



September 26, 2016

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RE: *University of North Carolina, Chapel Hill* – Case No. 00231 [AMENDED]

To All Parties:

A panel of the NCAA Division I Committee on Infractions (COI) has scheduled an appearance by the University of North Carolina, Chapel Hill to begin at 8:00 a.m. Eastern time on Friday, October 28, 2016. This hearing will take place in Monument Hall at the Hilton Indianapolis Hotel, 120 W. Market Street, Indianapolis, Indiana. The hearing will only focus on the procedural arguments raised in the institution's August 1, 2016, response to the amended notice of allegations and not the merits of whether violations occurred. The panel provides an opportunity for all the individuals and their counsel to attend in person or to participate via video or teleconference. NCAA infractions hearings are closed to the public, and the information discussed during these hearings is confidential, as is the date, time and location of the hearing.

Sole Focus of the October 28, 2016, Procedural Hearing

The sole focus of the October 28, 2016, procedural hearing will be on the procedural issues raised in the institution's response. In its response, the institution raised five arguments: (1) certain allegations are outside of the COI's subject matter jurisdiction to hear infractions of NCAA legislation; (2) certain allegations are barred by finality in connection with the institution's 2012 infractions case; (3) fairness considerations should estop enforcement's ability to bring certain allegations; (4) the statute of limitations bars hearing the allegations (in conjunction with argument No. 3); and (5) the record of the case should not include the Cadwalader Report (FI-32). The panel will not discuss the underlying facts or allegations

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for the purpose of finding facts, concluding whether violations occurred or prescribing penalties. The COI took a similar approach in *Ohio State University* (2006) (involving a procedural prehearing to resolve procedural issues relating to the statute of limitations and the documents comprising the record for the case).

Record for the October 28, 2016, Procedural Hearing

Based on the arguments raised in the institution's response, the panel will review a limited record to resolve the procedural claims. The record shall include seven items: (1) the May 20, 2015, notice of allegations (NOA); (2) April 25, 2016, amended NOA; (3) the institution's August 1, 2016, response to the amended NOA; (4) the Cadwalader report, for the purpose of addressing the institution's claim that it embodies a review inconsistent with NCAA investigative processes; (5) the institution's January 12, 2015, response to the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) letter of November 13, 2014, referenced on page 4 of the institution's response and in connection with its arguments of lack of subject matter jurisdiction; (6) the enforcement staff's written reply; and (7) the COI's March 12, 2012, infractions decision.

Participation in the Procedural Hearing and Procedures

Due to procedural nature of the hearing, the normal number of institutional representatives is not necessary. However, the panel requests the institution's counsel be present and would welcome attendance by the institution's chancellor and director of athletics. Further, the panel offers the involved individuals, Jan Boxill, Deborah Crowder, Julius Nyang'oro and/or their counsel the opportunity to attend or participate via video or teleconference to the extent that their cases might be impacted by the resolution of the procedural arguments. Please inform the Office of the Committees on Infractions (OCOI) at coi@ncaa.org the method in which you intend to participate in the procedural hearing by October 3, 2016.

It is incumbent upon the institution to designate and provide the OCOI, in writing, current contact information (including email addresses) for principal points of contact within the institution. Future correspondence will be sent to the identified contact information. If there are any changes, please contact the OCOI as soon as possible.

NCAA Bylaw 19 describes the general procedures followed during an infractions hearing. Additionally, to assist you in preparing for the hearing, the following link will guide you to the Division I COI Internal Operating Procedures (IOP).

<https://www.ncaa.org/division-i-committee-infractions-operating-procedures>

Hearing Panel

Pursuant to NCAA Bylaw 19.3.3, the hearing panel of the COI has been generated based on experience and availability to consider the procedural issues. To the extent practicable, the same panel will hear any subsequent matter related to this case. After the initial panel had been generated, Chancellor Gary L. Miller disclosed that he previously was a chancellor in the North Carolina school system and attended board meetings where this situation was generally discussed. As a result, the first alternate, Ms. Jill Pilgrim, has been seated to replace him. Preliminarily, the panel consists of the following committee members:

Dr. Carol Cartwright, president emerita, Kent State and Bowling Green State Universities;
Mr. Alberto Gonzales, dean and Doyle Rogers Distinguished Professor of Law, Belmont University College of Law;

Chancellor Folt, Mr. Duncan, Dr. Boxill, Dr. Nyang'oro and Ms. Crowder
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Ms. Eleanor Myers, associate professor of law emerita, Temple University, and former faculty athletics representative;

Mr. Joseph Novak, retired football coach, Northern Illinois University;

Mr. Larry Parkinson, director, Office of Enforcement, for the Federal Energy Regulatory Commission, public member, Washington, D.C.;

Ms. Jill Pilgrim, attorney and co-founder of Precise Advisory Group, public member, New York, New York; and

Mr. Greg Sankey, commissioner, Southeastern Conference, and Chief Hearing Officer.

If you have any objections to the composition of the panel, NCAA Bylaw 19.3.4 requires you to contact the OCOI by October 14, 2016.

Confidentiality

You are reminded that NCAA Bylaw 19.01.3 requires that all infractions-related information such as location, date/time, panel identification and involved parties remain confidential throughout the infractions process. *See also* Division I COI IOP 4-1 Confidentiality.

Hearing Logistics

If you have any questions regarding the hearing, please contact me at (317-917-6774) jmcgormley@ncaa.org or Matt Mikrut, associate director at (317-917-6838) mmikrut@ncaa.org. The NCAA has reserved a block of rooms with a rate of \$117 per night. We have set aside rooms in this block for the institution and involved individuals. Please contact Evelyn Gross at (317-917-6014) egross@ncaa.org by Monday, October 3, 2016, with the number of rooms needed and the names of the individuals attending the hearing.

Sincerely,



Joel D. McGormley, Managing Director
NCAA Office of the Committees on Infractions

JDM:elg

cc: Mrs. Lissa Broome
Mr. Lawrence Cunningham
Commissioner John Swofford
Ms. Marielle vanGelder
NCAA Division I Committee on Infractions Panel Members
Selected NCAA Staff Members