



**REPORT OF THE  
NCAA DIVISION I BOARD OF DIRECTORS  
INFRACTIONS PROCESS COMMITTEE  
MAY 26, 2022, VIDEOCONFERENCE**

1. **Review of Feedback from the NCAA Division I Transformation Committee.** The NCAA Division I Board of Directors Infractions Process Committee received an update on the Division I Transformation Committee's feedback regarding the Infractions Process Committee's April 2022 report, including a concept that was remanded back to Infractions Process Committee for additional discussion (additional means to incentivize institutional leadership cooperation) and another that did not have support at this time (granting the NCAA president the legislative authority to prescribe immediate penalties when a when an institution or individual fails to cooperate). The Infractions Process Committee agreed better clarity around the type of behavior and actions by institutional leadership that are viewed favorably during an infractions matter might help leaders better navigate the process and manage the expectations of their constituents. Additionally, the Infractions Process Committee received an update on the membership survey that will be used to obtain broader feedback on the many concepts for which the Transformation Committee expressed general support. Responses to that survey are due June 5.
  
2. **Review of Concepts Related to the Appellate Process.** The Infractions Process Committee reviewed the below identified concepts related to the appellate phase of the infractions process that were shared with the Transformation Committee in its April report. This discussion acknowledged the perspectives offered by the NCAA Division I Infractions Appeals Committee in response to these initial concepts. The Infractions Process Committee noted general support for certain concepts (e.g., confining appeals to the written record) but asked a small group of its members to take its initial feedback to assess the broader concepts and develop a comprehensive package of solutions. The Infractions Process Committee believes the concepts related to the appellate phase will significantly address the timeliness component of the overall review, as many of the concepts are designed to preserve the right to an appeal but to also introduce aspects to expedite resolution of the process. The small group will report back to the full committee by late summer.
  - *Limit appealable issues to penalties or assertions of procedural error.* Currently, institutions and involved individuals can appeal either findings of fact concluded and/or penalties prescribed by the NCAA Division I Committee on Infractions. By limiting the scope of appealable issues, this concept would preserve the basic appellate opportunities while also reducing the number and duration of appeals. This concept, together with ongoing modernization efforts, could also inform on the size and responsibility of the Infractions Appeals Committee moving forward. [Timeliness, peer-review adjudication.]
    - Limit appeals to only penalties outside of the penalty guideline range (or at the highest end).
    - Prohibit or limit appeals of the application of aggravating factors or the lack of application of mitigating factors.
    - Develop a certiorari process whereby the Infractions Appeals Committee or other entity determines whether to grant an appeal request.

- *Adhere to deferential standards of review.* Current standards of appellate review, as written, are deferential to the Committee on Infractions. For example, a penalty may only be set aside if it constitutes an abuse of discretion. Moving forward, standards of review as written and as applied by the Infractions Appeals Committee must be very high. [Timeliness, peer-review adjudication.]

- Reaffirm the standard of review is appropriately high and deference should be given to the Committee on Infractions.

- *Limit appeals to written submissions and/or shorten appellate timelines.* Currently, the appellate process includes a briefing schedule and oral arguments, which expand the duration of a case. Similar to the concept identified above, oral arguments could be permitted at the discretion of the Infractions Appeals Committee and any appeal not meriting an oral argument would be resolved on the written record. Requests for extensions should not be freely granted. This reform would preserve the appellate option while reducing the duration of the case. [Timeliness, peer-review adjudication.]

- Resolve all matters on the written record unless the Infractions Appeals Committee determines an oral argument is necessary in certain, defined circumstances.
- Revisit timelines to ensure deadlines are appropriate.
- Expressly prohibit extensions except in limited, extraordinary and defined circumstances.

- *Prescribe financial penalties or other disincentives for unsuccessful appeals.* Currently, there is no disincentive for a party to appeal other than expanding the duration of a case and delaying the application of any penalties under appeal. This concept could reduce the number of appeals by parties who would have to weigh the potential costs if unsuccessful. The concept could be expanded beyond appeals and apply to positions taken at the initial adjudication stage as well. [Timeliness.]

- Impose financial penalties should an appealing party not prevail.
- Allow Infractions Appeals Committee to increase penalties on appeal.
- Remove automatic stay of appealed penalties.

3. **Review of Previous Report.** The Infractions Process Committee approved the report from its March 31 videoconference as presented.

4. **Future Videoconferences.** The Infractions Process Committee will meet on a date to be determined after the Transformation Committee further deliberates the recommendations made regarding the appeal process.

*Infractions Process Committee chair: Jim Harris, University of San Diego*  
*Staff Liaisons: Emily Capehart, Academic and Membership Affairs*  
*Derrick Crawford, Hearing Operations*  
*Jenn Fraser, Law, Policy and Governance*  
*Kevin Lennon, Law, Policy and Governance*

<b>Division I Board of Directors Infractions Process Committee May 26, 2022, Videoconference</b>
<b>Attendees:</b>
Greg Christopher, Xavier University.
Ronnie Green, University of Nebraska, Lincoln.
Jim Harris, University of San Diego.
Geoff Mearns, Ball State University.
Joel Pawlak, North Carolina State University.
Greg Sankey, Southeastern Conference.
William Smith, Bryant University.
<b>Absentees:</b>
Natalie Robinson, University of Washington.
Adela de la Torre, San Diego State University.
<b>Guests in Attendance:</b>
None.
<b>NCAA Staff Liaisons in Attendance:</b>
Emily Capehart, Jenn Fraser, and Kevin Lennon.
<b>Other NCAA Staff Members in Attendance:</b>
Brynna Barnhart, Gary Brown, Derrick Crawford, Jon Duncan, Meghan Durham, Matt Mikrut, Jared Tidemann and Wendy Walters.