

STATEMENT OF THE CASE

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

July 17, 2017

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### **I. BRIEF HISTORY (CASE CHRONOLOGY)**

March 12, 2012 – The NCAA Division I Committee on Infractions issued the University of North Carolina, Chapel Hill, public infractions report.

May 2, 2012 – The Hartlyn and Andrews report of the review of courses in the Department of African and Afro-American Studies (AFRI/AFAM) was issued.

December 19, 2012 – The Martin report was issued regarding academic anomalies.

February 21, 2014 – Ken Wainstein of the law firm of Cadwalader, Wickersham and Taft LLP (Cadwalader) notified the NCAA enforcement staff of the investigation into the "irregular" courses offered in the AFRI/AFAM department.

June 2, 2014 – Jon Duncan (Duncan), NCAA vice president of enforcement, sent a letter to Rick Evrard, outside counsel to the institution, informing the institution that the enforcement staff would investigate potential violations of NCAA legislation.

June 30, 2014 – The enforcement staff issued a verbal notice of inquiry to the institution.

October 21, 2014 – Cadwalader issued its report on the irregular AFRI/AFAM courses.

January 12, 2015 – The institution submitted its response to an inquiry by the Southern Association of Colleges and Schools Commission on Colleges.

May 20, 2015 – The enforcement staff issued the notice of allegations to the chancellor of the institution; Jan Boxill (Boxill), philosophy instructor, director of the Parr Center for Ethics, women's basketball athletic academic counselor in the Academic Support Program for Student-Athletes (ASPSA) and chair of the faculty; Deborah Crowder (Crowder), former student services manager in the AFRI/AFAM department; and Julius Nyang'oro (Nyang'oro), former professor and chair in the AFRI/AFAM department.

July 31, 2015 – The enforcement staff made the 2011 investigative file available to the institution for review.

August 7, 2015 – The institution notified the enforcement staff of 1.2 million previously undisclosed emails.

August 10, 2015 – The enforcement staff and institution notified the Committee on Infractions of the need to reopen the investigation.

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August 26, 2015 – The enforcement staff and institution participated in a conference call at the request of the chair of the Committee on Infractions.

October 1, 2015 – The institution sent letter to Duncan requesting interviews of NCAA staff.

October 14, 2015 – The institution reported violations in the men's soccer program.

October 28, 2015 – The institution provided final additional emails related to Boxill.

April 25, 2016 – The enforcement staff issued its amended notice of allegations to the chancellor of the institution, Boxill, Crowder and Nyang'oro.

August 1, 2016 – The institution submitted its response to the amended notice of allegations.

August 1, 2016 – Boxill submitted her response to the amended notice of allegations.

August 11, 2016 – The enforcement staff conducted a prehearing conference with the institution.

August 15, 2016 – The enforcement staff conducted a prehearing conference with Boxill.

September 19, 2016 – The enforcement staff submitted its enforcement written reply and statement of the case to a hearing panel of the Committee on Infractions, the institution and involved individuals.

October 28, 2016 – The hearing panel held an in-person hearing dedicated to procedural issues raised by the institution.

November 28, 2016 – The hearing panel issued its response to the issues raised at the procedural hearing.

December 13, 2016 – The enforcement staff issued its second amended notice of allegations to the chancellor of the institution, Boxill, Crowder and Nyang'oro.

February 3, 2017 – The institution sent a letter to Duncan re-requesting interviews of NCAA staff.

February 7, 2017 – The media published confidential case-related information provided by the institution's director of athletics.

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March 7, 2017 – The institution requested a two-week extension to file its response to the second amended notice of allegations.

March 9, 2017 – Crowder submitted her response to the second amended notice of allegations to Duncan.

May 10, 2017 – The enforcement staff interviewed Crowder, along with the institution and Boxill's attorney.

May 12, 2017 – The institution requested an additional extension to file its response to the second amended notice of allegations.

May 16, 2017 – Boxill submitted her response to the second amended notice of allegations.

May 16, 2017 – The institution submitted its response to the second amended notice of allegations.

June 7, 2017 – The enforcement staff conducted a prehearing conference with Crowder's attorney.

June 14, 2017 – The enforcement staff conducted an in-person prehearing conference with the institution.

June 14, 2017 – The enforcement staff conducted a prehearing conference with Boxill.

July 17, 2017 – The enforcement staff submitted its written reply and statement of the case to the hearing panel, the institution and involved individuals.

- II. ALLEGATION NO. 1 – Crowder and Nyang'oro violated the principles of ethical conduct and extra-benefit legislation in connection with certain anomalous AFRI/AFAM courses. The institution and its athletics department leveraged the relationship with Crowder and Nyang'oro to obtain special arrangements for student athletes in violation of extra-benefit legislation. [NCAA Division I Manual Bylaws 10.01.1, 10.1 and 16.11.2.1 (2002-03 through 2010-11)]**

**Alleged Level of Allegation No. 1:** Severe Breach of Conduct (Level I Violation).

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**A. Position of institution.**

1. Position on the allegation.

The institution disputes that extra-benefit and unethical conduct violations occurred and reasserts its belief that Allegation No. 1 is barred by the statute of limitations and principles of fairness.

2. Position on the level of the violation.

The institution does not believe Allegation No. 1 identifies any NCAA violations.

**B. Position of Crowder.**

1. Position on the allegation.

Crowder argues that she is not culpable for any violations identified in Allegation No. 1 and, consequently, did not engage in unethical conduct.

2. Position on the level of the violation.

Crowder takes no position on the level of any violations.

**C. Position of Nyang'oro.**

1. Position on the allegation.

Nyang'oro has provided no response.

2. Position on the level of the violation.

Nyang'oro has provided no response.

**D. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff argues that Crowder, Nyang'oro and the institution provided extra benefits and Crowder and Nyang'oro violated the principles of unethical conduct as alleged.

2. Position on the level of the violation.

The enforcement staff maintains that the factual information supports violations of both extra-benefit and unethical-conduct legislation, and the violations are Level I.

**D. Remaining issues in Allegation No. 1.**

1. Do one or more exceptions to the statute of limitations apply to Allegation No. 1?
2. As noted in Allegation No. 1-a, did Crowder and Nyang'oro violate NCAA extra-benefit legislation?
3. As noted in Allegation No. 1-a, did Crowder and Nyang'oro violate NCAA principles of ethical conduct?
4. As noted in Allegation No. 1-b, did the institution violate NCAA extra-benefit legislation?

**III. ALLEGATION NO. 2 – Boxill knowingly provided academic extra benefits to women's basketball student athletes. [NCAA Division I Manual Bylaws 10.1, 10.1-(c) and 16.11.2.1 (2003-04 through 2010-11)]**

**Alleged Level of Allegation No. 2:** Severe Breach of Conduct (Level I Violation).

**A. Position of institution.**

1. Position on the allegation.

The institution argues Allegation No. 2 is barred in its entirety by the statute of limitations. In the alternative, the institution agrees the factual information in Allegation Nos. 2-a, 2-b, 2-d through 2-o, and 2-q support a violation of NCAA Bylaw 16.11.2.1 but argues Allegation Nos. 2-c, 2-p and 2-r are not violations. In addition, the institution reasserts its belief that Allegation No. 2-r should be excluded on fairness grounds.

2. Position on the level of the violation.

The institution argues the violations are Level III.

**B. Position of Boxill.**

1. Position on the allegation.

Boxill argues that she did not deliberately or unethically violate NCAA rules and any violations are barred by the statute of limitations.

2. Position on the level of the violation.

Boxill believes any violations are Level III.

**C. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff believes the violations occurred as alleged.

2. Position on the level of the violation.

The enforcement staff believes the violations are Level I.

**D. Remaining issues in Allegation No. 2.**

1. Do one or more exceptions to the statute of limitations apply to Allegation No. 2?
2. Does the factual information support violations of Bylaws 10 and 16 as alleged?
3. Should any violations that occurred be Level I, as alleged, or Level III?

**IV. ALLEGATION NO. 3 – Crowder engaged in unethical conduct and failed to cooperate when she refused to timely interview with the enforcement staff. [NCAA Division I Manual Bylaws 10.1, 10.1-(a) and 19.2.3 (2014-15)]**

**Alleged Level of Allegation No. 3:** Severe Breach of Conduct (Level I Violation).

**A. Position of institution.**

1. Position on the allegation.

The institution questions whether late cooperation amounts to unethical conduct and a failure to cooperate.

2. Position on the level of the violation.

The institution takes no position on the level of Allegation No. 3.

**B. Position of Crowder.**

1. Position on the allegation.

Crowder argues her lack of cooperation does not amount to unethical conduct on the basis that she is retired from a member institution.

2. Position on the level of the violation.

Crowder does not believe her noncooperation is a Level I violation.

**C. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff believes the violations occurred as alleged.

2. Position on the level of the violation.

The enforcement staff believes the violations are Level I.

**D. Remaining issue in Allegation No. 3.**

Does Crowder's time and manner of participation amount to unethical conduct and a failure to cooperate?

**V. ALLEGATION NO. 4 – Nyang'oro engaged in unethical conduct and failed to cooperate when he refused to interview with the enforcement staff. [NCAA Division I Manual Bylaws 10.1, 10.1-(a) and 19.2.3 (2014-15)]**

**Alleged Level of Allegation No. 4:** Severe Breach of Conduct (Level I Violation).

**A. Position of institution.**

1. Position on the allegation.

The institution agrees that Nyang'oro engaged in unethical conduct and failed to cooperate in the investigation.

2. Position on the level of the violation.

The institution takes no position on the level of Allegation No. 4.

**B. Position of Nyang'oro**

1. Position on the allegation.

Nyang'oro has provided no response.

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2. Position on the level of the violation.

Nyang'oro has provided no response.

**C. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff believes the violations occurred as alleged.

2. Position on the level of the violation.

The enforcement staff believes the violations are Level I.

**C. Remaining issues in Allegation No. 4.**

None.

**VI. ALLEGATION NO. 5 – The institution lacked control and failed to monitor the conduct and administration of its athletics programs.** [NCAA Division I Manual Constitution 2.1.1, 2.8.1 and 6.01.1 (2002-03 through 2010-11)]

**Alleged Level of Allegation No. 5:** Severe Breach of Conduct (Level I Violation).

**A. Position of institution.**

1. Position on the allegation.

The institution agrees that it failed to monitor Boxill but disputes it lacked institutional control.

2. Position on the level of the violation.

The institution believes its failure to monitor Boxill is a Level II violation.

**B. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff believes the information identified in Allegation Nos. 1 and 2 support both failure to monitor and lack of institutional control violations.

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2. Position on the level of the violation.

The enforcement staff believes the failure to monitor and the lack of institutional control amounts to a Level I violation.

**C. Remaining issues in Allegation No. 5.**

1. Did the institution lack control as alleged?
2. Is the allegation a Level I or Level II violation?

**VII. POTENTIAL AGGRAVATING AND MITIGATING FACTORS**

Pursuant to NCAA Bylaw 19.7.1, the enforcement staff has identified the following potential aggravating and mitigating factors that a hearing panel may consider. The institution will provide the committee its position on the aggravating and mitigating factors at the hearing.

**A. Institution.**

Aggravating Factors	Identified By	Party Agreement	
		Enforcement Staff	Institution
Multiple Level I violations	Enforcement Staff	Yes	No Position
A history of Level I, Level II or major violations	Enforcement Staff	Yes	No Position
Lack of institutional control	Enforcement Staff	Yes	No Position
Persons of authority condoned, participated in or negligently disregarded the violation(s) or related wrongful conduct	Enforcement Staff	Yes	No Position
<b>Mitigating Factors</b>			
An established history of self-reporting Level III or secondary violations	Enforcement Staff	Yes	No Position

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**B. Involved individual [Crowder].**

Aggravating Factors	Identified By	Party Agreement	
		Enforcement Staff	Involved Individual
Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information	Enforcement Staff	Yes	No
Mitigating Factors			
None			

**C. Involved individual [Nyang'oro].**

Aggravating Factors	Identified By	Party Agreement	
		Enforcement Staff	Involved Individual
Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information	Enforcement Staff	Yes	No Position
Mitigating Factors			
None			

**D. Involved individual [Boxill].**

Aggravating Factors	Identified By	Party Agreement	
		Enforcement Staff	Involved Individual
Unethical conduct	Enforcement Staff	Yes	No
Persons of authority condoned, participated in or negligently disregarded the violation(s) or related wrongful conduct	Enforcement Staff	Yes	No

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Mitigating Factors			
History of compliance	Boxill	No	Yes

[NOTE: The enforcement written reply and the parties' responses to the notice of allegations may be referenced for further detail regarding the aggravating and mitigating factors.]