

## **G. PREVIOUS MAJOR INFRACTION CASES**

### **1. Overview of Major Infractions History**

Case No. M144. The university was involved in a major infractions case in 1998 that involved the receipt, by numerous athletic department staff members, of athletically related supplemental income and benefits from an outside source, without the prior approval of the university chancellor. The outside source was a booster organization that maintained a checking account from which departmental staff could receive payments and reimbursements, almost exclusively for activities related to their athletic employment, with sign-off at the athletic director level, supported by appropriate receipts. This practice had been in effect for a number of years, and was discovered through a routine check of booster financial arrangements. In this case, the institution acknowledged several other violations, including a failure to monitor. The case was heard by the Committee on Infractions on November 13, 1998, and a report issued on March 24, 1999.

Although the committee determined that the case was a major case within the repeat violator provisions, the committee also noted that the violations were self-reported based on an internal audit, none of the funds involved accrued to enrolled or prospective student-athletes, essentially all of the expenditures would have been “proper” had the requisite prior approval been received and no competitive advantage was gained. In addition to the corrective actions and penalties the institution had imposed on itself, the committee imposed a two-year probation and required the creation of a comprehensive education program, with annual reports to the committee during the probationary period.

Case No. M77. The university was involved in a prior major infractions case in 1993-1994. That case involved the wrestling program and related to an incorrect interpretation and application of the legislation regarding local sports clubs. This resulted in a single organization serving as a local sports club and also the wrestling program’s booster organization. Therefore, payments by the club for student-athletes to attend competitions were a violation of NCAA legislation, as was the supervision of prospect-aged members of the club by coaching staff. The case was handled under the Summary Disposition process. The Committee on Infractions reviewed it in September and November 1993, and issued its report on January 13, 1994.

In addition to the corrective actions and penalties that the institution imposed on itself, which included the termination of its wrestling coach, the committee placed the institution on a two-year probation.

### **2. Relevance to This Case**

The university believes that the prior two cases and this case are quite dissimilar factually, despite the fact that a booster organization or boosters were involved in each case. The primary violations in each case are very different.

In this case, an individual, who was not the most visible and known booster and who owned a popular and successful retail operation, decided for his own personal and economic reasons to provide discounts and credit to student-athletes, independent of any desire to benefit the institution or its athletics program. We believe that (a.) this individual had no idea that this would constitute a violation of NCAA legislation, and (b.) the institution received limited, if any recruiting or competitive advantage from the provisions of these discounts and credit.

In the 1999 case, although the booster organization acquiesced in the arrangement, it was a desire on the part of departmental administrators to be able to provide reimbursements for athletically related expenditures that the State could not reimburse that precipitated that arrangement. It is unfortunate that no departmental administrator saw the need to have the arrangement reviewed to ensure that it did not violate NCAA legislation, but the underlying purpose was legitimate and was not an attempt by boosters to provide staff with supplemental pay. In addition, no competitive advantage was received.

In the 1994 case, the coaching staff saw no reason to question whether a booster organization could also be the sponsor of a local sports club, thereby facilitating access by the coaching staff to prospects that would not otherwise be permitted, and providing support for student-athletes to attend non-collegiate competitions. From the institution's perspective, not seeing this as a potential violation of NCAA legislation and the resulting recruiting and competitive advantage it provided, is more difficult to understand.

In addition, because of the disparity in the underlying facts, specific corrective actions that may have been designed to ensure that a similar violation did not occur again would not have protected against the later violations. Finally, it should also be noted that in each case, a different individual was our compliance coordinator.

Overall, it is relevant that each subsequent case arose within the five-year period applicable to repeat violators and involved a failure by departmental personnel to pay sufficient attention to certain activities to be able to ascertain if NCAA legislation was being violated. Despite the change in compliance coordinators, there are staff who were present at the time that each case was reported and decided. In the 1999 case, we acknowledged a violation of Bylaw 2.8.1, (a failure to monitor) because many of the violations occurred under a process that allowed assumptions to be relied upon without seeking interpretations or advice regarding their permissibility. In including a violation of that same bylaw in this case, we are acknowledging that departmental staff who were provided information about

possible infractions did not see a connection to our prior cases that might dictate a higher level of due diligence before concluding that there was not a problem.