

NEWS & INSIGHTS

LIGHTFOOT'S TAKE ON THE UNIVERSITY OF LOUISVILLE COI REPORT

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On June 15, 2017, the Division I Committee on Infractions (COI) found that The University of Louisville committed multiple recruiting violations involving adult entertainment and prostitution between December 2010 and July 2014 and that head men's basketball coach Rick Pitino failed to monitor his program. The COI decision addresses multiple, important issues of institutional control and head coach responsibility that NCAA member institutions and their employees should consider going forward.

BACKGROUND

The former director of basketball operations (DOBO) arranged for strippers and prostitutes to provide adult entertainment for enrolled student-athletes and prospective student-athletes who were visiting campus. The events occurred in an on-campus dormitory that housed, almost exclusively, the men's basketball team.

KEY LESSONS LEARNED

- Pitino delegated monitoring responsibility over his DOBO to his assistant coaches; however, those assistant coaches were not aware of their responsibilities and believed that Pitino retained oversight responsibilities. Consistent with *Syracuse University* (March 6, 2015), the COI emphasized that the head coach may not instruct staff members on compliance and simply trust that those instructions are being followed.
- A head coach should clearly define each staff member's compliance and/or monitoring responsibilities such that all staff members are fully aware of the aspects of the program for which they are responsible and understand the head coach's expectations of them.
- A head coach has a responsibility to take actions to verify that his or her program is in compliance with NCAA legislation. This duty to verify is heightened in situations where there is a greater risk of NCAA rules violations, such as where an institution offers a housing option specific to a sports team and where this housing option is utilized to house and entertain recruits for that team.
- It is not a requirement under the head coach responsibility legislation that a head coach be shown to possess independent knowledge of violations or facts that would otherwise indicate violations might be occurring. It was ultimately immaterial whether Pitino knew about the adult entertainment or prostitution, although the COI found no evidence that he had knowledge of any of those acts. Pitino only asked general questions to the prospective student athletes that did not uncover the activities. A head coach should be asking specific questions of his staff, enrolled student athletes and recruits regarding compliance related issues.
- The COI expressed concern that Louisville did not follow its institutional policies regarding dorm visitors with respect to men's basketball recruits, specifically including minors. Hosts and/or their assigned recruits were not required to fill out an overnight guest form or have that form approved by the appropriate officials as required under Louisville's written policy. Despite this concern, Louisville was not alleged or found to have violated the NCAA's institutional monitoring and/or control legislation. Nevertheless, this decision puts other member institutions on notice that they must follow all institutional policies even seemingly unrelated to athletics issues.

CONSEQUENCES

The COI determined that the majority of violations were Level I in nature, meaning they constituted a severe breach of conduct. The institution's case was determined to be Level I – Aggravated, as was the DOBO's case. Pitino's violation was determined to be Level I – Standard. Another former institutional employee was found to have committed a Level II – Aggravated violation. The resulting penalties, which were imposed under the more lenient penalty structure predating August 1, 2013, included the following:

- Vacation of all wins in which an ineligible student-athlete participated, including postseason wins, potentially jeopardizing Louisville's 2013 National Championship in men's basketball.
- Reimbursement or the return of all conference and NCAA revenue sharing – potentially in the millions of dollars – for its appearances in the 2012, 2013, 2014 and 2015 NCAA men's basketball tournaments.
- Suspension of Pitino from all coaching duties for the time period encompassing Louisville's first five conference games. During this suspension period, Pitino is not permitted to have contact with any of his staff or players, participate in practice, video study or team meetings, travel with the team or be in the arena while those games are being played.
- Increase of self-imposed scholarship reductions by four over the course of the four-year probationary period.

Notably, the COI accepted Louisville's one-year post-season ban.

OTHER ITEMS OF NOTE:

Beyond these lessons, the COI's decision also presented several notable facts relevant to the NCAA infractions process:

- The COI reserved the right to utilize subjective factors in determining the appropriate level for violations. Specifically, the COI stated that the "nature" of certain violations may play a role in leveling decisions (i.e., whether the violations are determined to be "disgusting," "inexcusable" or "repugnant").
- The COI reached its decision in this case without determining the source of the money that funded the adult entertainment and prostitution.
- The COI disagreed with the Division I Infractions Appeals Committee's interpretation of the cooperation Bylaws as set forth in *Former Prep School Coach, The University of Southern Mississippi* (April 6, 2017). Specifically, the COI asserts that, contrary to the IAC's prior decision, Bylaw 19.2.3 is not subject to an "unduly burdensome" test and that an individual's failure to cooperate with an enforcement staff request to produce records is a violation of Bylaw 19.2.3 whenever he or she "has possession of, use of, access to or control of" relevant documents.