



News Release

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Committee on Infractions
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EASTERN WASHINGTON UNIVERSITY PUBLIC INFRACTIONS REPORT

A. INTRODUCTION.

On December 6, 2008, officials from Eastern Washington University and the former head football coach ("former head coach") along with his legal counsel appeared before the NCAA Division I Committee on Infractions to address allegations of violations in the institution's athletics program. Both the institution and the former head coach admitted the violations.

The violations included impermissible participation in athletically related activities by ineligible football student-athletes, the use of too many countable football coaches, failure to monitor the football program by the former head coach and lack of institutional control over the athletics program.

The violations were the result of the former head coach's inattention to certain aspects of his program and the institution's failure to have in place an effective system of athletics compliance. As this committee has stated in previous cases, member institutions have a duty to establish and maintain thorough and comprehensive campus-wide compliance systems. (e.g. *Gardner-Webb University*, Case No. M197 (2004); *Texas Southern University*, Case No. M257 (2008)). Failure to do so will result, as here, in a finding of lack of institutional control.

A member of the Big Sky Conference, the institution has an enrollment of approximately 10,000 students. The institution sponsors six men's and eight women's intercollegiate sports. This is the institution's second major infractions case; it previously appeared before the committee in 1987 for a case involving the men's basketball program.

B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.

1. IMPERMISSIBLE PARTICIPATION. [NCAA Bylaws 13.7.2.1, 14.01.1, 14.3.2.1.1, 14.3.2.2, 14.3.5.1.1, 14.3.5.1.2, 14.5.4.2, 14.11.1 and 16.2.1.3.1 (Note: Bylaw citations are to the 2008-09 NCAA Division I Manual.)]

During the 2003-04 through the 2006-07 academic years, 13 football student-athletes were permitted to participate in practice activities even though they were NCAA nonqualifiers, they did not have their eligibility certified by the institution and/or the NCAA Initial-Eligibility Clearinghouse, or did not meet NCAA transfer requirements. Additionally, two of the student-athletes were provided housing and meals during preseason practice prior to the first day of classes even though they were not eligible to receive such benefits. Further, in September 2007, the institution failed to withhold one of the student-athletes from competition after discovering the young man's involvement in the NCAA violations.

Committee Rationale

The enforcement staff and institution were in substantial agreement with the facts of this finding and that violations occurred. The committee finds that the violations occurred.

During the 2004-05 through the 2006-07 academic years, four recruited football student-athletes ("student-athletes 1, 2, 3 and 4" respectively), who were NCAA nonqualifiers, were permitted to participate in practice activities during their initial year of enrollment. The young men observed and attended practice sessions; team meetings and film study; participated in conditioning activities on an adjacent field under the direction of a person categorized as an assistant coach ("life skills coach") (See Finding B-2 below) and acted as members of the "chain gang."

Additionally, student-athletes 1 and 3 were permitted to stand in the end zone during three home football contests. They were told by a member of the football staff that it was allowable. At no time were the young men in uniform.

In August 2006, football coaches arranged for student-athlete 2 to receive free housing and meals for approximately three weeks at an on-campus residence hall that housed football student-athletes attending preseason practice. Sometime in August 2006, the young man was informed by an assistant football coach at the institution ("assistant coach A") that he was an NCAA non-qualifier and, therefore, unable to practice. However, assistant coach A told the young man that he could observe fall football camp, which began before the first day of classes. Student-athlete 2 moved to the vicinity of campus around August 12 and observed practice until August 31, when classes began.

While on campus prior to the beginning of classes, he stayed in an on-campus dormitory and ate in a dining hall. Student-athlete 2 stated that he did not know how his housing was arranged but that either assistant coach A or the former head coach provided him a meal card for use at the dining hall. The former head coach was aware of student-athlete 2's status but allowed him to receive the housing and meals because the young man was considering an appeal of his clearinghouse certification.

During the 2003-04 through 2006-07 academic years, five recruited football student-athletes ("student-athletes 5, 6, 7, 8, and 9" respectively) and one nonrecruited student-athlete ("student-athlete 10") who were not certified by the NCAA Clearinghouse were permitted to participate in practice activities during their initial year of enrollment. Similar to student-athletes 1, 2, 3 and 4 above, student-athletes 5, 6, 7, 8 9 and 10 attended meetings, observed practices and took part in coach-supervised conditioning drills before they were eligible to do so pursuant to NCAA rules. None of them were certified as eligible to practice or compete during their first year on campus.

Additionally, on one occasion in 2006, student-athlete 5 was permitted to stand on the sidelines in street clothes with the team during a home football contest.

During the 2006-07 academic year, a nonrecruited football student-athlete ("student-athlete 11") and a recruited football student-athlete ("student-athlete 12"), were permitted to participate in traditional practice activities with the football team even though the young men were not eligible. Student-athlete 11 practiced even though he was not listed on the squad list and the institution had not yet certified his high school core-curriculum grade-point average and standardized test score. He had been certified by the clearinghouse as a qualifier in September 2006, but the institution had left him off its Institutional Request List. The institution did not receive confirmation of his certification status until March 2007, after he had practiced the previous fall. Student-athlete 12 was referenced on the squad list as a nonqualifier but was still allowed to practice.

During the 2006-07 academic year, a recruited football student-athlete ("student-athlete 13") was permitted to participate in practice activities during his initial year of enrollment even though he was a two-year college transfer student-athlete who did not meet NCAA transfer requirements. Additionally, in September 2006, football coaches arranged for student-athlete 13 to receive free housing and meals for approximately two weeks at an on-campus residence hall that housed football student-athletes attending preseason practice. Student-athlete 13 phoned the former head coach during the summer of 2006 and asked if he could move to campus prior to the first day of classes. The former head coach agreed. Student-athlete 13 stayed in an on-campus residence hall until classes began and used a meal card to eat in the dining hall. He could not recall who arranged his housing, but remembered that he obtained a meal card from an assistant football coach ("assistant coach B").

On September 29, 2007, the institution permitted student-athlete 4 to compete in a football contest even though the institution had previously discovered his involvement in the violations noted above, which rendered student-athlete 4 ineligible for competition. Student-athlete 4's impermissible practice activities came to light when the young man was interviewed by institutional personnel on September 24. The institution was aware that it had to declare him (and the other student-athletes involved in the violations) ineligible and request reinstatement, but it allowed the young man to compete five days later. Student-athlete 4 was reinstated within a week following the competition.

2. EXCEEDING COACHING LIMITS. [NCAA Bylaws 11.01.4, 11.7.1.1.1 and 11.7.3 (Note: Bylaw citations are to the 2008-09 NCAA Division I Manual.)]

During the 2003-04 through the 2006-07 academic years, the football program exceeded the maximum number of 11 countable coaches.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that violations occurred. The committee finds that the violations occurred.

During the applicable academic years, anywhere from 13 to 15 individuals per year were allowed to perform coaching duties in the football program. The number of individuals who performed coaching duties in each year was as follows:

2003-04: 13

2004-05: 15

2005-06: 14

2006-07: 15.

During said years, six of the "extra" individuals were designated as student assistant coaches; however, five of the six did not meet NCAA coaching legislation requirements for student coaches (for instance, some were not enrolled as full-time students) and should have been considered as countable coaches. Additionally, the life skills coach and one former football student-athlete ("former student-athlete") who volunteered with the football program performed some activities at practice that warranted their classification as countable coaches.

The life skills coach was on a quarterly faculty appointment that paid him less than \$5,000 per year. He attended approximately 75 percent of the team's practices and assisted with field and film equipment, tracked player injuries and organized the chain gang. Though he was not considered a kicking coach, the life skills coach sometimes assisted the kickers at practice. He used a stop watch to time their kicks and occasionally

offered tips regarding form and technique. He was identified as a coach on football travel rosters from 2003 through 2006.

The former student-athlete approached the former head coach in the spring of 2005 and asked to be involved with the program. He (the former student-athlete) was allowed to assist in the weight room, observe practices and attend coaches meetings. During practices he typically observed the offensive line and soon was acting as "another set of eyes" for the offensive line coach. The former student-athlete began to speak to student-athletes on the practice field about technique and strategy, and he sat in the press box with other coaches during games, offering input and suggestions. He traveled with the team to away games and was listed as a coach.

3. FAILURE TO MONITOR AND PROMOTE AN ATMOSPHERE OF COMPLIANCE. [NCAA Constitution 2.8.1 and Bylaw 11.1.2.1 (Note: Bylaw citations are to the 2008-09 NCAA Division I Manual.)]

The scope and nature of the violations detailed in Findings B-1 and B-2 demonstrate that, during the 2003-04 through the 2006-07 academic years, the former head coach failed to promote an atmosphere of compliance within the football program and failed to monitor the program.

Committee Rationale

The enforcement staff, the institution and the former head football coach were in substantial agreement as to the facts of this finding and that violations occurred. The committee finds that the violations occurred.

While all parties are in agreement that the institution did not adequately educate the football coaching staff on NCAA legislation (See Finding B-4 below), the former head coach likewise failed to meet his responsibilities to monitor his program and establish an atmosphere of compliance. The committee is most concerned that, as he learned of various violations that had occurred in his program, the former head coach did not report them to the institutional compliance office. He also did not adequately oversee the two individuals (the life skills coach and the former student-athlete) who performed coaching duties for his team.

The former head coach learned in the winter of 2006 that student-athletes 1-10 should not have attended practice sessions in previous years, but instead of reporting the violations he made the decision to "not think twice about it...move on and move forward." Similarly, when he learned that student-athletes 11 and 12 had practiced while ineligible, he prohibited them from practicing further but did not report the violations.

The former head coach acknowledged being unaware of NCAA legislation regarding student assistant coaches. Partly as a result, his team used a number of individuals in that capacity even though they did not meet the requirements necessary to serve in the position.

The former head coach further failed to monitor the activities of the life skills coach and the former student-athlete. He was aware that the life skills coach attended some practices and interacted with the kickers and nonqualifiers. However, the former head coach did not know the extent of the life skills coach's involvement with the student-athletes. He personally observed the former student-athlete speak to and conduct drills with student-athletes on the practice field, and he was aware that the former student-athlete was in the press box at games, but he stated he did not recognize that such activities constituted coaching. As the head coach of the program, it was his duty to understand what activities constituted coaching and to assure that only the eleven countable coaches engaged in those activities.

**4. LACK OF INSTITUTIONAL CONTROL AND FAILURE TO MONITOR.
[NCAA Constitution 2.1.1, 2.8.1 and 6.01.1 (Note: Bylaw citations are to the
2008-09 NCAA Division I Manual.)]**

The scope and nature of Findings B-1 and B-2 demonstrate that during the 2003-04, 2004-05, 2005-06 and 2006-07 academic years, the institution lacked control and monitoring in the conduct and administration of its athletics program.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that violations occurred. The committee finds that the violations occurred.

The athletics department failed (a) to have in place a system for monitoring preseason housing and meals; (b) to establish a proper system for monitoring the activities of individuals involved with the football program, resulting in countable coaching staff limit violations; and (c) to provide adequate NCAA rules education, which contributed to the violations outlined in Findings B-1 and B-2 above.

The deficiencies within the athletics program were exacerbated by consistent turnover in certain positions and by the institution's failure to devote adequate resources to the compliance effort. During the relevant time-frame, the institution had five directors of athletics and three presidents, making it difficult to implement a comprehensive compliance system or establish long-term continuity. A more direct problem in the

athletics department was that the compliance coordinator also served as the faculty athletics representative and had teaching responsibilities. It was simply not feasible for one individual to hold three such diverse and responsible positions and be able to devote the necessary time and attention to oversee an NCAA Division I compliance program. As a result, the ability of the institution to monitor and provide direction to athletics personnel was insufficient.

The department did not have a system for monitoring housing and meals provided to student-athletes during preseason football practice prior to the first day of classes. The compliance office did not review the names of student-athletes who were receiving these benefits, instead leaving it the football coaching staff to determine who was eligible to receive them. Also, the athletics administration did not track the number of allowable coaches in the sport of football or make sure that all who were acting in that capacity were permitted by NCAA rules to do so. The individual in the athletics department who reviewed forms identifying coaches did so for fiscal purposes only and was not aware of NCAA coaching limits. Finally, the athletics department did not provide adequate rules education to all personnel, which contributed to misunderstandings by the former head coach and others regarding the permissibility of certain activities detailed in Findings B-1 and B-2 above.

C. SECONDARY VIOLATION: [NCAA Bylaw 13.7.2.1.1]

In September 2005, an enrolled student-athlete purchased a meal for student-athlete 1, who at the time was a prospect visiting campus to observe preseason football practice.

D. PENALTIES.

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation. The institution did not have in place a comprehensive compliance program, leading to violations of rules that should have been well-known to athletics personnel. In addition, the former head coach and the institution did not adequately monitor the football program or establish an atmosphere of compliance, and the institution failed to control certain aspects of the athletics program.

In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions, noting particularly that the institution has made significant improvement in its athletics compliance program. [Note: The institution's corrective actions are contained in Appendix Two.] The committee

determined that the contest in which student-athlete 4 competed on September 29, 2007, after he was discovered to be ineligible, was subject to vacation; however, the institution lost the game. In no other situation was vacation appropriate. Further, the committee determined that the cooperation exhibited by the institution was consistent with Bylaw 32.1.4, Cooperative Principle. The committee imposes the following penalties, with the institution's self-imposed penalties so noted:

1. Public reprimand and censure.
2. Three years probation from February 11, 2009, through February 10, 2012.
3. The institution will limit the number of overall equivalencies awarded in football to 61 for the 2008-09 through 2010-11 academic years. (Institution imposed).
4. The institution will reduce the number of full-time coaches per Bylaw 11.7.3 by one from 11 to 10 for three years (the 2008-09 through 2010-11 academic years). (Institution imposed).
5. The institution will limit the number of incoming freshmen who are non-qualifiers to no more than three per year for all three years of probation (the academic years 2009-10, 2010-11 and 2011-12). The institution previously averaged seven incoming freshman non-qualifiers per year over a four year period. (Institution imposed a reduction to five per year for the academic years 2008-09, 2009-10 and 2010-11).
6. The institution will not allow the recruitment of non-qualifiers from two-year institutions for three years. (the 2008-09 through 2010-11 academic years). (Institution imposed).
7. The institution will prohibit incoming student athletes who have not been certified by the NCAA Eligibility Center from attending preseason football camp for a period of two years to include 2009-10 and concluding in the 2010-11 academic year (even though rules permit a 10-day grace period). For 2008-09 only, recruited student-athletes who have sent their final transcripts and test scores to the NCAA Eligibility Center and are coded HO2 will be allowed to attend preseason camp. (Institution imposed).
8. The violations set forth in Part B above bestowed a significant competitive advantage on the institution. Ineligible student-athletes were able to practice, and the football team had the benefit of extra coaches. The institution also lacked control over its athletics program. Therefore, the institution's football team shall end its 2009 season with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition.

9. The former head coach shall attend, at his own cost, an NCAA Regional Rules Seminar during each of the three years of probation. He shall certify in writing which sessions of the seminars he attended and, within 30 days of his return to the campus of his present employer, his present employer shall send a letter to the committee certifying the attendance of the former head coach at the seminar.
10. The former head coach shall not be allowed to have any contact with his present institution's football squad during the first three days of practice (for the full squad) prior to the 2009 season. During these three days he cannot be present on the practice fields, in team meetings for any purpose, in the weight room or any location where athletically related team or individual activities (as defined by NCAA Bylaw 17.02.1) are occurring.
11. The institution shall attach a copy of its present athletics policies and procedures manual to the preliminary report (See Penalty 12-b below).
12. During this period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
 - b. Submit a preliminary report to the office of the Committees on Infractions by April 1, 2009, setting forth a schedule for establishing this compliance and educational program; and
 - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by December 1 of each year during the probationary period. Particular emphasis should be placed on eligibility certification, monitoring prospects that arrive in the vicinity of campus prior to initial enrollment, monitoring student-athletes who are housed and fed on campus at times other than when school is in session, monitoring those engaged in coaching activities and maintaining a viable system of athletics compliance. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.

13. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
14. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

As required by NCAA legislation for any institution involved in a major infractions case, the Eastern Washington University shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, February 11, 2009.

Should Eastern Washington University or the involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the members of the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

NCAA COMMITTEE ON INFRACTIONS

John S. Black

Melissa (Missy) Conboy

Paul T. Dee, chair

Eileen K. Jennings

Alfred J. Lechner, Jr.

Dennis E. Thomas

APPENDIX ONE

CASE CHRONOLOGY.

2007

February 1 – The institution submitted a self-report to the NCAA regarding countable coaches used by the football program.

March 16 – The director of athletics contacted the NCAA enforcement staff and reported possible NCAA violations within the athletics program.

May 2 – The institution submitted a supplemental self-report regarding countable coaches used by the football program.

August 30 – The enforcement staff sent the institution a notice of inquiry letter.

October 31 – The enforcement staff drafted a notice of allegations and provided this draft to the institution and to the then head football coach for their review.

2008

January 25 – The enforcement staff, the institution and the former head football coach came to an agreement on the findings and agreed to process the case using the summary disposition process.

March 28 – The summary disposition report was provided to the NCAA Division I Committee on Infractions.

May 6 – The NCAA Division I Committee on Infractions rejected the summary disposition report.

May 23 – The enforcement staff issued a notice of allegations to the institution and to the former head football coach.

August 19 – The institution submitted a response to the notice of allegations.

August 25 – The former head football coach submitted a response to the notice of allegations.

September 15 – The enforcement staff and the institution conducted a prehearing conference.

September 23 – The enforcement staff and the former head football coach conducted a prehearing conference.

December 6 – The institution appeared before the NCAA Division I Committee on Infractions.

2009

February 11 – Infractions Report No. 297 was released.

APPENDIX TWO

CORRECTIVE ACTIONS IDENTIFIED BY THE INSTITUTION'S AUGUST 19, 2008, RESPONSE TO THE NOTICE OF ALLEGATIONS.

Hired a full-time director of compliance in 2007;

Hired a full-time academic coordinator in 2007;

Posted for a full-time compliance coordinator in 2008 (recruitment for position has begun);

Posted for a full-time administrative assistant for football (recruitment for position has begun);

Underwent a compliance review conducted by the Big Sky Conference;

Included more comprehensive compliance language in all new employment contracts for coaches;

Included a mandate of NCAA rules education for all new athletics employment appointments; Initiated rules compliance and education sessions, including bi-monthly head coaches meetings, quarterly assistant coaches meetings, quarterly all-staff meetings, monthly compliance newsletters, and compliance tips of the week;

Increased student-athlete rules education;

Began conducting individual meetings with coaching staffs;

Retained an outside consultant firm to conduct a compliance seminar for all staff and coaches (held on June 4, 2008) and to provide suggestions for appropriate actions to increase the effectiveness of its compliance program;

Initiated spot-checking for all team practices;

Declared student-athletes ineligible and sought reinstatement in a prompt manner prior to the completion of the Enforcement Staff's investigation;

Reviewed the responsibilities of the position of life skills coordinator and provided clarification of these responsibilities to football coaching and other athletics department staff members;

Required the then (now former head football coach) to attend the 2007 NCAA Regional Rules Seminar;

Issued a letter of reprimand for the then head football coach;

Issued of letters of admonishment to two assistant football coaches.