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TRIAL & APPELLATE COUNSEL

## East Tennessee State Univ. - Extra Benefits/Failure to Cooperate

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On September 26, 2018, the Division I Committee on Infractions (COI) found that the former head men's tennis coach and a booster had provided impermissible extra benefits to 14 men's tennis student-athletes during the 2013-14 through 2017-18 academic years. The former head coach also violated head coach responsibility legislation, and an assistant men's tennis coach failed to report his knowledge of violations to the institution. The case, considered through the summary disposition process, was classified as Level II-Standard for the institution and assistant coach. The former head coach's violations were classified as Level I-Aggravated. Institutional penalties included two years of probation, a \$5,000 fine, and scholarship reductions for the 2019-20 academic year. Both coaches received show-cause orders.

### BACKGROUND

As part of the summary disposition process, the institution agreed that a booster had provided extra benefits to men's tennis student-athletes by not requiring them to pay certain housing expenses, such as damage deposits and utilities. The institution also agreed that the former head coach provided extra benefits in the form of gifts and free clothing, small amounts of cash for local travel, and rent-free housing. As a result, 12 men's tennis student-athletes participated while ineligible. In addition, the former head coach allowed an ineligible (non-qualifier) student-athlete to practice with the team and receive lodging, transportation, and meals. The assistant coach was aware of the non-qualifier student-athlete's impermissible participation but did not notify the institution.

### KEY TAKEAWAYS

1. The assistant coach committed a Level II violation of the principle of rules compliance, NCAA Constitution 2.8.1 (describing the institutional requirement to disclose violations), when he did not report known but potentially minor violations to athletics compliance, reinforcing the importance of implementing an open reporting structure within athletics and emphasizing self-policing within individual programs;
2. The COI applied the mitigating factor of prompt self-detection and self-disclosure of violations to the institution but gave that factor little weight because, although the institution disclosed violations which it discovered, it did not "promptly" discover all of the violations in question; and
3. The COI declined to apply the exemplary cooperation mitigator, noting that it commonly defers to the enforcement staff's position on that issue.

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