

December 23, 2016



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Ms. Deborah Crowder

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

To All Parties:

On December 21, 2016, the University of North Carolina, Chapel Hill filed a letter with the panel that appears to articulate four positions: (1) the opportunities granted the institution to supplement the record before the procedural hearing were unfair because other material would explain how the amended notice of allegations (ANOA) was shaped by the parties; (2) certain information connected to the previous position should now be made part of the record; (3) the panel "directed" the staff to issue a third NOA; and (4) the institution will not be able to anticipate its positions or whether further investigation is necessary in the case by January 3, 2017. As to the first claim, the process afforded ample and fair opportunity to provide context at a number of stages. Regarding the second, the institution has a new deadline to submit material in light of the third NOA issued on December 13, 2016. As to the third issue, the panel did *not* direct the enforcement staff to issue a third NOA. Finally, the January 3, 2017, deadline related to a status update on providing Dr. Boxill access to emails.

Some chronology of the institution's previous requests is necessary to accurately reflect the nature and timing of the institution's requests and the panel's actions. On October 14, 2016, the institution submitted to me, as chief hearing officer, correspondence with a number of attachments. The institution asserted that it met

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the good cause standard established in NCAA Bylaw 19.75 and Division I IOP 3-15 to submit information within 30 days from the hearing date, in this case the procedural hearing prompted by the institution's and Dr. Boxill's procedural claims. On October 17, 2016, through a letter from the Office of Committees on Infractions (OCOI), I noted that the institution could have provided this information when it filed its response on August 1, 2016, or at any time leading up to the 30-day deadline, and did not. Therefore, the institution had not demonstrated good cause. However, in order to provide fairness, ensure that the panel had relevant information and avoid redundant arguments, I authorized a targeted 10-page filing due October 19, 2016, as detailed in the letter from the OCOI. The institution provided another submission on October 17, 2016. I concluded that the October 17, 2016, submission would not be added to the record because the institution had not established good cause. However, again, I permitted the institution to integrate some of the information in the October 17, 2016, submission into its modified submission due October 19, 2016, in order to provide fairness, ensure the panel had relevant information and avoid redundant arguments, as detailed in the letter from the OCOI. The panel then conducted a lengthy and robust procedural hearing on October 28, 2016, as necessitated by the institution's and Dr. Boxill's procedural claims. On November 28, 2016, the panel issued a procedural hearing letter to the parties that addressed the five procedural arguments and the status of the case.

With regard to the institution's position that it was denied a fair process, the panel believes that position is unfounded. The institution had ample opportunity to submit the information prior to the 30-day deadline. Further, the institution had the opportunity to address how the NOA was reframed as the ANOA both in the 10-page filing and verbally during the course of an expansive procedural hearing. The institution also had the opportunity to supplement the record at the hearing if the institution believed it was imperative to be part of the hearing record based on the panel's questions. The institution or its counsel chose not to take advantage of these opportunities. As to the second position, because there is a new third NOA, the institution can provide and incorporate that information in its response under NCAA Bylaw 19.7.2 and/or consistent with NCAA Bylaw 19.7.5. Regarding the third position, the panel, in no way "*directed*" the enforcement staff to issue another ANOA. The words of the panel's November 28, 2016, letter are clear. I do, however, note that the panel could have heard the case without its attempts to offer the process of a procedural hearing to fully vet the five procedural arguments that the institution and Dr. Boxill raised. This approach would have involved a much larger hearing addressing both the procedural issues and the merits. Although the panel has not discussed or decided whether violations occurred, the panel could have directed its own allegations after such a combined hearing. That still remains an option to the panel. However, the panel chose to offer the institution and Dr. Boxill as much process as reasonable and fair. Resolution of the fourth position requires only looking at the November 28, 2016, letter. The January 3, 2017, date related to updating the panel regarding steps taken to provide Dr. Boxill a fair process by providing her access to certain emails. On December 20, 2016, the enforcement staff, copying the parties, provided the panel with an update on those collaborative efforts.

The panel remains committed to hearing this case as fairly and efficiently as possible. The panel hopes the parties work collaboratively to facilitate that goal. The panel plans no further response on these issues at this time. All parties are reminded that Bylaw 19.01.3 requires that all fractions-related information such as location date/time, panel identification and involved parties remain confidential throughout the infractions process. *See also* COI IOP 4-1 Confidentiality.

Sincerely,



Greg Sankey, Commissioner  
Southeastern Conference  
NCAA Division I Committee on Infractions  
Chair

GS:jdm

cc: NCAA Division I Committee on Infractions Panel  
Selected NCAA Staff Members