

## New NCAA Rules Aim at Holding Coaches Accountable

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The National Collegiate Athletic Association (NCAA) Division I Board of Directors has adopted a tough new rules enforcement structure to hold coaches more accountable for violations within their programs.

Programs can receive two- and four-year postseason bans and stiff fines where they continue to violate NCAA rules and regulations. The new structure becomes effective August 1, 2013.

Under the new enforcement structure, coaches will no longer be able to plead they “just didn’t know” to avoid sanctions. Instead, they will be presumed to know about their program’s violations unless they prove otherwise. In fact, coaches can face suspensions of up to one year for violations committed by their staffs. “We expect head coaches to provide practices and training and written materials that instruct their assistant coaches how to act,” NCAA executive committee chairman Ed Ray, the President of Oregon State University, stated. “If they’ve done that it can become mitigating evidence that they shouldn’t be held accountable for what the assistant coach did. But head coaches have to have these things in place or the presumption will be that he or she didn’t care enough to set standards,” Ray warned.

New measures include expansion of the NCAA’s penalty structure from two tiers to four, creation of new penalty guidelines and procedures to expedite litigation by the expansion of the Division I Committee on Infractions. It will grow from 10 voting members to as many as 24. The 24-person group can be divided into smaller panels to review infractions cases more expeditiously.

The Board’s action follows a year-long process by a 13-member group of university presidents, athletic directors and commissioners. Their effort came in reaction to a nationwide call for stronger enforcement to protect the integrity of college athletics. “We have sought all along to remove the ‘risk-reward’ analysis that has tempted people—often because of the financial pressures to win at all costs—to break the rules in the hopes that either they won’t be caught or that the consequences won’t be very harsh if they do get caught,” NCAA President Mark Emmert stated.

The new enforcement structure includes the following four-tier “violation hierarchy”:

*Level I - Severe Breach of Conduct* - Includes violations that seriously undermine the integrity of the NCAA college model (i.e., any violation that provides or is intended to provide a substantial or extensive recruiting, competitive or other advantage, or a substantial or extensive impermissible benefit).

*Level II - Significant Breaches of Conduct* - Includes violations that provide or are intended to provide more than a minimal but less than a substantial or extensive recruiting, competitive or other advantage, also includes more than a minimal but less than a substantial or extensive impermissible benefit.

*Level III - Breaches of Conduct* - Violations that are isolated or limited in nature, provide no more than a minimal recruiting, competitive or other advantage, and do not include more than a minimal impermissible benefit. Multiple Level IV violations collectively may be considered a breach of conduct.

*Level IV - Incidental Issues* - Minor infractions that are inadvertent and isolated, technical in nature and result in a negligible, if any, competitive advantage. Such infractions generally will not affect eligibility for intercollegiate athletics.

Under the old two-tier system, a violation was considered either minor or major.

Potential application of the new rules for the period up to August 1, 2013, will depend on the date of the alleged violation and the date when the case is processed.

Jackson Lewis attorneys in the Collegiate and Professional Sports practice are available to answer your questions on this and other developments.

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