**REPORT OF THE**
**NCAA DIVISION I COMMITTEE ON ACADEMIC PERFORMANCE MEETING**
**APRIL 25-26, 2006**

## *1. ACTION ITEMS.*

### a. Historical-Penalty Structure.

(1) Recommendation. The NCAA Division I Committee on Academic Performance recommends the NCAA Division I Board of Directors approve a historical-penalty structure that requires teams with a multi-year NCAA Division I Academic Progress Rate (APR) below 900 to be subject to a simultaneous review of multiple factors (i.e., by-sport comparison, institutional mission and team improvement) to determine whether or not the team is subject to historical penalties.

(2) Rationale. The committee supports the establishment of an initial APR benchmark of 900, which is projected to identify approximately four to six percent of all teams across all sports for further review for historical penalties. Under the by-sport comparison, teams must rank higher than the tenth percentile within their respective sports to compare favorably. Institutional mission considerations would include a student-athlete academic performance (by team) comparison versus the student-body academic performance, as determined by projected graduation rates, as well as consideration of institutional resource level based on per capita educational expenditures, per capita athletics department operating expenditures and the average Pell Grant received among all students. Team improvement considerations would include a review of historical team academic performance, including APR and Graduation Success Rate (GSR) improvement, implementation of academic-improvement plans, the reduction of "0/2" student-athletes in a team's APR cohort from year-to-year and other statistical measures to be determined. Teams scoring below 900 that compare favorably in all factors would not be subject to historical penalties. Teams that compare favorably in one or more factors may or may not receive relief from the historical penalty or the penalties will be mitigated based on the number of factors by which teams favorably compare. Teams that do not compare favorably in any of the factors will be subject to the most severe historical penalties in the relevant penalty stage. [Attachment A]

(3) Budget Impact. None

**b. Historical-Penalty Appeals Procedures.**

(1) Recommendation. The committee recommends the Board approve the historical-penalty appeals procedures document as presented in Attachment B.

(2) Rationale. A draft appeals procedure document was widely circulated for membership review. The committee has updated the document accordingly and is seeking formal adoption for implementation of the appeal procedures as needed during the 2006-07 academic year.

(c) Budget Impact. None.

**c. NCAA Division I Proposal No. 2005-97 Academic Performance Program – Academic Progress Rate – Exception – Student-Athletes Who Have Graduated With Remaining Eligibility.**

(1) Recommendation. The committee recommends that the Board defeat Proposal No. 2005-97, rather than support the suggested NCAA Division I Management Council policy changes.

(2) Rationale. The committee maintains its opposition to this proposal for several reasons. Data demonstrates that student-athletes who graduate, but remain in the cohort, earn the vast majority of possible APR points. Thus, eliminating this group of student-athletes from the cohort may benefit some teams but many more teams will be negatively impacted. Further, the committee believes that student-athletes eligible to represent their institutions should be held to a minimum standard of academic performance. Finally, the committee noted that although graduation is a primary goal of the NCAA Division I Academic Performance Program (APP), ensuring academic accountability of all student-athletes is an equally important goal of the program.

(3) Budget Impact. None.

***2. INFORMATIONAL ITEMS.***

**a. Incentives Model.** The committee engaged in preliminary discussion regarding potential components of a revised incentives model. Further examination of these concepts will occur during its July meeting.

(1) Resource-Based Program. The committee expressed support for creating a program for institutions identified as "low-resource" institutions. Such a program would provide financial assistance for these institutions who lack resources and whose APR or GSR indicates low performance, with the expectation that the institution would use the financial assistance to improve institutional academic support systems and services to combat low academic performance. Over time, the program also may be expanded to include "low-resource" institutions who are meeting APP standards. During its July meeting, the committee will further develop this program and will explore potential funding sources.

(2) Improvement-Based Program. The committee continued to express support of an improvement-based program, but understands that with only two years of data available at this time, further data collection is necessary to measure sustained improvement. The committee will continue to review potential models for identifying significant, sustained improvement with the goal of forwarding an improvement-based incentives program when data becomes available.

**b. Amendments to Policies and Procedures Regarding the Processing of Contemporaneous-Penalty Waivers.** The committee revised its contemporaneous-penalty waiver policies and procedures to stipulate that a quorum for subcommittee review of appeals shall be a majority of subcommittee members present and voting. Further, all waivers of contemporaneous penalties must now be filed within 14-calendar days of the institution's completion of the data amendment period or after receipt of a final decision regarding all APR adjustment requests. In addition, all appeals of a staff decision must be filed within seven-, rather than 14-, calendar days of electronic notification of the staff's decision. Finally, an institution may request an extension of the 14-calendar day period to file a waiver of a contemporaneous penalty if it demonstrates circumstances warranting an extension of the deadline.

**c. Notification of Contemporaneous Penalties.** The committee amended its polices and procedures regarding notification of contemporaneous penalties by stipulating that an institution is considered to have received official notification of its contemporaneous penalties at the time the Contemporaneous-Penalty Report is made available to the institution on the password-protected APP Web site. As such, any team that has been assessed a contemporaneous penalty becomes subject to that penalty on the date the report is available. The committee noted that due to the late dates for submission of APR data, as well as various initiatives that affect the APR (e.g., graduation bonus, adjustments, squad-size adjustment and calculation of APR for quarter institutions), many institutions do not become aware of a contemporaneous penalty until late in the fall term. Adopting an earlier date for the notification of contemporaneous penalties permits a majority of institutions to become aware of any contemporaneous penalties before the early National Letter of Intent signing period.

**d.** **Requests to Delay Application of the Contemporaneous Penalties.** The committee amended its policies and procedures to permit an institution to request a delay in the application of contemporaneous penalties for one or more of its teams. All policies governing the processing of contemporaneous-penalty waivers also shall be applicable to requests to delay contemporaneous penalties. The committee noted that contemporaneous penalties must be imposed by the institution at the next available opportunity but not later than two academic years after the ineligible student-athlete's departure. However, due to the late submission dates of APR data and subsequent notification of APR and contemporaneous penalties, several institutions were unable to impose their penalties within the prescribed period without rescinding the athletics scholarship of a currently enrolled student-athlete or a signed prospective student-athlete. The revised policy codifies the current practice of the staff and subcommittee in reviewing requests to delay contemporaneous penalties under such circumstances.

**e.** **Institutions that Fail to Apply Contemporaneous Penalties Within the Period Prescribed in NCAA Bylaw 15.5.7.** The committee amended its policies and procedures to confirm that institutions failing to apply contemporaneous penalties within the prescribed time period are required to report violations of NCAA Bylaw 15.5.7 to the NCAA enforcement staff. In its deliberation, the committee noted if an institution has failed to apply a contemporaneous penalty in the legislated timeframe and has exhausted its waiver and delay appeal opportunities through the committee, then a violation of Bylaw 15.5.7 has occurred and the enforcement staff and the NCAA Division I Committee on Infractions should have jurisdiction in the matter.

**f.** **Amending APR Data.** The committee revised its policy to stipulate that institutions may correct APR data only during a specified data-amendment period. Further, any change to a student-athlete's spring-term eligibility status must occur not later than the time APR data is submitted, and any change to a student-athlete's fall- or winter-term eligibility status must occur not later than the sixth week of the subsequent regular-academic term. For example, a student-athlete who was not eligible at the beginning of the spring semester due to an incomplete grade from the fall semester must complete the necessary coursework to become eligible within the first six weeks of the spring term to earn the APR eligibility point for the prior fall term. This policy maintains the current period for institutions to correct any inadvertent errors, while permitting institutions to account for changes to a student-athlete's eligibility. Additionally, this policy will help ensure the timely processing and submission of useable data for the public release of APR and the determination of contemporaneous penalties.

**g. Length of APR Amendment Period.** The committee revised its policies and procedures to change the current APR amendment period from a 21-day period to a 14-calendar day period. Reducing the length of the current amendment period will provide institutions the opportunity to correct data errors while ensuring the timely completion of the remainder of the data submission process. This change will permit institutions to receive notification of any contemporaneous penalties earlier in the recruiting year. Institutions will have a better idea of any scholarship reductions for the subsequent academic year(s) and can make informed decisions about signing prospective student-athletes. Additionally, this will help to ensure that all institutions have completed both the data submission and waiver process prior to the public release of APR and Contemporaneous-Penalty Reports by the NCAA.

**h. Corrections to Prior Cohort Years APR Data.** The committee amended its policies and procedures to permit institutions to request corrections to APR data for all academic year cohorts that comprise the institution's multi-year APR cohort. Such corrections will be permitted only during the amendment period. This will allow institutions to continue to provide the most accurate data possible for research purposes. Finally, amendments or corrections made to the prior academic year(s) data will not affect the status of any previously earned penalties or incentives. Thus, an institution may not request retroactive relief from contemporaneous penalties or retroactive incentives based on amendments or corrections to data made in subsequent academic year(s). Corrected data will be included in the calculation of the APR for the current academic year and any applicable subsequent years.

**i. Requests for APR Adjustments to Prior Cohort Years.** The committee amended its policies and procedures to permit an institution to request adjustments for any of the academic year cohorts that comprise the institution's multi-year APR cohort, provided all adjustments are requested during the specified adjustment period. However, adjustments made to prior academic year(s) data will not affect the status of any previously earned penalties or incentives. Further, an institution may not request an adjustment if that same request previously was denied, nor may it request retroactive relief from contemporaneous penalties or retroactive incentives based on an adjustment to data made during a subsequent academic year. Adjusted data will be included in the calculation of the APR for the current academic year and applicable subsequent years.

**j. APR Adjustment Directive.** The committee revised the APR adjustment directive to specify that when a student-athlete does not return to an institution due to a medical condition, the institution must demonstrate with contemporaneous-medical documentation that the student-athlete was unable to return to the institution due to an incapacitating physical or mental circumstance. The committee recognized that the prior standard for a student-athlete with a medical circumstance was based on the

student-athlete's inability to compete or participate in intercollegiate competition. The revised directive now aligns medical circumstances involving student-athletes with the original intent of the directive, in that an adjustment based on injury or illness to a student-athlete will be predicated on a student-athlete's inability to continue as a student, rather than as a participant in intercollegiate athletics.

**k.** **NCAA Division I Academic Performance Program Data Collection and Penalties and Rewards Guides.** The committee initially approved the updated NCAA Division I Academic Performance Program Data Collection and Penalties and Rewards Guides. Additional revisions will be made based on April committee and Board decisions and the final versions will be forwarded for final approval and distribution to the membership this summer.

**l.** **NCAA Division I Committee on Academic Performance Policies and Procedures.** The committee initially approved the updated NCAA Division I Committee on Academic Performance Policies and Procedures. Additional revisions will be made based on April committee and Board decisions and the final versions will be forwarded for final approval and distribution to the membership this summer.

**m.** **Timing of Future APR, Penalties and Public Recognition Releases.** The committee discussed issues regarding the timing of future public releases containing APP data and whether data, penalties and rewards should be released simultaneously or separately. The committee noted the benefits of releasing data, penalties and rewards on multiple occasions and will examine different options during its July meeting.

**n.** **Academic Implications of Legislation Restricting Private Workouts During Academic Year – Professional Basketball Departures.** The committee discussed the issue of student-athletes who tryout with professional basketball teams during the academic year. Current legislation precludes such tryouts during the academic year if a student-athlete is enrolled full time, which can result in student-athletes withdrawing from an institution to participate in these tryouts. The committee requests review of current legislation on this topic by appropriate governance and constituent groups to determine whether a legislative change is warranted.

**o.** **Review of APR Cohort Definition and Data Collection.** The committee received requests from a member institution to review circumstances involving student-athlete departures for judicial suspensions, withdrawals of student-athletes who have exhausted eligibility and professional departures. The committee referred these issues to the NCAA Division I Committee on Academic Performance Subcommittee on Data Collection and Reporting for further discussion.

**p.** **APP Data Review Program.** The committee was informed that the Subcommittee on Data Collection and Reporting and the NCAA staff have outlined plans for an APP data-review program. This review program will function as an audit to review institutional APP data submissions. Data-review guidelines will be developed for distribution to the membership beginning in fall 2006, after pilot reviews are conducted this spring.

**q.** **Update on the NCAA Working Group to Review Initial-Eligibility Trends.** The committee received an update on the work of the NCAA Working Group to Review Initial-Eligibility Trends and the issues they have identified, including source of graduation and core courses, core-course patterns, test-taking patterns, shared responsibility in the initial-eligibility process, ability to identify and respond appropriately to suspected academic fraud and development of partnerships to address issues of academic integrity. The committee was supportive of the group's work and recommendations.

**r.** **Review of Proposed Governance-Structure Changes.** The committee received a report from the NCAA governance staff regarding the discussion by the NCAA Division I Management Council Governance Subcommittee to examine the current governance structure in Division I. The Governance Subcommittee is reviewing several aspects including the current role of cabinets, committees and the overall efficiency of the structure and process.

*Committee Chair: Walter Harrison, University of Hartford, America East Conference*
*Committee Liaisons: Julie Cromer, Membership Services*
*Diane Dickman, Membership Services*
*Kevin Lennon, Membership Services*
*Todd Petr, Research*
*Bill Regan, Membership Services*

**ATTACHMENT A**

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## Historical-Penalty Structure
## Recommended by the NCAA Division I Committee on Academic Performance

The NCAA Division I Committee on Academic Performance recommends the NCAA Division I Board of Directors approve the following historical-penalty structure:

- Establish a "cut score" of 900, which is projected to identify approximately four to six percent of all teams across all sports.

- Teams with a multi-year NCAA Division I Academic Progress Rate (APR) below 900 would be subject to a simultaneous review of the following factors:

  - By-sport comparison.

    Includes a review of team APR compared to the bottom tenth percentile of team APRs within each sport.

  - Institutional mission.

    Include two methods of examination:

    1. Student-athlete academic performance (by team) compared to student-body academic performance as determined by projected graduation rates.

    2. Comparison of institutional resource level based on:

       a. Per capita educational expenditures.

       b. Per capita athletics department operating expenditures.

       c. Average Pell Grant among all students.

  - Team improvement.

    Includes a review of historical team academic performance (e.g., trends) as indicated by:

    1. APR and Graduation Success Rate improvement;

    2. Implementation of improvement plans;

    3. Reduction of "0/2" student-athletes; or

    4. Other statistical measures to be determined.

- Teams that compare favorably in all factors would not be subject to historical penalties.

- Teams that compare favorably in one or more factors may be provided relief from the historical penalty or the penalties would be mitigated based on the number of factors by which teams favorably compare.

- Teams that do not compare favorably in any of the factors would be subject to the most severe historical penalties in the relevant penalty stage.

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**NCAA Division I Academic Performance Program**
**Historical-Penalties Appeal Processes**
**Quick Summary**

**Occasion-One Penalty**
(Public Warning)
→ **NCAA Staff**
(paper)
→ **Committee on Academic Performance Appeals Subcommittee**
(paper)

**Occasion-Two Penalties**
(Financial Aid, Playing and Practice Seasons and /or Recruiting Limitations)
→ **NCAA Staff**
(paper)
→ **NCAA Division I Committee on Academic Performance Appeals Subcommittee**
(teleconference)

**Occasion-Three Penalties**
(Preseason Competition)
→ **NCAA Staff**
(paper)
→ **NCAA Division I Committee on Academic Performance Appeals Subcommittee**
(teleconference)

**Occasion-Three Penalties**
(Postseason Competition)
→ **NCAA Division I Committee on Academic Performance**
(in-person meeting)
→ **Subcommittee of the NCAA Division I Board of Directors**
(teleconference)

**Occasion-Four Penalties**
(Membership Status)
→ **NCAA Division I Committee on Academic Performance**
(in-person meeting)
→ **Subcommittee of the NCAA Division I Board of Directors**
(teleconference)

Note: This summary is intended to provide readers a brief snapshot of the process and does not contain details included in the actual procedures document.

The National Collegiate Athletic Association
March 22, 2006 LLJ:dfb

**NCAA Division I Academic Performance Program**
**Historical-Penalties Appeals Procedures**
**Executive Summary**

**Occasion-One Penalties – Public Warning**

- Appeal filed electronically to the NCAA national office through the Web-based LSDB*i* Committee on Academic Performance module.
- NCAA staff has authority to make initial decision. Decision will be based on review of submitted information.
- Institution may appeal a staff decision to the NCAA Division I Committee on Academic Performance Subcommittee on Appeals. Appeals generally conducted by electronic mail.
- The subcommittee's decision is final and not subject to further review.

**Occasion-Two Penalties – Financial Aid, Playing and Practice Season and/or Recruiting Limitations and Occasion-Three Penalties – Preseason Competition**

- Appeal filed electronically to the NCAA national office through the Web-based LSDB*i* Committee on Academic Performance module.
- NCAA staff has authority to make initial decision. Decision will be based on review of submitted information.
- Institution may appeal a staff decision to the Subcommittee on Appeals. Appeals conducted by teleconference. The institution, NCAA staff and subcommittee members will participate on teleconference.
- The subcommittee's decision is final and not subject to further review.

**Occasion-Three Penalties – Postseason Competition and Occasion-Four Penalties – Membership Status**

- Appeal filed electronically to the NCAA national office through the Web-based LSDB*i* Committee on Academic Performance module.

- NCAA staff does not have the authority to render a decision for Occasion-Three Postseason Competition or Occasion-Four Membership Status appeal requests.

- All post-season competition and membership status appeals must be decided initially by the full Committee on Academic Performance at in-person hearings. The institution, NCAA staff and committee members will participate in the in-person hearing.

- Institution may appeal the committee decision to a subcommittee of the NCAA Division I Board of Directors. The appeal will be heard via teleconference. The appeal will provide the institution an opportunity to assert why it believes the committee abused its discretion in applying the legislation and/or policy and procedures. This appeal will not exceed one hour in length.

- The Board subcommittee's decision is final and not subject to further review.

## NCAA DIVISION I COMMITTEE ON ACADEMIC PERFORMANCE HISTORICAL-PENALTIES APPEALS POLICIES AND PROCEDURES

NCAA Division I Bylaw 23 prescribes a filter-penalty structure for institutions that fail to meet the standards of the NCAA Division I Academic Performance Program (APP), commonly known as historical penalties. An institution's team(s) may be required to apply penalties for failing to meet the established historical-penalty benchmarks. Bylaw 23 also provides a process by which an institution's team may appeal these penalties.

Occasion-One Penalties result in a public warning and may be appealed to the NCAA Division I Committee on Academic Performance. Occasion-Two Penalties result in financial aid, recruiting and/or playing and practice season restrictions, and may be appealed to the committee. Occasion-Three Penalties result in preseason and/or postseason competition restrictions. Preseason penalties may be appealed to the committee. Postseason penalties may be appealed to the committee and the committee's decision may be appealed to a subcommittee of the NCAA Division I Board of Directors. Occasion-Four Penalties result in an institution's reclassification to restricted or corresponding membership status. Occasion-Four Penalties may be appealed to the committee and the committee's decision may be appealed to a subcommittee of the Board.

The committee has authorized the NCAA Division I Committee on Academic Performance Subcommittee on Appeals and the NCAA staff to review appeals of Occasion-One, Occasion-Two and Occasion-Three Preseason Penalties. Occasion-Three Postseason and Occasion-Four Penalties will be reviewed by the full committee. All appeals of historical penalties must be submitted at the same time.

The information below outlines the policies and procedures for appealing a historical penalty. The committee, subject to the approval by the Board, may amend these policies and procedures as needed.

### Occasion-One Penalties (Bylaw 23.2.1.2.1-Public Warning)

Application Procedures

All Occasion-One Appeals must be submitted electronically to the NCAA national office via the Web-based Legislative Services Database for the Internet (LSDB*i*) Committee on Academic Performance module. Appeals must be submitted within 21-calendar days of notification to the institution of the penalty. The online appeal application will produce a signature page that must be signed by the institution's president/chancellor, athletics director or senior woman administrator and the faculty athletics representative.

The appeal must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.1 should not apply. The appeal must identify all team penalties that the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team

penalty is addressed. The institution may include additional information and supporting documentation it considers is relevant to its request.

The reviewing body may request additional pertinent information before a decision is rendered.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the Division I Subcommittee on Appeals must determine whether any appeal filed after 21-calendar days may be considered.

Review Standards

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the institution's designated contact regarding the status of the request and identify the NCAA staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff. An institution has 10-calendar days to submit requested document, if it does not provide the documentation within the timeframe, the case will be staff denied. Otherwise, the staff processing the case has 21-calendar days to render a decision.

The staff/subcommittee has the authority to render a decision for all Occasion-One Public-Warning Appeal requests. Decisions will include consideration of the following:

- The waiver directive approved by the committee.
- Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).
- Historical academic performance of the respective team(s) and/or student-athlete(s).
- Number of teams at the institution subject to historical penalties.
- Size of variance between the team's NCAA Division I Academic Progress Rate (APR) and the historical-penalty "benchmark."
- History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team(s) and/or student-athlete(s).
- Review of the institution's mission and its relationship to team APR, Graduation Success Rate (GSR) or federal graduation rate.
- Development and submission of an academic improvement plan. Review of previously created and implemented academic improvement plan(s).

- Other factors deemed relevant to the appeal.

The staff/subcommittee has the authority to consider, deliberate and decide appeal requests. After reviewing all information, the staff/subcommittee will render one of the following decisions:

- **Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.1 was warranted. In such instances, the team will not be subject to the Occasion-One Penalty. If the team again fails to meet the established benchmarks, the Occasion-One Public-Warning Penalty will be assessed rather than progressing to Occasion-Two Penalties.

- **Conditionally Approved:** The staff/subcommittee determines that the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.1 was warranted if specific conditions are met by the institution/team(s). Such conditions will be outlined by the staff/subcommittee in the decision notification. If the team again fails to meet the established benchmarks, the Occasion-One Public-Warning Penalty will be assessed rather than progressing to Occasion-Two penalties. However, failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented and applied to the original penalty year. In this instance, if in the following three-year period, the team again fails to its meet the established benchmark, Occasion-Two-Penalties will be assessed. (The institution may appeal the staff's decision to the appeals subcommittee.)

- **Denied:** The staff/subcommittee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 23.2.1.2.1. The institution will be responsible for applying the designated penalty or penalties. (The institution may appeal the staff's decision to the appeals subcommittee.)

Written confirmation of the decision must be provided by the staff/subcommittee to the institution within 21-calendar days of its decision.

Reconsideration

After the staff has acted on an appeal request, the institution may ask the staff to reconsider its decision if the institution submits new information that was not available to the institution at the time the original appeal was filed. A request with new information may not be considered by the subcommittee until the staff has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The staff will determine if the information is new for all reconsideration requests. If the information is new, the staff will re-open the case, and make a decision based on the new set of facts. If the information is not considered new the staff decision will not be reconsidered, but the case may be appealed to the appeals subcommittee.

Conflict of Interest

A staff or subcommittee member must recuse himself or herself from participation in an appeal in which he or she is connected personally with an institution or conference. A staff or subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the staff or subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a subcommittee member participating in the review of an appeal must be raised with the subcommittee chair or NCAA staff member handling the case (in the event that the institution objects to participation by the chair) prior to review of the appeal.

In the event that the subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as "acting chair".

Appeal of Staff Decision

The committee has authorized the subcommittee on appeals to consider all appeals of staff decisions involving Bylaw 23.2.1.2.1, Occasion-One – Public Warning.

After the staff has rendered a decision, the institution may appeal the decision to the subcommittee. The subcommittee's decision is final and not subject to further review by any other authority.

Subcommittee members may not discuss a pending request with the staff processing the case or institutional representative without all parties having the opportunity to participate. The staff supporting the work of the committee may contact the subcommittee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an institution's request. Further, the subcommittee members may contact the staff supporting the work of the committee to request that additional information about the case be submitted.

Appeal Procedures

An institution must submit the online appeal of a staff decision to the NCAA national office. All appeals must be submitted using the Web-based LSDB*i* Committee on Academic Performance module. The online appeal program will produce a signature page that must be signed by the president or chancellor, athletics director or senior woman administrator and the faculty athletics representative and provided to the NCAA national office.

The application must set forth the rationale for the appeal. In addition, the appeal must identify all team penalties for which the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

All appeals of a staff decision must be filed with the NCAA national office within 21-calendar days of written notification of the staff's decision.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee must determine whether any appeal filed after 21-calendar days may be considered.

Deliberations and Decisions

The subcommittee will receive and review the penalty notice, appeal application (including supporting documents), staff decision and rationale and team(s) APP data.

The subcommittee may conduct its deliberations by facsimile, telephone conference, e-mail, Internet or in-person meeting. Such deliberations shall include only subcommittee members and NCAA staff members supporting the work of the committee.

A simple majority of the subcommittee members present and voting is necessary for a decision. The chair, or person serving as chair on a particular appeal, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision must be provided by the subcommittee to the institution within 21-calendar days of the decision.

**Occasion-Two Penalties (Bylaw 23.2.1.2.2-Financial Aid, Playing and Practice Seasons and/or Recruiting Limitation (s))**

Application Procedures

All Occasion-Two Appeals must be submitted electronically to the NCAA national office via the Web-based LSDB*i* Committee on Academic Performance module. Appeals must be submitted within 21-calendar days of notification to the institution of the penalty. The online appeal application program will produce a signature page that must be signed by the institution's president or chancellor, athletics director or senior woman administrator and the faculty athletics representative.

The appeal must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.2 should be waived. The appeal must identify all team penalties that the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

The institution may include additional information and supporting documentation relevant to its request.

The reviewing body may request additional pertinent information before a decision is rendered.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee must determine whether any appeal filed after 21-calendar days may be considered.

Review Standards

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the institution's designated contact regarding the status of the request and identify the NCAA staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff. An institution has 10-calendar days to submit requested document, if it does not provide the documentation within the timeframe, the case will be staff denied. Otherwise, the staff processing a case has 21-calendar days to render a decision.

The staff/subcommittee has the authority to render a decision for all Occasion-Two Appeal requests. Decisions will include consideration of the following:

- The waiver directive approved by the committee.

- Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

- Historical academic performance of the respective team and or student-athlete(s).
- Number of teams at the institution subject to historical penalties.
- Size of variance between the team's APR/GSR and the historical-penalty "benchmark."
- History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team(s) and/or student-athlete(s).
- Review of the institution's mission and its relationship to the team's APR, graduation success rate and the federal graduation rate.
- Development and submission of an academic improvement plan. Review of previously created and implemented academic improvement plan(s).
- Other factors deemed relevant to the appeal.

The staff/subcommittee has the authority to consider, deliberate and decide appeal requests. After reviewing all information, the staff/subcommittee will render one or more of the following decisions:

- **Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.2 was warranted. In such instances, the team will not be subject to the Occasion-Two Penalty. If the institution again fails to meet the established benchmarks, the Occasion-Two Penalty will be assessed rather than progressing to Occasion-Three Penalties.
- **Conditionally Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.2 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the staff/subcommittee in the decision notification. If the team fails to again meet the established benchmark the Occasion-Two Penalties will be assessed rather than progressing to Occasion-Three Penalties. However, failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented and applied to the original penalty year. In this instance, if, in the following three-year period, the team fails to again meet the established benchmark, Occasion-Three Penalties will be assessed. (The institution may appeal the staff's decision to the appeals subcommittee.)

- **Partially Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a partial waiver of Bylaw 23.2.1.2.2 was warranted. If, in the following three-year period, the team again fails to meet the established benchmark, Occasion-Three Penalties will be assessed. (The institution may appeal the staff's decision to the appeals subcommittee.)

- **Denied:** The staff/subcommittee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 23.2.1.2.2. This institution will be responsible for applying the designated penalty or penalties. (The institution may appeal the staff's decision to the appeals subcommittee.)

Written confirmation of the decision must be provided by the staff/subcommittee to the institution within 21-calendar days of the decision.

Reconsideration

After the staff has acted on an appeal request, the institution may ask the staff to reconsider its decision if the institution submits new information that was not available to the institution at the time the original appeal as filed. Requests with new information may not be considered by the subcommittee until the staff has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The staff will determine whether information is "new" for all reconsideration requests. If the information is new, the staff will re-open the case and make a decision based on the new set of facts. If the information is not considered new the staff decision will not be reconsidered, but the case may be appealed to the Subcommittee on Appeals.

Conflict of Interest

A staff or subcommittee member must recuse himself or herself from participation in an appeal in which he or she is personally connected with an institution or conference. A staff or subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the staff or subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a subcommittee member participating in the review of an appeal must be raised with the subcommittee chair or NCAA staff member handling the case (in the event that the institution objects to participation by the chair) (prior to review of the appeal.

In the event that the subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as "acting chair".

Appeal of Staff Decision

The committee has authorized the subcommittee on appeals to consider all appeals of staff decisions involving Bylaw 23.2.1.2.2, Occasion-Two Financial Aid, Playing and Practice Season and/or Recruiting Limitations.

After the staff has rendered a decision, the institution may appeal the decision to the subcommittee. The subcommittee's decision is final and not subject to further review by any other authority.

Subcommittee members may not discuss a pending request with the staff processing the case or institutional representative without all parties having the opportunity to participate. The staff supporting the work of the committee may contact the subcommittee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an applicant's request. Further, the subcommittee members may contact the staff supporting the work of the committee to request that additional information about the case be submitted.

Appeal Procedures

A member institution must submit the appeal of a staff decision to the NCAA national office. All notices must be submitted using the Web-based LSDB*i* Committee on Academic Performance module. The online appeal program will produce a signature page that must be signed by the president or chancellor, athletics director or senior woman administrator and the faculty athletics representative and provided to the NCAA national office.

The application must set forth the rationale for the appeal. In addition, the appeal must identify all team penalties which the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

All appeals of a staff decision must be filed with the NCAA national office within 21-calendar days of written notification of the staff's decision.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee must determine whether any appeal filed after 21-calendar days may be filed.

An appeal of a staff decision will be heard via teleconference. After submission of the appeal, the staff will schedule a teleconference call and notify the institution and subcommittee of the date and time. In addition, the staff handling the case will review the application and ensure it is complete. The staff handling the case will also contact the institution to verify that all facts and assertions are accurate. This must be done prior to the case being forwarded to the subcommittee.

Appeal Participants

Each of the following individuals from the institution must participate in the appeal: (a) president or chancellor (or his or her designee); (b) athletics director or senior woman administrator; (c) faculty athletics representative; (d) head coach of the penalized team(s) and (e) any other individuals whose presence was requested by the subcommittee.

The institution at its discretion may permit other institutional staff members and conference office staff members (e.g., conference commissioner) to be on the teleconference for the appeal.

An institution and any individual whose presence has been requested by the subcommittee may have legal counsel present; however, an individual must speak on behalf of himself or herself.

Student-athletes and noninstitutional or nonconference office staff members are not permitted to participate in the teleconference or be present on the call.

The lead NCAA administrator who handled the case (or a staff member with case administrative oversight responsibilities) and NCAA staff member(s) supporting the work of the committee must participate on the call.

The subcommittee chair, at his or her discretion, has the authority to remove a participant from participating or being present on the teleconference call. The subcommittee chair is not required to give advance notice/warning for removing any participants.

Documents Reviewed by the Subcommittee

The subcommittee will receive and review the notice of penalty, appeal application (including supporting documents), staff decision and rationale and applicant team(s) APP data. Prior to the teleconference, the subcommittee will distribute to the institution, NCAA staff and involved individuals an agenda of teams to be discussed and a list of specific documents that comprise the record the subcommittee will review.

Introductions

The subcommittee chair will call the teleconference meeting to order and introduce the members of the subcommittee.

Following introductions of the subcommittee, the chair of the subcommittee will ask the institution to select one person to speak on behalf of the institution (institutional spokesperson). This person must be someone who is employed by the institution on a full-time basis. An involved individual must speak on behalf of himself or herself.

The institution will introduce its representatives followed by individuals whose presence has been requested by the subcommittee or the institution and conference office representatives.

The NCAA staff will introduce themselves.

After the introductions, the subcommittee chair may make announcements.

Review of the Appeal

The NCAA staff administrator who handled the case (or a staff member with oversight responsibilities) has 10 minutes per team to describe the facts of the appeal, applicable case precedent and the staff's rationale.

The institution's spokesperson will then have 10 minutes per team to describe the case and explain the reasons for requesting that the staff's decision be overturned or modified.

The chair or acting chair is responsible for monitoring the time.

Following the description of the case, the subcommittee members may ask questions of all participants. Once all questions have been answered, the call will conclude with the staff and institution each providing one five-minute closing statement. The closing statement must be conducted by the institution's spokesperson and the staff member who presented the case.

Deliberations and Decision

At the conclusion of the teleconference, the subcommittee members must deliberate. Neither the institution, conference nor NCAA staff member(s) handling the case or with case administrative oversight responsibilities may be present for the deliberations. NCAA staff members supporting the committee will be present during deliberations but will not be the same staff member(s) handling the case.

A simple majority of subcommittee members present and voting is necessary for a decision. The chair, or acting chair on a particular appeal, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision must be provided by the subcommittee to the institution within 21-calendar days of the decision.

**Occasion-Three Penalties (Bylaw 23.2.1.2.3 – Preseason Competition)**

Application Procedures

All Occasion-Three Preseason-Competition Appeals must be submitted electronically to the NCAA national office via the Web-based LSDB*i* Committee on Academic Performance module. Appeals must be submitted within 21-calendar days of notification to the institution of the penalty. The online appeal program will produce a signature page that must be signed by the institution's president/chancellor, athletics director or senior woman administrator and the faculty athletics representative.

The appeal must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.3 should be waived. The appeal must identify all team penalties that the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

The institution may include additional information and supporting documentation relevant to its request.

The reviewing party may request additional pertinent information before a decision is rendered.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair or acting chair of the subcommittee must determine whether any appeal filed after 21-calendar days may be filed.

Review Standards

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the applicant institution's designated contact of the status of the request and identify the NCAA staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff. An institution has 10-calendar days to submit requested document, if it does not provide the documentation within the timeframe, the case will be staff denied. Otherwise, the staff processing the staff has 21-calendar days to render a decision.

The staff/subcommittee has the authority to render a decision for all Occasion-Three Preseason-Competition Appeal requests. Decisions will include consideration of the following:

- The waiver directive approved by the committee.

- Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

- Historical academic performance of the respective team(s) and/or student-athlete(s).

- Number of teams at the institution subject to historical penalties.

- Size of variance between the team's APR/GSR and the historical-penalty "benchmark."

- History of penalties and waivers (e.g.., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team and/or student-athlete(s).

- Review of the institution's mission and its relationship to team APR, graduation success rate or federal graduation rate.

- Development and submission of an academic improvement plan. Review of previously created and implemented academic improvement plan(s).

- Other factors deemed relevant to the appeal.

The staff/subcommittee has the authority to consider, deliberate and decide appeal requests. After reviewing all information, the staff/subcommittee will render one of the following decisions:

- **Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted. In such instances, the team will not be subject to the Occasion-Three Preseason Penalty. If, in the following three-year period, the team again fails to meet the established benchmarks, Occasion-Three Preseason and Postseason-Competition Penalties will be assessed rather than progressing to Occasion-Four Penalties.

- **Conditionally Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the staff/subcommittee in the decision notification. If, in the following three-year period, the team fails to meet the established benchmarks, Occasion-Three Preseason and Postseason Penalties will be assessed rather than progressing to Occasion-Four Penalties. Failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented. In this instance, if, in the following three-year period, the team again fails to meet the established benchmarks, Occasion-Four Penalties will be assessed. (The institution may appeal the staff's decision to the appeals subcommittee.)

- **Partially Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a partial waiver of Bylaw 23.2.1.2.3 was warranted. If, in the following three-year period, the team fails to meet the established benchmarks, Occasion-Four Penalties will be assessed. (The institution may appeal the staff's decision to the appeals subcommittee.)

- **Denied:** The staff/subcommittee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 23.2.1.2.3. This institution will be responsible for applying the penalty or penalties that it triggered under the bylaw. The institution has the ability to appeal the staff's decision to the appeals subcommittee.

Written confirmation of the decision must be provided by the staff/subcommittee to the institution within 21-calendar days of its decision.

Reconsideration

After the staff has acted on an appeal request, the institution may ask the staff to reconsider its decision if the institution submits new information that was not available to institution at the time the original appeal was filed. Request with new information may not be considered by the subcommittee until the staff has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The staff will determine if information is new for all reconsideration requests. If the information is new, the staff will re-open the case, and make a decision based on the new set of facts. If the information is not considered new the staff decision will not be reconsidered, but the case may be appealed to the subcommittee on appeals.

Conflict of Interest

A staff or subcommittee member must recuse himself or herself from participation in an appeal in which he or she is personally connected with an institution or conference. A staff or subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the staff or subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a subcommittee member participating in the review of an appeal must be raised with the subcommittee chair or NCAA staff member handling the case (in the event that the institution objects to participation by the chair) prior to review of the appeal.
In the event that the subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as "acting chair".

Appeal of Staff Decision

The committee has authorized the Subcommittee on Appeals to consider all appeals of staff decisions involving Bylaw 23.2.1.2.3, Occasion-Three- Preseason-Competition Restrictions.

After the staff has rendered a decision, the institution may appeal the decision to the subcommittee. The subcommittee's decision is final and not subject to further review by any other authority.

Subcommittee members may not discuss a pending request with the staff processing the case or institutional representative without all parties having the opportunity to participate. The staff supporting the work of the committee may contact the subcommittee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an applicant's request. Further, the subcommittee members may contact the staff supporting the work of the committee to request that additional information about the case be submitted.

Appeal Procedures

A member institution must submit the appeal of a staff decision to the NCAA national office. All notices must be submitted using the Web-based LSDB*i* Committee on Academic Performance module. The online appeal program will produce a signature page that must be signed by the president or chancellor, athletics director or senior woman administrator and the faculty athletics representative and provided to the NCAA national office.

The application must set forth the rationale for the appeal. In addition, the appeal must identify all team penalties that the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

All appeals of staff decisions must be filed with the NCAA national office within 21-calendar days of written notification of the staff's decision.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee must determine whether any appeal filed after the 21-calendar days may be filed.

An appeal of a staff decision will be heard via teleconference. After notice of the intent to appeal, the staff will schedule a teleconference call and notify the institution and the subcommittee of the date and time. In addition, the staff handling the case will review the application to ensure it is complete. The staff handling the case also will contact the institution to verify that all facts and assertions are accurate. This must be done prior to the case being forwarded to the Subcommittee on Appeals.

Appeal Participants

Each of the following individuals from the institution must participate in the appeal: (a) president/chancellor (or his or her designee); (b) athletics director or senior woman administrator; (c) faculty athletics representative; (d) head coach of the penalized team(s); and (e) any other individuals whose presence was requested by the subcommittee.

The institution, at its discretion, may permit other institutional staff members and conference office staff members (e.g., conference commissioner) to be on the teleconference for the appeal.

An institution and any individual whose presence is requested by the subcommittee or the institution may have legal counsel present; however, an individual must speak on behalf of himself or herself.

Student-athletes and noninstitutional or nonconference office staff members are not permitted to participate in the hearing or be present on the call.

The lead NCAA administrator who handled the case (or a staff member with case administrative oversight responsibilities) and staff member(s) supporting the work of the committee must participate on the call.

The subcommittee chair, at his or her discretion and at any time, has the authority to remove a participant from the participating or being present on a teleconference call. The subcommittee chair is not required to give advance notice for removing any participants.

Documents to be Reviewed by Subcommittee

The subcommittee will receive and review the notice of penalty, appeal application (including supporting documents) staff decision and rationale and applicant team(s) APP data. Prior to the teleconference, the subcommittee will distribute to the institution, NCAA staff and involved individuals an agenda of teams to be discussed and a list of specific documents that comprise the record the subcommittee will review.

Introductions

The subcommittee chair will call the teleconference meeting to order and introduce the members of the subcommittee. Following introductions of the subcommittee, the chair of the subcommittee will ask the institution to select one person to speak on behalf of the institution (institutional spokesperson). This person must be someone who is employed by the institution on a full-time basis. An involved individual must speak on behalf of himself or herself. The institution will introduce its representatives followed by individuals whose presence was requested by the subcommittee or the institution and conference representatives.

The NCAA staff will introduce themselves.

After the introductions, the subcommittee chair may make announcements.

Review of the Appeal

The NCAA administrator who handled the case (or a staff member with case oversight responsibilities) has 10 minutes per team to describe the facts of the appeal, applicable case precedent and the staff's rationale.

The institution's spokesperson will then have 10 minutes, per team, to describe the case and explain the reasons for requesting that the staff's decision be overturned or modified.

The chair or acting chair is responsible for monitoring the time.

Following the description of the case, the subcommittee members may ask questions of all participants. Once all questions have been answered, the call will conclude with the staff and institution each providing one five-minute closing statement. The closing statement must be made by the institution's spokesperson and the staff member who presented the case.

Deliberations and Decision

At the conclusion of the teleconference, the subcommittee members must deliberate. Neither the institution, conference nor NCAA staff member(s) handling the case or with case administrative oversight responsibilities may be present for the deliberations. NCAA staff members supporting the committee will be present during deliberations but will not be the same staff member(s) handling the case.

A simple majority of subcommittee members present and voting is necessary for a decision. The chair, or acting chair on a particular appeal, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision must be provided by the subcommittee to the institution within 21-calendar days of the decision.

**Occasion-Three Penalties (Bylaw 23.2.1.2.3 – Postseason Competition)**

Application Procedures

All Occasion-Three Postseason Competition Appeals must be submitted electronically to the NCAA national office via the Web-based LSDB*i* Committee on Academic Performance module. Appeals must be submitted within 21-calendar days of notification to the institution of the penalty. The online appeal application program will produce a signature page that must be signed by the institution's president/chancellor, athletics director or senior woman administrator and the faculty athletics representative.

The appeal must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.3 should be waived. The appeal must identify all team penalties that an institution wishes to appeal to the Committee on Academic Performance. The waiver will be considered a single waiver case and will not be complete until each team penalty is addressed.

The institution may include additional information and supporting documentation it believes is relevant to its request.

The reviewing body may request additional pertinent information before a decision is rendered.

An appeal filed after the 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair, or acting chair, of the committee must determine whether any appeal filed after 21-calendar days may be considered.

Review Standards

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the institution's designated contact person regarding the status of the request and identify the NCAA staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff.

The staff does not have the authority to render a decision for Occasion-Three Postseason Competition Appeal requests. The staff's role is to facilitate the work of the committee and provide guidance to an institution, as needed, in preparing for the hearing.

All postseason-competition appeals must be decided initially by the Committee on Academic Performance and may be appealed to a Subcommittee of the NCAA Division I Board of Directors. Committee decisions will include consideration of the following:

- Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

- Historical academic performance of the respective team(s) and/or student-athlete(s).
- Number of teams at the institution subject to historical penalties.
- Size of variance between the team's APR/GSR and the historical-penalty "benchmark."
- History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team and/or student-athlete(s).
- Review of the institution's mission and its relationship to any team APR, graduation success rate or federal graduation rate.
- Development and submission of an academic improvement plan. Review of previously created and implemented academic improvement plan(s).
- Other factors deemed relevant to the appeal.

After reviewing all information, the committee will render one of the following decisions:

- **Approved:** The committee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted. In such instances, the team will not be subject to the Occasion-Three Preseason and Postseason-Competition Penalty. If, in the following three-year period, the team fails to meet the established benchmarks the Occasion-Three Postseason-Competition Penalties will be assessed rather than progressing to Occasion-Four Penalties.
- **Conditionally Approved:** The committee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the committee in the decision notification. If, in the following three-year period, the team fails to meet the established benchmarks, Occasion-Three Preseason and Postseason Competition Penalties will be assessed rather than progressing to Occasion-Four Penalties. However, failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented. In this instance, if, in the next three-year period, the team fails to meet the established benchmarks, Occasion-Four Penalties will be assessed. (The institution may appeal the Committee on Academic Performance's decision to a Subcommittee of the Board of Directors.)

- **Partially Approved:** The committee determines the institution's request demonstrated evidence that a partial waiver of Bylaw 23.2.1.2.3 was warranted. If, in the following three-year period, the team fails to meet the established benchmarks Occasion-Four Penalties will be assessed. (The institution may appeal the Committee on Academic Performance's decision to the Board subcommittee.)

- **Denied:** The committee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 23.2.1.2.3. The institution will be responsible for applying the designated penalty or penalties. (The institution may appeal the Committee on Academic Performance's decision to the Board subcommittee.)

Written confirmation of the decision must be provided by the Committee on Academic Performance to the institution within 21-calendar days of its decision.

Reconsideration

After the committee has acted on an appeal request, the institution may ask the committee to reconsider its decision if the institution submits new information that was not available to institution at the time the original appeal was filed. Request with new information may not be considered by the committee until the committee has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The committee will determine if information is new for all reconsideration requests. If the information is new, the committee will re-open the case, and make a decision based on the new set of facts. If the information is not considered new the committee decision will not be reconsidered, but the case may be appealed to the Board subcommittee.

Conflict of Interest

A Committee on Academic Performance or Board subcommittee member must recuse himself or herself from participation in an appeal in which he or she is personally connected with an institution or conference. A Committee on Academic Performance or Board subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the Committee on Academic Performance or Board subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a Committee on Academic Performance or Board subcommittee member participating in the review of an appeal must be raised to the Committee on Academic Performance or Board subcommittee chair or NCAA staff member prior to review of the appeal.
In the event that the Committee on Academic Performance or Board subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as "acting chair".

Committee/Board subcommittee members may not discuss a pending request with the staff processing the case or institutional representative without all parties having the opportunity to participate. The staff supporting the committee/board subcommittee may contact the committee/board subcommittee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an applicant's request. Further, the committee/board subcommittee members may contact the staff supporting the work of the committee/board subcommittee to request that additional information about the case be submitted.

Hearing Costs

The Committee on Academic Performance is responsible actual and necessary expenses for NCAA staff and committee members. In addition, the committee is responsible for expenses related to reserving the hearing room.

The institution is responsible for all costs related to the appeal hearing for its institutional officers and staff members, including those staff members whose presences is requested by the Committee on Academic Performance (this may include former staff members).

The conference office is responsible for all costs related to the appeal hearing for its staff members, including those staff members whose presence is requested by the Committee on Academic Performance (this may include former staff members).

Appeal Procedures

An appeal of a postseason-competition penalty must be reviewed by the Committee on Academic Performance.

All Occasion-Three Postseason-Competition Appeals must be submitted using the Web-based LSDB*i* Committee on Academic Performance module. The online appeal program will produce a signature page that must be signed by the president or chancellor, athletics director or senior woman administrator, and the faculty athletics representative and provided to the NCAA national office.

The application must set forth the rationale for the appeal. If the institution has multiple teams it wishes to make an appeal for, it must do so at one time.

All appeals of postseason competition restrictions must be filed to the NCAA national office within 21-calendar days of written notification of the penalty.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the committee must determine whether any appeal filed after the 21-calendar days may be filed.

The staff will work with the institution prior to the hearing to review completeness of the application and data submitted. This must be done prior to the case being forwarded to the committee on academic performance.

Time Frame for Hearing

An appeal of a postseason competition penalty will be heard in-person before all committee members in attendance at the hearing. After notice of the intent to appeal, the staff supporting the Committee on Academic Performance will schedule a hearing and notify the institution and the Committee on Academic Performance of the date, time and location. When setting the date and time for the hearing, the committee will attempt to accommodate the schedule of the university representatives. Any conflicts with the hearing should be communicated as soon as possible to the NCAA staff. The committee generally will schedule a hearing in either half-day or full-day blocks. It is important that the committee have an opportunity to hear all of the information the institution wishes to present at the hearing. Should the hearing continue beyond the anticipated ending time, the committee will make every effort to finish hearing the case that day. Breaks through the hearing will occur as needed, usually lasting 10 to 15 minutes, except for lunch, which will last approximately one hour. Any individual present at the hearing may leave the room at any time or ask the chair for a break.

Documents Reviewed by the Committee

The Committee on Academic Performance will receive and review the notice of penalty, appeal application (including supporting documents), team(s)' APP data (e.g., APR, graduation rate, contemporaneous penalty information, historical penalty information) and academic-improvement plans.

Any additional documentary information/data that the institution or staff would like the committee to review must be received by the staff supporting the work of the committee on Academic Performance at least 14-calendar days prior to the hearing. The staff must distribute the documents to the committee, institution and individuals whose presence is requested by the Committee on Academic Performance or the institution not less than seven-calendar days prior to the scheduled hearing.

Prior to the hearing, the Committee on Academic Performance will distribute to the institution and involved individuals an agenda of the teams to be discussed and a list of specific documents that comprise the record the committee will review.

Subject to the approval of the Committee on Academic Performance for good-cause shown, additional documents may be submitted at the hearing, provided copies (at least 40), are available for all in attendance.

The Committee on Academic Performance also may request additional documentation during the hearing or the committee's deliberations, with copies provided to all parties.

Appeal Participants

The following individuals must participate in the appeal: (a) the institution's president or chancellor; (b) the athletics director; (c) senior woman administrator; (d) faculty athletics representative; (e) the head coach of the penalized sport(s); and (f) any other individuals whose presence was requested by the committee. If any of these individuals is not available (e.g., individual is no longer employed by institution) for the hearing, the institution must notify the committee at least 14-calendar days prior to the scheduled hearing. The committee will then notify the institution as to whether it expects another individual to substitute for the unavailable individual.

An institution may have legal counsel present. The executive officer or other representative of a member conference's office may be present at an appeal involving a conference member. All other individuals must be approved by the committee. NCAA staff members supporting the work of the committee must participate in the appeal. Student-athletes may not be included among the institution's representatives. Other NCAA staff members may participate at the discretion of the chair.

The Committee on Academic Performance has the authority to request that institution officials and staff members, including coaches, appear before it. Further, the committee has the authority to request that former institutional staff or conference office members appear before it. These individuals will be referred to as "involved individuals." An involved individual may have legal counsel present; however, the involved individual must be present at the hearing and counsel may not speak on the individual's behalf.

All other individuals must be approved by the committee.

At the request of a member institution or at its own discretion, the committee may exclude an individual from certain portions of the appeal.

Committee/Board members may not discuss a pending request with the staff processing the case or institutional representative without all parties having the opportunity to participate. The staff supporting the committee may contact the committee/Board subcommittee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an applicant's request. Further, the committee/Board subcommittee members may contact the staff supporting the work of the committee to request that additional information about the case be submitted.

Introductions

The Committee on Academic Performance chair, or acting chair, will call the meeting to order and introduce the members of the committee and NCAA staff members supporting the committee's work.

Following introductions of the committee, the chair of the committee will ask that the institution select one person to speak on behalf of the institution. This person must be someone who is employed by the institution on a full-time basis. An involved individual must speak on behalf of himself or herself.

The institution will introduce its representatives followed by any involved individual and conference office representatives.

The NCAA staff handling the case will then introduce themselves.

After introductions, the committee chair may make announcements.

Opening Statement

The staff member handling the case and institution each will be provided an opportunity to make a brief opening statement to the committee.

An opening statement shall be limited to not more than 15 minutes. The staff member handling the case will first provide opening statements, followed by the institution.

The staff will provide only a review of the team's APP history, data and information (e.g., APR, graduation rate, contemporaneous-penalty information, historical-penalty information, academic improvement plan review, institutional mission information) as well as any relevant academic waiver data (e.g., progress-toward-degree information, initial-eligibility information).

The institution will provide only a brief summary of the case and set forth the rationale for the appeal.

The committee chair, or his or her designee, is responsible for monitoring the time.

Review of the Appeal

The Committee on Academic Performance will review each team separately, usually in the order contained in the notice of penalty. However, the committee may review teams together if the rationales for the appeals are similar.

The institution is provided an opportunity to present any information relevant to the appeal. The committee does not set time limits on the discussion of the appeal. The purpose of the hearing is to provide each party an opportunity to present all information that it deems important for the committee to review in the consideration of the appeal.

Committee members may ask questions at any time during the discussion of an appeal. Any institutional representative, conference office representative or involved individual may be questioned by the committee on any relevant issue. It is possible that the parties will be requested to respond to questions prior to their formal presentations.

If the institution or NCAA staff wishes to ask a question of another party, that question should be directed to the Committee on Academic Performance chair, who will then decide if the question is appropriate and will direct it to the appropriate individual.

Closing Statements

After the discussion of the appeal, the Committee on Academic Performance will hear brief closing statements from the staff and institution. The closing statement must be made by the institution's spokesperson and the staff member who presented the case. The closing statement may not exceed 10 minutes.

The staff will make its closing statement first and then the institution.

Similar to opening statements, closing statements are not intended to discuss the details of the appeal, present new information or to make new assertions. The closing statement provides the staff and institution an opportunity for each party to summarize the discussions that occurred during the hearing and to provide a brief statement regarding the case.

Deliberations and Decision

At the conclusion of the appeal, the committee members will deliberate. The committee may request additional information from any appropriate source, including the member institution or the staff. In this event, the institution and the staff will be given an opportunity to be present at the time such information is provided to the committee.

Only Committee on Academic Performance members and NCAA staff supporting the work of the committee (but not the NCAA staff member who presented the case) may be present for the deliberation. A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision must be provided by the committee to the institution within 21-calendar days of the decision.

Reconsideration

After the Committee on Academic Performance has acted on an appeal request, the institution may ask the committee to reconsider its decision if the institution submits new information that was not available to institution at the time the original appeal was filed. Request with new information may not be considered by the committee until the committee has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The committee will determine if information is new for all reconsideration requests. If the information is new, the committee will re-open the case, and make a decision based on the new set of facts. If the information is not considered new the committee decision will not be reconsidered, but the case may be appealed to the Board subcommittee.

Appeal of Committee Decision

In appealing a Committee on Academic Performance decision the institution must demonstrate that the committee abused its discretion in applying the legislation and/or policy and procedures of the Academic Performance Program.

A subcommittee of the Board of Directors has legislated authority to consider all appeals of committee decisions involving Bylaw 23.2.1.2.3 Occasion-Three Postseason-Competition Limitations.

After the Committee on Academic Performance has rendered a decision, the institution may appeal the decision to a subcommittee of the Board of Directors. The subcommittee's decision is final and not subject to further review by any other authority.

Review Standard

Abuse of discretion occurs when the Committee on Academic Performance:

- Fails to provide the institution/team with the opportunity to have its appeal heard in a fair manner.

- Fails to follow NCAA legislation and/or established Academic Performance Program policies and procedures, and the failure to adhere to legislation or policies reasonably could have resulted in a different decision by Committee on Academic Performance.

- Renders a decision clearly inconsistent with established and applicable precedent and/or adopted directives.

Appeal Procedures

The institution must submit the appeal of the committee decision to the NCAA national office. All appeals must be submitted using the Web-based LSDB*i* Committee on Academic Performance module. The online appeal process program will produce a signature page that must be signed by the president or chancellor, athletics director or senior woman administrator and the faculty athletics representative and provided to the NCAA national office. In addition, the appeal must identify all team penalties that the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

An institution will be required to submit an appellate brief explaining its rationale for appealing the committee's decision. Specifically, the institution's appellate brief may only address how it believes that the committee abused its discretion in applying the legislation and/or policy and procedures. The subcommittee may not hear a case de novo (e.g., over again, anew).

All appeals of Committee on Academic Performance decisions must be filed with the NCAA national office within 21-calendar days of written notification of the Committee on Academic Performance's decision.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the Board subcommittee must determine whether any appeal filed after the 21-calendar days may be filed.

The staff will work with the applicant institution prior to the teleconference to verify facts, case precedent and data submitted. This must be done prior to the case being forwarded to the Board subcommittee.

Time Frame for Hearing

An appeal of the committee's decision regarding a postseason-competition penalty will be heard via teleconference before a subcommittee of the Board of Directors. After notice of the intent to appeal, the staff will schedule a teleconference and notify the institution of the date and time. When setting the date and time for the teleconference, the subcommittee will attempt to accommodate the schedule of the institutional representatives and involved individuals. Any conflicts with the teleconference date should be communicated as soon as possible to the NCAA staff.

Appeal Participants

The following individuals must participate in the appeal: (a) the institution's president or chancellor; (b) the athletics director; (c) senior woman administrator; (d) faculty athletics representative; (e) the head coach of the penalized sport(s); (f) Committee on Academic Performance Chair and if different, the individual who chaired the Committee on Academic

Performance hearing; and (g) any other individuals whose presence was requested by the committee.

If any of these individuals is not available (e.g., individual is no longer employed by institution) for the hearing, the institution must notify the board subcommittee at least 14-calendar days prior to the scheduled hearing. The subcommittee will then notify the institution as to whether it expects another individual to substitute for the unavailable individual. In addition, of these groups of people only those individuals who were present for the hearing before the committee may be present on for the teleconference.

An institution may have legal counsel present. Student-athletes may not be included among the institution's representatives. An involved individual may have legal counsel present; however, the involved individual must be present at the hearing and counsel may not speak on the individual's behalf. In addition, of these groups of people only those individuals who were present for the hearing before the committee may be present on for the teleconference.

The executive officer or other representative of a member conference's office may be present at an appeal involving a conference member. All other individuals must be approved by the Board subcommittee. In addition, of these groups of people only those individuals who were present for the hearing before the committee may be present on for the teleconference.

NCAA staff members supporting the work of the committee must participate in the appeal. Other NCAA staff members may participate at the discretion of the chair.

At the request of a member institution or in the exercise of its own discretion, the subcommittee may exclude an individual from certain portions of the appeal.

Committee/Board members may not discuss a pending request with the staff processing the case or institutional representative without all parties having the opportunity to participate. The staff supporting the committee/Board subcommittee may contact the committee/Board subcommittee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an applicant's request. Further, the committee/Board subcommittee members may contact the staff supporting the work of the committee/Board subcommittee to request that additional information about the case be submitted.

Documents Reviewed by the Subcommittee

The Board subcommittee will receive and review the notice of penalty, appeal application (including supporting documents), applicant team(s) APP data and committee's decision and rationale and all documents which form part of the record.

Any additional documentary information/data that relates to abuse of discretion the institution or staff would like the subcommittee to review must be received by the staff at least 14-calendar days prior to the hearing. The staff must distribute the documents to the Board subcommittee, appeal participants not less than seven calendar days prior the scheduled teleconference date.

Prior to the teleconference, the subcommittee will distribute to the institution an agenda of the teams to be discussed and a list of specific documents that comprise the record the subcommittee will review.

The subcommittee also may request additional documentation during the teleconference or the subcommittee's deliberations, with copies provided to all parties.

Introductions

The subcommittee chair or subcommittee member identified to chair a particular teleconference will call the meeting to order and introduce the members of the subcommittee and the staff supporting the Board subcommittee.

Following introductions of the subcommittee, the chair of the subcommittee will ask the institution to select one person to speak on behalf of the institution. This person must be someone who is employed by the institution on a full-time basis.

The institution will introduce its representatives followed by conference representatives who are present.
The Committee on Academic Performance chair will introduce himself or herself and any other committee member present on the teleconference.

The NCAA staff will then introduce themselves.

After introductions, the subcommittee chair has the opportunity to make announcements.

Review of the Appeal

The subcommittee will review each team separately, usually in the order contained in the notice of penalty. However, the subcommittee may review teams together if the rationales for the appeals are similar.

The institution is provided an opportunity to present its basis for appealing the Committee on Academic Performance decision to the subcommittee. The institution's appeal should be based on the appellate brief submitted to the subcommittee. The institution's brief may only address, based on the facts that were presented to the Committee on Academic Performance, how it believes that the committee abused its discretion, as outlined in the "review standard" section, in applying the legislation and/or its policies and procedures.

The appeal may not exceed one (1) hour in length. The one-hour time period will conform to the following process:

The Committee on Academic Performance chair, or acting chair, will have 15 minutes to describe the facts of the appeal, applicable case precedent and the committee's decision and rationale.

The institution's designated spokesperson will then have 15 minutes to describe the case and address how it believes that the committee abused its discretion in applying the legislation and/or its policies and procedures.

Following opening statements from the chair, or acting chair, of the committee on academic performance and the institution, the Board subcommittee members may ask questions of all participants. Once all questions have been answered, the teleconference will conclude with the committee and institution each providing a five-minute closing statement. The closing statement must be made by the institution's spokesperson and the committee member who presented the case.

During this period, the subcommittee may ask questions at any time. Any institutional representative or committee member may be questioned on any relevant issue. It is possible that the parties will be requested to respond to questions prior to their formal presentations. The one hour period includes questioning by the subcommittee.

If the institution or Committee on Academic Performance wishes to ask a question of another party, that question should be directed to the subcommittee, which will then decide if the question is appropriate and will direct it to the appropriate individual.

Once all questions have been answered, the call will conclude with the committee and institution each providing a five-minute closing statement. The closing statement must be made by the institution's spokesperson and the committee chair or acting chair who presented the case.

The chair of the Board subcommittee, or his or her designee, is responsible for monitoring the time.

Deliberations and Decision

At the conclusion of the appeal, the subcommittee members will deliberate. The standard of review for the subcommittee is that it must determine whether the institution was able to demonstrate that the committee abused its discretion in applying the legislation and/or policy and procedures. As part of its deliberation, the Board subcommittee may (1) uphold the committee's

decision or (2) reverse or modify the decision if it finds the Committee on Academic Performance abused its discretion. The subcommittee may request additional information from any appropriate source, including the member institution or the staff. In this event, the institution and the Committee on Academic Performance chair or acting chair will be given an opportunity to be represented at the time such information is provided to the subcommittee.

Only subcommittee members and NCAA staff supporting the work of the Board subcommittee may be present for the deliberation. A simple majority of the subcommittee members present and voting is necessary for a decision. The chair, or person serving as chair on a particular appeal, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision will be provided by the Board subcommittee to the institution within 21-calendar days from the date of its decision.

**Occasion-Four Penalties (Bylaw 23.2.1.2.4 – Membership Status)**

Application Procedures

All Occasion-Four Penalties must be submitted electronically to the NCAA national office via the Web-based LSDB*i* Committee on Academic Performance module. Appeals must be submitted within 21-calendar days of notification to the institution of the penalty. The online appeal application program will produce a signature page that must be signed by the institution's president or chancellor, athletics director or senior woman administrator and the faculty athletics representative.

The appeal must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.4 should be waived. The appeal must identify all team(s) subject to membership status penalties that an institution wishes to appeal to the Committee on Academic Performance. The waiver will be considered a single waiver case and will not be complete until each team penalty is addressed.

The institution may include additional information and supporting documentation it considers is relevant to its request.

The reviewing body may request additional pertinent information before a decision is rendered.

An appeal filed after the 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair, or acting chair, of the committee must determine whether any appeal filed after 21-calendar days may be considered.

Review Standards

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the institution's designated contact person of the status of the request and identify the NCAA staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff.

The staff does not have the authority to render a decision for Occasion-Four Penalties Appeal requests. The staff's role is to facilitate the work of the Committee on Academic Performance and provide guidance to an institution, as needed, in preparing for the hearing.

All membership-status appeals must be decided initially by the Committee on Academic Performance. The Committee on Academic Performance decision may be appealed to a subcommittee of the Board of Directors. Committee decisions will be based on consideration of the following:

- Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

- Historical academic performance of the respective team(s) and/or student-athlete(s).

- Number of teams at the institution subject to historical penalties.

- Size of variance between the team's APR/GSR and the historical-penalty "benchmark."

- History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team and/or student-athlete(s).

- Review of the institution's mission and its relationship to any team APR, graduation success rate or federal graduation rate.

- Development and submission of an academic improvement plan. Review of previously created and implemented academic improvement plan(s).

- Other factors deemed relevant to the appeal.

After reviewing all information, the Committee on Academic Performance will render one of the following decisions:

- **Approved:** The committee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.4 was warranted. In such instances, the institution will not be subject to the Occasion-Four Penalties Appeal. If, in the following three-year period, the team again fails to meet the established benchmarks Occasion-Four penalties will be assessed at that time. (The institution may appeal the Committee on Academic Performance decision to the Board subcommittee.)

- **Conditionally Approved:** The committee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.4 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the committee in the decision notification. If, in the following three-year period, the team again fails to meet the established benchmarks Occasion-Four Membership Status penalties will be assessed. However, failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented. (The institution may appeal the Committee on Academic Performance decision to the Board subcommittee.)

- **Denied:** The committee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 23.2.1.2.4. The institution will be responsible for applying the designated penalty or penalties.

Written confirmation of the decision must be provided by the Committee on Academic Performance to the institution within 21-days of the committee's decision.

Reconsideration

After the committee has acted on an appeal request, the institution may ask the committee to reconsider its decision if the institution submits new information that was not available to institution at the time the original appeal was filed. Request with new information may not be considered by the committee until the committee has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The committee will determine if information is new for all reconsideration requests. If the information is new, the committee will re-open the case, and make a decision based on the new set of facts. If the information is not considered new the committee decision will not be reconsidered, but the case may be appealed to the Board subcommittee.

Conflict of Interest

A Committee on Academic Performance or Board subcommittee member must recuse himself or herself from participation in an appeal in which he or she is personally connected with an institution or conference. A committee or Board subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the committee or subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a committee or Board subcommittee member participating in the review of an appeal must be raised with the committee or Board subcommittee chair or staff member prior to review of the appeal.

In the event that the committee or Board subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as "acting chair".

Committee/Board subcommittee members may not discuss a pending request with the lead staff administrator or institutional representative without all parties having the opportunity to participate. The staff supporting the committee or the Board subcommittee may contact the Committee on Academic Performance or Board subcommittee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an applicant's request. Further, the committee or Board subcommittee members may contact the staff supporting the committee or Board subcommittee to request that additional information about the case be submitted.

Hearing Costs

The Committee on Academic Performance is responsible actual and necessary expenses for NCAA staff and committee members. In addition, the committee is responsible for expenses related to reserving the hearing room.

The institution is responsible for all costs related to the appeal hearing for its institutional officers and staff members, including those staff members whose presences is requested by the Committee on Academic Performance (this may include former staff members).

The conference office is responsible for all costs related to the appeal hearing for its staff members, including those staff members whose presence is requested by the Committee on Academic Performance (this may include former staff members).

Appeal Procedures

An appeal of a membership-status penalty must be reviewed by the Committee on Academic Performance.

All Occasion-Four Penalties Appeals must be submitted using the Web-based LSDB*i* Committee on Academic Performance module. The online appeal program will produce a signature page that must be signed by the president or chancellor, athletics director or senior woman administrator and faculty athletics representative and provided to the NCAA national office.

The application must set forth the rationale for the appeal. If the institution has multiple teams it must do so at one time.

All appeals of membership-status penalties must be filed to the NCAA national office within 21-calendar days of written notification of the penalty.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the committee must determine whether any appeal filed after the 21-calendar days may be filed.

The staff will work with the applicant institution prior to the hearing to verify facts and data submitted. This must be done prior to the case being forwarded to the Committee on Academic Performance.

Time Frame for Hearing

An appeal of a membership-status penalty will be heard in-person before all Committee on Academic Performance members in attendance at the hearing. After notice of the intent to appeal, the staff supporting the work of the Committee on Academic Performance will schedule

a hearing and notify the institution and the committee of the date, time and location. When setting the date and time for the hearing, the committee will attempt to accommodate the schedule of the university representatives. Any conflicts with the hearing should be communicated as soon as possible to the NCAA staff. The committee generally will schedule a hearing in either half-day or full-day blocks. It is important that the committee have an opportunity to hear all of the information the institution wishes to present at the hearing. Should the hearing continue beyond the anticipated ending time, the committee will make every effort to finish hearing the case that day. Breaks throughout the hearing will occur as needed, usually lasting 10 to 15 minutes, except for lunch, which will last approximately one hour. Any individual present at the hearing may leave the room at any time or ask the chair for a break.

Documents Reviewed by the Committee

The Committee on Academic Performance will receive and review the notice of penalty, appeal application (including supporting documents), applicant team(s) APP data (e.g., APR, graduation rate, contemporaneous penalty information, historical penalty information) and academic improvement plans.

Any additional documentary information/data that the institution or staff would like the committee to review must be received by the staff supporting the work of the committee at least 14-calendar days prior to the hearing. The staff must distribute the documents to the committee, institution and individuals whose presence is requested by the committee of the institution not less than seven (7) calendar days prior to the scheduled hearing.

Prior to the hearing, the Committee on Academic Performance will distribute to the institution and individuals whose presence is requested by the committee or institution an agenda of the teams to be discussed and a list of specific documents that comprise the record the committee will review.

Subject to the approval of the Committee on Academic Performance, for good-cause shown, additional documents may be submitted at the hearing, provided copies (at least 40), are available for all in attendance.

The Committee on Academic Performance also may request additional documentation during the hearing or the committee's deliberations, with copies provided to all parties.

Appeal Participants

The following individuals must participate in the appeal: (a) the institution's president or chancellor; (b) athletics director; (c) senior woman administrator; (d) faculty athletics representative; (e) the head coach of the penalized team(s); and (f) any other individuals whose presence was requested by the committee. If any of these individuals is not available (e.g.,

individual is no longer employed by the institution) for the hearing, the institution must notify the committee at least 14-calendar days prior to the scheduled hearing. The committee will then notify the institution as to whether it expects another individual to substitute for the unavailable individual.

An institution may have legal counsel present. The executive officer or other representative of a member conference's office may be present at an appeal involving a conference member NCAA staff members supporting the work of the committee must participate in the appeal. Student-athletes may not be present at the hearing. Other NCAA staff members may participate at the discretion of the chair.

The Committee on Academic Performance has the authority to request that institution officials and staff members, including coaches, appear before it. Further, the committee has the authority to request that former institutional staff or conference office members appear before it. In addition, the institution may permit institutional officials and staff members be present at the hearing. These individuals will be referred to as "involved individuals". An involved individual may have legal counsel present; however, the involved individual must be present at the hearing and counsel may not speak on the individual's behalf.

At the request of a member institution or in the exercise of its own discretion, the subcommittee may exclude an individual from certain portions of the appeal.

Committee/Board members may not discuss a pending request with the staff processing the case or institutional representative without all parties having the opportunity to participate. The staff supporting the committee/Board subcommittee may contact the committee/Board subcommittee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an applicant's request. Further, the committee/Board subcommittee members may contact the staff supporting the work of the committee/Board subcommittee to request that additional information about the case be submitted.

Introductions

The Committee on Academic Performance chair, or acting chair, will call the meeting to order and introduce the members of the committee and NCAA staff members supporting the committee's work.

Following introductions of the committee, the chair of the committee will ask the institution to select one person to speak on behalf of the institution. This person must be someone who is employed by the institution on a full-time basis. An involved individual must speak on behalf of himself or herself.

The institution will introduce its representatives followed by any involved individual and conference office representatives.

The NCAA staff handling the case will then introduce themselves.

After introductions, the committee chair may make announcements.

Opening Statement

The staff member presenting the case and institution each will be provided an opportunity to make a brief opening statement to the committee.

An opening statement will be limited to not more than 15 minutes. The staff handling the case will first provide opening statements, followed by the institution. The staff handling the case will provide only a review of the team's APP history, data and information (e.g., APR, graduation rate, contemporaneous-penalty information, historical-penalty information, academic improvement plan review, institutional mission information) as well as any relevant academic waiver data (e.g., progress-toward-degree information, initial-eligibility information).

The institution will provide only a brief summary of the case and set forth the rationale for the appeal.

The committee chair, or his or her designee, is responsible for monitoring the time.

Review of the Appeal

The Committee on Academic Performance will review each team separately, usually in the order contained in the notice of penalty. However, the committee may review teams together if the rationales for the appeals are similar.

The institution is provided an opportunity to present any information relevant to the appeal. The committee does not set time limits on the discussion of the appeal. The purpose of the hearing is to provide each party an opportunity to present all information that it deems important for the committee to review in consideration of the appeal.

Committee members may ask questions at any time during the discussion of an appeal. Any institutional representative, conference office representative or involved individual may be questioned by the committee on any relevant issue. It is possible that the parties will be requested to respond to questions prior to their formal presentations.

If the institution or NCAA staff wishes to ask a question of another individual, that question should be directed to the Committee on Academic Performance chair, who will then decide if the question is appropriate and will direct it to the appropriate individual.

Closing Statements

After the discussion of the appeal, the Committee on Academic Performance will hear brief closing statements from the staff and institution. The closing statement must be made by the institution's spokesperson and the staff member who presented the case. The closing statement may not exceed 10 minutes.

The staff will make its closing statement first and then the institution.

Similar to opening statements, closing statements are not intended to discuss the details of the appeal, present new information or to make new assertions. The closing statement provides the staff and institution an opportunity for each party to summarize the discussions that occurred during the hearing and to provide a brief statement regarding the case.

Deliberations and Decision

At the conclusion of the appeal, the committee members will deliberate. As part of its deliberation, the committee may request additional information from any appropriate source, including the member institution or the staff. In this event, the institution and the staff will be given an opportunity to be represented at the time such information is provided to the committee.

Only Committee on Academic Performance members and NCAA staff supporting the work of the committee (but not the NCAA staff member who presented the case) may be present for the deliberation. A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision will be provided by the Committee on Academic Performance to the institution within 21-calendar days of the committee's decision.

Appeal of Committee Decision

In appealing a Committee on Academic Performance decision, an institution must demonstrate that the committee abused its discretion in applying the legislation and/or policy and procedures of the academic performance program.

A subcommittee of the Board of Directors has legislated authority to consider all appeals of Committee on Academic Performance decisions involving Bylaw 23.2.1.2.4, Occasion-Four Membership Status.

After the committee has rendered a decision, the institution may appeal the decision to a subcommittee of the Board of Directors. The Board subcommittee's decision is final and not subject to further review by any other authority.

Review Standard

Abuse of discretion occurs when the Committee on Academic Performance:

- Fails to provide the institution/team with the opportunity to have its appeal heard in a fair manner.

- Fails to follow NCAA legislation and/or established Academic Performance Program policies and procedures, and the failure to adhere to legislation or policies reasonably could have resulted in a different decision by Committee on Academic Performance.

- Renders a decision clearly inconsistent with established and applicable precedent and/or adopted directives.

Appeal Procedures

An institution must submit the appeal of the committee decision to the NCAA national office. All appeals must be submitted using the Web-based LSDB*i* Committee on Academic Performance module. The online appeal process program will produce a signature page that must be signed by the president or chancellor, athletics director or senior woman administrator and faculty athletics representative and provided to the NCAA national office. In addition, the appeal must identify all team subject to membership status penalties that the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

An institution will be required to submit an appellate brief explaining its rationale for appealing the committee's decision. Specifically, the institution's appellate brief may only address how it believes that the committee abused its discretion in applying the legislation and/or policy and procedures. The subcommittee may not hear a case de novo (e.g., over again, anew).

All appeals of committee decisions must be filed with the NCAA national office within 21-calendar days of written notification of the Committee on Academic Performance's decision.

Any appeal filed after 21-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee must determine whether any appeal filed after the 21-calendar days may be filed.

After submission of the appellate brief, the staff supporting the work of the Board subcommittee will schedule a teleconference and notify the institution and Board subcommittee of the date and time.

The staff will work with the applicant institution prior to the teleconference to verify facts, case precedent and data submitted. This must be done prior to the case being forwarded to the subcommittee.

Time Frame for Hearing

An appeal of the committee's decision regarding a membership-status penalty will be heard via teleconference before Board subcommittee. After notice of the intent to appeal, the staff supporting the work of the Board subcommittee will schedule a teleconference and notify the institution and Board subcommittee of the date and time. When setting the date and time for the teleconference, the subcommittee will attempt to accommodate the schedule of the institutional representatives. Any conflicts with the teleconference should be communicated as soon as possible to the NCAA staff supporting the work of the Board subcommittee.

Appeal Participants

The following individuals must participate in the appeal: (a) the institution's president or chancellor; (b) director of athletics; (c) senior woman administrator; (d) faculty athletics representative; (e) the head coach of the penalized team(s); (f) committee on academic performance chair and if different, the individual who chaired the committee hearing; and (g) any other individuals whose presence was requested by the Committee on Academic Performance.

If any of these individuals is not available for the teleconference, the institution, conference office and/or NCAA staff must notify the committee at least 14 days prior to the scheduled hearing. The Board subcommittee will then notify the institution as to whether it expects another individual to substitute for the individual. NCAA staff and committee members may be present for the teleconference to the subcommittee. In addition, of these groups of people only those individuals who were present for the hearing before the committee on academic performance may be present on for the teleconference.

An institution may have legal counsel present. Student-athletes may not be present on the appeal. An involved individual may have legal counsel present; however, the involved individual must be present at the hearing and counsel may not speak on the individual's behalf. In addition, of these groups of people only those individuals who were present for the hearing before the committee may be present on the teleconference.

The executive officer or other representative of a member conference's office may be present at an appeal involving a conference member. However, only those individuals who were present for the hearing before the committee may be present on the teleconference.

NCAA staff members supporting the work of the committee must participate in the appeal. Other NCAA staff members may participate at the discretion of the chair.

All other individuals must be approved by the Board subcommittee.

Documents Reviewed by the Subcommittee

The subcommittee will receive and review the notice of penalty, appeal application (including supporting documents), applicant team(s) APP data and Committee on Academic Performance's decision and rationale and all documents part of the record.

Prior to the teleconference, the Board subcommittee will distribute to the institution and the Committee on Academic Performance an agenda of the teams to be discussed and a list of specific documents that comprise the record the subcommittee will review.

The subcommittee also may request additional documentation during the teleconference or the subcommittee's deliberations, with copies provided to all parties.

Introductions

The subcommittee chair, or acting chair, will call the meeting to order and introduce the members of the subcommittee and the staff supporting the Board subcommittee.

Following introductions of the subcommittee, the chair of the subcommittee will ask the institution to select one person to speak on behalf of the institution. This person must be someone who is employed by the institution on a full-time basis.

The institution will introduce its representatives followed by conference representatives who are present.
The chair of the Committee on Academic Performance will introduce himself or herself and any committee members in attendance.

The NCAA staff will then introduce themselves.

After introductions, the subcommittee chair may make announcements.

Review of the Appeal

The subcommittee will review each team separately, usually in the order contained in the notice of penalty. However, the subcommittee may review teams together if the rationales for the appeals are similar.

The institution is provided an opportunity to present its basis for appealing the committee decision to the subcommittee. The institution's appeal should be made from the appellate brief submitted to the subcommittee. The institution's brief may only address, based on the facts that were presented to the committee, how it believes that the committee abused its discretion in applying the legislation and/or its policies and procedures as outlined in the "review standard" section.

The appeal may not exceed one hour in length. The one-hour time period will conform to the following process:

The Committee on Academic Performance chair or acting chair will have 15 minutes to describe the facts of the appeal, applicable case precedent and the committee's decision and rationale.

The institution's designated spokesperson will then have 15 minutes to describe the case and address how it believes that the committee abused its discretion in applying the legislation and/or its policies and procedures.

Following opening statements from the chair of the committee on academic performance and the institution, the Board subcommittee members may ask questions of all participants. Once all questions have been answered, the teleconference will conclude with the committee and institution each providing a five-minute closing statement. The closing statement must be made by the institution's spokesperson and the committee member who presented the case.

During this period, the subcommittee may ask questions at any time. Any institutional representative or committee chair may be questioned on any relevant issue. It is possible that the parties will be requested to respond to questions prior to their formal presentations. The one hour period includes questioning by the subcommittee.

If the institution or committee on academic performance wishes to ask a question of another party, that question should be directed to the subcommittee chair, who will then decide if the question is appropriate and will direct it to the appropriate individual.

Once all questions have been answered, the call will conclude with the committee and institution each providing a five-minute closing statement. The closing statement must be made by the institution's spokesperson and the committee chair or acting chair who presented the case.

The chair of the Board subcommittee, or his or her designee, is responsible for monitoring the time.

Deliberations and Decision

At the conclusion of the appeal, the subcommittee members will deliberate. The standard of review for the subcommittee is that it must determine whether the institution was able to demonstrate that the committee abused its discretion in applying the legislation and/or policy and procedures. As part of its deliberation, he Board subcommittee may (1) uphold the committee's decision or (2) reverse or modify the decision if it finds the Committee on Academic Performance abused its discretion. The subcommittee may request additional information from any appropriate source, including the member institution or the staff. In this event, the institution and the committee chair will be given an opportunity to be represented at the time such information is provided to the subcommittee.

Only subcommittee members and NCAA staff supporting the work of the committee may be present for the deliberation. A simple majority of the subcommittee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision must be provided by the Board subcommittee to the institution within 21-calendar days of its decision.