

# Key Changes to the NCAA Division I Infractions Process

EFFECTIVE JAN. 1, 2023

## Enhancements to Responsibility to Cooperate

Institutions, staff and student-athletes must:

- Preserve information upon learning of potential violations.
- Disclose and provide access to all electronic devices and accounts that are or may be relevant to an investigation.
- Encourage spouses, family members, boosters and/or other associates to cooperate.

## Application of Head Coach Responsibility

- Head coaches will be held responsible for Level I/II violations they commit and those committed by staff who report directly or indirectly to the head coach.
- The Division I Committee on Infractions will consider whether the head coach promoted compliance and monitored the program in determining penalties.

## New Resolution Methods and Application

Cases can include multiple resolution methods for the parties (as approved by the Committee on Infractions).

- Full Hearing: Reserved for limited cases based on defined factors.
- Written Record Hearing: Reserved for cases with limited disagreement on facts, violations and/or level that do not meet factors for a full hearing.
- Summary Disposition: Agreement on facts, violation and level but not classification or penalties.
- Negotiated Resolution: Agreement on facts, violation, level, classification and penalties.

## Creation of Public Dashboard

The national office will post a procedural timeline of each Level I/II infractions case when the processing documents have been issued. The timeline will begin at the start of an investigation and continue through final resolution.

## Changes to Aggravating and Mitigating Factors

- Bylaws clearly outline which aggravating and mitigating factors apply to institutions and involved individuals.
- The number of aggravating and mitigating factors available were expanded to reward cooperation and deter lack of cooperation.

## Clarification of Appeal Standard and Mode

- Findings, conclusions, level, classification and additional penalties shall be affirmed if there is information in the record supporting the decision and shall not be set aside unless no reasonable person could have made the decision after considering the record.
- Core penalties within the range of Figure 19-1 may not be appealed but could be impacted by appeals of findings, conclusions, level and/or classification.
- A party may direct the Division I Infractions Appeals Committee to stay appealed penalties during the appeal process.
- Appeals are reviewed on the written record unless the Infractions Appeals Committee determines an oral argument is necessary to reach a decision.

## Presumption Related to Cases Involving Name, Image and Likeness (NIL)

- When available information supports that behaviors surrounding and/or leading up to an NIL offer or agreement were contrary to NCAA legislation, the infractions process shall presume a violation occurred.
- To rebut the presumption of a violation, the institution and/or involved individual must clearly demonstrate with credible and sufficient information that a violation did not occur.

# All Changes to the NCAA Division I Infractions Process

## General

- Reorganized NCAA Division I Bylaw 19, which covers the infractions program.
- Removed the Independent Accountability Resolution Process and related references.
- Relocated “exemplary conduct” (current Bylaw 19.01.5) to Article 11, which covers conduct and employment of athletics personnel.
- Confirmed/clarified violation level analysis for parties.
- Updated overall language and references (e.g., constitution, pronouns).
- Removed leveling descriptors (e.g., severe breach, significant breach).

## Responsibility to Cooperate

- Enhanced the responsibility to cooperate for institutions, current and former staff members, student-athletes and prospective student-athletes. This includes an affirmative duty to preserve documentation; disclosure of electronic devices and accounts that may be relevant; and encouragement of boosters, spouses, family members and others to cooperate.
- Clarified institutional leadership’s role in exemplary cooperation.
- Clarified failure to cooperate, including moving the provision of false/misleading information from Bylaw 10 to Bylaw 19.
- Clarified the impact of immediate penalties on charging and/or finding a failure to cooperate.

## Public Disclosure and Dashboard

- Clarified permissibility of public statements and impact for failing to adhere to confidentiality requirements.
- Created a public dashboard that will provide a procedural timeline of Level I/II cases.

## Investigations

- Clarified the standard for enforcement to begin an investigation.
- Clarified how new information impacts the investigation and/or processing of a case.

## Standards of Review

- Clarified enforcement’s allegation standard.
- Clarified the Committee on Infractions’ decision standard.
- Clarified the importation of facts, evidence and positions.
- Clarified how a failure to produce materials and/or participate in an interview can support a violation.
- Added a presumption of a violation when the matter involves impermissible behaviors related to NIL.

## Head Coach Responsibility

- Removed the rebuttable presumption from head coach responsibility, making whether the head coach promoted compliance and/or monitored the program relevant to penalty determinations only.

## Methods of Resolution

- Clarified when a case is appropriate for a full hearing before the Committee on Infractions based on specific factors.
- Narrowed the Committee on Infractions’ review in cases with limited contested areas.
- Added a new method of resolution: written record hearing.
- Clarified that cases can be resolved through multiple resolution methods.
- Created a process for selecting a resolution method for each party.
- Limited extensions of legislated processing deadlines to exceptional circumstances.
- Established two types of infractions decisions – full and abbreviated – for instances where one or more resolution methods are used to process a case.

## Application of Aggravating and Mitigating Factors

- Clarified which aggravating factors and mitigating factors apply to the institution and which apply to involved individuals.
- Added and/or clarified aggravating factors, including hindering an

investigation, inhibiting the Committee on Infractions’ processing of a case, involving boosters in violations and causing ineligible competition.

- Added and/or clarified mitigating factors, including exemplary cooperation, securing meaningful cooperation of a third party and seeking an accelerated docket.
- Reinstated repeat violator for institutions and involved individuals.

## Appeals

- Clarified the standard for appeal so that findings, conclusions, level, classifications and additional penalties shall be affirmed if there is information in the case record supporting the hearing panel’s decision and shall not be set aside except on a showing by the appealing party that no reasonable person could have made the decision after considering the record.
- Changed that core penalties within the range of Figure 19-1 in Bylaw 19 cannot be appealed on their own and can only be impacted if there is a successful appeal regarding the findings, conclusions, level and/or classification.
- Changed the mode of appeal to a review on the written record unless the Infractions Appeals Committee determines oral arguments are necessary to reach a decision.
- Limited extensions of legislated processing deadlines to exceptional circumstances.
- Removed the automatic stay of appealed penalties so that a party may direct the Infractions Appeals Committee to stay a penalty during the appeals process.
- Clarified that the enforcement staff’s statement to the Infractions Appeals Committee shall be considered as a part of the record.
- Added that the Infractions Appeals Committee may issue a summary decision stating only its conclusions if affirming a Committee on Infractions decision.

*Note: The NCAA Division I Board and its committees will consider additional changes to the infractions process in the coming months.*