Lightfoot

NEWS & INSIGHTS

LIGHTFOOT'S TAKE ON UNIVERSITY OF MARYLAND'S NEGOTIATED RESOLUTION

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On June 18, 2019, the Division I Committee on Infractions (COI) announced that it had approved a negotiated resolution agreement reached between the University of Maryland (Maryland) and NCAA enforcement staff. This is the second negotiated resolution agreement announced by the NCAA following its adoption of the negotiated resolution procedure suggested by the Rice Commission.

According to the negotiated resolution agreement, a then-director of player personnel for Maryland's men's basketball program committed Level II-Standard violations of the NCAA's countable coach legislation (Bylaw 11), and the women's program committed Level II-Mitigated violations of recruiting legislation (Bylaw 13). As a result, Maryland is placed on one year of probation beginning June 18, 2019, and will pay a $5,000 fine.

The men's program reduced countable athletically related duties during the 2018-19 academic year. The women's program eliminated a scholarship for three years beginning in the 2018-19 academic year and self-imposed a reduction of three official visits per year over the same time period. The women's program is also prohibited from distributing recruiting materials for one week each month during the 2018-19 academic year.

The former director of player personnel is subject to a two-year show cause order in which he is required to attend two NCAA Regional Rules Seminars. There are no restrictions on his athletically related duties. Maryland had previously suspended him for the first six games of the 2018-19 season.

BACKGROUND

Between July 2017 and October 2017, the former director of player personnel worked on shot mechanics with a freshman student-athlete approximately 10 times for 30-35 minutes each. Neither the former director of player personnel nor the student-athlete told the head men's basketball coach about their work. The former director of player personnel knew his assistance violated NCAA legislation. In addition, the former director of player personnel also provided scouting reports to the men's basketball team throughout the 2017-18 season and made at least one presentation to the team at the request of the head men's basketball coach. The former director of player personnel and the head men's basketball coach did not realize this conduct was impermissible.

At the same time, the women's program created personalized recruiting booklets for 17 prospective student-athletes on unofficial visits (but kept the booklets). It also sent personalized puzzles printed on puzzle board to 150 prospective student-athletes in contravention of advice from the Maryland compliance office.

KEY TAKEAWAYS

1. As was also true in *High Point University* (April 12, 2019), the negotiated resolution procedure appears to be reserved for relatively minor (Level II) infractions that would normally require the expenditure of significant university and NCAA resources, either through the summary disposition process or before a hearing panel of the COI. An additional benefit of the negotiated resolution process is the inability of the COI to impose additional penalties beyond those agreed upon by the institution and enforcement staff as is common in summary disposition cases.

2. This decision represents a striking departure from recent head coach responsibility decisions by the NCAA enforcement staff. Despite all of the violations occurring on campus and their own roles in approving or participating in at least some of the violations that occurred within their programs – albeit inadvertently or by

“honest mistake” – both men’s and women’s head basketball coaches rebutted the presumption of responsibility. It is unclear from the negotiated resolution agreement how the enforcement staff distinguished its decision in this case from its applications of the head coach responsibility legislation in cases such as *University of Mississippi* (December 1, 2017) (“The head coach had a responsibility to be aware of what his assistant coach was doing while recruiting away from campus”) and *University of Oregon* (December 5, 2018) (head men’s basketball coach did not rebut presumption after director of basketball operations knowingly violated NCAA legislation and head women’s basketball coach did not rebut the presumption through his personal involvement in violations), and it remains unclear if potential head coach responsibility allegations were negotiated away as part of the process.