NCAA Enforcement: How to Conduct a Campus Investigation

Session Overview

Purpose:
Discuss strategies and methods that institutions may use when investigating NCAA rules violations on campus, including suggestions for gathering documents, conducting interviews and working with the NCAA enforcement staff.

Outline:
I. Creating an Institutional Investigative Policy
II. Launching an Investigation
III. Analysis of Information
IV. Interactions with the Enforcement Staff
V. Conclusion

Creating an Institutional Investigative Policy
Institutional Investigative Policy

- Develop guidelines and criteria used in determining when an inquiry is initiated.
- Define roles and responsibilities.
- Outline investigative resources (e.g., interview notice form, statement of confidentiality, etc.).
- Create procedures (roadmap) for reporting institutional findings and violations.

*NCAA Bylaws 2.1.1 and 2.8.1*

Why is this Important?

- Promotes consistency/transparency in investigations.
- Provides for a timely and organized response to potential violations.
- Reduces inefficiencies and helps maintain the integrity of the investigation.
- Lack of policy may lead to questions of failure to monitor and/or institutional control.
- Committee on Infractions (COI) may inquire as to the institutional policy and protocol or the lack thereof.

Launching an Investigation
Houston We Have a Problem: Launching an Investigation

- Developing a Case Strategy (Game Plan)
  - Mobilize investigative team, as outlined in the institutional investigative policy.
  - Review roles and responsibilities.
  - Identify issues (e.g., eligibility) and applicable NCAA legislation.
  - Consult with institutional counsel, conference office, etc.
  - Investigate violation(s).
  - Two main investigative tools:
    - Document Requests
    - Interviews
  - Gathering documentation in relation to timing of interviews.

Document Collection

- Document requests:
  - Should be made in writing.
  - Should include an estimated date of production.
  - Determine which releases, if any, are necessary.
  - Determine when and who will request documentation.
  - Format in which documents collected and/or stored (i.e., PDF, Excel spreadsheet, etc.).
  - Realize in advance that document requests may tip others off to your investigation.

Possible Documents/Information to Collect

- Computer records
  - Emails
  - Computer hard drives*
- Phone records
  - Land line
  - Cellular*
  - Text Messages*
- Financial Records
  - Bank statements
  - Credit/debit cards
  - Wire transfer records
  - Receipts
- Travel Records
  - Travel itineraries and receipts
  - Hotel/lodging records

*Institutional and/or personal accounts and devices
Possible Documents/Information to Collect

- Academic records
  - Transcripts/enrollment history
  - Standardized testing scores
  - Professors’ grade records
  - Academic assistance records
- Social Media
  - Facebook
  - Twitter
  - Instagram
- Vehicle Information
  - Registration/insurance documentation
  - Driver’s license
- Releases/authorizations

Who Should be Interviewed?

- Source of violation.
- Individual(s) with potential knowledge of and/or involvement in the violations.
- Institutional staff member(s), outside of athletics, with knowledge of departmental processes potentially involved in the violation (i.e., financial aid, registrar, admissions, etc.).
- Individual(s) who is/are potentially “at risk” for involvement in the violations.
- Note—Individuals who are or may be “at risk” should not be involved in the planning and execution of the investigation.

Potential Interviewees and the Cooperative Principle

Who has to cooperate?

- Institutional staff
  - Professors
  - Teaching Assistants
  - Academic Counselors/Tutors
- Athletics staff (former and current)
  - Coaches (full-time, part-time and voluntary)
  - Graduate Assistant
- Student-Athletes
  - Prospective student-athletes
Potential Interviewees and the Cooperative Principle

Who doesn’t have to cooperate?

- Parents of student-athletes
  - Legal guardians
- Third Parties
  - Agents
  - Runners
  - Financial Advisors
  - Athletic sponsors
- Business People
- High School Coaches
- Former Student-Athletes
- Representatives of athletics interests (Boosters)*

Considerations when determining the order of the interviews

- Who has the information?
- Who can corroborate/refute information?
- Who is at risk?
- How to best prevent/minimize breaches and leaks.
  - Consecutive or simultaneous interviews.
- Generally, work from the outside in.

Interview Logistics

- Review institutional investigative policy to determine:
  - Who will conduct interviews?
  - Who may be present in interviews?
  - Will institution retain outside counsel?
  - Where to conduct interviews? (e.g., neutral setting vs. accommodating interviewee).
  - How will the interviews be performed? (e.g., telephone or in person).
    - At risk individual: interview in person.
    - If information is significant: interview in person.
  - How will interviews be arranged? (e.g., cold call vs. prearranged).
    - Suspect non-cooperative: cold call.
    - To avoid talking with other witnesses: cold call.
Interview Logistics (cont’d.)

- Explain the purpose of the interview – to determine knowledge of or involvement in violations. Do not specify the substance of the interview.
- State on the record the name of the person interviewed, date, time, location and individuals present.
- Review the obligation to be truthful and forthcoming (NCAA Bylaws 10.01 and 10.1) and ramifications for not being truthful (NCAA Bylaw 10.4).
- Review interviewee’s right to have legal counsel present during interview.
- Review investigative procedures as outlined in NCAA Bylaws 19 (Division I) and 32 (Divisions II and III).
- Be cognizant that additional issues may arise during the course of your interviews.
- Memorialize each interview (i.e., audio recording, transcript, written interview summary, etc.)

Effective Interviewing Techniques

- Perform research and gather relevant documentation in advance of interview.
- Ask open-ended questions.
  - The best information is a narrative response.
  - Interviewee should do the majority of the talking.
  - Begin questions with a verb or command word.
- Pause to elicit more information.
  - Avoid interruptions.
  - Increases opportunity for obtaining more information.
  - Silence is okay.

Effective Interviewing Techniques (cont’d.)

- Ask specific questions and get as many details as possible (e.g., dates, times, names, etc.).
- Have interviewee distinguish between first hand information and second hand information.
- Solicit information from interviewee about others who may have information.
- Paraphrase responses to determine accuracy of the information.
Analysis of Information

- The administrator(s) responsible for evaluating information should be identified in the institutional policy.
- Review information gathered from interviews and documents.
  - Analyze to determine whether additional interview(s) or document request(s) are necessary.
  - Detect any outstanding issues and follow up.
- Must identify the violation level.
  - Level I through IV (Division I): NCAA Bylaws 19.1.1 through 19.1.4
  - Major or Secondary (Divisions II and III): NCAA Bylaws 19.02.2.1 through 19.02.2.2
- Identify eligibility issues.
  - If any exist, contact NCAA Student-Athlete Reinstatement staff.
  - Institutional Responsibility (NCAA Bylaw 14.01.1).
- Analyzing information is ongoing throughout the life of the investigation.

Review of Compliance Systems

- Make honest, candid assessments.
- Identify potential breakdowns.
- Implement meaningful corrective actions.
- Revise and update institutional investigative policy, if necessary.
Interactions with the Enforcement Staff

Enforcement Staff Interaction During the Investigation

• Contact the enforcement staff whenever guidance is needed.
• Enforcement staff may join the investigation or allow the institution to continue inquiry on its own.
• Early contact may avoid duplicative efforts.
• Enforcement staff may have additional information regarding potential violations.
• Enforcement staff may have additional techniques or resources.

Enforcement Staff Interaction Reporting the Violations

• Reporting Major (Level I/Level II) violations:
  o Submission of a written investigative report.
  o Correspondence addressed to Jon Duncan, vice president of enforcement.
• Reporting Secondary (Level III) violations:
  o Online submission through the NCAA Requests/Self-Reports Online (RSRO) system.
Content of the Investigative Report

- Summary of the institution’s investigation.
  - Nature of violation(s)/Facts of violation(s).
  - Applicable legislation.
  - Violation level.
    - Level I through IV (Division I).
    - Major or Secondary (Divisions II and III).
- Case chronology.
  - How and when was violation discovered?
    - By whom?
  - Interviews conducted.
- Institution’s Findings.
- Corrective actions.
  - Include any information regarding Student-Athlete Reinstatement action.
- Supporting documentation.

Supporting Documentation

Interviews
- Audio recordings
- Written interview summaries and notes
- Transcripts

Documents
- Computer records
- Phone records
- Financial Records
- Travel Records
- Academic records
- Social Media
- Vehicle Information

Conclusion
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- Suggestions should help member institutions in handling the "nuts and bolts" of conducting effective investigations of potential NCAA rules violations on campuses.

- If a hearing before the Committee on Infractions is required, the Committee will take into consideration the thoroughness of the institution's internal investigation.

- Don't take a chance by leaving investigation methods and strategies (or lack of) open to criticism.

Who to Contact

- If you need help or advice:
  - Contact the enforcement staff.
  - Contact your conference office.
  - Contact the NCAA Academic & Membership Affairs hotline 317/917-6003.
  - Visit the NCAA website (www.ncaa.org) – follow links to enforcement information and databases.

QUESTIONS