**REPORT OF THE JANUARY 5-6, 2006**
**NCAA DIVISION I COMMITTEE ON ACADEMIC PERFORMANCE**

## *1. ACTION ITEM.*

- **Public Recognition Program.**

  **a.** Recommendation. The NCAA Division I Committee on Academic Performance recommends approval of a team-centered public recognition program that highlights the academic performance of the top ten percent of teams in each sport based on NCAA Division I Academic Progress Rates (APR).

  **b.** Rationale. The general intent behind this incentives initiative is to develop a team-centered recognition program that is based on team APRs and is simple to apply and explain. Through this program, the top 10 percent (including ties) of teams within each sport will be identified publicly. In addition, the NCAA staff will seek corporate sponsorship of the program, provided student-athlete academic achievement remains the central focus. By applying the aforementioned criteria to two-year APRs, the committee estimates that approximately 17 percent of Division I sports teams will be recognized and approximately 80 percent of Division I institutions will have at least one team acknowledged if the program is activated this year.

  **c.** Budget Impact. No immediate budget impact for 2005-06.

  [Note: Funding for future years may be requested during the 2006-08 budgeting process later this year.]

## *2. INFORMATIONAL ITEMS.*

**a. Other Incentive Programs.** The committee continues development of additional incentive programs but at this time is limited in its progress due to the incomplete 2004-05 APR data set. The committee remains committed to a program that rewards top academic achievement and motivates academic improvement. When the complete 2004-05 data set is available, the committee will continue to develop the incentive programs with the goal of recommending additional models during the committee's April meeting.

**b. Historical-Penalty Structure.** Once a full 2004-05 APR data set is available, the committee will complete development of the historical-penalty structure. In the interim, the committee asked the NCAA staff to provide models demonstrating how to conduct sport-by-sport analysis and resolve institutional-mission issues within the historical-penalty structure. The committee recognizes that a "natural break" point in data may not exist; therefore, establishing benchmarks may require a principled approach, based on a rational evaluation of the characteristics of the score chosen.

The committee recognizes it needs to determine benchmarks that correlate to a standard that people find meaningful (e.g., graduation success rate). Further, the committee agreed that the historical-penalty program should impact fewer schools than the contemporaneous-penalty program. The committee will continue to review the two-year data set when it becomes complete, with the goal of making a formal recommendation to the NCAA Division I Board of Directors no later than April.

**c.** **Historical-Penalty Appeals Procedures**. The committee agreed to circulate a draft of appeal procedures for historical penalties for membership review and comment. The committee is seeking specific feedback from institutions and conferences not later than March 1, to allow for compilation and final review by the committee during its April meeting. [Attachment]

**d.** **Awarding Graduation Bonus Points to an Institution for Student-Athletes who Graduate from Different Institutions.** The committee considered a change to the current policy for awarding APR graduation bonus points that would allow an institution to earn a graduation bonus point for a transfer student-athlete who graduates from another institution. The group did not support the policy change, noting that once a student-athlete leaves an institution, that institution rarely retains responsibility for supporting the transfer student-athlete's efforts to complete a degree program at a different institution and, thus, should not receive "credit" for the student-athlete's graduation. Further, the committee cited the administrative burden on institutional staff members to collect data and track the progress of student-athletes who have transferred to other institutions.

**e.** **Plan for the Release of NCAA Division I Academic Progress Rate (APR)/Contemporaneous-Penalty Public Reports**. The committee reviewed the planned format for the public release of member institutions' APR scores and contemporaneous penalties. The reports are scheduled for release in late February, with the goal of having final data for all institutions prior to this release. A copy of the public report, including all aggregate data, will be made available to member institutions and conferences 24 hours prior to public release. An e-mail with the electronic link providing access to the reports will be sent to each institution's chancellor/president, director of athletics, faculty athletics representative, senior woman administrator and compliance coordinator. Conference commissioners also will be notified via e-mail. In addition, the staff will conduct educational conference calls with the membership and the media in conjunction with the release of public reports. The committee noted that institutions have access to their own APR and contemporaneous-penalty data immediately after completion of the submission process.

**f.** **Educational and Auditing Initiatives of NCAA Division I Academic Performance Program (APP) Data.** The committee reviewed a letter from the president of a Division I institution noting concern about the consistency, accuracy

and integrity of the APP data being collected. The committee noted the concepts identified by the NCAA Division I Committee on Academic Performance Subcommittee on Data Collection and Reporting during its July 2005 meeting, which provide mechanisms for auditing APP data. After further development and review of those concepts, the full committee approved the following initiatives:

(1) Develop educational tools for those individuals who will collect and submit APP data on behalf of institutions, including: ongoing updates to existing educational materials; additional publications on the Web site; development of an e-curriculum that will provide a network of educational resources; instant access to information and online tutorials; teleconferences and Web casts conducted by NCAA staff; and videoconferences with institutions and conferences regarding APP policies and procedures.

(2) Conduct audits of institutional data submissions. This initiative will include the development, creation and distribution of auditing guidelines to assist those individuals conducting institutional APP audits. In addition, the staff will conduct random annual audits of institutional data reporting and penalty assessments at approximately 20 to 25 institutions, which may lead to in-person audit visits to campus.

(3) Require the chancellor/president to approve the institution's procedures for collecting and submitting APP data.

(4) Recommend to the NCAA Division I Committee on Athletics Certification that a review of institutional APP data collection and penalty assessment be included as a mandatory element of the required compliance reviews.

The committee directed the staff to prepare a document incorporating all steps currently being used to protect the integrity of the data submitted through the APP process. This document will be reviewed annually by the Subcommittee on Data Collection and Reporting.

**g.** **Amend Due Date for Graduation Success Rate (GSR) Data.** The committee adopted June 1 as the new deadline for submission of GSR data to the NCAA. The effective date for this deadline is 2006. The committee noted that June 1 is near the submission date for federal graduation rate data. Aligning these reporting submission dates may be beneficial to member institutions, as the work related to each is similar. In addition, this submission date would allow for an earlier GSR report release date ensuring that GSR data is available for review with APP waivers.

**h. Data Submission Requirements for Institutions/Teams Seeking NCAA Division I Membership.** The committee determined that reclassifying and provisional Division I member institutions should begin reporting APP data at the point in the membership process when the institution is required to be in full compliance with all Division I legislation. The committee determined that the penalty for failing to submit data is notification to the NCAA Division I Membership Subcommittee, rather than the championship penalties that exist for current Division I members. Further, the committee determined that reclassifying and provisional Division I members will be permitted to make APR adjustment and graduation bonus requests similar to current Division I members. Finally, the committee determined that reclassifying and provisional Division I member APP data should be included in the aggregate APP data that is compiled and publicly released by the NCAA.

**i. Timeline for Application of Penalties and Rewards for Reclassifying and Provisional Division I Members.** The committee determined that the timing of penalties and rewards for reclassifying and provisional Division I member institutions should replicate the timeline followed by current Division I members. For example, new Division I institutions could be subject to contemporaneous penalties after two years of data collection, a public warning for historical penalties after three years of data collection and financial aid, practice and recruiting restrictions (i.e., first occasion historical penalties) after four years of data.

**j. Timeline and Staff Responsibilities for Notifying Institutions of APP data deadlines.** The Subcommittee on Data Collection and Reporting reviewed a document outlining the data collection process, annual timelines associated with the APP (i.e., GSR, APR) and staff responsibilities for notifying institutions of APP deadlines. This included a summary of staff processes, notifications and membership deadlines from April through October annually. The subcommittee directed the staff to provide an additional notification in the late summer to remind institutions how to access and use the APR database, as well as a reminder of the fall APR submission deadline. The subcommittee also requested the staff compile a list of institutions that failed to submit APP data for its review during the April meeting.

**k. Preseason Competition Penalties.** The committee reviewed the historical-penalty preseason restriction legislation. The committee discussed the definition of "preseason", the intent of the legislation and the application of the restriction. The committee requested the NCAA staff provide a list of preseason, certified and/or exempted contests by sport to better understand the potential impact of the restriction. The committee will continue discussion of preseason competition penalties at its April meeting.

**l.** **APR Cohort Definition.** The committee discussed a situation in which a spring-sport student-athlete is in attendance at an institution the entire academic year, but is awarded aid only in the fall term in order to avoid inclusion of that student-athlete in the spring APR cohort. The committee directed the staff to review 2004-05 APR data to identify trends regarding student-athletes who appear in their respective teams' fall cohorts, are retained for the spring, but are excluded from their respective teams' spring cohorts. The staff's report will be reviewed during the April meeting, when the committee will consider a possible change to the cohort definition to ensure the cohort definition appropriately includes student-athlete receiving aid and participating in athletics.

**m.** **Correspondence from Member Conference**. Prior to the meeting, the committee reviewed a letter from a conference commissioner requesting that the committee continue to review the issue of transfer student-athletes and how those student-athletes are referenced in the APR. In addition, the correspondence requested that coaching changes continue to be considered in the development of APP policies. The committee noted that it continues to review issues related to transfer student-athletes and that coaching change is currently a mitigating circumstance taken into consideration during appeals of contemporaneous penalties.

*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**

# Historical-Penalty Appeal Processes
## Quick Summary

**Occasion-One Penalty**
(Public Warning)
→ **Staff**
(paper)
→ **Subcommittee**
(paper)

**Occasion-Two Penalties**
(Financial Aid, Practice and Recruiting Limitation)
→ **Staff**
(paper)
→ **Subcommittee**
(teleconference)

**Occasion-Three Penalties**
(Preseason Competition)
→ **Staff**
(paper)
→ **Subcommittee**
(teleconference)

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

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

**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, Practice and 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 via 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 subcommittee's decision is final and not subject to further review.

**DRAFT**

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

NCAA Division I Bylaw 23 proscribes a filter-penalty structure for institutions that fail to satisfy 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 practice 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.

The information below outlines the procedures for appealing a historical penalty.

## 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 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.

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 believes is relevant to its request.

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

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.

The staff has the authority to render a decision for all Occasion-One Public-Warning Appeal requests. Decisions will be based on 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 NCAA Division I Academic Progress Rate (APR) and the historical-penalty "benchmark."
- History of penalties and waivers (e.g., contemporaneous penalties, APR adjustment, 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 the team's 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 23.2.1.2.1 was warranted. In such instances, the team will not be subject to the Occasion-One Penalty. As such, its next occasion of failing to

- meet the established benchmarks, within a three year period, would result in the Occasion-One Public-Warning Penalty rather than progressing to Occasion-Two Penalties.

- **Conditionally Approved:** The staff/subcommittee determines 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. Such conditions will be outlined by the staff/subcommittee in the decision notification. As such, its next occasion of failing to meet the established benchmarks, within a three year period, would result in the Occasion-One Public-Warning Penalty 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. In this instance, its next occasion of failing to meet the established benchmarks, within a three-year period, would result in Occasion-Two Penalties.

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

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 the 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 prior to review of the appeal.

Appeal of Staff Decision

The committee has authorized the subcommittee 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 or institutional representative without all parties having the opportunity to participate. The staff 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 to request that additional information about the case be submitted.

Appeal Procedures

An institution must submit the online appeal of a staff decision application 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 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 to 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 an in-person meeting. Such deliberations may include only subcommittee members and NCAA staff members.

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.

Reconsideration

After the staff and/or subcommittee have acted on an appeal request, the institution may ask the staff to reconsider its decision if the institution submits new and/or additional information that was not available to the institution at the time the original appeal was filed. A request with new and/or additional information may not be considered by the subcommittee until the staff has reviewed the new and/or additional 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 subcommittee.

**Occasion-Two Penalties (Bylaw 23.2.1.2.2-Financial Aid, Practice and 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 days of notification to the institution of the penalty. The online appeal application program will produce a signature page that must be signed by an institution's president or chancellor.

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.

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 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 have the authority to render a decision for all Occasion-Two Appeal requests. Decisions will be based on 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 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 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. As such, its next occasion of failing to meet the established benchmarks, within a three year period, would result in the Occasion-Two Penalties rather than progressing to Occasion-Three Penalties.

- **Conditionally Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that 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. As such, its next occasion of failing to meet the established benchmarks, within a three year period, would result in Occasion-Two Penalties 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. In this instance, its next occasion of failing to meet the established benchmarks, within a three-year period, would result in Occasion-Three Penalties.

- **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. As such, its next occasion of failing to meet the established benchmarks, within a three year period, would result in Occasion-Three Penalties.

- **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.

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 the 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 prior to review of the appeal.

Appeal of Staff Decision

The committee has authorized the subcommittee to consider all appeals of staff decisions involving Bylaw 23.2.1.2.2, Occasion-Two Financial Aid, Practice and 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.

Appeal Procedures

A member institution must submit the appeal of staff decision application 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 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 to 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. The institution and the staff member(s) handling the case will be given the opportunity to review information verbally via teleconference to the subcommittee members. After submission of the appeal, the staff will

schedule a teleconference call and notify the institution of the date and time. In addition, the staff will review the application and ensure it is complete. The staff 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.

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) the faculty athletics representative; (c) director of athletics or senior woman administrator and (d) any other individuals whose presence was requested by the subcommittee (i.e., involved individual). Other institutional staff members and conference office staff members may be on the teleconference for the appeal. An institution and/or any involved individual may have legal counsel present; however, an involved individual must speak on behalf of himself or herself. Student-athletes are not permitted to participate in the teleconference or be present on the call. The NCAA lead 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.

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 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 shall request the institution 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 party followed by involved individuals and conference office representatives.

The NCAA staff will introduce themselves. After the introductions, the subcommittee chair has the opportunity to make announcements.

Review of the Appeal

The staff has 10 minutes to describe the facts of the appeal, applicable case precedent and the staff's rationale.
The institutional spokesperson will then have 10 minutes to describe the case and explain the reasons for requesting that the staff's decision be overturned or modified.

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 a five-minute closing statement. The closing statement must be conducted by the institutional spokesperson and the staff member who presented the case.

Deliberations and Decision

At the conclusion of the hearing, the subcommittee members must deliberate. Neither the institution, conference nor staff member(s) handling the case may be present for the deliberations. NCAA staff members supporting the committee will be present during deliberations but may 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 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 staff to the institution.

Reconsideration

After the staff and/or subcommittee have acted on an appeal request, the institution may ask the staff to reconsider its decision if the institution submits new and/or additional information that was not available to the institution at the time the original appeal as filed. Requests with new and/or additional information may not be considered by the subcommittee until the staff has reviewed the new and/or additional 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.

**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 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.

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.

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.

The staff has the authority to render a decision for all Occasion-Three Preseason-Competition Appeal requests. Decisions will be based on 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 and/or student-athlete(s).

- Review of the institution's mission and its relationship to the team's 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 or more of the following decisions:

- **Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted. In such instances, the team will not be subject to the Occasion-Three Penalty. As such, its next occasion of failing to meet the established benchmarks, within the next three years, would result in the Occasion-Three Preseason-Competition Penalty rather than progressing to Occasion-Four Penalties.

- **Conditionally Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that 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. As such, its next occasion of failing to meet the established benchmarks, within a three-year period, would result in the Occasion-Three Penalties 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, its next occasion of failing to meet the established benchmarks, within the three-year period, would result in Occasion-Four Penalties.

- **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. As such, its next occasion of failing to meet the established benchmarks, within a three year period, would result in Occasion-Four Penalties.

- **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.

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 the 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 prior to review of the appeal.

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 NCAA staff lead administrator or institutional representative without all parties having the opportunity to participate. The staff 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 to request that additional information about the case be submitted.

Appeal Procedures

A member institution must submit the appeal of the staff decision application 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 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. An institution and the staff will be given the opportunity to present information orally via teleconference to the subcommittee members. After notice of the intent to appeal, the staff will schedule a teleconference call and notify the institution of the date and time. In addition, the staff will review the application to ensure it is complete. The staff 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) the faculty athletics representative; (c) director of athletics or senior woman administrator and (d) any other individuals whose presence was requested by the subcommittee (i.e., involved individual). Other institutional staff members and conference office staff members may be on the teleconference for the appeal. An institution and/or any involved individual may have legal counsel present; however, an involved individual must speak on behalf of himself or herself. Student-athletes are not permitted to participate in the hearing or be present on the call. The NCAA lead 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.

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 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 shall request the institution 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 party followed by involved individuals.

The NCAA staff will introduce themselves. After the introductions, the subcommittee chair has the opportunity to make announcements.

Review of the Appeal

The staff has 10 minutes to describe the facts of the appeal, applicable case precedent and the staff's rationale.

The institutional spokesperson will then have 10 minutes to describe the case and explain the reasons for requesting that the staff's decision be overturned or modified.
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 a five-minute closing statement. The closing statement must be made by the institutional spokesperson and the staff member who presented the case.

Deliberations and Decision

At the conclusion of the hearing, the subcommittee members must deliberate. Neither the institution, conference nor staff member(s) handling the case may be present for the deliberations. NCAA staff members supporting the committee will be present during deliberations but may 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 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 staff to the institution.

Reconsideration

After the staff and/or subcommittee have acted on an appeal request, the institution may ask the staff to reconsider its decision if the institution submits new and/or additional information that was not available to institution at the time the original appeal was filed. Request with new and/or additional information may not be considered by the subcommittee until the staff has reviewed the new and/or additional 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.

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

Application Procedures

All Occasion-Three Postseason 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 30 days of notification to the institution of the penalty. The online appeal application program will produce a signature page that must be signed by an institution's president/chancellor.

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.

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-Three Postseason Competition Appeal requests. The staff's role is to facilitate the work of the committee and provide guidance to an institution, as necessary, in preparing for the hearing.

All postseason-competition appeals must be decided initially by the committee and may be appealed to a subcommittee of the NCAA Division I Board of Directors. Committee decisions will be based 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 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 the team's 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/board will render one or more of the following decisions:

- **Approved:** The committee/board 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 Postseason-Competition Penalty. As such, its next occasion of failing to meet the established benchmarks, within a three-year period, would result in the Occasion-Three Postseason-Competition Penalties rather than progressing to Occasion-Four Penalties.

- **Conditionally Approved:** The committee/board determines the institution's request demonstrated evidence that 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. As such, its next occasion of failing to meet the established benchmarks, within a three-year period, would result in Occasion-Three Postseason Competition Penalties 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, its next occasion of failing to meet the established benchmarks, of a three-year period, would result in Occasion-Four Penalties.

- **Partially Approved:** The committee/board determines the institution's request demonstrated evidence that a partial waiver of Bylaw 23.2.1.2.3 was warranted. As such, its next occasion of failing to meet the established benchmarks, within a three year period, would result in Occasion-Four Penalties.

- **Denied:** The committee/board 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 designated penalty or penalties.

Conflict of Interest

A committee 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 subcommittee member with a personal relationship or institutional affiliation that reasonably would result in the 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 member participating in the review of an appeal must be raised with the committee chair or staff member prior to review of the appeal.

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

Appeal Procedures

An appeal of a postseason-competition penalty must be reviewed by the committee.

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 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 applicant institution prior to the hearing to verify facts and data submitted. This must be done prior to the case being forwarded to the subcommittee.

Time Frame for Hearing

An appeal of a postseason competition penalty will be heard in-person before the full committee. After notice of the intent to appeal, the staff will schedule a hearing and notify the institution 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 and involved individuals. 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 and each involved individual wish to present at the hearing. Should the hearing continue beyond the anticipate 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 will review and receive 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 at least 14 calendar days prior to the hearing. The staff must distribute the documents to the committee, institution and involved individuals not less than seven calendar days prior to the scheduled hearing.

Prior to the hearing, the committee 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 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 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: the institution's president or chancellor; the head coach of the penalized sport; the director of athletics; and 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 days prior to the scheduled hearing. The committee will then notify the institution as to whether it expects another individual to substitute 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. Designated NCAA staff members must participate in the appeal. Student-athletes may not be included among the institution's representatives.

The committee 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 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.

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

Introductions

The committee chair, or committee member identified to chair a particular hearing, 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 shall request 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 party followed by any involved individual and conference office representatives.

The NCAA staff will then introduce themselves.

After introductions, the committee chair has the opportunity to make announcements, followed by opening statements by the staff and then the institution.

Opening Statement

The staff 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. A representative from the staff 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) as well as any relevant academic waiver data (e.g., progress-toward-degree information, initial-eligibility information).
The institution will provide only general information to describe the case and set forth the rationale for the appeal.

Review of the Appeal

The committee will review each team separately, usually in the order contained in the notice of penalty.

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 party 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 involved party wishes to ask a question of another party, that question should be directed to the committee, which 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 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 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 must 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 represented at the time such information is provided to the committee.
Only committee 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 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 staff to the institution.

Appeal of Committee Decision

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 has rendered a decision, the applicant 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.

Appeal Procedures

A member institution must submit the appeal of the committee decision application to the NCAA national office. All notices 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 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 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.

The institution's brief must be submitted to the NCAA staff. After submission of the appellate brief, the staff will schedule a teleconference and notify the institution 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 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 should be communicated as soon as possible to the NCAA staff.

Appeal Participants

Institutional representatives and conference office representatives may be present for the teleconference appeal to the 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.

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 subcommittee will then notify the institution as to whether it expects another individual to substitute the individual. NCAA staff and committee members may be present for the teleconference appeal to the subcommittee.

Documents Reviewed by the Subcommittee

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

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.

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

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.

Following introductions of the subcommittee, the chair of the subcommittee shall request 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.

The institution will introduce its party followed by conference representatives who are present.

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.

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.

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

The committee chair will have 10 minutes to describe the facts of the appeal, applicable case precedent and the committee's rationale.

The institution's designated spokesperson will then have 10 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 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 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 has the discretion to 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 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.

Deliberations and Decision

At the conclusion of the appeal, the subcommittee members must 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. The subcommittee may uphold the committee's decision, or if it finds the Committee on Academic Performance abused its discretion, substitute the committee's decision with its own. The subcommittee 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 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 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 staff to the institution.

**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 30 days of notification to the institution of the penalty. The online appeal application program will produce a signature page that must be signed by an institution's president or chancellor.

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.

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 and provide guidance to an institution, as necessary, in preparing for the hearing.

All membership-status appeals must be decided initially by the committee and may be appealed to a subcommittee of the NCAA Division I Board of Directors. Committee decisions will be based 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 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 the team's 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/board will render one or more of the following decisions:

- **Approved:** The committee/board determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.4 was warranted. In such instances, the team will not be subject to the Occasion-Four Penalties Appeal. As such, its next occasion of failing to meet the established benchmarks, within a three year period, would result in the Occasion-Four Penalties Appeal rather than progressing to Occasion-Four penalties.

- **Conditionally Approved:** The committee/board determines the institution's request demonstrated evidence that 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 staff/subcommittee in the decision notification. As such, its next occasion of failing to meet the established benchmarks, within a three-year period, would result in Occasion-Three Postseason-Competition Penalties 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, its next occasion of failing to meet the established benchmarks, of a three-year period, would result in Occasion-Four Penalties.

- **Partially Approved:** The committee/board determines the institution's request demonstrated evidence that a partial waiver of Bylaw 23.2.1.2.4 was warranted. As such, its next occasion of failing to meet the established benchmarks, within a three-year period, would result in Occasion-Four Penalties.

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

Conflict of Interest

A committee 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 subcommittee member with a personal relationship or institutional affiliation that reasonably would result in the 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 member participating in the review of an appeal must be raised with the committee chair or staff member prior to review of the appeal.

Committee/Board 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 may contact the committee chair to arrange a telephone conference or to discuss procedural matters relevant to processing an applicant's request. Further, the committee members may contact the staff to request that additional information about the case be submitted.

Appeal Procedures

An appeal of a membership-status penalty must be reviewed by the committee.

All Occasion-Four Penalties Appeal 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 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 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 subcommittee.

Time Frame for Hearing

An appeal of a membership-status penalty will be heard in-person before the full committee. After notice of the intent to appeal, the staff will schedule a hearing and notify the institution 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 and involved individuals.

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 and each involved individual wish to present at the hearing. Should the hearing continue beyond the anticipate 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 will review and receive 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 at least 14-calendar days prior to the hearing. The staff must distribute the documents to the committee, institution and involved individuals not less than seven calendar days prior to the scheduled hearing.

Prior to the hearing, the committee 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 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 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: the institution's president or chancellor; the head coach of the penalized sport; the director of athletics; and 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 days prior to the scheduled hearing. The committee will then notify the institution as to whether it expects another individual to substitute 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. Designated NCAA staff members must participate in the appeal. Student-athletes may not be included among the institution's representatives.

The committee 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 members appear before it. These individuals will be referred to as "involved individuals." An involved individual may have legal counsel present; however, the 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 at its own discretion, the committee may exclude an individual from certain portions of the appeal.

Introductions

The committee chair, or committee member identified to chair a particular hearing, 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 shall request 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 party followed by any involved individual and conference office representatives.

The NCAA staff will then introduce themselves.

After introductions, the committee chair has the opportunity to make announcements, followed by opening statements by the staff and then the institution.

Opening Statement

The staff 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. A representative from the staff 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) as well as any relevant academic waiver data (e.g., progress-toward-degree information, initial-eligibility information).

The institution will provide only general information to describe the case and set forth the rationale for the appeal.

Review of the Appeal

The committee will review each team separately, usually in the order contained in the notice of penalty.

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 party 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 involved party wishes to ask a question of another party, that question should be directed to the committee, which 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 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 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 must 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 represented at the time such information is provided to the committee.
Only committee 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 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 staff to the institution.

Appeal of Committee Decision

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

After the committee has rendered a decision, the applicant 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.

Appeal Procedures

A member institution must submit the appeal of the committee decision application to the NCAA national office. All notices 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 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 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.

The institution's brief must be submitted to the NCAA staff. After submission of the appellate brief, the staff will schedule a teleconference and notify the institution 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 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 should be communicated as soon as possible to the NCAA staff.

Appeal Participants

Institution's representatives and conference office representatives may be present for the teleconference appeal to the 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.

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 subcommittee will then notify the institution as to whether it expects another individual to substitute the individual. NCAA staff and committee members may be present for the teleconference to the subcommittee.

Documents Reviewed by the Subcommittee

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

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.

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

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.

Following introductions of the subcommittee, the chair of the subcommittee shall request 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.

The institution will introduce its party followed by conference representatives who are present.

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.

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.

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

The committee chair will have 10 minutes to describe the facts of the appeal, applicable case precedent and the committee's rationale

The institution's designated spokesperson will then have 10 minutes to describe the case and address how it that the committee abused its discretion in applying the legislation and/or its policies and procedures.

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 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 has the discretion to 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 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.

Deliberations and Decision

At the conclusion of the appeal, the subcommittee members must 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. The subcommittee may uphold the committee's decision, or if it finds the Committee on Academic Performance abused its discretion, substitute the Committee on Academic Performance's decision with its own. The subcommittee 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 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 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 staff to the institution.