Division I - Enforcement Issues:
  Case Review
  Head Coach Responsibility
  Failure to Monitor
  Institutional Control
  Unethical Conduct

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SESSION OVERVIEW

Individual Enforcement Issues:
- Academic Fraud
- Head Coaches Control
- Unethical Conduct

Institutional Enforcement Issues:
- Lack of Institutional Control
- Failure to Monitor
INDIVIDUAL ENFORCEMENT
ISSUES

ACADEMIC FRAUD

Current State:
2000 interpretation and NCAA Bylaw 10.1-(b).

- Current state defined.
  - Deference to the academy.
  - Must follow institutional policies.
- Keep in mind pre-enrollment fraud.
  - Involvement by institutional staff.
  - Eligibility Center wants accurate data.

Academic Fraud (cont’d.)

- Role for enforcement if institution finds no fraud.
  - Following internal policy.
    - Did the institution deviate from how academic fraud cases are processed?
    - If so, was it an extra-benefit violation?
- Extra benefit
  - No fraud occurred, but the student-athlete received a benefit not generally available to the general student body.
  - Current cases involving extra benefit where no fraud.
Academic Fraud (cont’d.)
- New ed column and interpretation (April 16, 2014).
  - Deference to the academy.
  - Academic misconduct v. fraudulent academic credit.
  - Watch for extra-benefit violation.
- Revisiting current legislation.
  - Does NCAA Bylaw 10.1-(b) need to be rewritten?
  - Does current NCAA legislation accurately reflect today’s current academic environment?
  - Will institutions act with integrity?

HEAD COACH RESPONSIBILITY

**Definition:**
A head coach is presumed responsible for the actions of those who report directly or indirectly to him or her.

**Presumption:**
This is a rebuttable presumption. The head coach can rebut the presumption by showing:
1. He or she promotes an atmosphere of compliance AND
2. Monitors those who report directly to him or her.

Head Coach Responsibility (cont’d.)

Tools a head coach can use to help show he or she demonstrates head coach control:
- Communication
- Monitoring
- Documentation
Head Coach Responsibility (cont’d.)

**Level III Violations:**
- Suspension for certain identified violations.
  - All sports.
    - Mostly in the area of recruiting.
  - Football.
    - 7-on-7 events.
  - Men’s basketball.
    - IAWP.

Head Coach Responsibility (cont’d.)

**Football Level III Head Coach Suspension:**
- Appeal to COI and won appeal.
  - On what basis?
    - Documentation and immediate discovery.
  - What does this mean for the future?
    - Don’t know.
      - COI will look on case-by-case basis.

Head Coach Responsibility (cont’d.)

**Level I/II Violations:**
- Six- to 12-month suspensions if found.
  - Upcoming cases where NCAA Bylaw 11.1.1.1 has been charged.
  - Waiting for disposition.
UNETHICAL CONDUCT

- This is a Level I violation under the new system.
  - Underlying violations could be a Level II, but once unethical conduct, it becomes a Level I.
- Not a lot of growth in this area [exception NCAA Bylaw 10.1-(b)].
  - Bylaws 10.1-(b), 10.1-(c), 10.1-(d) most common.
  - Case review
    - Bylaw 10.1-(b)
      - University of North Carolina, Chapel Hill - 2012
        - Remember: Deference to the academy.

Unethical Conduct (cont’d.)

- Case review (Continued)
  - Bylaw 10.1-(c)
    - Saint Mary’s – 2013
      - Apparel items provided to a prospect
    - Boise State University - 2011
      - The importance of the “arrangement”
  - Bylaw 10.1-(d)
    - Mississippi State University – 2013
      - Former assistant coach denying knowledge

Institutional Enforcement Issues
History of Institutional Control

- Pre-1990s: “tag on” allegation.

Institutional Control Analysis

- Analysis attempts to:
  - Measure commitment to rules compliance.
  - Evaluate the atmosphere of compliance.
  - Explain why violation(s) occurred.
- Analysis involves examination of control exercised at all levels:
  - President/chancellor.
  - Director of athletics.
  - Head coach(es).

Definition/Standard?

- Legislation.
- Committee on Infractions “white paper” (1996).
- Case guidance.
- NCAA academic and membership affairs does not provide interpretations on institutional control.
- No safe harbor.
Definition/Standard?

Determination of whether an institution exercised proper institutional control involves an extremely fact-sensitive analysis.

- There is no formula or checklist.
- Situations are evaluated on a case-by-case basis.

Four Pillars of Institutional Control

- Compliance Systems
- Monitoring/Enforcement
- Rules Education
- Commitment to Compliance

Compliance Systems

- Has the institution implemented systems in areas of fundamental NCAA legislation?
  - Financial aid
  - Eligibility certification
  - Recruiting
  - Amateurism
  - Sports wagering
  - Camps and clinics
  - Student-athlete employment
  - Extra benefits
  - Playing and practice seasons
  - Booster activities
  - Investigations and self-reporting of violations
Compliance Systems

- Do the systems deter as well as detect?
  - Systems should be well-known to deter violations.
  - Adequacy of systems may be evaluated based on demonstrated history of detection.
- Are flaws in a system, once discovered, promptly corrected or improved?

Monitoring/Enforcement

Does the institution regularly check and document operation of compliance systems?

- Establish procedures for the review of documentation or reports generated by the systems.
- Ensure that the compliance forms are being used and used properly.
- Test the accuracy of the information supplied by personnel using the systems.
- Conduct independent, external audits of compliance systems at reasonable intervals.

Monitoring/Enforcement

Are compliance personnel proactive and visible?

- Establish regular communication with administrators, coaches and student-athletes.
- Establish regular communication with personnel outside of athletics charged with compliance responsibilities.
- Establish formal procedures for reporting and investigating violations.
Rules Education
Does the institution provide education directly to all persons and organizations promoting the institution’s athletics interests?
- Institutional administrators
- Academic advisors
- Academic support personnel
- Season-ticket holders
- Boosters
- Etc.

Rules Education
Does the institution conduct education using different components and at varying intervals?
- Tailor materials to the audience.
- Incorporate NCAA and conference programs if specialized knowledge/expertise is required.
- Train new personnel shortly after beginning employment.
- Conduct continuing education on a regular basis.

Rules Education
Does the institution provide sufficient resources to fulfill compliance responsibilities?
- NCAA rules
- Forms/checklists
- A user-friendly interpretive process
- Accessibility to compliance personnel
Commitment to Compliance
Does the expectation of compliance start with the President/Chancellor?
- Make clear that there is an expectation of rules compliance.
- Make clear that there is an expectation that instances of noncompliance will be reported.
- Make clear that individual violations will result in disciplinary action.
- Impose appropriate discipline for those found in violation of rules.

Commitment to Compliance
Does the institution emphasize a commitment to investigate and report NCAA rules violations?
- Communicate the duty to report any perceived violations of NCAA rules without reprisal or retaliation.
- Promptly and properly investigate allegations of rules violations.
- Promptly report substantiated violations to conference and/or NCAA.
- Establish a history of self-detecting, investigating and reporting.

Commitment to Compliance
Does the institution display a duty to cooperate and self-police?
- Search for the truth
  - Do not ignore or avoid information.
  - Be willing to ask the tough questions.
- No right against “self-incrimination.”
- Advocacy versus failure to fulfill duties.
Commitment to Compliance

Does the institution ensure that compliance responsibilities are delegated appropriately?

- Specific compliance obligations stated in writing.
- All persons in athletics bound to share a role in ensuring compliance.
- Designation of a primary person with sufficient authority as responsible for NCAA rules compliance.
- Establishment of oversight of athletics at a senior level of administration.

NCAA Division I Committee on Infractions

Additional Considerations

The NCAA enforcement staff will also consider:

- Scope of violation(s).
- Frequency or number of violations.
- Advantage gained.
- Whether violations were the result of human error or systemic failure.
- How the violations were discovered.
- How quickly the violations were discovered and addressed.
Failure to Monitor

Failure to monitor is a distinguishable violation.
- Separate citation: NCAA Constitution 2.8.1.
- “Lesser included offense.”
- A failure to check on adequate, established systems.
- Multiple instances of failure to monitor can result in a lack of institutional control.

LOIC/FTM Case Review (April 1, 2013 – March 31, 2014)
- Lack of Institutional Control
  - University of Miami (Florida) – October 22, 2013
  - Southeastern Louisiana University – December 10, 2013
- Failure to Monitor
  - University of Oregon – June 26, 2013
  - University of Montana – July 26, 2013
  - Iowa State University – September 6, 2013
  - Fordham University – November 26, 2013

Questions/Feedback?

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