

**DECISION OF THE
INDEPENDENT ACCOUNTABILITY RESOLUTION PROCESS
INDEPENDENT RESOLUTION PANEL
DIVISION I**

SEPTEMBER 27, 2022

PUBLIC INFRACTIONS DECISION

Case No. 01051

University of Memphis

Memphis, Tennessee

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I. INTRODUCTION

a. The Independent Accountability Resolution Process.

The Independent Accountability Resolution Process was created in response to recommendations made by the Commission on College Basketball, chaired by former U.S. Secretary of State Condoleezza Rice. Before the creation of the Independent Accountability Resolution Process, all infractions cases were handled within the peer-review structure. Infractions cases are referred to the Independent Accountability Resolution Process when a determination is made that the Association's interests are best served by resolving the case under the independent structure. Such a determination includes the consideration of whether a case involves unique policy issues or factors that, when weighed in totality, could impede the accurate and effective resolution of the case under the peer-review structure.

The Independent Accountability Resolution Process consists of four components:

- The Independent Accountability Oversight Committee;
- The Infractions Referral Committee;
- The Complex Case Unit, its investigative and advocacy body; and
- The Independent Resolution Panel.

The Independent Resolution Panel consists of 14 members with legal, higher education, and/or sports backgrounds. Each hearing panel consists of five Independent Resolution Panel members, who decide complex infractions cases involving member institutions and their staffs (both current and former) that were referred by the Infractions Referral Committee to the Independent Accountability Resolution Process for resolution.¹

b. Basis of the University of Memphis Infractions Case.

In January 2019, the NCAA Eligibility Center began a review of prospective student-athlete No. 1's amateur status and requested information regarding his family's relocation expenses from the city of Nashville to the city of Memphis.² Memphis worked with prospective student-athlete No. 1 and his mother to obtain

¹ Four panel members constitute a quorum for a hearing panel to conduct a hearing and deliberate.

² The amateurism certification process is outlined in NCAA Bylaws 12.1.1.1 and 12.1.1.1.1. Prospective student-athletes must receive a final amateurism certification before being eligible to compete at an NCAA Division I or II institution. The amateurism certification process ensures incoming Divisions I and II student-athletes meet NCAA amateurism principles. The NCAA membership established the process to bring about uniformity and fairness so that all eligible student-athletes can compete in collegiate sports.

responsive information and provide it to the Eligibility Center. Some of the information received by the Eligibility Center documented the head men's basketball coach's (hereinafter, the "head coach") financial assistance to prospective student-athlete No. 1's mother. The Eligibility Center provided its findings to the NCAA enforcement staff.

The enforcement staff assigned an investigative team in April 2019, issued a notice of inquiry in May 2019, and conducted on-campus interviews in July 2019. These interviews included the head coach, prospective student-athlete No. 1, and prospective student-athlete No. 1's mother. The investigation revealed additional details about the head coach's financial assistance to two other prospective student-athletes (prospective student-athlete Nos. 2 and 3).³

Based on the facts available at that time, the enforcement staff believed that the financial assistance provided by the head coach violated Bylaw 13.2.1. The enforcement staff alleged that the head coach was a representative of athletics interests⁴ who provided benefits to prospective student-athlete No. 1's mother and prospective student-athlete Nos. 2 and 3. The enforcement staff communicated its position to Memphis and noted that prospective student-athlete No. 1's eligibility could be negatively impacted once he enrolled at Memphis and became a student-athlete. Memphis disagreed and disputed that the violations occurred.

On October 25, 2019, the enforcement staff and Memphis submitted a joint interpretation request with agreed-upon facts to the NCAA academic and membership affairs staff, which has been vested with the authority to provide legislative interpretations to the NCAA membership, in order to determine whether a violation occurred. On October 31, 2019, academic and membership affairs determined that the facts submitted demonstrated that the head coach was a representative of athletics interests and that his financial assistance to prospective student-athlete No. 1's mother and the two other prospective student-athletes was a recruiting inducement in violation of Bylaw 13.2.1, which resulted in the three prospective student-athletes being ineligible for competition upon their enrollment at Memphis. Notwithstanding the determination by academic and membership affairs and repeated reminders from the enforcement staff, Memphis decided to allow student-athlete No. 1 to compete in a men's basketball contest November 5, 2019.

³ In this infractions decision, the hearing panel refers to the relevant student-athletes in the same manner that they are identified (i.e., student-athlete or prospective student-athlete) in the amended notice of allegations. Additionally, the same number reference (e.g., No. 1, No. 2, No. 3, etc.) for student-athletes and prospective student-athletes refer to the same individual.

⁴ The term booster means a representative of athletics interests. Representatives of athletics interests are defined in Bylaw 13.02.15 and are subject to NCAA legislation. Pursuant to Constitution 6.4.2 (currently Bylaw 8.4.2) an institution is subject to penalties for any violation of NCAA legislation by a representative of athletics interests.

c. Overview of Violations Found in the Case.⁵

This case consists of seven allegations of violations, which occurred over an eight-year span, from 2011 through 2019. The Complex Case Unit alleged that the head coach and his direct reports committed violations, including impermissible recruiting inducements, and impermissible benefits to men’s basketball student-athletes. According to the Complex Case Unit, the alleged violations demonstrated that the head coach failed to satisfy the responsibilities of a head coach to promote an atmosphere of compliance and that Memphis failed to exercise institutional control over its men’s basketball program.

The hearing panel finds that credible and persuasive information supports the following allegations:

- (1) Memphis failed to cooperate by not disclosing and providing access to all electronic devices, which the hearing panel finds to be a Level II violation. [Allegation No. 1-(b)]
- (2) Memphis failed to cooperate by not timely producing requested and relevant documents within the scheduling deadlines established in the case management plans. Further, when responsive documents were finally produced at the close of the Complex Case Unit’s investigation, Memphis failed to produce all requested records. The hearing panel finds this to be a Level II violation. [Allegation No. 1-(c)]
- (3) During the 2019-20 academic year, despite knowledge that student-athlete No. 1 was ineligible, Memphis officials allowed the student-athlete to compete in a basketball contest after a determination by academic and membership affairs that student-athlete No. 1 was ineligible for competition.⁶ The hearing panel finds this to be a Level II violation. [Allegation No. 3]
- (4) On April 23, 2019, a member of the Memphis men’s basketball staff took photographs of a prospective student-athlete in a Memphis jersey on a public street in view of the public during the official visit of the prospective student-athlete. The photographs were provided to the prospective student-

⁵ The full text of the portions of the NCAA constitution and the bylaws cited in this decision, for the applicable academic year in which the conduct occurred, can be found in APPENDIX ONE.

⁶ The hearing panel developed facts that were not part of the facts on which the October 31, 2019, academic and membership affairs interpretation was based. Additionally, the hearing panel referred a portion of this allegation to the NCAA Division I Board of Directors for review pursuant to Bylaw 19.13.

athlete who posted them on his social media account. The hearing panel finds this to be a Level III violation. [Allegation No. 4-(a)]

- (5) On May 9, 2019, a member of the Memphis men’s basketball staff took a photograph of a prospective student-athlete in a Memphis jersey during his unofficial visit while the prospective student-athlete was involved in a game-day simulation. The hearing panel finds this to be a Level III violation. [Allegation No. 4-(b)]
- (6) On May 22, 2019, a member of the Memphis men’s basketball staff posted a video on a social media account belonging to the Memphis men’s basketball program that included images of incoming men’s basketball student-athletes as well as other prospective, uncommitted student-athletes. The hearing panel finds this to be a Level III violation. [Allegation No. 4-(c)]
- (7) On July 14, 2019, the head coach recruited a prospective student-athlete at a non-scholastic event and made an impermissible written offer of aid via text message to the prospective student-athlete’s father. The hearing panel finds this to be a Level III violation. [Allegation No. 4-(d)]
- (8) On October 13, 2019, six men’s basketball student-athletes were provided with an impermissible free meal at a restaurant owned by former assistant coach No. 1. The hearing panel finds this to be a Level III violation. [Allegation No. 5]
- (9) Memphis failed to monitor the education and activities of a representative of athletics interests in the men’s basketball program. The hearing panel finds this to be a Level II violation. [Allegation No. 7]

II. PROCEDURAL HISTORY

This case involved, at times, a contentious investigation that included multiple procedural requests that challenged the composition and roles of members of the Complex Case Unit. This section covers only the most significant procedural developments in this infractions case. The complete, extensive procedural history summary is available at <https://iarbcc.org/referred-cases/university-of-memphis/>.

Memphis requested that the chief panel member resolve the following three procedural issues⁷:

⁷ The parties thoroughly addressed these three procedural issues throughout the case in written correspondence to the chief panel member.

- Compliance with NCAA Article 19.
- Compliance with Complex Case Unit Operating Procedure 1-2.
- Production of interview transcripts.

The chief panel member held a case management plan status conference January 28, 2022, attended by representatives of the Complex Case Unit, Memphis and the head coach. After a discussion with the hearing panel members and considering the parties' availability, the chief panel member decided to reserve discussion of the procedural issues until the hearing with the full hearing panel present. The chief panel member permitted the parties to submit additional briefing and information with respect to the procedural issues.

The chief panel member held a hearing status conference April 22, 2022, attended by representatives of the Complex Case Unit, Memphis and the head coach. At the hearing status conference, the parties discussed their positions on the above-identified procedural issues. Memphis requested that the procedural issues would be submitted on the written record. As discussed below, the hearing panel considered the parties' written submissions and rendered its decisions on each of the procedural issues raised by Memphis.

a. Compliance with Article 19.

Article 19 focuses on the mission of the NCAA's infractions process, and the responsibilities and obligations of all parties involved in said process, including representatives of the Complex Case Unit. The infractions process is committed to the fairness of procedures and the timely resolution of infractions cases. As it relates to the procedural concerns in this case, the former president submitted correspondence, dated December 17, 2020, regarding the Complex Case Unit's conduct during interviews that he believed did not comport with an Article 19 infractions investigation. The former president provided examples that illustrated his concerns. In general, the former president's concerns could be categorized into five buckets: (1) questioning in a manner designed to create a sense of isolation; (2) coercive and suggestive questions that included false or inaccurate information during interviews; (3) suggestive questions with an undefined scope; (4) dismissive and mocking reactions to individuals; and (5) the accusation of malignant motivation on the part of the Complex Case Unit.

The Complex Case Unit disagreed with Memphis' position and submitted its response to the former president's letter December 22, 2020. First, the Complex Case Unit argued that the Article 19 challenge appeared to be exclusively, if not entirely, the former president's opinion of what occurred during interviews. Second, the Complex Case Unit argued that even if the hearing panel were to

consider the former president's opinions, which were premised solely on his own interview experience and his background as a psychologist, the former president's personal observations should carry no weight.

In a January 11, 2021, letter, the chief panel member stated that it did not appear that the Complex Case Unit had violated Article 19. The hearing panel affirms his conclusion. The former president likened the interviews to military or law enforcement interrogations. Having thoroughly reviewed the record, the hearing panel finds that the Complex Case Unit acted in a professional, courteous, and objective manner throughout its investigation. There were no threats, improper tactics, strategies, or manipulation designed to create emotional or psychological pressure, or to cause individuals who were interviewed by members of the Complex Case Unit to feel vulnerable and distressed. Memphis failed to demonstrate that the Complex Case Unit violated Article 19.

b. Compliance with Complex Case Unit Operating Procedure 1-2.

Complex Case Unit Operating Procedure 1-2 provides:

Composition. Pursuant to NCAA Bylaw 19.11.2.4.1 and subject to appointment by the Oversight Committee, the Complex Case Unit will consist of at least one independent external advocate, at least one external independent investigator and not more than one member of the enforcement staff, whose role will be limited to serving as a resource to the independent external investigator and independent external advocate by providing process support and information related to previous investigative efforts connected to the case.

Memphis contended that the Complex Case Unit violated its own Operating Procedure 1- 2 during its investigation. On June 22, 2020, the chief panel member requested that Memphis submit to him any transcripts or portions of transcripts identifying noncompliance with Complex Case Unit Operating Procedure 1-2 and propose a remedy to the extent the hearing panel found such noncompliance. The chief panel member also provided the Complex Case Unit and the head coach with the opportunity to respond to Memphis' submissions on this issue.

On July 6, 2021, Memphis outlined instances in which it believed the Complex Case Unit violated Operating Procedure 1-2. First, according to Memphis, the Complex Case Unit violated Complex Case Unit Operating Procedure 1-2 by including two enforcement staff representatives, instead of one representative, at interviews.

Second, Memphis alleged that the former NCAA associate director of enforcement and the NCAA enforcement staff coordinator exceeded their roles and responsibilities as outlined in Complex Case Unit Operating Procedure 1-2. Specifically, Memphis argued that instead of serving in the permissible limited role of “providing process support and information related to the previous investigative efforts connected to the case,” the Complex Case Unit allowed the former associate director of enforcement to serve as a primary investigator. In support of its position, Memphis pointed out that the former associate director of enforcement asked substantive questions in 28 interviews and served as the primary questioner in six interviews. Additionally, the former associate director of enforcement took the lead in making and following up on information requests to Memphis’ outside counsel for the university.

Third, Memphis alleged that the Complex Case Unit violated Operating Procedure 1-2 and contravened the purpose of independence of the Complex Case Unit by allowing an enforcement staff coordinator to remain an active resource throughout its investigation. In support of its position, Memphis pointed out that, while she did not participate in the interview, the enforcement staff coordinator attended a January 25, 2021, interview of the head coach as the only NCAA representative. Additionally, the enforcement staff coordinator participated in email communications between Memphis and NCAA personnel who investigated the case prior to the case’s referral to the Independent Resolution Panel for final disposition.

Lastly, Memphis maintained that “numerous” NCAA representatives had editorial access to the case record, while Memphis’ representatives had fewer individuals with access to the case record and had no editorial access to the case record. Memphis also maintained that the manner and the extent to which the Complex Case Unit violated Operating Procedure 1-2 “irreparably compromised the integrity of the investigation” and that the only appropriate remedy was dismissal of the entire infractions case.

In its response to Memphis’ arguments, the Complex Case Unit maintained that Memphis’ quantification of the former associate director of enforcement’s involvement in the interviews was overly simplistic and misleading. The Complex Case Unit also stated that the enforcement staff coordinator provided administrative support to it, including technical support such as hyperlinking documents in the case file, and logistical assistance with uploading documents and written submissions into the Secure Filing System. As such, the Complex Case Unit argued that the enforcement staff coordinator did not function as its member. Further, the Complex Case Unit argued that Memphis failed to allege that any of the enforcement staff members with editorial rights to the files in the Secure Filing System violated any bylaws or operating procedures applicable to the Independent

Accountability Resolution Process. The Complex Case Unit also maintained that, to the extent Memphis wanted more of its representatives to have access to the files, it could have requested such access. The Complex Case Unit submitted that Memphis' request to dismiss this case in its entirety was unjustified and should be denied.

On August 10, 2021, the chief panel member denied Memphis' request to dismiss the case in its entirety. On August 27, 2021, Memphis requested the chief panel member reconsider his August 10, 2021, determination. He denied that request September 3, 2021. The hearing panel affirms.

The hearing panel appreciates that Complex Case Unit Operating Procedure 1-2 is ambiguous and may be subject to various interpretations. An operating procedure must be evaluated in the context of the facts of the case to which it is being applied. After careful review and consideration, the hearing panel recognizes a potential ambiguity in the plain language of Complex Case Unit Operating Procedure 1-2. However, such a definition or interpretation at this time is unnecessary to resolve the issue presented. Even if the hearing panel were to accept Memphis' argument that the former associate director of enforcement's involvement in the investigation exceeded the role or responsibilities permitted by Complex Case Unit Operating Procedure 1-2, Memphis failed to demonstrate that his actions, or the actions of the enforcement staff coordinator, harmed or compromised the integrity of the investigation. Memphis also failed to demonstrate that the independent investigators and advocates on the Complex Case Unit did not maintain control of this investigation or that they allowed the enforcement staff to make independent strategic or processing decisions.⁸

Further, pursuant to Bylaw 19.11.4.7, the Complex Case Unit is required to make recorded interviews, interview summaries and/or interview transcripts, and other factual information pertinent to the case available to the institution and any participating involved individuals through a secure website, or at the NCAA national office. Additionally, pursuant to Complex Case Unit Operating Procedure 3-4-2, the Complex Case Unit is responsible for maintaining all case materials during an investigation. Neither the operating procedures nor the bylaws applicable to the Independent Accountability Resolution Process define or specify who can assist with questions related to the Secure Filing System. Therefore, the enforcement staff coordinator's involvement with the case record does not mean that she functioned as a member of the Complex Case Unit. The enforcement staff

⁸ Memphis also asserted arguments related to interviews conducted during a portion of the investigation that pertained to Memphis' football program. The hearing panel elected not to address Memphis' arguments related to any other sport programs because this infractions case included allegations related only to the men's basketball program. Any arguments related to the football program are not relevant to this case.

coordinator simply answered technical questions posed by institutional representatives or outside counsel for the university. Memphis' argument that the Complex Case Unit violated its procedure because multiple NCAA staff members had access to the Secure Filing System with editorial rights is without merit. Memphis has failed to demonstrate that any of the enforcement staff members with access to the Secure Filing System and editorial rights to the documents in the case file violated the operating procedures or the bylaws applicable to the Independent Accountability Resolution Process.

For all the reasons set forth above, Memphis' request to dismiss this infractions case is denied. However, the hearing panel cautions the Complex Case Unit to be mindful of the degree of the enforcement staff's involvement in a case. Preserving independence is paramount to the Independent Accountability Resolution Process and serves to avoid the perception of conflicts of interest.

c. Production of Interview Transcripts.

Representatives from the Complex Case Unit stated during the April 22, 2022, hearing status conference that they had resolved the issue related to the production of interview transcripts. Memphis and the head coach did not object to this statement. On that basis, the hearing panel deems this procedural issue resolved by the parties.

III. STATEMENT OF FACTS

Most of the underlying facts that led to this infractions matter were uncontroverted. Where the parties disputed the facts, the hearing panel determined which information it found credible and persuasive. This section describes the most significant events that gave rise to this infractions case.

a. History of the Head Coach's Involvement with Memphis and the Local Community.

The head coach was born and raised in Memphis, Tennessee. He attended college at Memphis, where he was a men's basketball student-athlete. The head coach completed two seasons (1991-92 and 1992-93) at Memphis, and in 1993, was drafted to play in the NBA as its third overall draft pick. In 2008, after a 15-year career, the head coach retired from the NBA and returned to live in the Memphis community.

The head coach's philanthropic involvement in the Memphis community began in 1993. The head coach reported that he provided gifts and financial assistance to many members of the Memphis community, including several prospective student-

athletes and their families, from the time that he entered the NBA until he became Memphis' head men's basketball coach. When he returned to Memphis, the head coach coached middle school and high school basketball. During this period, the head coach provided financial and other assistance to youth in the Memphis community. For example, the head coach stated that he provided financial and other assistance around the Christmas and Thanksgiving holidays, in amounts ranging from \$50,000 to \$100,000 annually, and toys and gifts totaling approximately \$50,000 annually. He regularly provided material such as backpacks, school clothes, shoes and other items to financially disadvantaged children in the Memphis community. He regularly contributed to children's hospitals. The head coach stated he paid for houses, cars, college tuition, private high school tuition, mortgage payments and utility bills. The head coach also provided clothes and food for impoverished children, often acting as their mentor. He frequently allowed at-risk youth, not just those he coached, to stay at his home when they needed stability.

The head coach's contributions to the Memphis community were considerable and widely known. His philanthropy was not restricted to young basketball players, or even to young athletes. The head coach estimated that 99% of his charitable giving went to youth not involved in any sport.

In July 2008, the head coach donated \$1 million to Memphis' athletics department in order to construct a Sports Hall of Fame. Furthermore, starting in 2008 and continuing until 2018, the head coach purchased Memphis men's basketball season tickets. His donation meant that the head coach became a representative of Memphis' athletics interests. However, none of Memphis' administrators discussed with him the implications of becoming a representative of athletics interests with respect to permissible and impermissible activities. In fact, the head coach did not even realize that he was a representative of athletics interests until the NCAA notified him of this status, when, in March 2018, he became Memphis' head men's basketball coach.

From 2009 through March 2018, the head coach coached at a middle school and at a high school. He additionally coached an Amateur Athletic Union (AAU) team. During this time, the head coach continued to provide financial and other benefits to prospective student-athletes and their family members within the Memphis community, as well as to other community members in need.

b. The Head Coach’s Involvement with Prospective Student-Athlete Nos. 1, 2 and 3.

(1) The Head Coach’s Involvement with Prospective Student-Athlete No. 1.

During his freshman and sophomore high school years, prospective student-athlete No. 1 attended high school No. 1 in Nashville, Tennessee and played for the AAU team No. 1. For the next two AAU seasons, prospective student-athlete No. 1 played for AAU team No. 2 as well as AAU team No. 3, both affiliated with the head coach. However, the head coach did not coach prospective student-athlete No. 1 during either season.

In June 2017, prior to his junior and senior year, prospective student-athlete No. 1 moved from the city of Nashville to the city of Memphis to be close to a family member enrolled at Memphis who was experiencing personal difficulties. He transferred to high school No. 2, where the head coach coached him. Prospective student-athlete No. 1’s mother became acquainted with the head coach because her son had played for an AAU team affiliated with him. She approached the head coach seeking financial assistance for the move to Memphis.

In June and July 2017, the head coach made four separate payments, totaling \$11,500, to prospective student-athlete No. 1’s mother. Specifically, June 9, 2017, the head coach transferred \$4,500; July 5, 2017, he transferred \$1,000; July 25, 2017, he transferred \$2,000; and, finally, July 28, 2017, he transferred \$4,000. According to the head coach, he made these payments to assist with prospective student-athlete No. 1’s mother’s relocation expenses. Prospective student-athlete No. 1 did not know about his mother’s requests or about the resulting payments. The head coach provided no additional financial assistance to either prospective student-athlete No. 1’s mother or to prospective student-athlete No. 1.

Memphis did not recruit prospective student-athlete No. 1 while he attended high school No. 2. The head coach stated that none of the Memphis coaching staff members or representatives requested that he provide financial assistance to prospective student-athlete No. 1’s mother.

(2) The Head Coach’s Involvement with Prospective Student-Athlete No. 2.

Prospective student-athlete No. 2 tried out for head coach’s AAU team No. 2 in either eighth or ninth grade. However, the head coach did not meet him or his family until prospective student-athlete No. 2’s high school sophomore year during AAU team No. 2’s practices. Subsequently, during

prospective student-athlete No. 2's junior or senior year in high school, the head coach provided him with gas money to travel to AAU team No. 2's practices. Prospective student-athlete No. 2 confirmed that the head coach gave him gas money "maybe every . . . two months or so" and each time he would give him "maybe . . . 100 or something like that." Prospective student-athlete No. 2 estimated that the head coach gave him no more than "3 or 400" dollars. But the head coach estimated that amount to be about \$40-\$60.

Prospective student-athlete No. 2 played for middle school No. 1 and high school No. 3 in Memphis, and then played for high school No. 2 during his senior year. Prospective student-athlete No. 2 originally committed to another Division I university. However, after the head coach began his employment at Memphis, prospective student-athlete No. 2 decommitted from the prior university in order to play for the head coach at Memphis. Prospective student-athlete No. 2 was a walk-on men's basketball student-athlete during his freshman year at Memphis and during his sophomore year, received an athletics scholarship.

Once Memphis learned that the head coach had provided gas money to prospective student-athlete No. 2, a former assistant athletics director for compliance attempted to calculate the dollar amount of the benefit. In making the estimate, the former assistant athletics director for compliance considered how long prospective student-athlete No. 2 had played AAU basketball for AAU team No. 2, and the type of car that prospective student-athlete No. 2 drove. Erring on the side of caution, the former assistant athletics director for compliance estimated that the total benefit provided to prospective student-athlete No. 2 amounted to \$200. Prospective student-athlete No. 2 repaid that amount as restitution to a charity.

(3) The Head Coach's Involvement with Prospective Student-Athlete No. 3.

The head coach began providing support to prospective student-athlete No. 3 starting when he was 11 years old and in the sixth grade. The head coach had met prospective student-athlete No. 3 on his first day of coaching at middle school No. 2 in 2009. At the time, prospective student-athlete No. 3's mother was in drug rehabilitation and his father was in jail. The head coach started providing financial and other support to prospective student-athlete No. 3, including mentoring, at prospective student-athlete No. 3's grandmother's request. The head coach also provided the grandmother with money for food and clothes, which she could not afford. The grandmother permitted the head coach to check prospective student-athlete No. 3 in and out of school. During this period, prospective student-athlete No. 3 moved

into the head coach's house because of the lack of stability at home. Prospective student-athlete No. 3 lived with the head coach for five or six years. The head coach supported prospective student-athlete No. 3 from middle school through his senior year of high school, serving as his father-figure and referring to prospective student-athlete No. 3 as his son. The relationship between the two lasted through prospective student-athlete No. 3's enrollment at Memphis.

The head coach coached prospective student-athlete No. 3 during sixth through eighth grade, at the end of his freshman year, and during his sophomore through senior year at high school No. 2. Prospective student-athlete No. 3 initially committed to another Division I university; however, after the head coach began coaching at Memphis, prospective student-athlete No. 3 decommitted from the first institution and committed to Memphis, even though he did not have an offer from Memphis. The head coach did not offer prospective student-athlete No. 3 any benefits to induce him to decommit from the other university.

c. Prospective Student-Athlete Nos. 1 and 2 Enroll at Memphis and Academic and Membership Affairs Determines that the Prospective Student-Athletes Received Benefits Violative of NCAA Bylaws.

(1) Memphis' Actions After Hiring Head Coach.

The head coach began his coaching career at Memphis March 21, 2018. He met that day or soon thereafter with the former assistant athletics director for compliance to discuss NCAA rules and regulations associated with his position, including those related to recruiting and compliance. Additionally, the former associate athletics director for sport services and senior woman administrator provided him with guidance on NCAA bylaws, and gave him handouts related to NCAA rules, regulations, and bylaws. She met with him daily during his first few weeks of employment, focusing her training on recruitment. However, neither she nor anyone else at Memphis asked the head coach about any individuals he had coached at high school No. 2, or on his AAU team. Nor did they discuss with the head coach any financial contributions he had made to prospective student-athletes and/or their families.

The head coach set up daily morning meetings with his coaching staff to discuss various matters, including compliance. He also instructed his assistant coaches to call the former assistant athletics director for compliance with any compliance-related questions. He met one-on-one with his assistant coaches to discuss issues as they arose.

Memphis moved its compliance department into the same building as the men's basketball office after hiring the head coach. At the same time that the compliance staff was providing him with education, the former Memphis director of athletics was meeting with the head coach on a weekly basis.

(2) The Academic and Membership Affairs Interpretation and the Temporary Restraining Order.

As noted above, the enforcement staff began its investigation in April 2019 and on-campus interviews in July 2019. During the summer of 2019, the compliance staff learned from the NCAA of the financial assistance that the head coach had provided to student-athlete No. 1's mother when he was a prospective student-athlete. This discovery led Memphis to consider a few issues, including whether the head coach had been a representative of athletics interests during this period, and whether the assistance rendered prospective student-athlete No. 1 ineligible to participate in competition. Memphis concluded that the head coach's payments to prospective-student athlete No 1's mother did not violate any NCAA bylaws or render him ineligible, sharing that opinion with the enforcement staff. Because Memphis disputed whether any violation had occurred, the enforcement staff offered to submit a joint interpretation request to academic and membership affairs, noting that the interpretation request should be submitted well in advance of the upcoming basketball season so that Memphis could have a timely answer. These communications occurred on or about August 9, 2019. Memphis then expressed its desire to interview the head coach again to obtain additional information. The interview with the head coach did not occur until October 23, 2019, approximately 75 days later, just two weeks prior to the first men's basketball contest.

On October 25, 2019, the enforcement staff and Memphis submitted a joint request for an interpretation to the academic and membership affairs staff for interpretive assistance regarding Bylaws 13.02.15, 13.02.15.1, 13.2.1 and 13.2.1.1-(e), based on the facts and circumstances submitted. On October 31, 2019, the academic and membership affairs staff issued a memorandum responding to the request for an interpretation, based on the facts and circumstances submitted. In sum, the October 31, 2019, interpretation provided:

- Per Bylaw 13.02.15, the head coach became a representative of Memphis' athletics interests when, in 2008, he donated funds to the Memphis athletics department to construct the Sports Hall of Fame.

- Per Bylaw 13.02.15.1, the head coach maintains his status as a representative of Memphis' athletics interests indefinitely.
- A violation of Bylaws 13.2.1 and 13.2.1.1-(e) occurred when the head coach, a representative of Memphis' athletics interests, provided the mother of prospective student-athlete No. 1 with cash payments totaling \$11,500. The academic and membership affairs staff noted that the head coach acted independently of the scholastic and non-scholastic teams with which he was associated when he used personal funds to financially assist prospective student-athlete No. 1's mother with moving expenses, utilities, rent and other personal expenses. Bylaw 13.2.1 prohibits a representative of the institution's athletics interests from providing benefits to a prospective student-athlete or to a prospective student-athlete's family member.
- Pursuant to Bylaw 13.2.1, the benefits provided by the head coach, who was a representative of Memphis' athletics interests, were not available to Memphis' prospective students generally or to a particular segment of the student body as determined on a basis unrelated to athletics ability. The head coach, therefore, violated Bylaw 13.2.1 by providing prospective student-athlete No. 1's mother with payments totaling \$11,500. The academic and membership affairs staff noted that the cash payments provided were earmarked for a specific prospective student-athlete and were not distributed through the non-scholastic team's established channels. Further, these cash payments did not meet the requirements outlined in the March 1, 2012, educational column [Donations to Outside Sports Clubs or Training Centers].
- A violation of Bylaw 13.2.1 occurred when the head coach provided prospective student-athlete Nos. 2 and 3 with financial assistance. Although the head coach had a relationship with prospective student-athlete Nos. 2 and 3, he specifically earmarked the benefits for those prospective student-athletes, and they were not available to Memphis' prospective students generally or to a particular segment of the student body as determined on a basis unrelated to athletics ability.

Upon receipt of academic and membership affairs' decision October 31, 2019, the institution demonstrated significant lapses in communication at the highest leadership levels, starting with the institution's former president

and involving Memphis' university counsel. The academic and membership affairs interpretive decision is binding until and unless reversed on appeal.⁹

Soon thereafter, Memphis' former president contacted the NCAA executive vice president of regulatory affairs. The former president noted Memphis' disagreement with the interpretive decision and threatened litigation if the decision was not reversed, with a determination that there were no violations. The executive vice president of regulatory affairs explained the applicable regulatory procedures to the former president and confirmed that NCAA institutions are only permitted to allow eligible student-athletes to participate in competition. Memphis stated that it intended to play student-athlete No. 1 and pursue other remedies. After notification of academic and membership affairs interpretation and the repeated reminders from the enforcement staff, Memphis decided to allow student-athlete No. 1 and student-athlete No. 2, who had previously received benefits from the head coach, to compete in a men's basketball contest November 5, 2019.

On Friday, November 1, 2019, Memphis' university counsel emailed an academic and membership affairs staff member to inquire about steps that needed to be taken to appeal the academic and membership affairs interpretation. The university counsel took no further steps over the weekend, nor did she communicate with the enforcement staff or the compliance department. On Monday, November 4, 2019, the university counsel exchanged emails with a member of the enforcement staff who asked her to keep the enforcement staff updated with respect to any decisions it made about student-athlete No. 1's eligibility.

On the morning of Tuesday, November 5, 2019, the university counsel contacted a member of the enforcement staff who informed her that, as a result of the academic and membership affairs interpretation, student-athlete No. 1 was ineligible to play. The university counsel told the enforcement staff member that the institution disagreed with the academic and membership affairs interpretation and that the institution's plan was "to amend the joint facts [that had been submitted to the AMA and formed the basis of the Interpretation] and include additional information which we believe will assist AMA in reaching a fair and appropriate decision [t]he NCAA provides for two levels of appeal and the University is exercising its right under the guidelines and believes until a final determination is made, and all appeals are exhausted, related to the rule interpretation, the students should be eligible to compete."

⁹ Constitution 5.4.1.2.1.3 (2019-20 NCAA Division I Manual).

The university counsel, in response to the hearing panel's questions, admitted that she had not reviewed Bylaw 5.4.2.1, which provides that an academic and membership affairs interpretation is binding unless and until reversed on appeal. Of course, the academic and membership affairs interpretation meant as of November 5, 2019, student-athlete No. 1 was ineligible to participate in a competition. Moreover, Memphis never submitted new joint facts, nor did it appeal the October 31, 2019, academic and membership affairs interpretation.

Memphis' former president explained at the hearing that Memphis' university counsel called him to tell him about the academic and membership affairs interpretation as he was boarding a plane November 5, 2019. While he was generally aware of the issues about student-athlete No. 1's eligibility, he previously had been told that those issues had been resolved. He explained that he had not been aware of the October 31, 2019, academic and membership affairs interpretation until that time. He did not know that an academic and membership affairs interpretation is binding until and unless reversed on appeal. And because the university counsel did not understand that, she did not explain it to him.

The university counsel explained, in response to the hearing panel's questioning, that she had informed Memphis' former president about the October 31, 2019, academic and membership affairs interpretation when she received it, but that she also explained to him that she believed an earlier official interpretation [Reference: 6/6/00, Item No. 4] was squarely on point, and she would follow up with the academic and membership affairs staff to "figure out what happened and why it wasn't considered."

In any event, when his plane landed November 5, 2019, Memphis' former president called Memphis' director of athletics and told him to sit student-athlete No. 1 until the issue had been resolved. But no one at Memphis informed the head coach about the October 31, 2019, academic and membership affairs interpretation or that a decision had been made to withhold student-athlete No. 1 from the November 5, 2019, contest. Accordingly, student-athlete No. 1 participated in that day's contest. It was not until after the November 5, 2019, contest that the head coach learned of the academic and membership affairs October 31, 2019, interpretation that determined that student-athlete No. 1 was ineligible to play in that contest.

After student-athlete No. 1 found out that he had been declared ineligible, he retained independent counsel and obtained a Temporary Restraining Order from the Chancery Court of Shelby County, Tennessee for the

Thirtieth Judicial District at Memphis. The Temporary Restraining Order ordered Memphis and the head coach to play student-athlete No. 1. The former president explained that Memphis followed the court order, and, as a result, student-athlete No. 1 participated in two additional contests following the November 5, 2019, basketball contest.

Memphis did not commence the student-athlete reinstatement process for student-athlete No. 1 until after it had allowed him to participate in three contests. The December 6, 2019, decision about his reinstatement required that student-athlete No. 1 be withheld from a total of 12 contests. Student-athlete No. 1 failed to complete the reinstatement process. He instead elected to leave Memphis and pursue a professional career.

d. Other Factual Matters Relevant to the Head Coach’s Tenure at Memphis.

On April 22-23, 2019, prospective student-athlete No. 4 made an official visit to Memphis. During that visit, prospective student-athlete No. 4 toured the arena where Memphis plays regular season home contests. The arena is located off-campus, adjacent to Beale Street, a popular area near the institution. After prospective student No. 4 toured the facility, he had photos taken of himself in a Memphis basketball jersey. The former graduate assistant then suggested that prospective student-athlete No. 4 take photos on Beale Street, outside of the facility. The former graduate assistant took photos of prospective student-athlete No. 4 in the Memphis jersey on the street and provided the photos to him. Prospective student-athlete No. 4 then posted the photographs to his social media account. The head coach had no knowledge of any of these activities.

The former assistant athletics director for compliance discovered the photographs on social media and spoke with the head coach about the incident. The head coach met with the former graduate assistant and told him that off-campus photoshoots violated Bylaws 13.10.2 and 13.10.2.4 and, thus, the photoshoot, or any additional off-campus photoshoots, were impermissible. The institution prohibited the former graduate assistant from any involvement with men’s basketball official visits until January 2020. Memphis self-reported this incident as a Level III violation.

On May 22, 2019, the former graduate assistant – again without the head coach’s knowledge – shot a video during an open gym session and posted it on social media. Within 30 minutes of the posting, the former assistant athletics director for compliance discovered the video and instructed the former graduate assistant to remove it from social media. Memphis then self-reported this incident as a Level III violation.

On July 14, 2019, the head coach texted prospective student-athlete No. 5's father, stating that he was going to provide his son with an offer from Memphis. Prior to sending the text, the head coach called prospective student-athlete No. 5 and provided him the offer. The head coach knew that he could not text prospective student-athlete No. 5 the offer but explained that he thought it was permissible to text the father. The head coach told the former assistant athletics director for compliance that he had texted prospective student-athlete No. 5's father. She informed him that the text violated NCAA rules. Memphis self-reported this incident as a Level III violation. Prospective student-athlete No. 5 did not enroll at Memphis.

On October 13, 2019, six men's basketball student-athletes visited a restaurant owned by the former assistant coach No. 1. Following the meal, the student-athletes were not asked to pay for their food. The student-athletes believed that the former assistant coach No. 1 paid for their meals. Upon learning of this incident, the former assistant athletics director for compliance informed the head coach that the free meals violated Bylaws 16.11.2.1 and 16.11.2.2. The head coach in turn spoke with former assistant coach No. 1. The six student-athletes repaid the cost of their meals by donating to a children's hospital and a nonprofit community organization amounts equal to the costs of their meals.

e. The Enforcement Staff and Complex Case Unit Investigation (Between May 2019 and February 2021).

(1) The Complex Case Unit Requests that Memphis Preserve Documents Related to an Assistant Men's Basketball Coach and Memphis Fails to Cooperate.

On June 4, 2020, the Complex Case Unit requested that Memphis "preserve any and all devices assigned to, used by, or accessed by [the former assistant coach No. 1] during his employ by Memphis." However, through its outside counsel for the university, Memphis failed to send out to the institution's staff and students a notice directing them to preserve information until August 2020, two months later.

Memphis provided the former assistant coach No. 1's computer to the Complex Case Unit. However, when the Complex Case Unit received it, a forensic examination revealed that the computer's hard drive had been reformatted June 5, 2020, which resulted in the data on the computer being deleted and unrecoverable.

On September 23, 2020, the Complex Case Unit emailed outside counsel for the university, inquiring why the computer's hard drive had been

reformatted and who had reformatted it. Memphis responded that “[n]o one in Athletics IT or University IT formatted the laptop” or “[n]o one in Athletics IT or University IT authorized formatting of the laptop.”

(2) Memphis’ Response to the Complex Case Unit’s Requests for Documents.

On August 26, 2020, the Complex Case Unit submitted to Memphis document requests seeking various categories of documents, including, but not limited to, communications and text messages from the Memphis men’s basketball staff and student-athletes. The case management plans issued by the chief panel member required that Memphis respond to any document requests within 30 days. But Memphis failed to respond for over five months, until January 31, 2021, finalizing its production February 18, 2021. Memphis produced a total of approximately 48,000 documents on these two dates. Memphis’ January production – its first – occurred three weeks before the end of the investigation, the date established in the chief panel member’s amended case management plan No. 2.

The final February production occurred on the last day of the investigation, the date established in amended case management plan No. 2. Memphis never notified the chief panel member of any issues relating to production, nor did it seek an extension of the time to complete the production. While it is true that Memphis’ lead outside counsel for the university had COVID-19, and Memphis was closed for periods of time due to the pandemic, the chief panel member was entirely unaware that responsive documents had not been timely produced.

IV. ANALYSIS

This Section provides an analysis of the hearing panel’s decisions with respect to each of the allegations.

a. Allegation No. 1.

(1) Introduction of Allegation No. 1.¹⁰

The Complex Case Unit alleged that between May 2019 and February 2021, which was the duration of the NCAA enforcement staff’s and Complex Case Unit’s investigations that serve as the basis for this notice of allegations, Memphis violated NCAA responsibility to cooperate

¹⁰ The language of the allegation in this introduction is as it appears in the amended notice of allegations.

legislation. Under NCAA responsibility to cooperate legislation, Memphis has an affirmative obligation to cooperate fully with and assist the enforcement staff and/or the Complex Case Unit to further the objectives of the NCAA and to make full and complete disclosure of any relevant information. Memphis violated this legislation and obstructed both the NCAA enforcement and Complex Case Unit investigations on multiple occasions as outlined in Allegations Nos. 1-(a) through 1-(e).

Memphis disagreed with the underlying facts. It also disagreed that the facts constituted violations for all the allegations contained in allegation No. 1.

At the hearing, Memphis argued for the first time in the proceeding that Bylaw 19.2.3 should not be applicable to an “institution.” According to Memphis, the inapplicability of the bylaw to an institution is confirmed in several NCAA Division I Committee on Infractions decisions. None of these decisions has found an “institution” in violation of Bylaw 19.2.3 without the express identification of a responsible involved individual. Memphis maintained that failure to cooperate violations under Bylaw 19.2.3 should not attach to the institution as alleged by the Complex Case Unit for the 2018-19 or 2020-21 academic years, since the word “institutions” is omitted from the bylaw’s language in those respective years. Because Memphis had not raised this argument previously, the hearing panel allotted both Memphis and the Complex Case Unit the opportunity to submit supplemental correspondence related to the issue following the conclusion of the hearing.¹¹

After a thorough review of the parties’ submissions, the hearing panel finds Memphis’ argument to be untimely. In correspondence dated April 22, 2021, the chief panel member stated that “[t]he parties should include arguments they intend to make at the hearing in the response” to the amended notice of allegations. Memphis had numerous opportunities to assert its argument related to Bylaw 19.2.3, especially considering the 30-day extension of the deadline for the submission of its response to the amended notice of allegations granted by the chief panel member, at Memphis’ request. Additionally, March 30, 2022, the chief panel member issued appearance letters to the parties, confirming the hearing dates of May 20, 21 and 22, 2022. Once the chief panel member established the hearing dates, the parties were aware of the April 20, 2022, deadline for submission of information to be considered by the hearing panel.

¹¹ On June 8, 2022, and July 1, 2022, the parties submitted additional information for the hearing panel’s consideration.

However, even if Memphis' argument was timely, the totality of the language included in the 2018-19 NCAA Division I Manual, 2019-20 Manual and 2020-21 NCAA Division I Manual versions of Bylaw 19.2.3, when combined with the legislative intent of the bylaw, demonstrates that the responsibility to cooperate has always applied to institutions, whether expressly stated or implied. An institution can only act through its administration, faculty and staff.¹²

(2) Allegation No. 1-(a). [Constitution 2.1.2 and 2.8.1; Bylaw 19.2.3-(a) (2018-19 through 2019-20 Manuals)]. [Asserted Against Memphis].

The Complex Case Unit alleged that Memphis failed to affirmatively report instances of noncompliance to the Association in a timely manner and assist in developing full information to determine whether a possible violation had occurred and details thereof. Specifically, the Complex Case Unit alleged that Memphis failed to assist in developing full information relating to the eligibility of men's basketball student-athlete No. 1, student-athlete No. 2 and student-athlete No. 3.¹³ Further, Memphis failed to assist in developing full information relating to various recruiting violations and impermissible benefits provided to men's basketball student-athletes.¹⁴

(a) NCAA Bylaws Related to Responsibility to Cooperate.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) The Failure to Develop Information Was Not a Failure to Cooperate.

The hearing panel concludes that this was not a failure to cooperate, but instead, was a failure to properly onboard the head coach when he commenced employment, which resulted in the institution's lack of knowledge about the financial benefits the head coach provided to prospective student-athletes or their families. The financial benefits to student-athletes Nos. 1, 2 and 3 were provided to them long before the head coach commenced his employment at Memphis, before his involvement with the institution, its athletics program or basketball team. Because Memphis failed to properly onboard the head coach, which would have included questioning about his relationships with any prospective student athletes, it did

¹² NCAA Division I Proposal No. 2019-6.

¹³ Details relating to the alleged eligibility issues can be found in allegation Nos. 2 and 3.

¹⁴ Details of the alleged recruiting violations and impermissible benefits can be found in allegation Nos. 4 and 5.

not develop full information related to the eligibility of student-athlete No. 1, student-athlete No. 2, or student-athlete No. 3. As a result, it had no information regarding these student-athletes' eligibility to share with the Complex Case Unit.

Further, the enforcement staff had advised the institution about several concerns they had regarding the handling of eligibility issues involving student-athletes No. 2 and No. 3. Specifically, the enforcement staff told the institution that in order to make an informed decision it needed to obtain information from the student-athletes to confirm the details about the benefits they had received. The enforcement staff also expressed concern that the institution had proceeded with the processing of the charitable payments without ever informing the NCAA.

The hearing panel finds that the institution acted unilaterally instead of collaborating with the enforcement staff when dealing with the eligibility decisions related to student-athletes No. 2 and No. 3. Notwithstanding this finding, the hearing panel concludes the facts relied on by the Complex Case Unit support a finding of a failure to monitor, as discussed below, but not of a failure to cooperate. The hearing panel is satisfied that the institution's failure to keep the enforcement staff informed regarding the steps they had taken to reinstate the student athletes did not ultimately impede or negatively impact the investigation.

Accordingly, the hearing panel finds that the actions of the institution do not amount to a violation of Bylaw 19.2.3-(a).

(3) Allegation No. 1-(b). [Constitution 2.1.2 and 2.8.1; Bylaws 19.2.3-(c), 19.2.3-(d) and 19.2.3-(e) (2020-21 Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that Memphis failed to disclose and provide access to all electronic devices. Specifically, on June 4, 2020, the Complex Case Unit requested that Memphis “preserve any and all devices assigned to, used by or accessed by [a former assistant coach 1] during his employ by Memphis.” A subsequent forensic examination revealed that the [former assistant coach 1's] computer hard drive was formatted on June 5, 2020, and as a result, the data on the computer was deleted. Memphis failed to conduct an adequate investigation into why the computer's hard drive was not preserved.

(a) NCAA Bylaws Related to Responsibility to Cooperate.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) Memphis Failed to Adequately Investigate the Deletion of Data on an Electronic Device.

Bylaw 19.2.3(d) provides that full cooperation includes “[d]isclosing and providing access to all electronic devices used in any way for business purposes.” On June 4, 2020, the Complex Case Unit requested that Memphis “preserve any and all devices assigned to, used by or accessed by [former assistant coach 1] during [former assistant coach 1’s] employ by Memphis.” However, when the Complex Case Unit received former assistant coach No. 1’s laptop, a forensic examination revealed that the hard drive of his laptop was reformatted June 5, 2020. As a result, the data on the computer was deleted and unrecoverable. On September 23, 2020, the Complex Case Unit emailed the outside counsel for the university, posing 15 questions relating to the laptop, including why the hard drive had been reformatted, who reformatted it, and who had authorized the reformatting. On September 28, 2020, through its outside counsel for the university, Memphis responded to the questions by stating only that “[n]o one in Athletics IT or University IT formatted the laptop” or “[n]o one in Athletics IT or University IT authorized formatting of the laptop.”

Memphis’ answers were completely unresponsive to the Complex Case Unit’s inquiries. They demonstrate that the institution failed to do any investigation to determine how or why the data had been destroyed. Memphis failed to conduct an adequate investigation into who had reformatted the computer and why its hard drive was not preserved.

Memphis failed to interview anyone with access to former assistant coach No. 1’s computer. Memphis had an affirmative obligation to investigate the chain of custody, including interviewing any institutional employee, including graduate assistants, who had access to the computer.

The outside counsel for the university’s cursory, litigation-style response that “[n]o one in Athletics IT or University IT formatted the laptop” or “[n]o one in Athletics IT or University IT authorized

formatting of the laptop” was entirely insufficient to fulfill Memphis’ obligation to fully cooperate in a Complex Case Unit investigation. Because the Complex Case Unit does not have subpoena power, it must rely on NCAA member institutions to fully investigate facts that underlie allegations of infractions. Memphis had an affirmative obligation to determine what happened to former assistant coach No. 1’s computer. In addition, instead of waiting until August 2020 to issue a litigation hold, Memphis had an obligation to issue one immediately upon the Complex Case Unit’s request, notwithstanding the COVID-19 pandemic.

Memphis is accountable for this violation. The hearing panel concludes that this is a Level II violation. This is a violation that does not rise to the level of a Level I violation but is more serious than a Level III violation.

(4) Allegation No. 1-(c). [Constitution 2.1.2 and 2.8.1; Bylaw 19.2.3-(c) (2020-21 Manual) [Asserted Against Memphis].

The Complex Case Unit alleged that Memphis failed to timely produce requested and relevant documents. Specifically, on August 26, 2020, the Complex Case Unit submitted document requests to Memphis seeking various categories of documents including but not limited to communications and text messages of Memphis’ men’s basketball staff, as well as communications and text messages between men’s basketball student-athletes and members of the Memphis’ men’s basketball staff. Pursuant to the Case Management Plan, Memphis’ responses were due within 30 days. Memphis failed to timely respond to the reasonable document requests. When responsive documents were finally produced at the close of the Complex Case Unit’s investigation, Memphis both failed to produce all requested records and the records that were produced were not produced in the format requested by the Complex Case Unit. For example, Memphis failed to produce text message communications between men’s basketball coaching staff and prospective student-athletes. Further, Memphis produced emails with a filetype and naming convention contrary to the Complex Case Unit’s request and with metadata stripped from the documents, which prevented any meaningful ability to review or search the records. In this regard, Memphis’ conduct obstructed the investigation as the Complex Case Unit was unable to timely follow up with Memphis, its representatives, the men’s basketball staff, or current student-athletes regarding the documents produced.

(a) NCAA Bylaws Related to Responsibility to Cooperate.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) Memphis Failed to Produce the Documents Within 30 Days as Required by the Case Management Plan.

Pursuant to the case management plan, Memphis' responses to document requests were due within 30 days of the request. Memphis failed to meet deadlines for document production. Instead, it produced some documents on a rolling basis, despite the Complex Case Unit's repeated inquiries about the status of the production.

When Memphis finally produced responsive documents at the close of the Complex Case Unit's investigation, the production was inadequate. Not all requested documents were produced. Memphis failed to produce text message communications between the men's basketball coaching staff and prospective student-athletes. Additionally, documents that were produced were not in the format requested by the Complex Case Unit. For example, Memphis produced emails with a filetype and naming convention contrary to the Complex Case Unit's request, stripped of metadata, thus preventing any meaningful ability to review or search the documents. Memphis' untimely and inadequate production deprived the Complex Case Unit of the ability to use the documents to timely follow up with relevant individuals.

Neither party contacted the chief panel member to seek an extension or to address these deficiencies when they occurred.¹⁵ The hearing panel is mindful of the COVID-19 pandemic, furloughs, and other related factors that impacted the investigation in this case and considered such factors in making its determinations. Notwithstanding these factors, Memphis did not meet its obligation to cooperate in the investigation.

The chief panel member issued the original case management plan August 18, 2020. In response to requests from the Complex Case Unit and Memphis, the chief panel member issued two amended case management plans, amended case management plan No. 1

¹⁵ The Complex Case Unit was not required to seek immediate penalties for Memphis' failure to timely produce documents.

October 15, 2020, and amended case management plan No. 2 February 4, 2021.

The Complex Case Unit submitted a records request August 26, 2020, requesting that Memphis provide the records within 30 days in accordance with the case management plan's deadlines.

The chief panel member issued the amended case management plan No. 2 in response to Memphis' January 31, 2021, request to extend the deadline for the completion of the investigation, thus affording Memphis additional time to gather documents from five student-athletes. Amended case management plan No. 2 provided that all other deadlines outlined in the case management plan remained in effect, including the requirement that Memphis was required to submit any documents requested by the Complex Case Unit within 30 calendar days of each of the Complex Case Unit's document request.

The Complex Case Unit's document request undoubtedly was extensive. It requested that Memphis produce the documents on a rolling basis "whenever possible." However, instead of timely responding, or requesting an extension from the chief panel member, Memphis waited until the very end of the investigation to produce approximately 48,000 documents. As a result, the Complex Case Unit was severely limited in its ability to follow up with individuals using the produced documents.

The Complex Case Unit repeatedly inquired about the status of the document production, which would have been unnecessary if Memphis had complied with its obligations. The hearing panel acknowledges that the COVID-19 pandemic hindered Memphis' ability to timely respond to document requests. Nevertheless, if Memphis knew that it would be unable to timely respond to document requests in-house, it should have engaged a vendor to assist at an earlier date, produce documents on a rolling basis, or at a very minimum, requested the chief panel member to grant an extension of the time to respond.

Memphis' failure to produce the documents within 30 days as required by the case management plan is a violation. However, it appears that this failure was not intentionally obstructive, but instead resulted from inadequate staffing at Memphis during a global pandemic. As a result of pandemic related orders, Memphis was

dealing with remote work requirements, staff shortages and furloughs, all of which hindered it from producing the requested documents within the required time frame. Accordingly, the hearing panel concludes that this is a Level II violation.

(5) Allegation No. 1-(d). [Constitution 2.1.2 and 2.8.1; Bylaws 19.2.3-(c), 19.2.3-(d) and 19.2.3-(e) (2020-21 Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that Memphis failed to adequately and timely assist in obtaining relevant information and records in the possession of current men's basketball student-athletes. While the Complex Case Unit was awaiting the production of text message communications between men's basketball student-athletes and members of Memphis' men's basketball staff, all but one of the men's basketball student-athletes that were interviewed by the Complex Case Unit failed to bring their cell phones with them to the interviews, thereby preventing the Complex Case Unit's access to relevant sources of information. After the interviews, the Complex Case Unit requested Memphis to investigate whether any representative of Memphis instructed the student-athletes not to bring their cell phones to the interviews. Memphis refused to investigate this issue. As such, Memphis refused to cooperate and potentially actively obstructed the investigation.

(a) NCAA Bylaws Related to Responsibility to Cooperate.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) The Inference Regarding Availability of Student-Athlete's Cell Phones at their Interviews.

The Complex Case Unit failed to ask any of the student-athletes whether anyone had instructed them to not bring their phones to the interviews. Instead, after the interviews, the Complex Case Unit requested that Memphis investigate the issue. Memphis declined, on the basis that any inquiry into this issue was not its obligation, but the Complex Case Unit's.

The hearing panel finds that based on this set of facts, no violation occurred. The student-athletes had no affirmative obligation to bring their cell phones to the interviews. The hearing panel also finds that there is no credible information demonstrating that

Memphis instructed the student-athletes not to bring their cell phones to the interviews. The Complex Case Unit failed to ask any of the student-athletes during the interviews the basic question of whether they had received any instruction to not bring their cell phones.

Pursuant to Bylaw 19.7.8.3, the hearing panel shall base its decision on information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs. The information upon which the hearing panel bases its decision may be information that directly or circumstantially supports the alleged violation. With respect to this allegation, mere inference, based on circumstantial information, while permissible, is too attenuated to conclude that Memphis instructed the student-athletes to not bring their cell phones to the interviews. Accordingly, the hearing panel finds the facts as alleged in allegation No. 1-(d) do not constitute a violation.

(6) Allegation No. 1-(e). [Constitution 2.1.2 and 2.8.1; Bylaws 19.2.3-(b) and 19.2.3-(f) (2020-21 Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that Memphis failed to protect the integrity of the Complex Case Unit’s investigation and obstructed the Complex Case Unit’s investigation. Specifically, Memphis significantly delayed the scheduling of interviews and scheduled “prep” sessions with multiple men’s basketball student-athletes and at least one athletics administrator in the days preceding scheduled Complex Case Unit interviews demonstrating a lack of commitment to cooperation and a disregard for NCAA directives to avoid communicating with individuals about the subject matter of the investigation prior to their being interviewed.

(a) NCAA Bylaws Related to Responsibility to Cooperate.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) Memphis Conducted Prep Sessions with Student-Athletes.

The hearing panel concludes that these facts do not constitute a violation. The hearing panel did not find that Memphis significantly delayed the scheduling of interviews given the challenges presented by the closing of the campus for significant periods as a result of the COVID-19 pandemic. Additionally, Memphis does not dispute that

it met with student-athletes before the interviews, but it contends that the sessions were limited to general issues, for example, expectations of conduct in the interviews. There is no basis in the record, including in the correspondence from Memphis to the student-athletes or in the text messages between the student-athletes and the coaches, to conclude that Memphis engaged in any improper coaching of any student-athletes.

The Complex Case Unit stated at the hearing that it had no knowledge about the topics discussed in these prep sessions because it only learned about them subsequent to the interviews. However, that is the Complex Case Unit's fault. It failed at any interviews to ask the most basic questions about who the interviewees had talked to and about what in preparation had occurred. Without sufficient information to determine the subject matter of the prep sessions, the hearing panel cannot discern whether the content of the prep sessions violated NCAA legislation. There is insufficient information to conclude that Memphis discussed the substance of the investigation with student-athletes or with its employees prior to their interviews. Accordingly, the hearing panel finds the facts alleged in allegation No. 1-(e) do not constitute a violation.

b. Allegation No. 2.

(1) Introduction of Allegation No. 2.¹⁶

The Complex Case Unit alleged starting as early as August 2008, prior to becoming the head men's basketball coach at Memphis, the head coach became a representative of Memphis' athletics interests when he annually purchased men's basketball season tickets and donated \$1 million to Memphis' athletics department. The head coach, as a representative of Memphis' athletics interests, provided extensive impermissible benefits to men's basketball prospective student-athletes and/or their families on various occasions:

Memphis disagreed with the underlying facts or that the facts constitute violations.

Memphis asserted that the head coach had a long-standing history of philanthropic activity in the Memphis community dating back to 1993. The

¹⁶ The language of the allegation in this introduction is as it appears in the amended notice of allegations.

head coach's offer to assist prospective student-athlete No. 1, prospective student-athlete No. 2, and prospective student-athlete No. 3 and/or their families was no different than what he broadly provided to other community members in need.

(2) Relevant Interpretations.

On October 25, 2019, the enforcement staff and Memphis jointly submitted a request for interpretation to the academic and membership affairs staff seeking a determination regarding the head coach's status as a representative of Memphis' athletics interests when he provided benefits to the mother of prospective student-athlete No. 1, prospective student-athlete No. 2, and prospective student-athlete No. 3, and, if he was a representative of Memphis' athletics interests, whether those benefits constituted violations of NCAA bylaws.

On October 31, 2019, academic and membership affairs issued a response to request for interpretation, confirming that the head coach was a representative of Memphis' athletics interests, and that the benefits provided by the head coach to prospective student-athlete No. 1's mother, prospective student-athlete No. 2, and prospective student-athlete No. 3 constituted violations of NCAA bylaws.

Memphis disagreed with the October 31, 2019, academic and membership affairs interpretation, relying instead on the official interpretation [Reference: 6/6/00, Item No. 4] relating to benefits prior to or during collegiate enrollment from someone other than a family member or legal guardian. Memphis contended that the June 6, 2000, official interpretation created an applicable exception to the prohibition against the provision of benefits for individuals with a prior relationship with a prospective student-athlete. The Complex Case Unit contended that the exception does not apply.

(3) Allegation No. 2-(a). [Bylaws 13.01.2, 13.2.1 and 13.2.1.1-(e) (2016-17 NCAA Division I Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that in June and July of 2017, the head coach provided \$11,500 to the mother of prospective student-athlete No. 1 to relocate to the city of Memphis prior to prospective student-athlete No. 1's junior year in high school.

(a) NCAA Bylaws Related to Recruiting and Recruiting Inducements.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) Determination Related to Prospective Student-Athlete No. 1.

The hearing panel finds that the same benefit the head coach provided to prospective student-athlete No. 1's mother was generally available to other Memphis prospective students, their family members or friends, as well as to a particular segment of the student body (e.g., minority students) determined on a basis unrelated to athletics ability. The record establishes the head coach's long-standing commitment to providing financial assistance to many individuals, particularly youth, in the economically disadvantaged Memphis community, even prior to when he became a representative of Memphis' athletics interests. The hearing panel concludes that the benefits provided to prospective student-athlete No. 1's mother did not violate Bylaw 13.2.1.

Under Bylaw 13.2.1, "generally available" means that the benefits were widely available and provided not based on athletics ability. It does not mean *uniformly* available. When academic and membership affairs rendered its October 31, 2019, interpretation, it did not have the full factual record that was developed at the hearing. This full factual record identified the generally available benefits provided by the head coach to economically disadvantaged Memphis youth.

Bylaw 13.2.1 is intended, in relevant part, to prohibit representatives of athletics interests from steering prospective student-athletes to a particular institution through the provision of recruiting inducements. But that is not what occurred here. In this extremely unique situation, the head coach's extensive and well-documented philanthropic efforts mean that the benefits the head coach provided to prospective student-athlete No. 1's mother were generally available, thus meeting the exception contained within Bylaw 13.2.1. To interpret Bylaw 13.2.1 as proposed by the Complex Case Unit would serve to discourage the type of philanthropic efforts made by the head coach, surely not the intention of the legislation.

This set of facts is *sui generis*¹⁷ because of the head coach's unique and extensive contributions to the community from which he came and now resides.

The October 25, 2019, a joint interpretation request was submitted which included the following information regarding the head coach's philanthropy:

- Since 1993, after being drafted into the NBA, [head coach] has provided financial assistance to numerous individuals and families throughout the city of Memphis as part of his personal commitment to give back to the Memphis community.
- Up until he became the head coach of the institution, [head coach] gave money, time and resources to many different people in need in the Memphis community in ways such as: purchasing clothes, shoes, food, and rent for individuals in need; providing shoes, backpacks, and uniforms to numerous male and female middle school, high school and AAU teams in the Memphis community; providing money to parents during Christmas so they could buy toys for their children; and providing assistance in many other situations where people needed help. [Head coach] never provided this assistance with an expectation that a student play basketball for him in any capacity. After becoming the head coach of the institution, [head coach] ceased providing these types of benefits other than to friends and family.

In his October 21, 2020, interview, the head coach stated that of the individuals to whom he has provided various levels of assistance, "...99% of the kids don't even go to school for sports. They're just trying to make it, whether in music or whether in life." At the hearing, the head coach stated that "I bought homes, I bought cars. I paid for college tuitions. Moved people. Sent people on vacation. Christmas gifts. And these are [sic] numbers were 10,000 or more dollars, for numerous people in my community."

During the hearing, Memphis confirmed that 62% of Memphis' student body population is from Shelby County, where Memphis is

¹⁷ *Sui generis* is a Latin expression that translates to "of its own kind." It refers to anything that is peculiar to itself, and of its own kind or class. (Black's Law Dictionary, 11th edition, 2019).

located. This is also the community where the economically disadvantaged youth receiving assistance from the head coach resided.

The October 31, 2019, academic and membership affairs interpretation did not include the totality of the facts developed at the hearing related to the generally available benefits provided by the head coach to economically disadvantaged Memphis youth. The hearing panel determines that these are material facts that the enforcement staff and Memphis did not provide in the October 25, 2019, request for interpretation. Thus, the hearing panel is not bound by the October 31, 2019, academic and membership affairs interpretation.

On the basis of this factual record, the hearing panel distinguishes this decision from academic and membership affairs' October 31, 2019, interpretation. Based on credible information presented at the hearing, the hearing panel finds no violation based on the facts alleged in allegation No. 2-(a).

(4) Allegation No. 2-(b). [Bylaws 12.1.2.1.4.3, 13.01.2, 13.2.1 and 13.2.1.1-(e) (2016-17 Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that the head coach provided prospective student-athlete No. 2 with up to \$400 in gas money while the prospective student-athlete No. 2 was playing for the head coach's AAU team No. 2 basketball team. In his August 12, 2020, interview, prospective student-athlete No. 2 stated the time frame was during the time he was at high school No. 2. Prospective student-athlete No. 2 estimated that the head coach gave him \$300 to \$400 in cash during his junior year at high school No. 2, possibly stretching into his senior year. In terms of frequency, prospective student-athlete No. 2 stated the head coach gave him money "every now and then" and "maybe like every like two months or so" and each time the head coach would give him "maybe like 100 or something like that." In his October 23, 2019, interview, the head coach admitted to providing prospective student-athlete No. 2 with gas money on a couple occasions during prospective student-athlete No. 2's junior and senior year, but estimated it was only "\$40 bucks, \$60 bucks." While the head coach had a relationship with prospective student-athlete No. 2, the benefits provided were earmarked specifically for prospective student-athlete No. 2 and were not available to Memphis' prospective students generally or to a particular segment of the student body determined on a basis unrelated to athletics ability.

(a) NCAA Bylaws Related to Amateurism, Recruiting and Recruiting Inducements.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) Determination Related to Prospective Student-Athlete No. 2.

The former assistant athletics director for compliance estimated that the head coach had provided \$200 in gas money to prospective student-athlete No. 2. Prospective student-athlete No. 2 paid that exact amount in restitution November 5, 2019, prior to the first contest of the 2019-20 men's basketball season. The former assistant athletics director for compliance testified that she calculated the amount owed for restitution by evaluating various factors, including how long prospective student-athlete No. 2 played on AAU team No. 2 and the type of car he drove.

The Complex Case Unit argued, to the contrary, that prospective student-athlete No. 2's estimate of \$300-400 in gas money was the appropriate amount that he should have paid in restitution. Because he did not pay that full amount, the Complex Case Unit asserted that prospective student-athlete No. 2 was ineligible when he played November 5, 2019.

This hearing panel finds that the Complex Case Unit failed to provide sufficient, credible information to conclude that a violation related to prospective student-athlete No. 2 occurred. The head coach and prospective student-athlete No. 2 provided different estimates of the gas money provided. The hearing panel finds that there was no basis to conclude that prospective student-athlete No. 2's estimate of the amount of gas money provided was more accurate than the estimate the head coach provided. The former assistant athletics director of compliance estimated the amount based on the best information available.

In accordance with Bylaw 19.7.8.2, the hearing panel finds that there is insufficient information in the record to determine the exact dollar amount of gas money the head coach provided to prospective student-athlete No. 2.

In considering whether there has been a violation of Bylaw 13.2.1, the hearing panel adopts the same rationale as it used to come to its conclusion in allegation No. 2-(a). In light of the head coach's extensive and well-documented philanthropic efforts, the benefits provided to prospective student-athlete No. 2, estimated to be \$200 in gas money, were generally available to others in the community, thus meeting the exception contained in Bylaw 13.2.1.

Accordingly, for these reasons, the hearing panel finds no violation based on the facts alleged in allegation No. 2-(b).

- (5) **Allegation No. 2-(c). [Bylaws 12.1.2.1.3.1, 13.01.2, 13.2.1, 13.2.1.1-(b), 13.2.1.1-(e), 13.2.1.1-(f) and 13.2.1.1-(h) (2011-12 NCAA Division I Manual through 2017-18 NCAA Division I Manual)] [Asserted Against Memphis].**

The Complex Case Unit alleged that the head coach provided prospective student-athlete No. 3 with food, clothing, shelter, and money starting when prospective student-athlete No. 3 was in middle school. In his July 15, 2019, interview, the head coach stated he helped prospective student-athlete No. 3 “from sixth grade all the way up to senior year.” In his October 21, 2020, interview, the head coach also stated that prospective student-athlete No. 3 lived with him for “about five or six years” and that he paid for prospective student-athlete No. 3's “basic living expenses.” While the head coach had a relationship with prospective student-athlete No. 3, the benefits provided were earmarked specifically for prospective student-athlete No. 3 and were not available to Memphis' prospective students generally or to a particular segment of the student body determined on a basis unrelated to athletics ability.

- (a) **NCAA Bylaws Related to Amateurism, Recruiting and Recruiting Inducements.**

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

- (b) **Determinations Related to Prospective Student-Athlete No. 3.**

In considering whether there has been a violation of Bylaw 13.2.1, the hearing panel adopts the same rationale as it used to come to its conclusion in allegation No. 2-(a). In light of the head coach's extensive and well-documented philanthropic efforts, including providing other individuals living expenses and making mortgage

payments, the benefits provided to prospective student-athlete No. 3, were generally available to others in the community, thus meeting the exception contained in Bylaw 13.2.1.

For these reasons, the hearing panel finds no violation based on the facts as alleged in allegation No. 2-(c).

c. Allegation No. 3.

(1) Introduction of Allegation No. 3.¹⁸

The Complex Case Unit alleged that during the 2019-2020 academic year, despite knowledge that men's basketball student-athletes Nos. 1 and 2 were ineligible, the head coach and Memphis officials allowed the student-athletes to compete in multiple contests for Memphis. Specifically, the head coach knew of the impermissible benefits provided to these student-athletes, as noted in Allegation No. 2. As early as the spring of 2019, Memphis acknowledged that payments from the head coach to the mother of men's basketball student-athlete No. 1 could raise issues with men's basketball student-athlete No. 1's eligibility. On October 25, 2019, the NCAA Enforcement staff and Memphis submitted a Joint Request for Interpretation to the NCAA Academic and Membership Affairs (AMA) staff seeking a determination regarding the head coach's status as a representative of Memphis' athletics interests when he provided benefits to the mother of men's basketball student-athlete No. 1, men's basketball student-athlete No. 2, and men's basketball student-athlete No. 3 and whether those benefits constituted violations of NCAA Bylaws. On October 31, 2019, the NCAA AMA issued a Response to Request for Interpretation and confirmed that the head coach was a representative of Memphis' athletics interests and that the benefits provided by the head coach to the mother of men's basketball student-athlete No. 1, men's basketball student-athlete No. 2, and men's basketball student-athlete No. 3 constituted violations of NCAA Bylaws. Immediately following the AMA's interpretive decision, the NCAA enforcement staff spoke with Memphis officials and reminded Memphis officials that allowing men's basketball student-athlete No. 1 to compete could violate Bylaw 12.1.1. Despite this information and prior to appropriately seeking reinstatement, the head coach and Memphis officials allowed men's basketball student-athlete No. 1 to compete in 3 contests and allowed men's basketball student-athlete No. 2 to compete in 5 contests during the 2019-2020 academic year while ineligible. Both men's basketball student-athlete No. 1 and men's basketball

¹⁸ The language of the allegation in this introduction is as it appears in the amended notice of allegations.

student-athlete No. 2 received compensation-related expenses from Memphis while ineligible. **[Bylaws 12.1.1, 12.11.1, 12.11.2 and 16.8.1 (2019-20 Manual)] [Asserted Against Memphis].**

Memphis disagreed with the underlying facts or that the facts constitute violations for allegation No. 3, and further contends that, should the hearing panel conclude that a violation occurred, it does not rise to a Level I violation

(2) NCAA Bylaws Related to Amateurism and Extra Benefits.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(3) Participation of Student-Athlete Nos. 1 and 2 in Basketball Contests.

Student-athlete No. 2 paid restitution to a charitable organization November 5, 2019, prior to the first contest of the 2019-20 men's basketball season. On the basis of this payment, student-athlete No. 2 was eligible for automatic reinstatement, and thus did not participate in any athletics contests while ineligible. Therefore, the remaining analysis for allegation No. 3 solely relates to the actions Memphis took (or failed to take) in relation to student-athlete No. 1.

The hearing panel concludes that Memphis violated NCAA bylaws. This conclusion is based on Memphis' failure to comply with a binding academic and membership affairs interpretation, and not on an analysis as to whether the head coach provided impermissible benefits to student-athlete No. 1 causing the student-athlete to become ineligible for competition. As discussed above, the hearing panel concluded in its analysis of allegation No. 2-(a) that he did not.

When the academic and membership affairs staff provided an interpretative decision October 31, 2019, it confirmed that a violation of NCAA bylaws had occurred, and that student-athlete No. 1 was ineligible to play in a contest. Pursuant to Constitution 5.4.1.2.1.3,¹⁹ the academic and membership affairs interpretation was binding on Memphis. Memphis disagreed with the academic and membership affairs interpretative decision. That is clear. Memphis believed that the official interpretation [Reference: 6/6/00, Item No. 4] applied. But that was not up to Memphis to decide. Memphis' university counsel was unaware of, and failed to review,

¹⁹ Constitution 5.4.1.2.1.3 (2019-20 Manual), currently Bylaw 9.3.1.2.1.3 (2022-23 NCAA Division I Manual).

Constitution 5.4.1.2.1.3 and accordingly, did not understand the binding effect of the October 31, 2019, academic and membership affairs interpretation. Her failure to do so, or to consult with compliance about the bylaw, was unacceptable, and directly led to the cascade of events that ultimately resulted in this infractions proceeding.

By seeking, and then ignoring the October 31, 2019, academic and membership affairs interpretation, Memphis entirely disregarded the rules and processes adopted by the NCAA membership with respect to the binding nature of NCAA interpretations. Several avenues were open to Memphis to resolve its disagreement with the academic and membership affairs interpretation. Memphis could have appealed the academic and membership affairs interpretative decision to the appropriate bodies within the NCAA governance structure. Memphis could have sought administrative reviews from the NCAA Division I Interpretations Committee and the NCAA Division I Legislative Committee. These Division I membership bodies are vested with the authority to make interpretations of the constitution and bylaws. Memphis took none of these steps. Instead, it allowed student-athlete No. 1 to play.

As a result, Memphis failed to meet its fundamental obligation pursuant to Bylaw 12.11.1 to withhold student-athlete No. 1 from a competition. Memphis additionally violated Bylaw 16.8.1 when it provided student-athlete No. 1 with actual and necessary expenses for a contest when he was not eligible to receive them.

However, the circumstances of student-athlete No. 1's participation in subsequent competitions changed. On November 8, 2019, student-athlete No. 1 sought and obtained a Temporary Restraining Order from the Chancery Court of Shelby County, Tennessee for the Thirtieth Judicial District at Memphis, that prohibited Memphis from withholding him from participating in contests. Student-athlete No. 1 participated in competitions November 8, 2019, and November 12, 2019, pursuant to that Temporary Restraining Order. Ultimately, student-athlete No. 1 voluntarily withdrew the Temporary Restraining Order.

The hearing panel declines to find violations related to student-athlete No. 1's participation in competitions after November 5, 2019, based on Memphis' compliance with the Temporary Restraining Order. However, we refer this matter to the Board of Directors for review pursuant to Bylaw 19.13.

The hearing panel concludes that student-athlete No. 1 was ineligible for only the November 5, 2019, contest. The hearing panel further concludes that this is a Level II violation.

d. Allegation No. 4.

(1) Introduction of Allegation No. 4.²⁰

The Complex Case Unit alleged that members of Memphis' men's basketball staff committed multiple recruiting violations within a three-month span, including impermissible inducements and publicity.

Memphis self-reported Level III violations relating to allegation Nos. 4-(a), 4-(c) and 4-(d). The hearing panel finds that allegation Nos. 4-(a), 4-(c) and 4-(d) are all Level III violations. The hearing panel finds the facts alleged in allegation No. 4-(b) constitute a Level III violation.

The Complex Case Unit aggregated four separate allegations into allegation No. 4. The hearing panel finds that the four allegations should be disaggregated and considered separately. The various recruiting violations alleged in allegation No. 4 were either isolated, limited, or not part of an overall scheme or pattern of improper conduct in Memphis' men's basketball program. Accordingly, the hearing panel analyzes each allegation contained in allegation No. 4 separately to determine the level of the specific violation.

(2) Allegation No. 4-(a). [Bylaw 13.10.2.4 (2018-19 Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that on April 23, 2019, a member of Memphis' men's basketball staff took photographs of a prospective student-athlete in a Memphis jersey on a public street in view of the public during the official visit of the prospective student-athlete. The photographs were provided to the prospective student-athlete and posted on the prospective student-athlete's social media.

(a) NCAA Bylaws Related to Comments Before Commitment.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

²⁰ The language of the allegation in this introduction is as it appears in the amended notice of allegations.

(b) Impermissible Publicity of a Prospective Student-Athlete’s Visit to Memphis.

The hearing panel concludes that this is a Level III violation. Memphis did not dispute the underlying facts, agreeing that the video was a direct violation of Bylaw 13.10.2.4, which prohibits an institution from publicizing (or arranging for publicity of) a prospective student-athlete’s visit to the institution’s campus. The impermissible publicity provided only a minimal recruiting advantage. Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

(3) Allegation No. 4-(b). [Bylaw 13.7.4 (2018-19 Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that, on May 9, 2019, a member of Memphis’ men’s basketball staff took photographs of a prospective student-athlete in a Memphis jersey during an unofficial visit of a prospective student-athlete and the prospective student was involved in a game-day simulation.

(a) NCAA Bylaws Related to Activities During Unofficial Visit.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) Involvement in Activities During an Unofficial Visit.

The hearing panel concludes that a violation occurred. Bylaw 13.7.4 provides that an institution may not arrange miscellaneous, personalized recruiting aids (e.g., personalized jerseys, personalized audio/video scoreboard presentations) and may not permit a prospective student-athlete to engage in any game-day simulations (e.g., running onto the field with the team during pregame introductions) during an unofficial visit. Personalized recruiting aids include any decorative items and special additions to any location outside of athletics facilities the prospective student-athlete visits (e.g., hotel room, dorm room, student union), regardless of whether the items include the prospective student-athlete’s name or picture.

Memphis contended that the photograph was not taken in a facility regularly used for competition, but rather at Memphis’ practice facility. The hearing panel concludes there is sufficient information

to determine that the photograph, which showed the prospective student-athlete dribbling a basketball, depicted a game-day simulation.

The educational column issued July 8, 2019, clarified that the prohibition extends to practice, as well as competition facilities. Specifically, the educational column provides that a game-day simulation occurs any time a prospective student-athlete is:

1. On the practice or competition field/court/surface associated with the sport;
2. In uniform or with equipment associated with the sport; and
3. Demonstrating or displaying athletics ability or technique associated with the sport (e.g., any athletics stance, pose or motion associated with a sport).

All three of those elements occurred here. Accordingly, the hearing panel finds that the photograph was an impermissible game-day simulation, and it is a Level III violation.

(4) Allegation No. 4-(c). [Bylaws 13.4.1.9 and 13.10.2.1 (2018-19 Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that on May 22, 2019, a member of Memphis' basketball staff posted a video on a social media account belonging to Memphis' men's basketball program that included images of incoming men's basketball student-athletes as well as other prospective, uncommitted student-athletes.

(a) NCAA Bylaws Related to Comments Before Commitment.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) Impermissible Inclusion of Images of Prospective Student-Athletes in a Video.

On August 10, 2020, Memphis self-reported the conduct as a Level III violation. As detailed in Memphis's self-report of this violation, the video in question was active for less than 30 minutes, and Memphis removed the post immediately upon discovery. The

hearing panel has no basis to differ from Memphis' recitation of facts and relies on it.

Memphis does not dispute the underlying facts, agreeing that the posting of the video directly violated Bylaws 13.4.1.9 and 13.10.2.1. This impermissible video provided only a minimal recruiting advantage and Memphis self-reported it. Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

(5) Allegation No. 4-(d). [Bylaw 13.9.2 (2018-19 Manual)] [Asserted Against Memphis].

The Complex Case Unit alleged that on July 14, 2019, the head coach recruited a prospective student-athlete at a non-scholastic event and made an impermissible written offer of aid via text message to the prospective student-athlete's father.

(a) NCAA Bylaws Related to Written Offers of Athletically Related Financial Aid.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(b) Impermissible Written Offer of Athletically Related Financial Aid.

Memphis did not dispute the underlying facts, agreeing that the text message was a violation of Bylaw 13.9.2. This impermissible written offer to a prospective student-athlete, which Memphis self-reported, provided only a minimal recruiting advantage. Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

e. Allegation No. 5.

(1) Introduction of Allegation No. 5.²¹

The Complex Case Unit alleged that on October 13, 2019, six men's basketball student-athletes were provided with an impermissible free meal

²¹ The language of the allegation in this introduction is as it appears in the amended notice of allegations.

at a restaurant owned by former assistant coach No. 1. [**Bylaws 16.11.2.1 and 16.11.2.2 (2019-20 Manual)**] [**Asserted Against Memphis**].

Memphis self-reported this as a Level III violation. Subsequently, Memphis believed this was a permissible occasional meal and submitted this information to the case record but did not withdraw the self-report.

(2) NCAA Bylaws Related to Extra Benefits.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(3) Impermissible Meals Provided to Student-Athletes.

The former assistant coach No. 1 was not present at the meal, and he did not provide supporting and appropriate paperwork to the compliance staff. Memphis did not dispute the underlying facts, agreeing that the meal was a violation of Bylaws 16.11.2.1 and 16.11.2.2. Memphis submitted a self-report regarding this violation August 6, 2020, which at the time of the hearing had not been processed. This impermissible benefit provided only a minimal recruiting advantage. Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

f. Allegation No. 6.

(1) Introduction of Allegation No. 6.²²

The Complex Case Unit alleged that during the 2018-2019 and 2019-2020 academic years, the head coach violated head coach responsibility legislation when he failed to demonstrate that he promoted an atmosphere of compliance within the men's basketball program. The head coach is presumed responsible for the violations detailed in Allegation Nos. 3, 4, and 5 and did not rebut the presumption of responsibility. As outlined in Allegation Nos. 3, 4, and 5, the head coach and/or his direct reports committed violations involving impermissible inducements and recruiting violations, impermissible benefits and knowingly allowing ineligible players to compete for Memphis. The ultimate responsibility for the integrity of the men's basketball program rested with head coach and his staff's actions reflect on him as the head coach. [**Bylaw 11.1.1.1 (2018-19 through 2019-20 Manuals)**] [**Asserted Against the Head Coach**].

²² The language of the allegation in this introduction is as it appears in the amended notice of allegations.

Memphis and the head coach disagreed with the underlying facts, or that the facts, as alleged, constitute a violation at the level alleged by the Complex Case Unit.

(2) NCAA Bylaws Related to Head Coach Responsibility.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(3) The Head Coach Promoted an Atmosphere of Compliance.

Bylaw 11.1.1.1 establishes that head coaches are presumed responsible for the actions of his or her staff, including direct and indirect reports. Additionally, it obligates the head coach to promote an atmosphere of compliance within his or her program.

To rebut the presumption of responsibility, a head coach must prove to the hearing panel that he or she has done all that is necessary to monitor his or her direct or indirect reports and to create an atmosphere of compliance in his or her program. To fulfill his or her responsibilities, a head coach must ask probing questions and monitor staff activities. Should a head coach fail to do so, he or she will be unable to rebut the presumption of head coach responsibility pursuant to Bylaw 11.1.1.1.

Bylaw 11.1.1.1 does not impose a strict liability standard; a head coach may successfully rebut the presumption. The head coach has done so here with respect to each of the underlying allegations.

The hearing panel concludes that no violation occurred because the head coach has rebutted the presumption and demonstrated that he promoted an atmosphere of compliance in the men's basketball program. In coming to this conclusion, the hearing panel considered that the head coach:

- Held daily morning meetings with his coaching staff;
- Encouraged the involvement of the compliance department with all aspects of the team, including attending practices, observing team recruiting weekends, and traveling to away contests;
- Instructed his assistant coaches to call the former assistant athletics director for compliance with any compliance related questions; and

- Held one-on-one meetings with his assistant coaches to discuss issues that arose and spoke with the director of athletics on a weekly basis to discuss compliance matters.

Allegation No. 3. The head coach was generally aware of eligibility concerns relating to the student-athletes referred to in this allegation but was not made aware of the academic and membership affairs' October 31, 2019, interpretation that had been provided to Memphis. Decisions relating to playing time and personnel are distinct from decisions relating to eligibility. It is important to keep coaches untethered to eligibility determinations. While the head coach was responsible for decisions relating to playing time and personnel, he was not responsible for eligibility determinations.

The obligation to withhold a student-athlete from competition is governed by Bylaw 12.11.1. Under Bylaw 12.11.1, the institution is obligated to immediately adhere to the applicable rule and withhold an ineligible student-athlete from all intercollegiate competition. In this case, that was not the head coach's decision. The head coach had no knowledge whatsoever of the erroneous decision made by the university counsel to ignore the binding academic and membership affairs interpretation.

Allegation Nos. 4 and 5. Allegation No. 4-(d), a Level III violation, is the sole allegation directly involving the head coach. It was a single error in judgment which was self-reported. There were no red flags that could have alerted the head coach of the facts supporting allegation Nos. 4-(a), 4-(b), 4-(c) and 5. These were single, isolated incidents that occurred without his knowledge. It is hard to imagine what probing questions the head coach could have asked that would have alerted him to the off-campus photo, the social media posting, or the impermissible restaurant meal. The hearing panel is left with one direct violation articulated in allegation No. 4-(d) and declines to find that the head coach violated Bylaw 11.1.1.1 based the lack of red flags and on an isolated, inadvertent, Level III violation. The hearing panel concludes that a head coach's responsibility violation, which is a serious violation, cannot be premised on Level III violations, particularly a single Level III violation. Therefore, the hearing panel concludes that the head coach did not violate Bylaw 11.1.1.1.

g. Allegation No. 7.

(1) Introduction of Allegation No. 7.²³

The Complex Case Unit alleged that from 2011 through the 2020-21 academic year, the scope and nature of the violations set forth in allegation Nos. 1 through 5 demonstrate that Memphis failed to exercise institutional control and monitor the conduct and administration of its men's basketball program. Specifically:

- (a) As alleged in allegation No. 1, Memphis violated NCAA responsibility to cooperate legislation and obstructed the NCAA enforcement and Complex Case Unit investigations on multiple occasions.
- (b) As alleged in allegation Nos. 2 and 3, Memphis did not promote an atmosphere of compliance, heighten its monitoring, and/or take reasonable steps to prevent noncompliant conduct despite red flags relating to the eligibility of student-athletes. As a result, Memphis knowingly allowed student-athlete No. 1 and student-athlete No. 2 to compete in multiple games while ineligible. Specifically, and as noted in allegation Nos. 2 and 3, the head coach and Memphis officials knew of the impermissible benefits provided by the head coach to prospective student-athlete No. 1, prospective student-athlete No. 2 and prospective student-athlete No. 3 when the head coach was a representative of Memphis' athletics interests. Despite knowledge of the academic and membership affairs' October 31, 2019, interpretive decision and warning from the NCAA enforcement staff that allowing the student-athletes to compete could violate NCAA bylaws, the head coach and Memphis officials allowed student-athlete No. 1 and student-athlete No. 2 to compete in contests during the 2019-2020 academic year, when, in fact these student-athletes were ineligible. This conduct demonstrates that Memphis failed to heighten its monitoring and/or take reasonable steps to prevent noncompliant conduct despite red flags the men's basketball program.
- (c) Memphis failed to establish a culture of compliance in the men's basketball program. As outlined in allegations Nos. 2 through 5, the head coach, an assistant coach, and other staff members of Memphis' men's basketball program committed violations relating

²³ The language of the allegation in this introduction is as it appears in the amended notice of allegations.

to impermissible inducements and benefits, as well as other recruiting violations. These actions demonstrate that Memphis failed to effectively establish a compliance program where the men's basketball coaching staff understood that compliance with NCAA legislation is an obligation shared by all athletics staff members and they had an obligation to report all actual or potential violations.

- (d) Memphis failed to implement a structure that created a culture of compliance and failed to provide effective oversight and/or support of its compliance program. Memphis failed to take reasonable steps to provide regular and effective rules education to Memphis' staff members and representatives of Memphis' athletics interests which led to the violations outlined in allegation Nos. 2 and 3. During the time period of allegation Nos.1 through 5, the compliance staff experienced a lack of resources that limited its ability to identify, investigate and monitor compliance risks. A member of Memphis' compliance staff acknowledged that the compliance procedures in place at the time of the violations were inadequate and that the violations may not have occurred had an adequate structure been in place to create a culture of compliance.

[Constitution 2.1.1, 2.1.2, 2.8.1, 6.01.1, 6.4.1 and 6.4.2; Bylaw 12.11.1 (2011-12 through 2020-21 Manuals)]

Memphis disagreed with the underlying facts or that the facts constitute violations for all the allegations contained in allegation No. 7.

(2) NCAA Bylaws Related to Institutional Control and Failure to Monitor.

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

(3) Memphis Failed to Monitor the Education and Activities of a Representative of Athletics Interests in its Men's Basketball Program.

The hearing panel concludes that the facts underlying allegation Nos. 7-(a) through 7-(d) do not support a finding of a lack of institutional control, the most serious violation applicable to institutions. However, the hearing panel finds credible information to support a failure to monitor violation, which the hearing panel finds is a Level II violation.

Monitoring representatives of athletics interest, including those who are not employed at the institution, is an important aspect of any compliance system. Constitution 2 sets forth core principles for institutions conducting intercollegiate athletics programs. Specifically, Constitution 2.8.1 requires an institution to abide by all rules and regulations, monitor compliance, and report instances of noncompliance. Institutions are responsible for the actions of its representatives of athletics interests. It is essential that institutions educate their representatives of athletics interests on all applicable NCAA bylaws, and make sure that they know that their actions can affect the institution and the eligibility of its student-athletes.

As described in Section III, it is undisputed that the head coach is a representative of Memphis' athletics interests pursuant to Constitution 6.4.2. On August 21, 2008, the head coach donated \$1 million to Memphis' athletics department. At that moment, he became a representative of Memphis' athletics interests. But no one from Memphis contacted him to explain this status or its implications for his actions.

Memphis contended that its representatives of athletics interests received information about NCAA rules and regulations in various ways. First, the compliance staff conducted in-person training for representatives of athletics interests who were employed at Memphis. Second, the Memphis compliance staff included education materials inside season ticket packages. Third, Memphis' Development Office sent information to contributors through the Tiger Scholarship Fund. Fourth, the compliance staff communicated with donors in one-on-one settings.

When asked by the Complex Case Unit about how representatives of athletics interests are trained and/or educated on what they can and cannot do within the guidelines provided by the NCAA bylaws, the former associate athletics director for sport services and senior woman administrator responded that, “. . . there was some type of booster education inside of their ticket stuff. Other ways we hit them were a lot of times your boosters are people that work in the university. So we go to educate the different departments that touch athletics. We'll touch on things that can and can't do through that process . . .” However, she stated that “. . . the reality is that we may not touch every booster.”

The head coach was a representative of athletics interests whom Memphis did not “touch.” He was not aware that his status as a representative of athletics interests could violate NCAA legislation or impact the eligibility status of any Memphis men's basketball student-athletes. He had contributed \$1 million to Memphis and was well known for his

philanthropic endeavors in the community, particularly with youth. The head coach said he did not recall receiving any kind of NCAA rules education from Memphis until he became employed there. In fact, the head coach did not realize that he was a representative of athletics interests until enforcement officials interviewed him in 2019. The head coach was not aware that his purchase of men’s basketball season tickets and \$1 million donation to Memphis’ athletics department resulted in his classification as a representative of athletics interests.

Memphis should have better monitored the activities of all its representatives of athletics interest. Its failure to educate and onboard, if hired, one of its representatives of athletics interests demonstrates the absence of an effectively monitored program. As seen in this case, providing thorough compliance education as a component of monitoring systems is key to preventing violations of NCAA legislation. Here, Memphis failed to provide any such education or onboarding. In this unique circumstance, more questions needed to be asked of the new head coach regarding the extent of his philanthropy and whether any prospective student-athletes might have been affected.

If Memphis had provided the appropriate education and onboarding to the head coach, both when he became a representative of athletics interests and when he was hired, the violations related to student-athlete No. 1 could have been avoided. The hearing panel finds that Memphis failed to monitor the education and activities of a representative of athletics interests.

V. VIOLATIONS

The applicable portions of the constitution and bylaws may be found in APPENDIX ONE.

a. Level I Violations.

- None.

b. Level II Violations.

- (1) Allegation No. 1-(b). Responsibility to Cooperate. [Constitution 2.1.2 and 2.8.1; Bylaws 19.2.3-(c), 19.2.3-(d) and 19.2.3-(e) (2020-21 Manual)].

Memphis failed to disclose and provide access to all electronic devices related to former assistant coach No. 1. Specifically, June 4, 2020, the Complex Case Unit requested that Memphis “preserve any and all devices assigned to, used by or accessed by former assistant coach No. 1 during

former assistant coach No. 1's employment by Memphis." A subsequent forensic examination revealed that former assistant coach No. 1's computer hard drive had been reformatted June 5, 2020, the day after the request, and as a result, the data on the computer was deleted and unrecoverable. Memphis failed to conduct an adequate investigation into who had reformatted the computer's hard drive. Pursuant to Bylaw 19.1.2-(a), this violation is Level II.

- (2) Allegation No. 1-(c). Responsibility to Cooperate. [Constitution 2.1.2 and 2.8.1; Bylaw 19.2.3-(c) (2020-21 Manual)].

Memphis failed to timely produce requested and relevant documents. Specifically, August 26, 2020, the Complex Case Unit submitted document requests to Memphis seeking various categories of documents, including, but not limited to, communications and text messages of the Memphis men's basketball staff, as well as communications and text messages between men's basketball student-athletes and members of the Memphis men's basketball staff.

Pursuant to Bylaw 19.1.2-(a), this violation is Level II. This is a violation that does not rise to the level of a Level I violation but is more serious than Level III. Memphis failed to request that the chief panel member grant an extension of the time to produce responsive documents and impeded the investigation by its last-minute document production.

- (3) Allegation No. 3. Memphis Allowed Student-Athlete No. 1 to Compete While Ineligible. [Bylaws 12.1.1, 12.11.1, 12.11.2 and 16.8.1 (2019-20 Manual)].

Memphis allowed a student-athlete to compete while ineligible. Specifically, despite knowledge that student-athlete No. 1 was ineligible, Memphis officials allowed the student-athlete to compete in a basketball contest November 5, 2019, after a determination by academic and membership affairs that student-athlete No. 1 was ineligible for competition. Pursuant to Bylaw 19.1.2-(a), this violation is Level II.

- (4) Allegation No. 7. Memphis' Failure to Exercise Institutional Control. [Constitution 2.1.1, 2.1.2, 2.8.1, 6.01.1, 6.4.1 and 6.4.2; Bylaw 12.11.1 (2011-12 through 2020-21 Manuals)].

There are no facts to support a finding of a lack of institutional control. However, the hearing panel finds credible information to support a failure to monitor violation, which the hearing panel determines is a Level II

violation. Memphis failed to provide compliance education to the head coach when he became a representative of athletics interests. As a result, he was unaware of the potential implications of providing benefits to prospective student-athletes or their families. Because Memphis failed to properly onboard the head coach, it did not uncover any facts that related to student-athlete No. 1's eligibility.

c. Level III Violations.

- (1) Allegation No. 4. Impermissible Recruiting Inducements and Publicity [Bylaws 13.7.4, 13.4.1.9, 13.9.2, 13.10.2.1 and 13.10.2.4 (2018-19 Manual)].

(a) Allegation No. 4-(a). [Bylaw 13.10.2.4 (2018-19 Manual)].

This impermissible publicity provided only a minimal recruiting advantage. Memphis self-reported the violation relating to allegation No. 4-(a). Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

(b) Allegation No. 4-(b). Impermissible Activities During an Unofficial Visit [Bylaw 13.7.4 (2018-19 Manual)].

A member of Memphis' men's basketball staff took photographs of a prospective student-athlete in a Memphis jersey during his unofficial visit and the prospective student was involved in a game-day simulation. Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

(c) Allegation No. 4-(c). [Bylaws 13.4.1.9 and 13.10.2.1 (2018-19 Manual)].

This impermissible video provided only a minimal recruiting advantage. Memphis self-reported the violation relating to allegation No. 4-(c). Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

(d) Allegation No. 4-(d). [Bylaw 13.9.2 (2018-19 Manual)].

This impermissible written offer to prospective student-athlete No. 5 provided only a minimal recruiting advantage. Memphis self-reported the violation relating to allegation No. 4-(d). Accordingly,

pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

(2) Allegation No. 5. Impermissible Benefits [Bylaws 16.11.2.1 and 16.11.2.2 (2019-20 Manual)].

The impermissible meal provided to the student-athletes created only a minimal recruiting advantage. Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

VI. VIOLATIONS NOT DEMONSTRATED

For the reasons articulated in Section IV, the hearing panel declines to find violations based on the following allegations:

a. Allegation No 1-(a):

The institution failed to affirmatively report instances of noncompliance to the Association in a timely manner and assist in developing full information to determine whether a possible violation had occurred and the details thereof. Specifically, the institution failed to assist in developing full information relating to the eligibility of men's basketball student athletes, student-athlete No. 1, student-athlete No. 2 and student-athlete No. 3. Further, the institution failed to assist in developing full information relating to various recruiting violations and impermissible benefits provided to men's basketball student-athletes. [Constitution 2.1.2 and 2.8.1; Bylaw 19.2.3-(a) (2018-19 and 2019-20 Manuals)]

b. Allegation No. 1-(d):

The institution failed to adequately and timely assist in obtaining relevant information and records in the possession of current men's basketball student-athletes. While the Complex Case Unit was awaiting the production of text message communications between men's basketball student-athletes and members of the institution's men's basketball staff, all but one of the men's basketball student-athletes that were interviewed by the Complex Case Unit failed to bring their cell phones with them to the interviews, thereby preventing the Complex Case Unit's access to relevant sources of information. After the interviews, the Complex Case Unit requested the institution to investigate whether any representative of the institution instructed the student-athletes not to bring their cell phones to the interviews. The institution refused to investigate this issue. As such, the institution refused to cooperate and potentially actively obstructed the investigation. [Constitution 2.1.2 and 2.8.1; Bylaws 19.2.3-(c), 19.2.3-(d) and 19.2.3-(e) (2020-21 Manual)]

c. Allegation No. 1-(e):

The institution failed to protect the integrity of the Complex Case Unit's investigation and obstructed the Complex Case Unit's investigation. Specifically, the institution significantly delayed the scheduling of interviews and scheduled "prep" sessions with multiple men's basketball student-athletes and at least one athletics administrator in the days preceding scheduled Complex Case Unit interviews demonstrating a lack of commitment to cooperation and a disregard for NCAA directives to avoid communicating with individuals about the subject matter of the investigation prior to their being interviewed. [Constitution 2.1.2 and 2.8.1; Bylaws 19.2.3-(b) and 19.2.3-(f) (2020-21 Manual)]

d. Allegation No. 2:

Starting as early as August 2008, prior to becoming the head men's basketball coach at the institution, the head coach became a representative of the institution's athletics interests when he annually purchased men's basketball season tickets and donated \$1 million to the institution's athletics department. The head coach, as a representative of the institution's athletics interests, provided extensive impermissible benefits to men's basketball prospective student-athletes and/or their families on various occasions, including:

- (1) In June and July of 2017, the head coach provided \$11,500 to the mother of prospective student-athlete No. 1 to relocate to the city of Memphis prior to his junior year in high school. [Bylaws 13.01.2, 13.2.1 and 13.2.1.1-(e) (2016-17 Manual)]
- (2) The head coach provided prospective student-athlete No. 2 with up to \$400 in gas money while prospective student-athlete No. 2 was playing for the head coach's non-scholastic basketball team. In his August 12, 2020, interview, prospective student-athlete No. 2 stated the time frame was during the time he was at high school No. 2. prospective student-athlete No. 2 estimated that the head coach gave him \$300 to \$400 in cash during his junior year at high school No. 2, possibly stretching into his senior year. In terms of frequency, prospective student-athlete No. 2 stated the head coach gave him money "every now and then" and "maybe like every like two months or so" and each time the head coach would give him "maybe like 100 or something like that." In his October 23, 2019, interview, the head coach admitted to providing prospective student-athlete No. 2 with gas money on a couple of occasions during prospective student-athlete No. 2's junior and senior years, but estimated it was only "\$40 bucks, \$60 bucks." While the head coach had a relationship with prospective student-athlete

No. 2, the benefits provided were earmarked specifically for prospective student-athlete No. 2 and were not available to the institution's prospective students generally or to a particular segment of the student body determined on a basis unrelated to athletics ability. [Bylaws 12.1.2.1.4.3, 13.01.2, 13.2.1 and 13.2.1.1-(e) (2016-17 through 2017-18 Manuals)]

- (3) The head coach provided prospective student-athlete No. 3 with food, clothing, shelter and money starting when prospective student-athlete No. 3 was in middle school. In his July 15, 2019, interview, the head coach stated he helped prospective student-athlete No. 3 “from sixth grade all the way up to senior year.” In his October 21, 2020, interview, the head coach also stated that prospective student-athlete No. 3 lived with him for “about five or six years” and that he paid for prospective student-athlete No. 3’s “basic living expenses.” While the head coach had a relationship with prospective student-athlete No. 3, the benefits provided were earmarked specifically for prospective student-athlete No. 3 and were not available to the institution's prospective students generally or to a particular segment of the student body determined on a basis unrelated to athletics ability. [Bylaws 12.1.2.1.3.1, 13.01.2, 13.2.1, 13.2.1.1-(b), 13.2.1.1-(e), 13.2.1.1-(f) and 13.2.1.1-(h) (2011-12 through 2017-18 Manuals)]

e. Allegation No. 6:

It is alleged that during the 2018-19 and 2019-20 academic years, the head coach violated head coach responsibility legislation when he failed to demonstrate that he promoted an atmosphere of compliance within the men's basketball program. The head coach is presumed responsible for the violations detailed in allegation Nos. 3, 4 and 5 and did not rebut the presumption of responsibility. As outlined in allegation Nos. 3, 4 and 5, the head coach and/or his direct reports committed violations involving impermissible inducements and recruiting violations, impermissible benefits, and knowingly allowing ineligible players to compete for the institution. The ultimate responsibility for the integrity of the men's basketball program rested with the head coach and his staff's actions reflect on the head coach as the head coach.

VII. PENALTIES

Introduction.

Memphis did not self-impose penalties or take any corrective actions based on the acknowledged violations.

For the reasons set forth above in Section V of this decision, the hearing panel concludes that this case involves Level II and Level III violations of NCAA legislation. Level II violations are significant breaches of conduct that provide or are intended to provide more than a minimal, but less than a substantial, or extensive advantage or benefit. Level III violations are breaches that are isolated or limited and that provide no more than a minimal advantage or benefit.

In considering penalties, the hearing panel first reviewed aggravating and mitigating factors pursuant to Bylaws 19.9.2, 19.9.3 and 19.9.4 to determine the appropriate violation classifications. The hearing panel used the penalty guidelines (Figure 19-1), and Bylaws 19.9.5, 19.9.7 and 19.9.8 to prescribe penalties.

The hearing panel considered the parties' positions regarding the aggravating and mitigating factors and determined that the below-listed factors applied, assessing the factors by weight and number. Based on its assessment, the hearing panel classifies this case as Level II-Standard.

a. Memphis - Aggravating and Mitigating Factors.

(1) Aggravating Factors.

Based on the information presented and the information contained in Section IV, the hearing panel finds that the following aggravating factors apply to Memphis:

(a) Aggravating Factor 19.9.3-(g). Multiple Level II violations by the institution or involved individual.

This matter involved multiple Level II violations. The hearing panel finds multiple Level II violations attributable to Memphis. Accordingly, aggravating factor 19.9.3-(g) applies.

(b) Aggravating Factor 19.9.3-(h). Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct.

The hearing panel concludes that aggravating factor 19.9.3-(h), which requires a finding that a person of authority condoned, participated in, or negligently disregarded the violation or wrongful conduct, is an aggravating factor. The Complex Case Unit alleged in a conclusory fashion that the head coach, members of the men's basketball staff, and Memphis officials were persons of authority. The hearing panel concludes that the former president and the

university counsel, both persons of authority, were the primary individuals involved in allegation No. 3. Accordingly, aggravating factor 19.9.3-(h) applies.

(c) Aggravating Factor 19.9.3-(m). Intentional, willful or blatant disregard for the NCAA constitution and bylaws.

This matter involved intentional, willful, or blatant disregard of the constitution and bylaws. Accordingly, aggravating factor 19.9.3-(m) applies to Memphis.

Based on the information presented and the information contained in Section IV, the hearing panel concludes that no additional aggravating factors apply to Memphis. Specifically, the hearing panel declines to find that the following aggravating factors apply:

(a) Aggravating Factor 19.9.3-(a). Multiple Level I violations.

The hearing panel concludes that Memphis did not commit multiple Level I violations. Accordingly, aggravating factor 19.9.3-(a) does not apply.

(b) Aggravating Factor 19.9.3-(b). A history of Level I, Level II or major violations.

The hearing panel concludes that the Level II violations committed by Memphis related to one incident in November 2019. The violations the Complex Case Unit relies on for this aggravating factor (August 20, 2009, October 21, 2005, August 3, 1989, and May 29, 1986) are entirely unrelated to this case. Further, these violations occurred years ago. Accordingly, the hearing panel declines to apply this aggravating factor.

(c) Aggravating Factor 19.9.3-(c). Lack of institutional control.

The hearing panel concludes that Memphis did not lack institutional control. Accordingly, the hearing panel declines to apply this aggravating factor.²⁴

²⁴ The hearing panel disfavors the use of aggravating factors as a second opportunity to apply factors not otherwise found for purposes of an underlying allegation (e.g., it would be improper to find an aggravating factor of lack of institutional control when the hearing panel finds no underlying violation for an alleged lack of institutional control).

(d) Aggravating Factor 19.9.3-(d). Obstructing an investigation or attempting to conceal the violation.

The hearing panel concludes that Memphis failed to conduct an adequate investigation. However, Memphis' failure to conduct the investigation did not constitute obstruction, and the hearing panel does not conclude that Memphis attempted to conceal the violation. Accordingly, the hearing panel declines to apply this aggravating factor.

(e) Aggravating Factor 19.9.3-(i). One or more violations caused significant ineligibility or other substantial harm to a student-athlete or prospective student-athlete.

The violations in this case did not cause significant ineligibility or other substantial harm to a student-athlete or a prospective student-athlete. Accordingly, the hearing panel declines to apply this aggravating factor.

(f) Aggravating Factor 19.9.3-(k). A pattern of noncompliance within the sport program(s) involved.

There has been no showing of an overall pattern of noncompliance within the Memphis men's basketball program. Accordingly, the hearing panel declines to apply this aggravating factor.

(g) Aggravating Factor 19.9.3-(o). Other facts warranting a higher penalty range.

Finally, in its submissions, the Complex Case Unit urged the hearing panel to apply aggravating factor 19.9.3-(o), i.e., other facts warranting a higher penalty range, based on Memphis' delays during the investigation and the former president's threat of litigation. The hearing panel declines to do so. Accordingly, aggravating factor 19.9.3-(o) does not apply.

(2) Mitigating Factors.

Based on the information presented and the information contained in Section IV, the hearing panel finds that the following mitigating factor applies to Memphis:

- **Mitigating Factor 19.9.4-(d). An established history of self-reporting Level III or secondary violations.**

The Complex Case Unit and Memphis agreed that mitigating factor 19.9.4-(d) applies. Memphis self-reported 32 Level III violations over the past three academic years. Accordingly, mitigating factor 19.9.4-(d) applies. The hearing panel encourages NCAA member institutions to find and report Level III violations.

Based on the information presented and the information contained in Section IV, the hearing panel declines to apply other mitigating factors.

b. The Head Coach – Aggravating and Mitigating Factors.

- (1) **Aggravating Factors** - not applicable.
- (2) **Mitigating Factors** - not applicable.

c. Memphis – Penalties – Level II – Standard Case.

While the hearing panel determined that a greater number of aggravating factors apply to Memphis in this case, the aggravating and mitigating factors for Memphis are generally of equal weight when the hearing panel analyzed them in the aggregate.

(1) Core Penalties (Bylaw 19.9.5).

(a) Financial Penalties. Pursuant to Bylaw 19.9.5.2:

A financial penalty fine in the amount of \$5,000 plus 0.25% of its average men's basketball budget based on the average of the men's basketball program's previous three total budgets.²⁵ A complete accounting of this financial penalty shall be included in Memphis' annual compliance reports.

²⁵ At a minimum, a sport program's total budget shall include (1) all contractual compensation, including salaries, benefits, and bonuses paid by the institution or related entities for coaching, operations, administrative and support staff associated with the sport program; (2) all recruiting expenses; (3) all team travel, entertainment, and meals; (4) all expenses associated with equipment, uniforms, and supplies; (5) game expenses; and (6) any guarantees paid associated with the sport program. The total budget calculation shall not include any severance payments associated with a sport program's former coaching staff members.

(b) Probation. Pursuant to Bylaw 19.9.5.7:

- i. Three years of probation (September 27, 2022, to September 26, 2025).
- ii. During the period of probation, Memphis shall:
 - (1) Require at least one counsel from its Office of Legal Counsel to attend one NCAA Regional Rules Seminar during the first year of the probation period and another Regional Rules Seminar during the third year of the probation period.²⁶ At a minimum, this individual shall attend the sessions related to recruiting, initial eligibility and certification of eligibility. Further, the university counsel shall require the counsel who attends the Regional Rules Seminars to share and disseminate information learned to the other members of the Office of Legal Counsel who engage with athletics. Information regarding Regional Rules Seminars attendance and dissemination of information learned shall be included in the institution’s compliance report.
 - By April 1, 2023, and 2025, Memphis shall file with the NCAA Office of Committees on Infractions a plan outlining who will attend the Regional Rules Seminars and how information learned from the Regional Rules sessions will be distributed to the other members of the Office of Legal Counsel who engage with athletics.
 - (2) During the period of probation, inform all men’s basketball prospective student-athletes in writing that the institution is on probation for three years and detail the violations committed. If a prospective student-athlete takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before

²⁶ Memphis may send different counsel from its Office of Legal Counsel to attend the Regional Rules Seminars in year one and in year three.

a prospective student-athlete signs a National Letter of Intent.

- (3) During the period of probation, publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions report located on the athletics department's main or “landing” webpage. The information shall also be included in media guides and in an alumni publication. The institution’s statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the infractions case; and (iii) provide a clear indication of what happened in the infractions case. A statement that refers only to the probationary period with nothing more is not sufficient.
- (4) File with the Office of Committees on Infractions a final compliance report by September 30, 2025, confirming who attended the Regional Rules Seminars and the details of how the information learned from the Regional Rules sessions was distributed to the other members of the Office of Legal Counsel who engage with athletics.
- (5) Following the submission of the final compliance report and prior to the conclusion of probation, Memphis’ president shall provide a letter to the Committee on Infractions affirming that Memphis’ current athletics policies and practices conform to all requirements of NCAA regulations.

(2) **Additional Penalties. (Bylaw 19.9.7).**

- (a) **Public reprimand and censure.**
- (b) **Vacation of team and individual records.**

Student-athlete No. 1 competed while ineligible because the institution failed to comply with a binding academic and membership affairs interpretation. Therefore, pursuant to Bylaws

19.9.7-(g) and 31.2.2.3, Memphis shall vacate all wins, records and participation based on student-athlete No. 1's participation in the November 5, 2019, contest.²⁷

Further, if student-athlete No. 1 participated in NCAA postseason competition at any time that he was ineligible, Memphis' participation in the postseason contests in which the ineligible competition occurred shall be vacated. The individual records of ineligible student-athlete No. 1 shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes shall be retained. Further, Memphis' records regarding its men's basketball program, as well as the records of its head coach, shall reflect the vacated records and be recorded in all publications in which such records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media, plus institutional, conference and NCAA archives. Any institution that may subsequently hire the affected head coach shall similarly reflect the vacated wins in his career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins toward specific honors or victory "milestones" such as 100th, 200th or 500th career victories. Any public reference to the vacated records shall be removed from the athletics department stationery, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in the affected sport program shall be returned to the Association.

Finally, to aid in accurately reflecting all institutional and student-athlete vacations, statistics and records in official NCAA publications and archives, the institution's media relations director (or other designee as assigned by the director of athletics) must contact NCAA media coordination and statistics and appropriate conference officials to identify the specific student-athletes and contests impacted by the penalties. In addition, the institution must provide media coordination and statistics with a written report detailing those discussions. This written report will be maintained in the permanent files of media coordination and statistics. This written report must be delivered to media coordination and statistics no later than 14 days following the release of this decision. A copy

²⁷ The hearing panel referred contests after November 5, 2019, to the Board of Directors for review under Bylaw 19.13.

of the written report shall also be delivered to the NCAA hearing operations staff at the same time.

- d. **Head Coach** – not applicable.

INDEPENDENT RESOLUTION PANEL
HEARING PANEL

Hugh Fraser, chief panel member
Christina Guerola Sarchio
Corey Jackson
Michelle Pujals
Dana Welch

APPENDIX ONE

This Appendix includes the relevant NCAA bylaws and portions of the NCAA constitution.

Constitution 2.1.1 Responsibility for Control (2011-12 through 2020-21)

It is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the Association. The institution's president or chancellor is responsible for the administration of all aspects of the athletics program, including approval of the budget and audit of all expenditures. (Revised: 3/8/06)

Constitution 2.1.2 Scope of Responsibility (2011-12 through 2020-21)

The institution's responsibility for the conduct of its intercollegiate athletics program includes responsibility for the actions of its staff members and for the actions of any other individual or organization engaged in activities promoting the athletics interests of the institution.

Constitution 2.8.1 Responsibility of Institution (2011-12 through 2020-21)

Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to ensure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

Constitution 6.01.1 Institutional Control (2011-12 through 2020-21)

The control and responsibility for the conduct of intercollegiate athletics shall be exercised by the institution itself and by the conference(s), if any, of which it is a member. Administrative control or faculty control, or a combination of the two, shall constitute institutional control.

Constitution 6.4.1 Independent Agencies or Organizations (2011-12 through 2020-21)

An institution's "responsibility" for the conduct of its intercollegiate athletics program shall include responsibility for the acts of an independent agency, corporate entity (e.g., apparel or equipment manufacturer) or other organization when a member of the institution's executive or athletics administration, or an athletics department staff member, has knowledge that such agency, corporate entity or other organization is promoting the institution's intercollegiate athletics program. (Revised: 2/16/00)

Constitution 6.4.2 Representatives of Athletics Interests (2011-12 through 2020-21)

An institution's "responsibility" for the conduct of its intercollegiate athletics program shall include responsibility for the acts of individuals, a corporate entity (e.g., apparel or equipment manufacturer) or other organization when a member of the institution's executive or athletics administration or an athletics department staff member has knowledge or should have knowledge that such an individual, corporate entity or other organization: (Revised: 2/16/00)

- (a) Has participated in or is a member of an agency or organization as described in Constitution 6.4.1;
- (b) Has made financial contributions to the athletics department or to an athletics booster organization of that institution;
- (c) Has been requested by the athletics department staff to assist in the recruitment of prospective student-athletes or is assisting in the recruitment of prospective student-athletes;
- (d) Has assisted or is assisting in providing benefits to enrolled student-athletes; or
- (e) Is otherwise involved in promoting the institution's athletics program.

Bylaw 11.1.1.1 Responsibility of Head Coach (2018-19 through 2019-20)

An institution's head coach is presumed to be responsible for the actions of all institutional staff members who report, directly or indirectly, to the head coach. An institution's head coach shall promote an atmosphere of compliance within the program and shall monitor the activities of all institutional staff members involved with the program who report, directly or indirectly, to the coach. (Adopted: 4/28/05, Revised: 10/30/12, 7/16/14)

Bylaw 12.1.1 Validity of Amateur Status (2019-20)

As a condition and obligation of membership, it is the responsibility of an institution to determine the validity of the information on which the amateur status of a prospective student-athlete (including two-year and four-year college transfers initially enrolling at an NCAA Division I institution) and student-athlete is based. (See Bylaw 14.01.3.) (Adopted: 1/9/06 effective 8/1/06 for all final certifications for student-athletes initially enrolling at a Division I or Division II institution on or after 8/1/07, Revised: 1/8/07, 4/30/07)

Bylaw 12.1.2.1.3.1 Educational Expenses or Services -- Prior to Collegiate Enrollment (2011-12 through 2017-18)

A prospective student-athlete may receive educational expenses or services (e.g., tuition, fees, room and board, books, tutoring, standardized test preparatory classes) prior to collegiate enrollment from any individual or entity other than an agent, professional sports team/organization, member institution or a representative of an institution's athletics interests, provided the payment for such expenses or services is disbursed directly to the individual, organization or educational institution (e.g., high school, preparatory school) providing the educational expenses or services. (Adopted: 4/25/02 effective 8/1/02, Revised: 1/14/08)

Bylaw 12.1.2.1.4.3 Expenses from an Outside Sponsor (2016-17 through 2017-18)

An individual who participates in a sport as a member of a team may receive actual and necessary expenses for competition and practice held in preparation for such competition (directly related to the competition and conducted during a continuous time period preceding the competition) from an outside sponsor (e.g., team, neighbor, business) other than an agent or

a representative of an institution's athletics interests (and, after initial full-time collegiate enrollment, other than a professional sports organization). An individual who participates in a sport as an individual (not a member of a team) may receive actual and necessary expenses associated with an athletics event and practice immediately preceding the event, from an outside sponsor (e.g., neighbor, business) other than an agent or a representative of an institution's athletics interests (and, after initial full-time collegiate enrollment, other than a professional sports organization). (Revised: 8/26/10, 1/19/13 effective 8/1/13, 11/7/13)

Bylaw 12.11.1 Obligation of Member Institution to Withhold Student-Athlete From Competition (2011-12 through 2020-21)

If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 12.12 if it concludes that the circumstances warrant restoration. (Revised: 7/31/14)

Bylaw 12.11.2 Ineligibility Resulting From Recruiting Violation (2019-20)

An institution shall not enter a student-athlete (as an individual or as a member of a team) in any intercollegiate competition if it is acknowledged by the institution or established through the Association's infractions process that the institution or representative(s) of its athletics interests violated the Association's legislation in the recruiting of the student-athlete. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 12.12 if it concludes that circumstances warrant restoration. (Revised: 7/31/14)

Bylaw 13.01.2 Institutional Responsibility in Recruitment (2011-12 through 2017-18)

A member of an institution's athletics staff or a representative of its athletics interests shall not recruit a prospective student-athlete except as permitted by this Association, the institution and the member conference, if any.

Bylaw 13.2.1.1 Specific Prohibitions (2011-12 through 2017-18)

Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following: [R] (Revised: 10/28/97, 11/1/00, 4/23/08)

- (a) An employment arrangement for a prospective student-athlete's relatives;
- (b) Gift of clothing or equipment;
- (c) Co-signing of loans;
- (d) Providing loans to a prospective student-athlete's relatives or friends;

- (e) Cash or like items;
- (f) Any tangible items, including merchandise;
- (g) Free or reduced-cost services, rentals or purchases of any type;
- (h) Free or reduced-cost housing;
- (i) Use of an institution's athletics equipment (e.g., for a high school all-star game);
- (j) Sponsorship of or arrangement for an awards banquet for high school, preparatory school or two-year-college athletes by an institution, representatives of its athletics interests or its alumni groups or booster clubs; and
- (k) Expenses for academic services (e.g., tutoring, test preparation) to assist in the completion of initial-eligibility or transfer-eligibility requirements or improvement of the prospective student-athlete's academic profile in conjunction with a waiver request.

Bylaw 13.2.1 General Regulation (2011-12 through 2017-18)

An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to a prospective student-athlete or his or her relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her relatives or friends is not a violation of NCAA legislation if it is determined that the same benefit is generally available to the institution's prospective students or their relatives or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability. [R] (Revised: 10/28/97, 11/1/00, 3/24/05)

Bylaw 13.2.1.1 Specific Prohibitions (2017-18)

Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following: [R] (Revised: 10/28/97, 11/1/00, 4/23/08, 4/25/18)

- (a) An employment arrangement for a prospective student-athlete's family members;
- (b) Gift of clothing or equipment;
- (c) Co-signing of loans;
- (d) Providing loans to a prospective student-athlete's family members or friends;
- (e) Cash or like items;

- (f) Any tangible items, including merchandise;
- (g) Free or reduced-cost services, rentals or purchases of any type;
- (h) Free or reduced-cost housing;
- (i) Use of an institution's athletics equipment (e.g., for a high school all-star game);
- (j) Sponsorship of or arrangement for an awards banquet for high school, preparatory school or two-year-college athletes by an institution, representatives of its athletics interests or its alumni groups or booster clubs; and
- (k) Expenses for academic services (e.g., tutoring, test preparation) to assist in the completion of initial-eligibility or transfer-eligibility requirements or improvement of the prospective student-athlete's academic profile in conjunction with a waiver request.

Bylaw 13.4.1.9 Responding to Prospective Student-Athlete's Request (2018-19)

Institutional staff members (including athletics staff members) may respond to a prospective student-athlete's letter or electronic correspondence requesting information from an institution's athletics department prior to the permissible date on which an institution may begin to provide recruiting materials to a prospective student-athlete, provided the written response does not include information that would initiate the recruitment of the prospective student-athlete or information related to the institution's athletics program (e.g., the reply contains an explanation of current NCAA legislation or a referral to the admissions department). An electronic reply must be a permissible form of electronic correspondence. [D] (Revised: 5/26/06, 4/20/11, 1/18/14 effective 8/1/14)

Bylaw 13.7.4 Activities During Unofficial Visit (2018-19)

An institution may not arrange miscellaneous, personalized recruiting aids (e.g., personalized jerseys, personalized audio/video scoreboard presentations) and may not permit a prospective student-athlete to engage in any game-day simulations (e.g., running onto the field with the team during pregame introductions) during an unofficial visit. Personalized recruiting aids include any decorative items and special additions to any location outside of athletics facilities the prospective student-athlete will visit (e.g., hotel room, dorm room, student union) regardless of whether the items include the prospective student-athlete's name or picture. An institution may decorate common areas in athletics facilities (e.g., lobby, coach's office, suite in arena) for an unofficial visit, provided the decorations are not personalized and the common areas are not accessible or visible to the general public while decorated. (Adopted: 8/5/04, Revised: 5/14/05, 4/27/06, 4/25/18 effective 8/1/18)

Bylaw 13.9.2 Requirements for Written Offer of Athletically Related Financial Aid (2018-19)

The following requirements must be met before an institution may provide a written offer of athletically related financial aid (per Bylaw 15.3.2.2) to a prospective student-athlete: [D] (Adopted: 4/26/07 effective 8/1/07, Revised: 4/30/09 effective 8/1/10)

(a) A high school or preparatory school prospective student-athlete must register with the NCAA Eligibility Center;

(b) A high school or preparatory school prospective student-athlete must be placed on the institution's institutional request list (IRL) with the NCAA Eligibility Center; and

(c) A high school, preparatory school or transfer (if applicable) prospective student-athlete must complete the amateurism certification questionnaire administered by the NCAA Eligibility Center.

Bylaw 13.10.2.1 Comments Before Commitment (2018-19)

Before the signing of a prospective student-athlete to a National Letter of Intent or an institution's written offer of admission and/or financial aid or before the institution receives the prospective student-athlete's financial deposit in response to its offer of admission, an institution may comment publicly only to the extent of confirming its recruitment of the prospective student-athlete. The institution may not comment generally about the prospective student-athlete's ability or the contribution that the prospective student-athlete might make to the institution's team; further, the institution is precluded from commenting in any manner as to the likelihood of the prospective student-athlete committing to or signing with that institution. [D] (Adopted: 1/19/13 effective 8/1/13)

Bylaw 13.10.2.4 Prospective Student-Athlete's Visit (2018-19)

An institution shall not publicize (or arrange for publicity of) a prospective student-athlete's visit to the institution's campus. Further, a prospective student-athlete may not participate in team activities that would make the public or media aware of the prospective student-athlete's visit to the institution (e.g., running out of the tunnel with team, celebratory walks to or around the stadium/arena, on-field pregame celebrations). [D] (Revised: 1/14/97, 9/12/03)

Bylaw 16.8.1 Permissible (2019-20)

[A] An institution, conference or the NCAA may provide actual and necessary expenses to a student-athlete to represent the institution in practice and competition (including expenses for activities/travel that are incidental to practice or competition). In order to receive competition-related expenses, the student-athlete must be eligible for competition. [D] (Revised: 1/19/13 effective 8/1/13, 8/7/14)

Bylaw 16.11.2.1 General Rule (2019-20)

[A] The student-athlete shall not receive any extra benefit. The term "extra benefit" refers to any special arrangement by an institutional employee or representative of the institution's athletics

interests to provide the student-athlete or his or her family members or friends with a benefit not expressly authorized by NCAA legislation. [R] (Revised: 1/19/13 effective 8/1/13)

Bylaw 16.11.2.2 Other Prohibited Benefits (2019-20)

[A] An institutional employee or representative of the institution's athletics interests may not provide a student-athlete with extra benefits or services, including, but not limited to: [R]

- (a) [A] A loan of money;
- (b) [A] A guarantee of bond;
- (c) [A] An automobile or the use of an automobile;
- (d) [A] Transportation (e.g., a ride home with a coach), except as permitted in Bylaw 16.9.1, even if the student-athlete reimburses the institution or the staff member for the appropriate amount of the gas or expense; or
- (e) [A] Signing or co-signing a note with an outside agency to arrange a loan.

Bylaw 19.2.3 Responsibility to Cooperate (2018-19 through 2020-21)

Institutions, current and former institutional staff members, and prospective and enrolled student-athletes of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Committee on Infractions and the Infractions Appeals Committee to further the objectives of the Association and its infractions program. Full cooperation includes, but is not limited to: (Adopted: 11/1/07 effective 8/1/08, Revised: 10/30/12 effective 8/1/13, 7/31/14, 8/8/18, 1/23/19)

- (a) Affirmatively reporting instances of noncompliance to the Association in a timely manner and assisting in developing full information to determine whether a possible violation has occurred and the details thereof;
- (b) Timely participation in interviews and providing complete and truthful responses;
- (c) Making a full and complete disclosure of relevant information, including timely production of materials or information requested, and in the format requested;
- (d) Disclosing and providing access to all electronic devices used in any way for business purposes;
- (e) Providing access to all social media, messaging and other applications that are or may be relevant to the investigation;

(f) Preserving the integrity of an investigation and abiding by all applicable confidentiality rules and instructions; and

(g) Instructing legal counsel and/or other representatives to also cooperate fully.

Bylaw 19.2.3 Responsibility to Cooperate (2018-19 through 2020-21)

Current and former institutional staff members, and prospective and enrolled student-athletes of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Complex Case Unit, the Committee on Infractions, the Independent Resolution Panel and the Infractions Appeals Committee to further the objectives of the Association and its infractions program, including the independent accountability resolution process. Full cooperation includes, but is not limited to: (Adopted: 11/1/07 effective 8/1/08, Revised: 10/30/12 effective 8/1/13, 7/31/14, 8/8/18 effective 8/1/19, 8/8/18, 12/20/18, 1/23/19)

(a) Affirmatively reporting instances of noncompliance to the Association in a timely manner and assisting in developing full information to determine whether a possible violation has occurred and the details thereof;

(b) Timely participation in interviews and providing complete and truthful responses;

(c) Making a full and complete disclosure of relevant information, including timely production of materials or information requested, and in the format requested;

(d) Disclosing and providing access to all electronic devices used in any way for business purposes;

(e) Providing access to all social media, messaging and other applications that are or may be relevant to the investigation;

(f) Preserving the integrity of an investigation and abiding by all applicable confidentiality rules and instructions; and

(g) Instructing legal counsel and/or other representatives to also cooperate fully.