

**PRINCIPLES OF INSTITUTIONAL CONTROL  
AS PREPARED BY THE NCAA COMMITTEE ON INFRACTIONS**

**A. "CONTROL" IS DEFINED IN COMMON-SENSE TERMS.**

In determining whether there has been a lack of institutional control when a violation of NCAA rules has been found it is necessary to ascertain what formal institutional policies and procedures were in place at the time the violation of NCAA rules occurred and whether those policies and procedures, if adequate, were being monitored and enforced. It is important that policies and procedures be established so as to deter violations and not merely to discover their existence after they have taken place. In a case where proper procedures exist and are appropriately enforced, especially when they result in the prompt detection, investigation and reporting of the violations in question, there may be no lack of institutional control although the individual or individuals directly involved may be held responsible.

In a situation in which adequate institutional procedures exist, at least on paper, a practical, common-sense approach is appropriate in determining whether they are adequately monitored and enforced by a person in "control." Obviously, general institutional control is exercised by the chief executive officer of a member institution. However, it is rare that the chief executive officer will make decisions specifically affecting the operations of the institution's athletics program. Instead, the day-to-day duties of operation, including compliance with NCAA rules, will have been delegated to subordinates either by specific action or by the creation of appropriate job descriptions. Moreover, it is usually left to senior subordinates, such as the director of athletics, further to delegate various duties regarding compliance with NCAA rules.

In most institutions, especially those with large and varied athletics programs, such delegations are made to a number of individuals who are expected to exercise control over compliance with regard to specific aspects of the program. The specific obligations of such individuals should be in writing, and not merely an understanding among the senior officials of the university and the athletics department. Not only the director of athletics, but other officials in the athletics department, the faculty athletics representative, the head coaches and the other institutional administrators outside of the athletics department responsible for such matters as the certification of athletes for financial aid, practice and competition, are expected to assume a primary role in ensuring compliance. Even though specific action has been taken to place responsibility elsewhere, these individuals will be assumed to be operating on behalf of the institution with respect to those responsibilities that are logically within the scope of their positions. Their failure to control those matters so as to prevent violations of NCAA rules will be considered the result of a lack of institutional control.

**B. VIOLATIONS THAT DO NOT RESULT FROM A LACK OF INSTITUTIONAL CONTROL.**

An institution cannot be expected to control the actions of every individual who is in some way connected with its athletics program. The deliberate or inadvertent violation of a rule by an individual who is not in charge of compliance with rules that are violated will not be considered to be due to a lack of institutional control:

- if adequate compliance measures exist;
- if they are appropriately conveyed to those who need to be aware of them;
- if they are monitored to ensure that such measures are being followed; and
- if, on learning that a violation has occurred, the institution takes swift action.

**C. ACTS THAT ARE LIKELY TO DEMONSTRATE A LACK OF INSTITUTIONAL CONTROL.**

The following examples of a lack of institutional control are not exclusive, but they should provide important guidance to institutions as to the proper control of their NCAA compliance affairs.

**1. A person with compliance responsibilities fails to establish a proper system for compliance or fails to monitor the operations of a compliance system appropriately.**

When an individual is responsible for ensuring that a particular rule or set of rules is not violated, that person will be considered to be exercising institutional control. That individual must not only ensure that the rules are known by all who need to know them but must also make proper checks to ensure that the rules are being followed.

It is important for institutions to understand that the mere compilation and distribution of rules and regulations, along with written compliance procedures, is not sufficient if no one regularly checks on the actual operations of the system.

**2. A person with compliance responsibilities does not take steps to alter the system of compliance when there are indications the system is not working.**

If a system of control is in place, a single deviation by a member of the athletics staff or a representative of the institution's athletics interests will not be considered a lack of institutional control. However, if there are a number of violations, even if they all are minor, indicating that the compliance system is not operating effectively, the person(s) responsible cannot ignore the situation, but must take steps to correct the compliance system.

**3. A supervisor with overall responsibility for compliance, in assigning duties to subordinates, so divides responsibilities that, as a practical matter, no one is, or appears to be, directly in charge.**

The failure to designate who is responsible for ensuring compliance with NCAA rules is a serious breach of the obligations of a university athletics administrator. Individuals are unable to operate appropriately if they are uncertain of their duties and obligations. Moreover, those subordinates who are not in charge must know who is. They need to know the person or persons to whom they can turn for advice before taking an action that may be questionable. They also need to know to whom and how to report violations that come to their attention.

**4. Compliance duties are assigned to a subordinate who lacks sufficient authority to have the confidence or respect of others.**

A supervisor may be acting in good faith when assigning responsibility for compliance to an athletics department secretary, or a student intern, or to someone who does not have stature in the organization. Nevertheless, that very action often makes it appear that the institution is not serious about compliance. If coaches, alumni, boosters and others do not respect the person responsible, they may well ignore that individual. Violations that occur may then be considered the result of a lack of institutional control.

5. **The institution fails to make clear, by its words and its actions, that those personnel who willfully violate NCAA rules, or who are grossly negligent in applying those rules, will be disciplined and made subject to discharge.**

Any operating compliance system may be thwarted by an individual who acts secretly in violation of the rules or who fails to ascertain whether a questionable action is or is not permissible. If an institution does not make clear that individual violations of NCAA rules will result in disciplinary action against the involved individual, and if it does not actually discipline those who are found to have violated such rules, it has opened the door to permitting further violations. In such a case, future violations of an individual nature will constitute failures of institutional control.

6. **The institution fails to make clear that any individual involved in its intercollegiate athletics program has a duty to report any perceived violations of NCAA rules and can do so without fear of reprisals of any kind.**

Compliance is everyone's obligation. Loyalty to one's coworkers, student-athletes, or athletics boosters cannot take precedence over loyalty to the institution and its commitment to comply with NCAA rules. There is a lack of institutional control if individuals are afraid to report violations because they have reason to fear that if they make such a report there will be negative consequences.

7. **A director of athletics or any other individual with compliance responsibilities fails to investigate or direct an investigation of a possible significant violation of NCAA rules or fails to report a violation properly.**

When a director of athletics or any other individual with compliance responsibilities has been informed of, or learns that there exists a possible significant violation of NCAA rules, and then fails to ensure that the matter is properly investigated, there is a lack of institutional control. Similarly, if an actual violation of NCAA rules comes to the attention of the director of athletics or a person with compliance responsibilities and there is a failure to report the violation through appropriate institutional channels to a conference to which the institution belongs and to the NCAA, such failure constitutes a lack of institutional control.

8. **A head coach fails to create and maintain an atmosphere for compliance within the program the coach supervises or fails to monitor the activities of assistant coaches regarding compliance.**

A head coach has special obligation to establish a spirit of compliance among the entire team, including assistant coaches, other staff and student-athletes. The head coach must generally observe the activities of assistant coaches and staff to determine if they are acting in compliance with NCAA rules. Too often, when assistant coaches are involved in a web of serious violations, head coaches profess ignorance, saying that they were too busy to know what was occurring and that they trusted their assistants. Such a failure by head coaches to control their teams, alone or with the assistance of a staff member with compliance responsibilities, is a lack of institutional control.

This is not to imply that every violation by an assistant coach involves a lack of institutional

control. If the head coach sets a proper tone of compliance and monitors the activities of all assistant coaches in the sport, the head coach cannot be charged with the secretive activities of an assistant bent on violating NCAA rules.

**D. COMPLIANCE MEASURES IN PLACE AT THE TIME OF VIOLATION AS A FACTOR IN DETERMINING WHETHER OR NOT THERE HAS BEEN A LACK OF INSTITUTIONAL CONTROL.**

Institutions are eager to learn what measures can be taken to reduce the likelihood that in the event a violation does occur, it will result in a finding of a lack of institutional control. The following are some of the steps that assist an institution in avoiding such a finding. It must be emphasized, however, that the presence of such measures are not a guarantee against such a finding. The way in which the measures are carried out and the attitude toward compliance within the institution are vital factors.

**1. The NCAA rules applicable to each operation are readily available to those persons involved in that operation.**

Those individuals involved in recruiting activities should have ready access to the recruiting rules, and those university staff members engaged in determining eligibility for financial aid, practice and competition should have ready access to the NCAA rules governing those matters.

**2. Appropriate forms are provided to persons involved in specific operations to ensure that they will properly follow NCAA rules.**

With respect to certain operations, specific forms or checklists can be of great help in assuring compliance with NCAA rules. Clerical employees may find the rules themselves daunting. But if they can follow a form, many problems can be obviated. This is certainly true with regard to such matters as ensuring that student-athletes do not receive excessive financial aid individually or by sport, that initial eligibility standards are met, and that continuing eligibility standards are properly enforced.

**3. A procedure is established for timely communication among various university offices regarding determinations that affect compliance with NCAA rules.**

For example, there should be a method of direct communication between the registrar and the department of athletics so that the latter learns at once if an enrolled student-athlete drops a course that brings that student-athlete below the required number of units for eligibility to participate.

**4. Meaningful compliance education programs are provided for personnel engaged in athletically related operations.**

It is important that new personnel, both coaches and administrative staff members, receive training regarding NCAA rules that are relevant to their positions shortly after beginning employment. The institution should also continue to educate its staff by conducting compliance sessions on a regular basis for all involved personnel as refresher

courses, with an emphasis on changes in NCAA rules. Not infrequently, persons who have been involved in intercollegiate athletics for many years and who violate long-standing rules attempt to excuse their actions on the grounds that they were unaware that their activities constituted a violation. On occasion such personnel rely on long outdated interpretations of legislation that have been eliminated or dramatically altered for a number of years.

Obviously the nature and strength of the compliance education program is of significance. Educational programs run by the NCAA and by various conference offices may, because of the expertise of those involved, be superior to training by in-house personnel.

- 5. Informational and educational programs are established to inform athletics boosters of the limitations on their activities under NCAA rules and of the penalties that can arise if they are responsible for rule violations.**

Distribution of rules education materials (e.g. brochures and articles) to season ticket holders is significant as are special programs for booster organizations.

- 6. Informational and educational programs are established for student-athletes regarding the rules that they must follow.**

All institutions conduct information sessions for student-athletes and obtain the required signed statements from each. However, the extent to which these are truly informative and are taken seriously varies. The extent to which these sessions are made important by the institution is a significant factor.

- 7. An internal monitoring system is in place to ensure compliance with NCAA rules.**

It is of significance if, on a regular basis, a person (or persons) charged with monitoring compliance frequently checks operations throughout the athletics department and related departments of the university. Such a person should make certain that required forms are being utilized and utilized properly. A compliance person should speak with all coaches frequently and regularly to find out if they have any concerns or questions about what they can or cannot do or what they have already done. A compliance person should be aware of what actions have been taken with regard to a variety of areas, including recruitment, awarding of financial aid, practice requirements and travel arrangements. From time to time the compliance person should meet with student-athletes in the various sports to see if any problems exist. All potential violations must be reported and an investigation must ensue in accordance with appropriate institutional procedures.

Other internal monitoring measures are also of significance, including one-on-one meetings between coaches and the athletics director, and meetings of university committees on athletics in which student-athletes and others are involved.

- 8. An external audit of athletics compliance is undertaken at reasonable intervals.**

An important control exists if an independent university or outside unit undertakes audits of the athletics enterprise to determine if there have been violations of NCAA rules and to

suggest changes in operating methods and procedures wherever such action could eliminate the danger of future violations.

- 9. The chief executive officer and other senior administrators make clear that they demand compliance with NCAA rules and that they will not tolerate those who deliberately violate the rules or do so through gross negligence.**

It is an important factor when the senior administrators in an institution by word and, when necessary, by action make clear that compliance is vital. The pressure to run a winning program must not overcome the dedication of the institution to ethical conduct in all aspects of its athletics program and to compliance with NCAA regulations.

- 10. The institution and its staff members have a long history of self-detecting, self-reporting and self-investigating all potential violations.**