussed items relevant to its work and provided feedback on the concepts presented. The cabinet members were encouraged to provide additional feedback from their institutions and conferences related to the concepts once the full report is available to the NCAA membership.

10. Update from NCAA Eligibility Center. The cabinet received an update from the NCAA Eligibility Center amateurism certification staff regarding the most recent penalty data, trends and various initiatives undertaken by the amateurism staff. The cabinet was provided an overview of data from the 2011-12 academic year, including total penalties, penalty types and sports and countries with the most penalties. Additionally, the cabinet received a preview of several new initiatives, including the use of data to project case volume and type, which will be used to guide staffing decisions (e.g., staff assignments to various sports) and assignment of cases throughout the year. This data-based decision making will help the amateurism staff continue to make gains in both case processing duration and consistency. The amateurism staff also discussed the variables leading to a case being triggered for manual review and adjustments being made to this area in an effort to increase the staff's ability to focus on more egregious amateurism violations.

11. Update on Legislative Proposals in the 2011-12 Legislative Cycle. The cabinet received an update on the status of proposals previously reviewed.

12. Update on Uniform Athlete Agent Act. The cabinet received an update on the Uniform Athlete Agents Act (UAAA) Summit, which convened November 17, 2011, and was the result of ongoing conversations with key stakeholders who had conveyed a desire to improve application of the UAAA through better enforcement and amendments to the model act. NCAA staff informed the cabinet that those in attendance at the UAAA Summit indicated a desire for all stakeholders to continue communication with state

agencies about activities that may implicate UAAA provisions, and that the UAAA should be re-examined for possible improvements.

13. **Media Plan Update.** The cabinet received an update from the NCAA communications staff regarding the current and future outreach plans regarding amateurism. The cabinet provided feedback that due to the definition of amateurism containing different connotations between the Association and general public, media outreach efforts must identify a clear definition, develop a specific action plan and manage the brand of amateurism. The cabinet discussed media concepts including increased use of video technology through established topics central to the student-athletes' campus experiences and national distribution of the videos. The staff will continue to work with the cabinet to identify student-athletes and others who can tell an organic story about the student-athlete experience and how that experience played into later success in life.

Cabinet Chair: *Mark Hollis, Michigan State University, Big Ten Conference*
Staff Liaison(s): *Jobrina Perez, Academic and Membership Affairs*
Matt Maher, Academic and Membership Affairs
Marcus Wilson, Enforcement Services

NCAA Division I Amateurism Cabinet Meeting February 16-17, 2012	
Attendees	**Absentees**
Sandy Atkins, Troy University	Fred Smith, Davidson College
Tommy Bell, Indiana University-Purdue University, Fort Wayne	Calvin Symons, Bucknell University
Thomas Collins, Ball State University	
Joyce Eggleston, Sienna College	
Christopher Everett, Jr., Western Carolina University	
Chris Geyerman, Georgia Southern University (alternate)	
Gordon Finch, Villanova University	
Jason Henderson, LaMar University	
Tony Hernandez, University of Miami (Florida)	

Mark Hollis, Michigan State University	
Petrina Long, University of California, Los Angeles	
Scott McDonald, Winthrop University	
Michelle Melia, Monmouth University	
Hans Mueh, U.S. Air Force Academy	
Maria Ochoa-Woods, Tulane University	
Mark Orr, St. Mary's College of California	
Jean Perry, University of Nevada	
Alex Robles, Bucknell University (alternate)	
Mike Rogers, Baylor University	
David Shipley, University of Georgia	
Steve Watson, St. Bonaventure	
Candy Young Sanders, Delaware State University	
NCAA staff liaisons in attendance: Angie Cretors, Matt Maher, Jobrina Perez, Marcus Wilson	
Other Guests: Tom Anastos, Michigan State University; Dave Keilitz, American Baseball Coaches Association; Ethan Lock, Lock Metz Malinovic Sports Management, LLC; Doug Neustadt, The Neustadt Group; Brad Stevens, Butler University; Troy Vincent, National Football League	

Other NCAA staff members in attendance for portions of the meeting: Janet Calandro, Jackie Campbell, Steve Duffin, Amy Dunham, Danielle Ghiloni, Robin Hale, Libby Harman, Jennifer Henderson, Lynn Holzman, Michelle Hosick, Kevin Lennon, Todd Leyden, Kiera Miller, Stacey Osburn, Susan Roseman, Dave Schnase, Geoff Silver, Naima Stevenson, Laura Wurtz.

DRAFT

NCAA Working Group on the Collegiate Model – Rules

NCAA Bylaw 12 (Amateurism)
Draft Concepts Discussion Document

The purpose of this document is to solicit input from the NCAA Division I membership on concepts currently being considered by the NCAA Working Group on the Collegiate Model – Rules. This feedback will be used by the working group as it continues to finalize its recommendations for the NCAA Division I Board of Directors. Forward this document and any feedback and comments to rulesworkinggroup@ncaa.org.

Name:

Institution/Conference/Organization:

Title:

Date:

Concept No. 1: Establish a uniform definition of "actual and necessary" competition expenses.

Rationale: Current amateurism legislation regarding what is considered an actual and necessary expense is inconsistent. This results in confusion by the membership and perceptions of unfairness to prospective and enrolled student-athletes. This change will eliminate unnecessary regulations and interpretations.

Points to Consider:

- The "actual and necessary expenses" noted in the current definition of a professional team would be used as basis for establishing permissible "actual and necessary" competition-related expenses. [See NCAA Bylaw 12.02.4-(a).]

- Definition would clarify that actual and necessary expenses are only for those expenses related to participation on a team or in an event.

- Definition would clarify that expenses are only for athlete, not for parents or coaches of athletes.

- Would not include training-only expenses; expenses must be associated with competition or practice immediately preceding competition.

Questions:

1. Do you support this concept?

2. Why or why not?

Concept No. 2: In individual sports, to permit calculation of actual and necessary expenses over a period of time (e.g., calendar year) rather than event-by-event basis.

Rationale: Currently, individuals prior to NCAA enrollment whose annual expenses significantly exceed their annual prize money may still incur a violation if their prize money exceeded their expenses in a single event. Calculation of expenses versus prize money over a calendar year is a more fair approach.

Points to Consider:

- Calendar year expenses are currently considered as mitigation for purposes of student-athlete reinstatement.
- Only applies to payment based on performance legislation (e.g., prize money); therefore, the analysis is made based on expenses received on the back end of competition.
- Limited to actual and necessary competition-related expenses.
- Would apply to both prospective student-athletes prior to enrollment and current student-athletes engaging in permissible outside competition.

Questions:

1. Do you support this concept?

2. Why or why not?

3. Should this concept be extended to NCAA team sports (e.g., 3 versus 3 competition, team tennis)?

4. Should this concept apply to prospective student-athletes who have not enrolled full time at any collegiate institution or to prospective student-athletes who have not enrolled full time at an NCAA institution?

5. Why or why not?

6. How should year be measured (e.g., tax year, calendar year)?

7. Provide rationale.

Concept No. 3: Establish a $300 de minimus standard in cases in which an individual, prior to enrollment in an NCAA institution, receives more than actual and necessary expenses from an otherwise permissible source.

Rationale: This change would be consistent with the Association's efforts to deregulate the NCAA Manual and streamline the student-athlete reinstatement process. Currently, violations of these specific bylaws when a prospective student-athlete received more than actual and necessary expenses from an otherwise permissible source typically result in immediate reinstatement of eligibility on repayment.

Points to Consider:

- In 2011-12, there were a total of 110 amateurism certification process cases in which the student-athlete reinstatement penalty was repayment only. For 43 of the 110 cases, the total penalty involved was $300 or less.
- Examples include prize money received from sponsor of event that exceeds actual and necessary expenses incurred by athlete provided the excess expenses were $300 or less.
- Any expenses from agents, professional teams (unless within pre-enrollment professional team exception) or boosters (exception may be appropriate for booster living in locale of prospective student-athlete) remain impermissible regardless of amount.
- Reduces the administrative burden on the NCAA Eligibility Center, the student-athlete reinstatement staff and institutional compliance departments.
- A de minimus violation of this legislation shall not render a prospective student-athlete ineligible as is the case currently with legislation designated as de minimus.

Questions:

1. Do you support this concept?

2. Why or why not?

3. If you do not support $300 or less as the dollar amount, what should the amount be?

4. Provide rationale.

5. If the impermissible amount is $300 or less, should the prospective student-athlete be required to repay the impermissible excess expenses to a charity of individual's choice or should these cases not require any additional action by the prospective student-athlete?

6. Why or why not?

7. Should this concept be expanded to include student-athletes who engage in permissible outside competition and receive more than actual and necessary expenses from an otherwise permissible source?

8. Why or why not?

Concept No. 4: Eliminate specific regulations associated with competition-related expenses that may be received from outside sources while maintaining the prohibition on receipt of expenses from professional sports organizations, boosters and agents.

Rationale: Currently, there are several bylaws addressing the provision of competition-related expenses to prospective and enrolled student-athletes that are overly complicated and bureaucratic. This provides the opportunity for prospective student-athletes and student-athletes to seek out additional permissible financial resources to support their athletics aspirations.

Points to Consider:

- Current legislation permits an individual to only accept expenses to compete in an athletics event if the expenses are provided by his or her parents or legal guardians, or the nonprofessional sponsor of an event or a team in which the individual is representing.

- Any expenses from agents, professional teams (unless within pre-enrollment professional team exception) or boosters (exception may be appropriate for booster living in locale of prospective student-athlete) remain impermissible.

- Limited to actual and necessary competition-related expenses.

- Will permit earmarked fundraising in both team and individual sports.

- Would not apply to payment based on performance legislation (addressed in Concept No. 5). As a result, expenses must be provided prior to the competition.

- Outside competition legislation still prohibits student-athletes during the academic year from participating as a member of an outside noncollegiate, amateur team (limited exceptions).

Questions:

1. Do you support this concept?

2. Why or why not?

3. Should this concept apply to currently enrolled student-athletes or only prospective student-athletes?

4. Why or why not?

5. Should a booster who lives in the locale of the prospective or enrolled student-athlete be permitted to provide competition-related actual and necessary expenses?

6. Why or why not?

Concept No. 5: Eliminate specific regulations associated with payment based on performance to permit prospective and current student-athletes to receive up to actual and necessary competition-related expenses, pre- and post-enrollment, in both team and individual sports from an amateur team or the sponsor of event.

Rationale: Currently, there are several bylaws addressing the provision of payment based on performance for prospective and enrolled student-athletes that are overly complicated and bureaucratic. This change would streamline the legislation for individuals prior to and following enrollment and for both individual and team sports.

Points to Consider:

- Current legislation permits payment based on performance, up to actual and necessary expenses, from both amateur and professional teams (pre-enrollment only) as well as from a sponsor of an event.

- Permissible sources still limited to amateur and professional teams (pre-enrollment only) as well as the sponsor of an event.

- Limited to actual and necessary competition-related expenses.

- Examples of payment based on performance include prize money and bonuses based on a finish in a competitive event.

- Creates consistency in all sports, including men's ice hockey and skiing, permitting payment based on performance, up to actual and necessary expenses, from amateur teams.

- Permits current student-athletes to accept payment based on performance, up to actual and necessary expenses, year-round as opposed to only in the summer. Current regulations that will remain in place include prohibitions on outside competition during academic year (limited exceptions available for individuals not representing the institution) and that the student-athlete may not accept more than actual and necessary expenses for competing in the event.

Questions:

1. Do you support this concept?

2. Why or why not?

3. Should a permissible source of payment include payment based on performance from any sponsor other than agent, professional team (unless within pre-enrollment professional team exception), or booster provided it is only up to actual and necessary expenses? This would permit a local athletics program that supports athletes to provide prize money to an athlete even though they are not the sponsor of the event.

4. Why or why not?

5. Should a booster who lives in the locale of the prospective or enrolled student-athlete be permitted to provide such payment(s)?

- In individual sports, current legislation permits these sources to provide competition-related expenses prior to an athletics event. Should the same sources be able to provide the same expenses at the conclusion of the same event (based on the athlete's performance)?

6. Why or why not?

Concept No. 6: Permit educational expenses based on performance in a competitive event.

Rationale: Although current legislation allows both prospective and enrolled student-athletes to receive educational expenses related to athletics, the payment based on performance legislation precludes these same individuals from receiving educational expenses based on performance in an event.

Points to Consider:

- Current legislation permits a prospective student-athlete to receive educational expenses, based on athletics, from any source other than an agent, professional team or booster provided the expenses are disbursed directly to the educational institution.

- Current legislation permits a student-athlete to receive educational expenses (i.e., financial aid) from any source other than an agent, professional team or booster provided:

  1. The source is an established and continuing program;

  2. Choice of institution is not restricted by the donor; and

  3. There is no direct connection between the donor and the institution (e.g., booster).

  Finally, any financial aid received by a student-athlete under this legislation shall count against that student-athlete's individual limitations.

Questions:

1. Do you support this concept?

2. Why or why not?

3. Do you support allowing prospective student-athletes to receive educational expenses based on performance that exceed actual and necessary expenses for event (e.g., prospective student-athlete wins $5,000 educational scholarship, but expenses for event were only $1,000)?

4. Why or why not?

Concept No. 7: Expand opportunities for receipt of training expenses by permitting governmental or provincial entities to provide financial assistance for training.

Rationale: Increased flexibility in the training expenses legislation would permit receipt of training expenses from governmental or provincial entities and help financially assist individuals in pursuing their athletic endeavors. This would reduce bureaucracy, confusion and enhance student-athlete well-being.

Points to Consider:

- Current legislation permits training expenses only from the United States Olympic Committee (or the international equivalent) or appropriate national governing body in the sport.
- Several government and provincial programs currently available to athletes do not meet the criteria of the training expenses legislation because they are not considered the United States Olympic Committee (or the international equivalent) or appropriate national governing body in the sport.
- Expansion of sources limited to governmental or provincial entities.

Questions:

1. Do you support this concept?
2. Why or why not?

The purpose of this section is to collect feedback related to topics that may be considered in the future.

Topic: Agents.

Points to Consider:

- Current legislation does not permit agents/advisors to have any contact with professional teams on the athlete's behalf.

- New legislation could provide for agent contact with professional teams, but prohibit any type of financial assistance or material benefit to the prospective student-athlete, his or her friends or any others who are in a position to influence the prospective student-athlete.

- Increased flexibility to agent legislation may assist prospective or enrolled student-athletes to make a more informed decision whether to turn professional or remain an amateur.

- Current legislation is difficult to enforce.

- Need to distinguish between permitting direct contact with professional clubs and permitting agent involvement in negotiating a marketing/endorsement agreement.

- Recruiting rules may need to be reviewed and potentially modified given the contact that agent/advisors would likely have with NCAA coaches regarding their clients.

Questions:

1. Should opportunities be expanded for prospective student-athletes to use an agent for purposes of making an informed decision whether to turn professional or remain an amateur?

2. Why or why not?

3. Provide examples that should be considered.

4. Should prospective student-athletes, including two-year college and non-NCAA four-year college athletes, have the opportunity to use an agent for purposes of making an informed decision whether to turn professional or remain an amateur?

5. Why or why not?

6. Should only prospective student-athletes in sports with non-opt-in drafts which allow individuals to be drafted out of high school (e.g., baseball, hockey) have the opportunity to use an agent for purposes of making an informed decision whether to turn professional or remain an amateur?

7. Why or why not?

8. Should prospective and current student-athletes with non-opt-in drafts have the opportunity to use an agent for purposes of making an informed decision whether to turn professional or remain an amateur?

9. Why or why not?

Topic: Contracts and Other Written Agreements - Professional Team Involvement.

Points to Consider:

- Current legislation permits a prospective student-athlete in these sports to sign an agreement with a professional team provided it does not promise or guarantee more than actual and necessary expenses.

- Under current rule, prospective student-athlete is subject to two separate violations (i.e., payment above expenses plus contract violation) which may result in a more severe penalty.

- The "other written agreements" language of current legislation captures virtually any document signed by prospective student-athletes. In some instances, application of contract legislation to written agreement does not seem consistent with principles of fairness or student-athlete well-being.

Questions:

1. In sports other than men's ice hockey and skiing, should it be an amateurism violation if a prospective student-athlete signs a contract or written agreement that provides for more than actual and necessary expenses, if he or she never receives those benefits?

2. Why or why not?

- Example No. 1: Prospective student-athlete signs agreement with a professional league that provides for more than actual and necessary expenses. However, the agreement is contingent on the prospective student-athlete passing a physical. Prospective student-athlete subsequently fails the physical and agreement is void by professional league.

- Example No. 2: Prospective student-athlete signs multiyear agreement with a professional league that provides for more than actual and necessary expenses. Prior to receiving any benefits above actual and necessary expenses, he or she leaves the team to pursue a collegiate education.

Topic: Student-Athlete Employment.

Points to Consider:

- Among other restrictions, current legislation does not permit student-athletes to use institutional facilities in fee-for-lesson employment and does not permit student-athletes to use his or her likeness to promote a business.

- Deregulation in this area would reduce some administrative burden in monitoring student-athlete employment.

- Permitting student-athletes to use likeness to advertise fee-for-lesson business is consistent with other student employment opportunities (e.g., music lessons).

Questions:

1. Should the student-athlete employment legislation be regulated only by requirement that compensation is for work actually performed and at a rate commensurate with the going rate in that locality for similar services?

2. Why or why not?

Topic: Preferential Treatment.

Points to Consider:

- Legislation and interpretations governing preferential treatment attempt to balance a number of concerns related to benefits provided to an individual based on his or her athletics reputation. However, the current legislation and interpretations may not provide the appropriate flexibility to all issues identified as preferential treatment.

- Current interpretations may be overly restrictive in some instances in which an athlete receives certain benefits based on a relationship that is developed as a result of the athlete's participation in athletics.

Questions:

1. Should the preferential treatment legislation, either as written or as applied, be changed?

2. In what manner?

3. Does the current legislation provide the appropriate guidance and/or flexibility in applying the preferential treatment legislation?

4. Why or why not?

Topic: Promotional Activities.

Points to Consider:

- Legislation and interpretations related to promotional activities are outdated and difficult to apply to various media platforms in existence today.
- Promotional activities regulation requires clear principles that can be translated into enforceable rules pertaining to the uses of student-athlete likenesses, images and names.
- Commercial activity in intercollegiate athletics cannot abridge the principle of amateurism as applied to student-athletes, including their exploitation by commercial and professional interests and must comport with the values of higher education.

Questions:

1. Should elements of the promotional activities legislation be considered for change?

2. What elements?

3. Why or why not?