



**BARUCH COLLEGE**  
**PUBLIC INFRACTIONS DECISION**  
**JUNE 30, 2016**

## **I. INTRODUCTION**

The NCAA Division III Committee on Infractions is an independent administrative body of the NCAA comprised of individuals from the Division III membership and the public. The committee decides infractions cases involving member institutions and their staffs. This case involved multiple sports programs at Baruch College.<sup>1</sup> It centered on hundreds of thousands of dollars of impermissible financial aid, benefits and cash awards to 30 student-athletes that occurred during the 2010-11 through 2014-15 academic years. Four institutional staff members were directly involved.

The institution largely did not dispute the underlying problems with its financial aid process and that student-athletes received impermissible financial aid, benefits and cash awards. Further, a former vice president for student affairs and enrollment management and a former head women's basketball coach engaged in unethical conduct and the institution lacked control over its athletics programs.

The institution believed that it had only failed to monitor. When 30 student-athletes received \$255,097 in impermissible financial aid and extra benefits, the institution violated financial aid and benefits legislation. Moreover, the institution lacked control due to the scope and number of violations and because the violations occurred over five years. During that period, the institution failed to ensure that the financial aid, cash awards, resident assistant (RA) selection and employment arrangement processes did not consider athletics criteria and that they were the same as the existing official institutional policies for the general student population. The institution also did not monitor the conduct of the former vice president for student affairs and enrollment management and the former head women's basketball coach.

Further, although all four individuals directly challenged or attempted to explain their actions, the committee concludes that the four involved staff members violated NCAA financial aid legislation. Two of these staff members committed only secondary violations because of the limited nature of their participation in the violations. Conversely, the former vice president for student affairs and enrollment management and the former head women's basketball coach committed several major financial aid and benefit violations. When the former vice president of student affairs and enrollment management and the former head women's basketball coach

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<sup>1</sup> A member of the City University of New York Athletic Conference (CUNYAC), Baruch College has an approximate enrollment of 14,857 undergraduate students. The institution sponsors 13 sports (seven men's and six women's). The institution had a previous infractions case in 2011 that involved the women's basketball program.

knowingly arranged or provided impermissible financial aid and extra benefits to student-athletes, they acted unethically. The former vice president for student affairs and enrollment management emphasized athletics and had unfettered discretion to arrange and approve impermissible financial aid and benefits. The former head women's basketball coach had open access to the former vice president for student affairs and enrollment management and used this access to advocate on behalf of student-athletes, to include requesting impermissible financial aid and benefits.

Based on the violations in this case, the committee prescribes the following principal penalties: four years of probation, a one-year ban on postseason competition in women's basketball following the 2016-17 academic year and show-cause orders for the former vice president for student affairs and enrollment management and the former head women's basketball coach. The penalty section of this decision fully describes all the penalties in this case.

## **II. CASE HISTORY**

This case began when the institution received two anonymous letters, one in February and one in March 2013, alleging that the then former vice president of student affairs and enrollment management (former vice president) provided two student-athletes impermissible financial aid. In response, the institution conducted an internal investigation and submitted a self-report of its findings to the NCAA enforcement staff on January 31, 2014.

The institution's self-report documented violations of NCAA legislation in four areas: (1) student-athletes received impermissible in-state residency for which they did not qualify and/or for which their athletics participation was considered; (2) student-athletes received impermissible financial aid awards for which they did not qualify and/or athletics was considered in the award of the aid; (3) the institution selected student-athletes for resident assistant positions for which they did not meet the qualifications and received based on their status as student-athletes; and (4) a student-athlete did not pay tuition for one academic year and received a reduced-cost room in a residence hall utilized by the institution. The self-report identified the involvement of institutional staff members.

After reviewing the self-report and conducting limited follow-up inquiries, the enforcement staff issued a Notice of Allegations (NOA) on July 23, 2015.

Following requests for additional time to complete responses to the NOA, the four at risk individuals and the institution submitted responses during the period from November 10-13, 2015. The institution, the former vice president and a former assistant vice president for enrollment management (former assistant vice president) provided supplemental responses on December 18, 2015. The former assistant vice president provided a supplemental response on December 21, 2015. The former head women's basketball coach submitted a supplemental response on January 18, 2016. The former vice president and the former head women's basketball coach raised a procedural issue in their responses. Specifically, both argued that the NCAA's investigation was unfair to them because the enforcement staff failed to question them

on several issues, including asking questions regarding some of the allegations that involved them.<sup>2</sup>

The Division III Committee on Infractions conducted the hearing on January 28-29, 2016.

### **III. FINDINGS OF FACT**

#### **Background**

##### *The former vice president*

The former vice president had a tenure with the institution that spanned 10 years. He oversaw a number of departments, including athletics. Within that organizational structure and through his personal vision, the former vice president had his hands directly in athletics decision-making. He had an awareness of key areas of NCAA athletics compliance.

The institution hired the former vice president in July 2005 to oversee 17 departments, including admissions, financial aid, residential life and housing, student life and athletics. In January 2014, the institution removed the former vice president from oversight of athletics. In May 2015, he departed the institution to accept a position at another institution.

The former vice president sought to raise the profile of athletics at the institution and admitted that he "pushed" athletics. Other personnel felt this pressure. A former director of athletics stated that the former vice president "put a lot of pressure on . . . results" and that he wanted winning teams to "compete with the NYUs and to be able to make NCAA tournaments." Further, an assistant in the admissions office reported that, under the former vice president, the environment "was all about athletes . . ." and "they'[d] become the priority."

The former vice president was also hands on in decision-making. A former director of athletics described "that many people were scared to make decisions within their own areas of expertise or management without getting the [approval] from [the former vice president] . . ."

The former vice president became directly involved in the recruiting process. He did so by obtaining coaches' spreadsheets containing information about recruits. He also met with recruits when they visited the campus. In reference to admitting prospective student-athletes, the institution's director of admissions reported that, if her office "didn't give [coaches] the answer they wanted to hear," they would go to the former vice president.

Despite this structure, vision and hands on involvement, the former vice president claimed that he did not receive NCAA rules education, and any violations he may have committed were therefore inadvertent. He did, however recognize that compliance to NCAA legislation was important, writing in an email to a coach that, "In no way shape or form should there be any

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<sup>2</sup> The committee addresses this argument in the analysis section of this decision. The enforcement staff's decision to not question the former vice president and the former head women's basketball coach regarding some of the allegations did affect the committee's analysis.

attempt to skirt NCAA recruiting rules and regulations." Moreover, the former vice president knew that Division III institutions could not provide financial aid based on athletics criteria. He also claimed that he acted within the scope of his authority relative to student-athletes' admissions and financial aid. He admitted, "[s]tudents are not permitted to receive scholarships based on athletic ability we were very clear and understood that." He therefore was not unfamiliar with core financial aid tenants. In fact, he claimed his primary motivation in admitting student-athletes and approving financial aid for them was to increase the diversity of the student body, rather than considering athletics criteria in their admission and financial aid packages. The former vice president also knew practical effects of residency. He was familiar with City University of New York (CUNY) in-state residency requirements and that in-state tuition rate was roughly \$6,000, half that of out-of-state tuition.

*The former head women's basketball coach*

The institution employed the former head women's basketball coach for over a decade and in several positions. Through his various roles at the institution, the former head women's basketball coach knew that, in Division III, financial aid packages could not include aid related to athletics criteria.

The institution hired the former head women's basketball coach as an assistant men's basketball coach in March 2002. In fall 2004, the institution selected him to be the head women's basketball coach and director of athletics facility and operations.<sup>3</sup> In 2009, the institution promoted him to the position of assistant athletics director. In 2011, the institution promoted him to the position of associate athletics director while still serving as the head women's basketball coach. Through his various roles, he was cognizant of basic Division III rules and regulations. The institution relieved him of his coaching duties with the women's basketball program at the end of the 2013-14 season, but he remained as the associate athletics director. In November 2014, the institution removed him from the athletics department and reassigned him to the student life department. In that role, he had no responsibility or supervisory authority over student-athletes or athletics.

The former head women's basketball coach admitted that he knew it was impermissible to consider athletic ability or participation when awarding financial aid to a student-athlete and that Division III bylaws prohibited him from attempting to alter or change financial aid packages. He also admitted that the aid to a student-athlete has to be consistent with the aid for a regular student. Although he knew this basic requirement, the former head women's basketball coach claimed that he had insufficient rules education. He also claimed that helping student-athletes and prospective student-athletes motivated his actions. Because campus offices/departments responsible for student support and services were unresponsive and unreliable, he assisted them. He provided this assistance despite NCAA legislation prohibiting involvement of athletics staff in processes involving financial aid. A 2013 interpretation from the NCAA's Academic and Membership Affairs staff confirmed the prohibition of athletics staff members from being involved in any manner in the review of financial aid packages and that athletics staff shall not

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<sup>3</sup> In the institution's 2011 infractions case, the committee concluded that the former head women's basketball coach failed to monitor a work-study program, which resulted in three women's basketball student-athletes receiving pay for work not performed.

influence the awarding of financial aid. The former head women's basketball coach denied knowingly violating NCAA legislation.

*The relationship between the former vice president and the former head women's basketball coach*

The former head women's basketball coach had a close working relationship with the former vice president. The former vice president promoted athletics and took an active interest in the success of the institution's athletics teams, especially the women's basketball team. The former vice president helped the former head women's basketball coach "build a cycle of recruiting," according to the former head women's basketball coach. This included the former vice president meeting with women's basketball prospects during their campus visits and, on occasion, communicating with family members of prospects. The former vice president told the former head women's basketball coach "to recruit these students and to get them here. Red carpet treatment the whole way. It's the only way we're going to land them." The former head women's basketball coach admitted that the institution aspired to be a top-tier basketball program of the CUNYs.<sup>4</sup> However, the former head women's basketball coach also indicated that if he reported an NCAA violation to the former vice president, he believed the former vice president would cut off support for him.

*In-state residency application process*

The CUNY system has specific requirements to qualify for in-state residency and thus in-state tuition, limiting students who could receive in-state residency. The former vice president had oversight of the admissions office and the in-state residency application process. Staff members in the admissions office reviewed and ruled on in-state residency applications.

To qualify for the resident tuition rate at a CUNY senior institution, a student must meet three core requirements: (1) be a United States citizen, permanent resident or in a qualifying immigration status; (2) have continuously maintained his/her principal place of abode in the State of New York for a period of at least 12 consecutive months immediately preceding the first day of classes; and (3) have a bona fide intention of living in New York permanently.

After establishing those guidelines, CUNY established rules regarding evaluation of residency. For example, to be designated a New York state resident, a student whose parent(s) or legal guardian(s) reside out-of-state must present evidence that he/she meets CUNY's residency requirements and that he/she is financially independent from his/her parent(s) or legal guardian(s). Proof of financial independence must be documented; however, students 24 and older are considered independent and are not required to document financial independence from their parents. The institution took into account four factors for determining financial independence: (1) whether the student is listed as a dependent on parents' federal and state income tax returns; (2) whether the student is employed and the amount earned relative to expenses; (3) the extent of financial support received by the student from parents or guardians;

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<sup>4</sup> The institution's women's basketball team was the CUNY Athletic Conference Champions from the 2007-08 through the 2014-15 seasons. Additionally, the team made NCAA tournament appearances each year during that period.

and (4) other sources of student income. All CUNY institutions must adhere to these rules and regulations. In-state residency provides an approximate 50 percent reduction in tuition per year.

The former vice president's responsibilities included oversight of the admissions office. The director of undergraduate admissions (director of admissions) oversaw the residency application process, while the assistant director of undergraduate admissions/residency coordinator (assistant director of admissions) supervised the residency office. The assistant director of admissions was responsible for reviewing and approving all in-state residency applications.

*The financial aid awarding process*

The former vice president also oversaw the financial aid process, a process that lacked established procedures to select scholarship and financial awards recipients. This lack of procedures resulted in *ad hoc* decision making relative to the awarding of financial aid. The former vice president directed personnel in the financial aid office to award various scholarships and financial awards to student-athletes. On some occasions, the former head women's basketball coach asked the former vice president to arrange or award aid and benefits to student-athletes. According to the institution's scholarship coordinator, it was common for the former vice president to contact her and direct her to give a certain sum of scholarship money and not provide a reason for awarding the aid. This behavior was the former vice president's usual practice. She complied with each of the former vice president's requests. She also reported that the former vice president was "the type of person that you don't feel like asking questions to him or (ask) 'why.'"

The former vice president justified his direct involvement in scholarship determinations for student-athletes as attempts to increase diversity at the institution. The former vice president also gave special treatment to student-athletes to avoid "customer service issues . . . ."

According to the institution, the lack of explicit guidelines and transparency in the financial aid awarding process did not allow for a full examination of all students who might be eligible. It was often difficult to determine what criteria the institution used to determine the eligibility of student-athletes to receive financial aid. Further, the institution admitted that, "there was a structural institutional deficiency wherein the Athletics and Admissions Departments, respectively, reported to the same vice president."

*Resident assistant (RA) selection criteria and process*

The former vice president and the former head women's basketball coach were involved in student-athletes receiving resident assistant positions. The 2010-11 academic year was the first year in which the institution had its own residence hall and selected students to be RAs.<sup>5</sup> The institution provided a cost-free room in exchange for performing the duties and responsibilities associated with being a RA. The director for student life established the requirements for and oversaw the RA program. Because the institution was primarily a commuter institution, the director of student life wanted RAs who were familiar with the institution and campus, as

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<sup>5</sup> Baruch College, along with other New York City colleges and universities, contracted with a private agency, Education Housing Services (EHS) to administer and operate the dormitory.

opposed to transfer students who would not be as knowledgeable. The director of student life developed the following criteria for selection of RAs: (1) maintain a 3.0 grade point-average (GPA) or above; (2) be in good disciplinary standing at the institution; (3) have completed one year of study at the institution; and (4) agree to serve one full academic year as an RA. The 2010-11 RA applications required submission of the application and references by April 23, 2010, and the 2011-12 application by March 11, 2011. Late or incomplete applications were not to be accepted. In exchange for performing the duties of an RA, students lived cost free in the institution's residence hall, a value of approximately \$10,000 per academic year. The institution selected six RAs during each of the 2010-11 and 2011-12 academic years. Of those 12 RAs selected, three (25 percent) were women's basketball student-athletes. The former vice president provided the names of the three student-athletes to the director of student life for their selection.

### **Financial aid determinations, awarding and benefits that were contrary to policies and that considered athletics criteria**

During the 2010-11 academic year and continuing through the 2014-15 academic year, the institution provided financial aid, benefits and cash awards to 30 student-athletes that were contrary to existing official financial aid policies of the institution and, in most instances, athletics leadership, ability, participation or performance was considered. Four institutional staff members, primarily the former vice president and former head women's basketball coach, were directly involved in some of these occasions in which in-state residency, scholarships, benefits and cash awards were provided. These staff members became involved in these arrangements because of the student-athletes' status as athletes for the institution. The financial aid, benefits and awards fell into the following categories: (1) the granting of in-state residency; (2) financial aid in the form of scholarships, benefits and cash awards; and (3) selection for resident assistant positions.

The former vice president and the former head women's basketball coach frequently collaborated in the arrangement of financial aid and benefits for student-athletes. A former head volleyball coach and a former assistant vice president also had roles in arranging financial aid for a student-athlete, but their actions were limited.

#### *In-state residency determinations*

The first category of financial aid, benefits and awards involved in-state residency determinations. On seven occasions that began during the 2010-11 academic year, the institution granted in-state residency status to student-athletes who did not meet the requirements for in-state residency. In-state residency status provides a 50 percent reduction in tuition costs for students. On four of these seven occasions, some of the four institutional staff members identified above were directly involved in the approvals.

The CUNY system has specific requirements to qualify for in-state residency and thus in-state tuition, limiting students who could receive in-state residency. To qualify for the resident tuition rate at a CUNY senior institution, a student must meet three core requirements (1) be a United States citizen, permanent resident or in a qualifying immigration status; (2) have continuously maintained his/her principal place of abode in the State of New York for a period

of at least 12 consecutive months immediately preceding the first day of classes; and (3) have a bona fide intention of living in New York permanently. The institution also had requirements relating to financial independence.

Under this structure, there were seven instances where the institution granted a student-athlete in-state residency who did not meet the requirements. The first instance involved a women's basketball student-athlete (student-athlete 1). The assistant director of admissions determined that student-athlete 1 was not eligible for in-state residency because she was under the age of 24 and financially supported by out-of-state parents. Nevertheless, the institution granted in-state residency for student-athlete 1 for the 2010-11 through 2011-12 academic years.

The second instance the institution granted a student-athlete in-state residency who did not meet the requirements involved a women's basketball student-athlete (student-athlete 2). She was not eligible for in-state residency for similar reasons as student-athlete 1. Despite not qualifying for in-state residency, the institution granted in-state residency status for student-athlete 2 during the 2010-11 academic year. In both of these instances, the record did not establish individual responsibility.

The third instance the institution granted in-state residency for a student-athlete who did not meet the requirements involved a women's volleyball student-athlete (student-athlete 3) who received in-state residency during the spring of 2011 through the 2012-13 academic year. A former head volleyball coach and a former assistant vice president were involved in the arrangements for student-athlete 3 to receive in-state residency.<sup>6</sup>

On behalf of student-athlete 3, the former head volleyball coach emailed the former assistant vice president asking how student-athlete 3 could obtain in-state residency. The assistant director of admissions informed the former head volleyball coach that it was unlikely the institution could approve student-athlete 3 for in-state residency because she was under the age of 24 and supported by out-of-state parents. Eventually, the former head volleyball coach repeatedly contacted the former assistant vice president and later, the former vice president in an effort to facilitate student-athlete 3's in-state residency. The former assistant vice president subsequently became aware that the former head volleyball coach told the former vice president that he (the former assistant vice president) was personally handling student-athlete 3's in-state residency application. In response, he sent an email to the director of admissions telling her: "The (former head volleyball coach) told the VP I took care of this. Let's get this fixed." Student-athlete 3 received in-state residency and her blank application included the notation, "Accept as per (the former assistant vice president) on 1/20/2011," followed by the assistant director of admissions' initials.

The fourth occurrence happened the following academic year, 2011-12 and continued into the 2012-13 academic year. The former vice president obtained in-state residency for another women's basketball student-athlete (student-athlete 4) who did not qualify for in-state status.

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<sup>6</sup> The former head volleyball coach was hired by the former vice president, who also assigned her to be the institution's chief athletics compliance officer. She had no prior athletics compliance experience.



The former vice president was aware that student-athlete 4 was a women's basketball student-athlete because he met with her during her visit to the institution.

Regarding student-athlete 4's attempt to gain in-state residency, her application was inaccurate and incomplete. Specifically, student-athlete 4: (1) omitted her parents' permanent address; (2) wrote that her residence was in Ozone Park, New York, but her student account information indicated that she lived in a residence hall; and (3) was under the age of 24. Further, her statement that she supported herself financially was contradicted by the fact that her stepfather claimed her as a dependent on his tax return. Additionally, she wrote that her purpose for residing in New York was to attend institution. Student-athlete 4 submitted the August 25, 2011, application after the director of undergraduate admissions sent an August 18, 2011, email to the former vice president informing him that it appeared that student-athlete 4 "is not eligible to pay as a New York State resident." In the email, the director of admissions pointed out the reasons why she wasn't eligible for in-state residency. In the same email to the former vice president, the director of admissions also provided the relevant portion of the CUNY Tuition Fee Manual documenting exactly why student-athlete 4 did not qualify for in-state residency.

Despite the information reflecting that student-athlete 4 was not qualified for in-state status, the former vice president instructed the director of admissions to approve student-athlete 4's in-state residency. The director of admissions stated, "I was told by [the former vice president] to approve this young lady's residency." The fact that the former vice president approved student-athlete 4's in-state residency was confirmed by a notation on her in-state application that read, "9/01/2011 processed as per [the former vice president's] request."

The following academic year, 2012-13, the institution granted in-state residency status to three additional student-athletes who did not meet the requirements for in-state residency; (student-athlete 5), (student-athlete 6) and (student-athlete 7). The former vice president and the former head women's basketball coach were directly involved in the approval for student-athlete 5. The former head women's basketball coach was involved in the approval of in-state residency for student-athlete 6.

The institution granted an unqualified student-athlete in-state residency in 2012-13 for a softball student-athlete, student-athlete 5. The former head women's basketball coach and the former vice president were involved in the approval process. Student-athlete 5's in-state residency application was incomplete. Her parents' address was missing (they lived in Florida), as well as her source of financial support. Student-athlete 5's in-state application reflected that she lived with an aunt in West Chazy, New York, which is over 300 miles from the institution, something the assistant director of admissions found to be suspicious. Because student-athlete 5's residency application omitted information and contained inaccuracies, the application was incomplete pursuant to the CUNY resident tuition policy. Consequently, the assistant director of admissions denied her application.

By October 1, 2012, the former head women's basketball coach (who was also an associate director of athletics at the time) had learned about student-athlete 5's incomplete in-state residency application. Shortly thereafter, he emailed the student-athlete informing her that he

had received a phone call asking where her parents lived and told her that it was a "trick question" because, if asked that question, the institution would ask her to produce her tax forms to prove she was financially independent. One week later, on October 8, 2012, the institution had not approved student-athlete 5's in-state residency. In response, rather than referring student-athlete 5 to the appropriate staff in the admissions office, the former head women's basketball coach emailed the former vice president, informing him that he was assisting student-athlete 5 in obtaining in-state residency, but the assistant director of admissions had additional questions regarding student-athlete 5's application. The former head women's basketball coach asked the former vice president to intervene by contacting a student assistant in the admissions office (rather than the assistant director of admissions) so that student-athlete 5's in-state residency could be finalized.

On October 19, 2012, student-athlete 5 emailed the former vice president and the director of admissions stating that she had completed all the required in-state residency forms at the beginning of the semester to change her residency to in state, but she was being further questioned and "hassled." In response to this email, the former vice president sent an email that same day chastising the director of admissions for not "handling this matter more than a week ago" and that the student-athlete felt "harassed by (the admissions) staff." The former vice president also informed the director of admissions that her "performance in this regard is unsatisfactory, and I would like you to have a follow up counseling meeting."

Shortly thereafter, the director of admissions approved student-athlete 5's in-state residency, with the notation, "Okay to process" followed by her signature and date. When later interviewed on this issue, the director of admissions believed that student-athlete 5's in-state residency application was incomplete and therefore, the institution should not have approved it. The director of admissions described feeling pressure from the former vice president to approve student-athlete 5's in-state residency application. In that regard, the director of undergraduate admissions tearfully described in an interview the pressure she felt from the former vice president:

You don't – you don't – The pressure [cries] working for this man. You know, I'm a 52-year old woman in a career that I've been doing this for a while now. I'm not perfect, but I never worked anywhere for anyone that if you don't do something – and, yes, I felt pressured. I felt very pressured. I haven't said it before. I just, you know, I felt pressured. And I thought that what I was looking at was accurate enough, and I said, "You know what, that's..." And it will forever haunt me.

Around the same time that the former vice president became involved in student-athlete 5's in-state residency application, the former head women's basketball coach became involved in the application for in-state residency by student-athlete 6, a women's basketball student-athlete who received in-state residency during the 2012-13 and 2013-14 academic years, despite not having the necessary qualifications.

The former head women's basketball coach was student-athlete 6's point of contact regarding residency. However, neither the former head women's basketball coach nor anyone in the

residency unit or student affairs office requested more documentation regarding her in-state residency application, even though it was incomplete and inaccurate. Similar to the other instances in which the institution improperly approved in-state residency, student-athlete 6 left portions of her application blank. She also provided inaccurate information when she stated that she had lived with her aunt in Elmont, New York, since July 1, 2011, and was financially independent.

The approval process for student-athlete 6's in-state residency was unusual. The assistant director of admissions, who normally reviewed and ruled on in-state residency applications, did not recall doing so for student-athlete 6 nor was there any documentation indicating that he did so. In that context, the assistant director of admissions recalled an exchange of emails in which the former head women's basketball coach complained to the director of admissions that he (the assistant director of admissions) was not approving the former head women's basketball coach's student-athletes' in-state residency applications.

Despite the fact that the assistant director of admissions was the staff member who normally made decisions relative to in-state residency approval, the former head women's basketball coach initially stated that the former vice president instructed him to go to a student assistant in the admissions office for issues relating to residency. However, the student assistant did not have the authority to grant in-state residency. The former vice president denied that he instructed anyone to contact the student assistant regarding residency questions or issues. In a later interview, the former head women's basketball coach contradicted his earlier statement about the student assistant being the one to contact about residency issues. Instead, the former head women's basketball coach identified the former vice president as the staff member to whom residency issues should be directed. Eventually, the former head women's basketball coach provided student-athlete 6's documentation directly to the student assistant who apparently approved her in-state residency, despite the fact he lacked the authority to approve such applications.

The seventh instance the institution allowed a nonqualified student-athlete to attain in-state residency status involved a student-athlete 7 who was both a softball and women's basketball student-athlete. Student-athlete 7 obtained in-state residency during the 2012-13 and 2013-14 academic years. The institution could not locate a residency application for her, but she did not qualify for in-state residency because she graduated from an out-of-state high school, was under the age of 24 and did not have sufficient documentation proving she was financially independent. Although the assistant director of undergraduate admissions never received or approved an application for student-athlete 7, her in-state residency code was changed from out-of-state to in-state by the student assistant who had access to the institution's student information system. In this instance, the record did not establish individual responsibility.

#### *Financial aid, cash awards and benefits*

The second category of financial aid, benefits and awards involved financial aid in the form of scholarships, cash awards and benefits. On numerous occasions that occurred during the 2010-11 through the 2014-15 academic years, the institution provided financial aid, cash awards and benefits to student-athletes who did not meet the requirements to receive the financial aid or

benefits, and/or the aid and benefits were based on athletics criteria. On four of these occasions, the former vice president and/or the former head women's basketball coach were directly involved in the arrangements or approval of the financial aid or benefits.

The former vice president also oversaw a financial aid awarding process that lacked procedures. This lack of procedures resulted in *ad hoc* decision making relative to the awarding of financial aid. It also allowed the awarding of financial aid to student-athletes based on athletics consideration, some of which was contrary to the requirements of the awards. The lack of explicit guidelines and transparency in the financial aid awarding process made it difficult to determine what criteria the institution used to determine the eligibility of student-athletes to receive financial aid. Further, the lack of procedures allowed athletics staff members, particularly the former head women's basketball coach, to become involved in the arrangement of financial aid for student-athletes, often in collaboration with the former vice president.

In this case, the provision of financial aid to student-athletes under this *ad hoc* decision-making process began during the 2010-11 academic year. On five occasions that began that year, the institution provided financial aid and cash awards based upon athletics criteria and/or for which the student-athletes did not meet the requirements. On one of these occasions, the former vice president was directly involved in the approval.

The first occasion in which a student-athlete received financial aid based on athletics criteria and/or who did not meet the scholarship requirements involved student-athlete 1. During the 2010-11 academic year, she received \$2,300 from an institutional grant and \$2,510 from a named scholarship. The following year, student-athlete 1 received \$3,575 from another named scholarship. The institution awarded this aid based on athletics criteria. In this instance, the record did not establish individual staff involvement.

The second occasion where a student-athlete received financial aid based on athletics criteria and/or did not meet the scholarship requirements involved an international women's basketball student-athlete (student-athlete 8). Student-athlete 8's student visa documentation certified that her parents would contribute \$22,000 per year toward her education. The application also noted that she would receive \$800 in projected salary from working on campus and a \$10,000 merit scholarship from the institution. Despite student-athlete 8's certification of extensive financial resources, the institution designated her as a "financial hardship" case. Consequently, student-athlete 8 received \$13,547 from institutional grants during the 2010-11 and 2011-12 academic years, \$7,140 from a named scholarship and an additional \$7,223 from another named scholarship for the 2011-12 academic year, for a total of \$27,910 in financial aid for which she did not meet the requirements and for which the institution considered athletics criteria. In this instance, the record did not establish individual staff involvement.

About the same time the institution provided financial aid for the above identified student-athletes, a men's basketball student-athlete (student-athlete 9) received financial aid for which he did not meet the requirements. This third occasion occurred during the 2010-11 through 2013-14 academic years, when student-athlete 9 received funds from two institutional financial aid sources for which he did not meet the requirements. The institution considered athletics criteria

in awarding the financial aid, the total value of which was \$13,000. In this instance, the record did not establish individual staff involvement.

The fourth occurrence also happened during the 2010-11 academic year. The former vice president was involved in arranging for a women's basketball student-athlete (student-athlete 10) to receive financial aid based on athletics criteria and for which she did not meet the requirements. In the spring of 2010, the former vice president, the director of recruitment, the former head women's basketball coach and the former assistant vice president exchanged multiple emails regarding student-athlete 10's admission to the institution. Ultimately, following inquiries from the former assistant vice president to the former vice president regarding whether the institution would admit student-athlete 10, the former vice president approved student-athlete 10's admission. He did so despite writing in an email to the former head women's basketball coach that student-athlete 10's institution entrance test score was "abysmal." Student-athlete 10 enrolled in the fall of 2010 as a freshman. Her entrance test score was over 300 points below the average for incoming freshman in the 2010 fall class.

The former vice president directed the scholarship coordinator to award student-athlete 10 financial aid. The former vice president stated he granted student-athlete 10 financial aid for financial hardship reasons because her parents were experiencing fiscal difficulties. A portion of student-athlete 10's financial aid package included scholarships that specified academic excellence as a criterion. Specifically, student-athlete 10 received funds from two named scholarships totaling \$4,980. Both scholarships specify that the recipients must demonstrate financial need and "high academic performance." Student-athlete 10 received these scholarships despite the fact that her entrance test score was substantially below the average for incoming freshmen. She also received an institutional grant worth \$6,283. All of this aid was based on athletics criteria.

The admission and financial aid letter sent to student-athlete 10 contained the director of recruitment's signature. However, the director of recruitment did not write or sign the letter. Rather, because the director of recruitment was not in at the time, the vice president instructed his assistant to "take care of it" and sign the director of recruitment's name to the letter. At the hearing, the former vice president admitted that instructing his assistant to sign this document was "a poor decision."

The fifth occasion where the institution awarded financial aid based on athletics occurred from the 2010-11 through 2013-14 academic years. The institution awarded financial aid based on athletics criteria in the form of a \$500 cash award from a named fund. Nine student-athletes in seven sports received these one-time \$500 cash awards for a total of \$4,500. The award specifically identified athletics participation as criterion for awarding. In this instance, the record did not establish individual staff involvement.

Continuing with the second category of violations involving the awarding of financial aid and benefits, there were four additional occasions that began during the 2011-12 academic year. The institution provided financial aid and cash awards based upon athletics criteria and/or for which

the student-athletes did not meet the requirements. In one instance, the former vice president was directly involved in the arrangement of impermissible financial aid.

The first occasion involved a men's basketball student-athlete (student-athlete 11). During the 2011-12 and 2012-13 academic years, student-athlete 11 received financial aid from three institutional financial aid sources for which he did not meet the required criteria. The total value of the financial aid was \$22,713. Additionally, student-athlete 11 received one cash award (\$500) for graduating seniors that specifically identified athletics participation in its criteria. In this instance, the record did not establish individual staff involvement.

The second instance involved a women's basketball student-athlete (student-athlete 12). During the 2011-12 and 2012-13 academic years, the institution awarded funds to student-athlete 12 from two institutional financial aid sources. The institution considered athletics criteria in awarding the financial aid, the total value of which was \$4,000. In this instance, the record did not establish individual staff involvement.

The third instance also involved a women's basketball student-athlete (student-athlete 13). Student-athlete 13 received financial aid for which she did not meet the required institution criteria and for which the institution considered athletics criteria. During the 2011-12 academic year, student-athlete 13 received these funds from two institutional financial aid sources, the total value was \$3,250. In this instance, the record did not establish individual staff involvement.

The fourth instance involved a different set of circumstances. The institution provided financial aid and benefits based on athletics criteria to a women's basketball student-athlete (student-athlete 14) during the 2011-12 academic year. In this occasion, student-athlete 14 failed to pay tuition during the one year she was enrolled at the institution. She also received a reduced-cost dormitory room. The former head women's basketball coach and the former vice president were involved in the arrangements for student-athlete 14 to receive the dorm room.

Regarding student-athlete 14's non-payment of tuition, she failed to pay tuition for the fall semester of the 2011-12 academic year. Consequently, the institution then placed a hold on her account. The institution rescinded the hold, allowing her to enroll for the spring semester. Student-athlete 14 also failed to pay tuition for the spring semester, resulting in an additional hold on her account. The institution again lifted the hold and allowed her to enroll for the 2012 summer term. Ultimately, student-athlete 14 withdrew from the institution without paying tuition fees totaling \$12,043.

In reference to the cost-free dorm room, student-athlete 14 explained that the former head women's basketball coach told her during her recruitment that a cost-free dorm room could be part of her financial aid package. With regard to the arrangements for student-athletes to live in the dorm, the former head women's basketball coach recalled explaining student-athlete 14's "hardship" circumstances to the former vice president. The former vice president responded that student-athlete 14 may be a candidate for a new program in which a student does marketing or promotional work for the agency that operated the dorm in exchange for a room. Emails reflect that the former vice president communicated with the director of marketing at the agency in

arranging student-athlete 14's selection for the program. There was no information developed during the investigation reflecting that any other students had a similar arrangement as student-athlete 14. In response to a question regarding student-athlete 14's work for the agency, the former vice president reported that student-athlete 14 was supposed to be working for the agency, but the arrangements were not "structured very well." Emails also reflect that the former vice president was also aware that student-athlete 14 was supposed to be working in the admission office.

Student-athlete 14 lived in the dorm room, but never worked for the housing agency. However, she did approximately 71 hours of work in the admissions office during the 2011-12 academic year. The former head women's basketball coach later told her that her work in the admissions office was in exchange for her dorm room. Student-athlete 14 was not aware of any other student-athletes having a similar arrangement involving a cost-free room in exchange for working at the housing agency. The director of admissions was not aware of students working in the admissions office in exchange for a dorm room.

An administrator at the housing agency raised concerns about student-athlete 14 to the former vice president. She sent an email to the former vice president stating, "I would like to discuss (student-athlete 14) with you. We have had a difficult time working with her." The former vice president did not respond to these concerns raised by the administrator regarding student-athlete 14. At the hearing, the former vice president confirmed that the head women's basketball coach brought student-athlete 14's needs to his attention. He also admitted that he did not respond to the concerns raised about student-athlete 14 by the agency administrator.

On five additional occasions from the 2012-13 through 2014-15 academic years the institution provided financial aid and cash awards based upon athletics criteria and/or for which the student-athletes did not meet the requirements. The former vice president and/or the former head women's basketball coach were directly involved in the approval or arrangements in two of these instances.

The first instance where the institution considered athletics criteria when it provided financial aid involved a men's basketball student-athlete (student-athlete 15). During the 2012-13 academic year student-athlete 15 received funds from one institutional financial aid source, the total value of which was \$4,000. In this instance, the record did not establish individual staff involvement.

Concurrently, the institution provided financial aid based on athletics criteria to student-athlete 6. In the summer of 2013, student-athlete 6 received funds from one institutional financial aid source, and the total value of the impermissible financial aid was \$1,500. In this instance, the record did not establish individual staff involvement.

The third occasion the institution awarded financial aid to a student-athlete based on athletics criteria and who did not meet scholarship criteria involved a men's soccer student-athlete (student-athlete 16). During the 2012-13 and 2013-14 academic years, student-athlete 16 received funds from two institutional financial aid sources, the total value of which was \$1,523. Additionally, student-athlete 16 received one cash award (\$500) for graduating seniors that

specifically identified athletics participation in its criteria. In this instance, the record did not establish individual staff involvement.

The fourth instance in which a student-athlete received financial aid based on athletics criteria involved a women's basketball student-athlete (student-athlete 17). The former head women's basketball coach and the former vice president were involved in student-athlete 17's scholarship approval process.

Regarding student-athlete 17, the former head women's basketball coach asked the former vice president to hold a scholarship for an incoming transfer student-athlete (student-athlete 17) arriving for the 2013 spring term. The institution did not provide student-athlete 17 the scholarship for which the institution originally considered her. At the direction of the former vice president, she received a \$1,500 institutional grant. Specifically, on January 5, 2013, the former vice president emailed the scholarship coordinator and asked that she arrange a \$1,500 grant for student-athlete 17 effective during the 2013 spring semester. The scholarship coordinator confirmed that the former vice president instructed her to award student-athlete 17 financial aid. Student-athlete 17 transferred to the institution for the 2013 spring semester and received the \$1,500 grant as instructed by the former vice president.

The fifth instance occurring during the 2012-13 through 2014-15 academic years in which student-athletes received financial aid based on athletics criteria involved two women's basketball student-athletes (student-athletes 18 and 19, respectively) who received scholarships through a foundation. Student-athlete 18 received a total of \$14,000 for the 2012-13 and 2013-14 academic years and student-athlete 19 received a total of \$14,000 for the 2013-14 and 2014-15 academic years. The former head women's basketball coach asserted himself in the scholarship process for the two student-athletes.

The foundation provided three scholarships to students beginning the fall of 2012 through the fall of 2014, for a total of nine students. The institution's admissions counselor administered the program and conducted interviews of potential candidates for the scholarship. One third of the recipients from 2012-13 through 2014-15 were women's basketball student-athletes.

With specific reference to student-athlete 18, the admissions counselor conducted the required interview with student-athlete 18 that, according to him, did not go well. He did not believe he could bring a student into the program who was unmotivated. Following this first interview, the former head women's basketball coach interceded on student-athlete 18's behalf and asked the admissions counselor to re-interview her. The admissions counselor interviewed student-athlete 18 a second time. The institution ultimately awarded her a scholarship from the foundation. The admissions counselor admitted that he gave student-athlete 18 a second interview because the former head women's basketball coach requested that he do so.

With respect to student-athlete 19, the admissions counselor reported that the former head women's basketball coach recommended student-athlete 19 to him for a foundation scholarship. Candidates for the scholarship were required to submit essays as part of the application process. The former head women's basketball coach became involved in the selection process when



student-athlete 19 sent her essay to the institutional and personal email accounts of the former head women's basketball coach. He, in turn, forwarded the essay to the former vice president.

The third category of financial aid, benefits and awards involved selection of resident assistant positions. During the 2010-11 and 2011-12 academic years, the institution selected three women's basketball student-athletes, student-athlete 4, and two others (student-athletes 20 and 21, respectively) to resident assistant (RA) positions who did not meet the existing official policy qualifications for the positions. Their choice was also contrary to the institution's normal selection process. The former head women's basketball coach and/or the former vice president directly involved themselves in the selection of these student-athletes to the RA positions.

Through its director of student life, the institution established four criteria for RAs: (1) maintain a 3.0 GPA or above, (2) be in good disciplinary standing at the institution, (3) have completed one year of study at the institution and (4) agree to fulfill one year as a RA. Further, the institution conducted interviews of RA candidates, asked essay questions and set deadlines for submission of RA applications. The institution was not supposed to accept late applications.

The former head women's basketball coach communicated with the former vice president regarding the possible selection of student-athlete 4 for a RA position. In the spring of 2010, the former head women's basketball coach sent an email to the former vice president in which he provided an analysis of the costs for student-athlete 4 at her current institution. He wrote, "dorms would be the only cost, it's a 10k savings & a great sell. Just a thought."

Student-athlete 4 subsequently submitted her application on April 26, 2010, three days after the listed April 23 deadline on the application. Further, student-athlete 4 did not qualify for the RA position because she did not meet four eligibility requirements: (1) she had not been enrolled at the institution for one year; (2) she did not have the required 3.0 GPA; (3) she submitted the application after the deadline; and (4) she only answered one of the three required essay questions on the application.

Despite the fact that student-athlete 4 did not meet the requirements, the former head women's basketball coach sent an email on May 2, 2010, to student-athlete 4 that essentially promised the resident assistant position as part of a package:

I . . . understand you are interested in the Dorm and would love the package with the Resident Asst. position. With that in mind, I would like to speak to my boss about securing that spot for you. As you know, there is an application and interview process . . . over 100 students have applied for 6 positions but we would accommodate you if this is your request. We have a few students we are recruiting and I believe if you was (sic) to accept the dorm package, you would be getting an amazing deal.

The former head women's basketball coach and the former vice president collaborated in the selection of student-athlete 4 to the RA position. The day after the former head women's

basketball coach sent the email offering the resident assistant position, the former vice president informed student-athlete 4 that she received the position.

Another instance where the institution selected a student-athlete for an RA position involved student-athlete 20. In June 2009, the former head women's basketball coach corresponded with the former vice president via email about student-athlete 20. He informed the former vice president that he was interested in recruiting her. He pressed the issue stating, "we should schedule a 2nd visit to meet with you and talk about dorming opportunity (would like to offer her that spot on 96th). The former vice president met with student-athlete 20. He instructed the former head women's basketball to offer the RA position as part of her financial aid package. At the hearing, the former vice president admitted that his decision to instruct the former head women's basketball coach to offer the RA position for student-athlete 20 was influenced by "the . . . description of her athletic ability." Student-athlete 20 submitted her RA application to the former vice president. She left blank the cumulative GPA section. At the time she applied, she had a 2.36 GPA. (The director of student life had listed 3.0 as the minimum GPA). The former vice president still chose student-athlete 20 to be an RA even though she did not meet the criteria. This was another example in which the former vice president interceded in the financial aid arrangements for a student-athlete.

The final instance in which either the former vice president or the former head women's basketball coach intervened in the selection of a student-athlete for an RA position involved student-athlete 21. On February 1, 2011, the former vice president instructed the director of student-life to hold one RA spot for student-athlete 21 for the 2011-12 academic year. On May 24, 2011, student-athlete 21 submitted her completed RA application and the former vice president selected her for the RA position. Student-athlete 21 submitted the application over two months after the March 11, 2011, deadline. Contrary to the policies established by the director of student life, student-athlete 21 did not meet the qualifications for the RA position because she had not been at Baruch for one year. She also submitted her application well past the established deadline. Despite not meeting the criteria, the former vice president selected student-athlete 21 when there were only two RA positions available for the 2011-12 academic year. According to the director of student life, she was "overwhelmed with eager applicants."

The former vice president was aware that there was a deadline for submission of RA applications. In 2011, the former head volleyball coach emailed the former vice president regarding an incoming freshman who was interested in the RA position. The former vice president responded, "Thus far freshmen have not really qualified for RA positions. They have to be extraordinary. Perhaps you[r] student is, but I believe it is past the deadline. I'll check though." Despite being aware that a deadline existed for submission of RA applications, the former vice president ignored the deadline requirement when he selected RA positions for women's basketball student-athletes who had submitted their applications past the deadline.

#### **IV. ANALYSIS**

The violations in this case involved 30 student-athletes in nine sports. They primarily centered on women's basketball. They fall into three areas: (A) impermissible financial aid, benefits and cash awards; (B) the former vice president's and the former head women's basketball coach's unethical conduct; and (C) the institution's lack of control over its athletics programs.

##### **A. IMPERMISSIBLE FINANCIAL AID, BENEFITS AND CASH AWARDS [NCAA Bylaws 15.01.3, 15.4.1-(a), 15.4.1-(b) and 15.4.5 (2010-11 through 2014-15 Division III Manual); 16.1.3.1 (2010-11 through 2013-14 Division III Manual); and 16.02.3 (2011-12 and 2012-13 Division III Manual)]**

During the 2010-11 through 2014-15 academic years, the institution, and in some instances, institutional staff, violated NCAA financial aid and benefit legislation in three areas:

- Student-athletes received impermissible in-state residency for which they did not qualify and/or for which their athletics participation was considered;
- Student-athletes received impermissible financial aid, awards and/or benefits for which they did not qualify and/or athletics was considered in the award of the aid or benefits; and
- The institution selected student-athletes for resident assistant positions for which they did not meet the qualifications and were selected based on their status as student-athletes. The institution agreed with most of the facts and that major violations occurred. The former vice president and the former head women's basketball disagreed that they committed violations.<sup>7</sup> The committee concludes that major violations occurred.

##### **1. NCAA legislation and interpretation regarding financial aid and extra benefits.**

The applicable portions of the bylaws and a relevant interpretation may be found at Appendix Two.

##### **2. The institution violated NCAA financial aid legislation in granting in-state residency status to seven student-athletes when it allowed student-athletes to obtain in-state residency who did not meet the requirements.**

During the 2010-11 through 2013-14 academic years, the institution violated financial aid legislation when it impermissibly granted in-state residency status to

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<sup>7</sup>The former vice president and the former head women's basketball coach objected to certain allegations because the enforcement staff did not question the former vice president and the former head women's basketball coach about some of the violations in which the enforcement staff alleged their involvement. However, during the course of the institution's internal investigation, the institution interviewed both the former vice president and the former head women's basketball coach. The enforcement staff explained that it relied on information obtained in interviews conducted by the institution in making some of its allegations. The committee decided there was insufficient evidence to support some of the alleged violations against these individuals.

seven student-athletes who did not meet the existing official policy qualifications for in-state residency. The granting of in-state residency resulted in a reduction of tuition costs by 50 percent. Additionally, in four instances, institutional staff members, primarily the former vice president and/or the former head women's basketball coach, were directly involved in the process of granting the impermissible in-state residency. This conduct violated NCAA Bylaw 15.

NCAA Bylaw 15.01.3 prohibits Division III institutions from awarding financial aid on the basis of athletics leadership, ability, participation or performance. NCAA Bylaw 15.4.1-(b) requires that financial aid procedures used for a student-athlete be the same as the existing official financial aid policies of the institution. Further, NCAA Bylaw 15.4.5 excludes members of the athletics staff from arranging or modifying the financial aid package of student-athletes. It also prohibits those staff from reviewing in any manner the student-athlete's potential institutional financial assistance award. Finally, a January 7, 2013 interpretation confirmed that institutional athletics staff shall not be involved, in any manner, in the review of the institutional financial aid to be awarded to a student-athlete per NCAA Division III Bylaw 15.4.5 and shall not influence a student-athlete's financial aid package directly or indirectly.

The institution impermissibly granted in-state residency status for student-athletes 1, 2 and 3. They received in-state residency status at various times during the 2010-11 through 2012-13 academic years. The three student-athletes did not meet requirements for in-state residency because they were under the age of 24 and financially supported by out-of-state parents, criteria that would normally disqualify students from obtaining in-state residency. When the institution granted them in-state residency status, it violated NCAA Bylaw 15.4.1-(b) because it deviated from the existing official financial aid policies of the institution. Additionally, because the institution admitted that it provided in-state residency based on the athletics ability of student-athletes 1, 2 and 3, it violated NCAA Bylaw 15.01.3.

Institutional staff members were also directly involved in awarding impermissible in-state residency for student-athletes 3, 4, 5 and 6. For student-athlete 3, the former head volleyball coach repeatedly contacted the former assistant vice president and later, the former vice president. Her contacts were an effort to obtain in-state residency status for student-athlete 3. By doing so, she became involved in the review of student-athlete 3's financial aid in violation of NCAA Bylaw 15.4.5. Further, when the former assistant vice president approved student-athlete 3's in-state residency status, he violated NCAA Bylaw 15.4.1-(b) because the granting of in-state residency status was contrary to the existing official financial aid policies of the institution. Finally, because the former assistant vice president ordered the approval

of student-athlete 3's impermissible in-state residency knowing that student-athlete 3 was a student-athlete, he violated NCAA Bylaw 15.01.3.<sup>8</sup>

Another instance where the institution impermissibly granted in-state residency status involved student-athlete 4 who received in-state residency for the 2011-12 and 2012-13 academic years. The former vice president directly approved her in-state residency. Even though the former vice president received information from the director of admissions that reflected that student-athlete 4 was not qualified for in-state status, he instructed the director of admissions to approve student-athlete 4's in-state residency. In doing so, the former vice president violated NCAA Bylaw 15.4.1-(b) because the granting of in-state residency status for student-athlete 4 was contrary to the existing official financial aid policies of the institution. Moreover, because the former vice president ordered the approval of student-athlete 4's impermissible in-state residency knowing that student-athlete 4 was a student-athlete, he violated NCAA bylaw 15.01.3, the provision of financial aid based on athletics participation.

Another student-athlete, in this case, a women's softball student-athlete, student-athlete 5, also received impermissible in-state residency for the 2012-13 academic year. The former head women's basketball coach and the former vice president facilitated or arranged her receipt of in-state residency.

Student-athlete 5's admissions application was incomplete and inconsistent, causing the assistant director of admissions to deny in-state residency. The former head women's basketball coach warned her in an email about a "trick" question on the residency form that may require her to produce tax forms to prove her financial independence, a criterion for in-state residency. The former head women's basketball coach later emailed the former vice president and asked him to contact the admissions office so that the institution could finalize the student-athlete 5's in-state residency application. When the former head women's basketball coach contacted student-athlete 5 and instructed her regarding questions on the in-state residency application, he became involved in the review of student-athlete 5's financial aid in violation of NCAA Bylaw 15.4.5. He also violated this bylaw when he asked the former vice president to contact the admissions office to finalize student-athlete 5's in-state residency application.

The former vice president contacted the director of admissions chastising her about the processing of student-athlete 5's in-state residency application. Despite the fact the director of admissions believed the institution should not have approved student-athlete 5's in-state residency, she approved the application because she felt pressured by the former vice president. When the former vice president pressured the director of admissions resulting in the approval of student-athlete 5's in-state residency, he violated NCAA Bylaw 15.4.1-(b). His actions resulted in the granting of in-state

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<sup>8</sup> Because the former head volleyball coach and the former assistant vice president were involved in the approval of in-state residency for only one student-athlete, the committee determined that their conduct relative to this case was secondary in nature.

residency status for student-athlete 5. He violated the existing official financial aid policies of the institution. Moreover, because the former vice president knew student-athlete 5 was a student-athlete when he approved her residency, he violated NCAA Bylaw 15.01.3, which prohibits financial aid based on athletics criteria.

Another student-athlete, student-athlete 6, who competed in women's basketball, received in-state residency for the 2012-13 and 2013-14 academic years. The former head women's basketball coach facilitated her receipt of in-state residency.

Student-athlete 6 left portions of her in-state residency application blank and provided inaccurate information regarding where she lived and that she was financially independent. Neither the director nor the assistant director of admissions reviewed her application. In an effort to obtain approval of student-athlete 6's in-state residency, the former head women's basketball coach communicated with a student assistant in the admissions office who did not have the authority to grant in-state residency. In doing so, the former head women's basketball coach circumvented the individuals who normally rule on in-state residency applications, specifically the director and assistant director of admissions. The student assistant approved student-athlete 6's in-state residency even though he lacked the authority to do so. When the former head women's basketball coach bypassed the individuals in the admissions office who normally approve in-state residency and collaborated with the student assistant regarding student-athlete 6's residency application, he became involved in the arrangement of student-athlete 6's financial aid package in violation of NCAA Bylaw 15.4.5. Moreover, because the institution approved student-athlete 6's in-state residency application when she did not meet the qualifications, the institution violated NCAA Bylaw 15.4.1-(b) because it departed from the institution's financial aid policies and procedures. Finally, the institution also violated NCAA Bylaw 15.01.3 when it provided in-state residency for student-athlete 6 based on athletics criteria.

Finally, the institution deviated from existing policies when it granted in-state residency to student-athlete 7, a women's basketball and softball student-athlete during the 2012-13 and 2013-14 academic years. She did not qualify for in-state residency because she graduated from an out-of-state high school, was under the age of 24 and did not have sufficient documentation proving she was financially independent. These circumstances would normally disqualify a student from obtaining in-state residency. When the institution granted her in-state residency status, it violated NCAA Bylaw 15.4.1-(b) because it did not follow the existing official financial aid policies of the institution. Additionally, the institution provided in-state residency based on the athletics ability of student-athlete 7, therefore, it also violated NCAA Bylaw 15.01.3.

- 3. The institution provided impermissible financial aid and/or benefits to student-athletes when it granted the aid based on athletics criteria and/or when it deviated from existing policies at the institution. The former vice president and the former head women's basketball also violated NCAA legislation when they involved themselves in the review and/or arrangements for the impermissible financial aid and benefits.**

During the 2010-11 through 2014-15 academic years, the institution violated NCAA financial aid and benefits legislation when it provided impermissible financial aid and/or cash awards to 22 student-athletes. The violations occurred when: (1) the institution awarded aid based on athletics criteria; (2) the institution provided financial aid that deviated from the financial aid policies of the institution; (3) an athletics staff member was involved in the arrangements of financial aid; and (4) the institution provided cash awards for athletics participation. Finally, the former vice president and/or the former head women's basketball coach involved themselves in the process of awarding impermissible financial aid and benefits to five of these student-athletes. This conduct violated NCAA Bylaw 15. In some instances, the conduct violated NCAA Bylaw 16.

NCAA Bylaw 15.01.3 prohibits Division III member institutions from awarding financial aid based on athletics leadership, ability, participation or performance. NCAA Bylaw 15.4.1 generally requires that financial aid for student-athletes shall be the same as all students. Under that bylaw, 15.4.1-(a) prohibits financial aid based on athletics criteria, while NCAA Bylaw 15.4.1-(b) requires that financial aid procedures used for a student-athlete are the same as the existing official financial aid policies for all students. NCAA Bylaw 15.4.5 prohibits members of the athletics staff from arranging or modifying the financial aid package of student-athletes and from being involved in any manner in the review of the institutional financial assistance to be awarded to a student-athlete. NCAA Bylaw 16.02.3 defines what constitutes an "extra benefit" and prohibits student-athletes from receiving them. NCAA Bylaw 16.1.3.1 prohibits student-athletes from receiving a cash award for athletics participation.

The institution provided impermissible aid and awards to 22 student-athletes from various institutional financial aid sources. Thirteen of the 22 student-athletes received financial aid based on athletics criteria. When they received this athletics-based aid, the institution violated NCAA Bylaw 15.01.3 and in some instances, NCAA Bylaw 15.4.1-(a). Further, within this group of 13 student-athletes, eight received financial aid for which they did not meet the stated criteria. When the institution awarded this aid, it violated NCAA Bylaw 15.4.1-(b) because it deviated from the existing official financial aid policies of the institution. Further, of the 22 student-athletes, 11 received one-time cash awards of \$500 each. Because the criterion for these cash awards was athletics participation, the institution violated NCAA Bylaw 16.1.3.1.

In addition, the institution also provided impermissible financial aid and benefits in the form of non-payment of tuition and a reduced-cost dormitory room to a student-athlete. Because student-athlete 14's receipt of this impermissible financial aid was based on her status as a student-athlete, the institution violated NCAA Bylaws 15.01.3 and 15.4.1-(a). Further, both the nonpayment of tuition and the dormitory room arrangements for student-athlete 14 deviated from existing financial aid policies at the institution and thus violated NCAA Bylaw 15.4.1-(b). Finally, when the institution made these allowances for student-athlete 14, it violated NCAA Bylaw 16.02.3 because both were benefits not authorized by NCAA legislation and unavailable to students at the institution.

Either the former vice president or the former head women's basketball coach, or both, were involved in the arrangements or approval of the impermissible aid on four occasions, involving five of these student-athletes.

The first occasion involved student-athlete 10. The former vice president was aware that student-athlete 10 was a student-athlete. He approved student-athlete 10's admission to the institution even though her college entrance test score was more than 300 points below the average for incoming freshman. Furthermore, the former vice president ordered the scholarship coordinator to award financial aid to student-athlete 10. The former vice president violated NCAA Bylaw 15.4.1-(b) because the awarding of such aid deviated from existing financial aid policies of the institution. He also violated NCAA Bylaws 15.01.3 and 15.4.1-(a) because he considered athletics criteria in ordering the scholarship coordinator to award student-athlete 10 financial aid.

Both the former vice president and former head women's basketball coach were involved in the arrangement of student-athlete 17's financial aid. The former head women's basketball coach asked the former vice president to hold a scholarship for student-athlete 17. Ultimately, the former vice president told the scholarship coordinator to award student-athlete 17 a \$1,500 grant for the 2013 spring semester. When the former head women's basketball coach asked the former vice president to hold a scholarship for student-athlete 17, he was involved in the arrangement of her financial aid package in violation of NCAA Bylaw 15.4.5. Furthermore, when the former vice president instructed the scholarship coordinator to award aid to student-athlete 17, he violated NCAA Bylaws 15.01.3 and 15.4.1-(a), because he considered athletics criteria in the awarding of such aid.

The third occasion involved student-athletes 18 and 19 receiving scholarships from a foundation. The former head women's basketball coach recommended both for receipt of the scholarships. Selection for the scholarship included a mandatory interview. With regard to student-athlete 18, her interview did not go well. The former head women's basketball coach intervened and asked that student-athlete 18 receive a second interview, which she did. Student-athlete 18 ultimately received the scholarship. When the former head women's basketball coach intervened in the



selection process by asking that she receive a second interview, he became involved in the review of her financial aid package and violated NCAA Bylaw 15.4.5. With respect to student-athlete 19, the former head women's basketball coach recommended her for the scholarship. He received her mandatory essay from student-athlete 19 and forwarded it to the former vice president. At this point, he became involved in the review of her financial aid package in violation of NCAA Bylaw 15.4.5.

Further, with respect to student-athlete 18's and 19's receipt of the foundation scholarships, the committee notes that a disproportionate fraction, about one third, of the foundation's scholarship recipients were women's basketball student-athletes. Consequently, the committee concludes that the institution awarded the scholarships based on athletics criteria in violation of NCAA Bylaws 15.01.3 and 15.4.1-(a). Finally, after student-athlete 18 had performed poorly in the required interview, the institution granted her a second interview. In doing so, the institution deviated from its normal financial aid policies and procedures, thus violating NCAA Bylaw 15.4.1-(b).

The fourth occasion in which the former vice president and/or the former head women's basketball coach became involved in the arrangement of financial aid centered on a reduced-cost dormitory room for student-athlete 14. The former head women's basketball coach discussed student-athlete 14's "hardship" circumstances with the former vice president. He later informed student-athlete 14 that a free dorm room could be part of her financial aid package. The former vice president arranged with the housing agency that operated the dormitory for student-athlete 14 to receive a dorm room with the understanding that she would perform work for the agency. Ultimately, student-athlete 14 did not perform any work for the agency, but did perform approximately 71 hours of work in the admissions office. No other students had a similar arrangement in which they received a cost-free dormitory room in exchange for working at the housing agency or in exchange for working in the admissions office.

When the former head women's basketball coach informed student-athlete 14 that a dorm room could be part of her financial aid package, and communicated with the former vice president about student-athlete 14's needs, he became involved in arranging her financial aid package in violation of NCAA Bylaw 15.4.5. Moreover, the former vice president was aware that student-athlete 14 was a student-athlete when he arranged for her to receive a dormitory room, ostensibly in exchange for work at the housing agency. When he made these arrangements, he violated NCAA Bylaws 15.01.3 and 15.4.1-(a) which prohibits institutions from awarding financial aid based on athletics criteria. The former vice president also violated NCAA Bylaw 16.02.3 because student-athlete 14 received a dormitory room in exchange for performing minimal work, and this arrangement constituted an extra benefit not available to other students.

**4. The institution, through the actions of the former vice president and the former head women's basketball coach, violated awards and benefits legislation when it selected student-athletes for resident assistant (RA) positions.**

During the 2010-11 and 2011-12 academic years, the former vice president and the former head women's basketball coach were involved in the provision of impermissible extra benefits to student-athletes 4, 20 and 21 when they were selected as RAs. The former vice president chose them based on their status as student-athletes, although they did not meet the existing official policy qualifications for the positions. Their selection was contrary to the institution's normal selection process. As RAs, each student-athlete received a free room in the institution's residence hall, a value of approximately \$10,000 per academic year, in exchange for performing RA duties.

NCAA Bylaw 16.02.3 prohibits student-athletes from receiving benefits not expressly authorized by NCAA legislation and that are not available to the general student body.

Regarding student-athlete 4, the former head women's basketball coach emailed the former vice president suggesting that, if student-athlete 4 were to get an RA position, it would save her \$10,000 and be a selling point. Later, the former head women's basketball coach emailed student-athlete 4 offering her a dorm room as part of her financial aid package. Ultimately, the former vice president selected student-athlete 4 despite the fact that she did not meet established criteria for selection.

The former head women's basketball coach interjected himself on behalf of student-athlete 4 with the former vice president in an effort to get her selected as an RA. In doing so, the former head women's basketball coach helped arrange her selection, which ultimately resulted in a violation of NCAA Bylaw 16.02.3. When the former vice president selected student-athlete 4 for the RA position, even though she was not qualified for the position, he created a special arrangement for a benefit not authorized by NCAA legislation and therefore a violation of NCAA Bylaw 16.02.3.

Similar to student-athlete 4, the former head women's basketball coach advocated on behalf of student-athlete 20 to the former vice president in an effort to obtain her selection as an RA. The former vice president chose student-athlete 20 for the RA position outside the normal selection process and despite the fact that she did not meet the criteria. When the former head women's basketball coach advocated on behalf of student-athlete 20, he facilitated her selection, which led to a violation of NCAA Bylaw 16.02.3. When the former vice president selected student-athlete 20 for an RA position, even though she was not qualified for the position and did not participate in the normal selection process, he created a special arrangement for a benefit not authorized by NCAA legislation and a violation of NCAA Bylaw 16.02.3.

Finally, regarding student-athlete 21, the former vice president selected her for the RA position with the consideration that she was a student-athlete and that the RA position would free her from paying for a dorm room. He selected student-athlete 21 after the deadline had passed and despite the fact that she did not meet the institution's one-year residency requirement. Further, the former vice president selected her even though there were only two positions available and there were numerous applicants for the positions. When the former vice president selected student-athlete 21 for the RA position, even though she did not meet the qualifications for the position and when there were numerous applicants for only two available RA positions, he violated NCAA Bylaw 16.02.3 because he created a special arrangement for a benefit not authorized by NCAA legislation.

**B. THE FORMER HEAD WOMEN'S BASKETBALL COACH'S AND FORMER VICE PRESIDENT'S UNETHICAL CONDUCT [NCAA Bylaws 10.01.1, 10.1 and 10.1-(c) (2010-11 through 2013-14 Division III Manuals)]**

The former head women's basketball coach and the former vice president acted in an unethical manner through their knowing involvement in the arrangement of and/or provision of impermissible financial aid and extra benefits to student-athletes. The enforcement staff, the former head women's basketball coach and the former vice president did not agree to the facts or that a violation occurred. The institution did not take a position. The committee concludes that the violations occurred, and they are major.

**1. NCAA legislation relating to unethical conduct.**

The applicable portions of the bylaws may be found at Appendix Two.

**2. The former head women's basketball coach engaged in unethical conduct when he knowingly involved himself in the arrangements for impermissible financial aid and extra benefits received by student-athletes.**

The former head women's basketball coach violated NCAA ethical conduct legislation when he knowingly involved himself in the arrangement of student-athletes' impermissible financial aid packages and/or benefits. He directly influenced decisions that resulted in financial aid for student-athletes based on athletics criteria. Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid is a violation of NCAA ethical conduct legislation. His conduct violated NCAA Bylaw 10.

NCAA Bylaws 10.01.1 and 10.1 generally require all institutional staff members to conduct themselves in an ethical manner. Subsection (c) of NCAA Bylaw 10.1 specifies that knowing involvement in offering or providing a prospective or an

enrolled student-athlete an improper inducement or extra benefit or improper financial aid constitutes unethical conduct.

On several occasions, the former head women's basketball coach influenced or helped arrange financial aid for student-athletes by contacting staff members involved with the awarding or approval of financial aid, primarily the former vice president. The former head women's basketball coach either advocated on behalf of student-athletes for receipt of financial aid, or influenced the processing of financial aid. This financial aid was based on athletics criteria and in some instances, student-athletes did not meet the established requirements to qualify for the aid.

Each infractions case stands on its own unique facts. However, the committee has previously concluded head coaches engage in unethical conduct when they arrange impermissible financial aid or benefits, *MacMurray College* (2005) (the head men's tennis coach knowingly arranged improper financial aid for international student-athletes) and *College of Staten Island* (2013) (the head men's swimming coach provided and/or arranged impermissible inducements and extra benefits, including impermissible housing).

In defense of his actions, the former head women's basketball coach cited the committee's decision in *Kean University* (2012) (concluding that the institution provided impermissible financial aid and extra benefits to student-athletes, the head women's basketball coach failed to promote an atmosphere of compliance and the institution lacked control). In comparing the two cases, the committee notes that, in *Kean*, the head women's basketball coach's actions were limited. Here, the former head women's basketball coach had much more extensive contact over several years with the former vice president, among others, relating to the provision of financial aid and benefits for student-athletes. Further, in *Kean*, the committee concluded, "it is not advisable for institutions to allow their coaches to have contact with financial aid administrators regarding scholarships, and we discourage the practice." In *Kean*, the committee warned the Division III membership that coaches should not interact with the financial aid staff and administrators, which the former head women's basketball coach did on numerous occasions.

The committee notes that the former head women's basketball coach had been at the institution for over 13 years, in both coaching and administrative capacities and that he was involved in a violation in the institution's 2011 infractions case. He knew, or certainly should have known, that adherence to NCAA legislation was of utmost importance. Further, the former head women's basketball coach knew it was impermissible to consider athletic ability or participation when awarding financial aid to a student-athlete. He knew that Division III bylaws prohibit him from attempting to alter or change financial aid packages. He admitted understanding that aid should not turn on athletic status. NCAA Bylaw

15.4.5 expressly prohibits athletics staff involvement in arranging, modifying or reviewing financial assistance provided to student-athletes. Further, in early 2013, as referenced in this decision, the NCAA Academics and Membership Staff issued an interpretation making it clear that coaches are precluded from being involved, in any manner, in the review of the institutional financial aid stating that coaches "shall not influence a student-athlete's financial aid package . . . directly or indirectly."

The committee concludes that the former head women's basketball coach knowingly involved himself in the arrangement of improper financial aid. When the former head women's basketball coach knowingly became involved in arranging improper financial aid, he violated NCAA Bylaws 10.01.1 and 10.1-(c).

**3. The former vice president engaged in unethical conduct when he knowingly arranged and/or provided for the provision of impermissible financial aid and extra benefits received by student-athletes.**

The former vice president violated NCAA ethical conduct legislation when he knowingly provided and/or arranged for the provision of impermissible financial aid and extra benefits to student-athletes. The former vice president became directly involved in decisions that resulted in student-athletes receiving financial aid based on athletics criteria and/or that was contrary to institutional financial aid policies. Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid is a violation of NCAA ethical conduct legislation. His conduct violated NCAA Bylaw 10.

The committee notes that the former vice president had been at the institution for nearly a decade. During that time, he oversaw athletics, financial aid and admissions, among seventeen functional areas. The committee has not previously seen a high-level campus administrator with such breadth and scope of responsibilities in an infractions case. Similarly, the committee has not previously seen a high-level campus administrator involved in such widespread violations in an infractions case. The former vice president sought to raise the profile of athletics at the institution and, as part of that effort, he was closely involved in the recruitment, admission and awarding of financial aid for prospects and student-athletes. He acknowledged that student-athletes received special treatment from him. He also instructed the former head women's basketball coach to give prospects special treatment. Other staff members confirmed that the former vice president made athletics a priority and, in that context, he arranged for, or instructed staff members to provide student-athletes' with financial aid and other benefits. Staff members reported that the former vice president was not receptive to questions about these decisions. Although the former vice president claimed that he did not receive NCAA rules education, he acknowledged that Division III institutions could not provide financial aid based on athletics criteria.

He admitted that it was well understood that students could not receive scholarships based on athletics status.

The former vice president approved, directed or influenced the awarding or provision of impermissible financial aid and/or benefits for numerous student-athletes over the course of multiple years. Therefore, the committee concludes that the former vice president knowingly involved himself in the arrangement of improper financial aid and benefits for student-athletes. When the former vice president knowingly involved himself in arranging and/or providing improper financial aid, he violated NCAA Bylaws 10.01.1 and 10.1-(c).

**C. LACK OF INSTITUTIONAL CONTROL [NCAA CONSTITUTION 2.1.1, 2.8.1 and 6.01.1 (2010-11 through 2014-15) NCAA Division III Manuals]**

Over the course of at least five academic years, the institution failed to exercise control over the conduct and administration of its athletics programs. The institution lacked procedures in awarding financial aid, allowing staff members to engage in *ad hoc* decision-making in the provision of financial aid and benefits that violated NCAA legislation. The institution also lacked oversight of certain institutional staff members that contributed to the violations. The institution did not agree with the enforcement staff that it lacked control, but it did agree that it failed to monitor.

**1. NCAA legislation regarding institutional control.**

The applicable portions of the bylaws may be found at Appendix Two.

**2. From 2010-11 through 2014-15 academic years, the institution lacked control over its athletics programs when it allowed violations to occur involving the provision of impermissible financial aid, cash awards and benefits, valued at \$255,097 to 30 student-athletes in nine sport programs.**

For five academic years, the institution did not exercise proper control over the administration of its athletics programs when it failed to: (1) ensure that the financial aid, cash awards, RA selection and employment arrangement processes did not consider athletics leadership, ability, participation or performance and were not based on the student-athletes' status as athletes; (2) ensure the resident assistant (RA) selection processes for students-athletes was the same as the existing official policies for the general student population; and (3) monitor the conduct of the former vice president for student affairs and enrollment management, and the former head women's basketball coach. The institution's cumulative failures over an extended period resulted in dozens of student-athletes receiving impermissible financial aid and benefits totaling hundreds of thousands of dollars. These failures violated the NCAA Constitution.

Generally, NCAA Constitution 2.1.1, 2.8.1 and 6.01.1 require that each member institution comply with all rules and regulations of the Association, monitor its programs to ensure compliance and mandates that the institution's administration or faculty, or a combination of the two, exercise control and responsibility over the conduct of the institution's intercollegiate athletics programs. The institution failed in this regard.

First, the institution failed to ensure that the financial aid awards, cash awards, RA selection and employment arrangement processes did not consider athletics criteria and were not based on the student-athletes' status as athletes. The information in this case reflected that the institution's leadership, primarily the former vice president, placed an emphasis on athletics. The former vice president had oversight over a number of departments, including athletics, admissions, financial aid and housing. Coaches, most notably the former head women's basketball coach, had open access to the former vice president and used that access to evade established policies and advocate for student-athletes to receive in-state residency, financial aid and other benefits based on athletics criteria. Ultimately, because of the former vice president's authority to influence or grant the awarding of financial aid, combined with coaches being involved in the processes for awarding of financial aid, over the course of at least five years, 30 student-athletes received impermissible financial aid, awards and benefits based on athletics criteria totaling \$255,097.

The institution admitted it lacked processes and procedures for the awarding of financial aid. The scholarship coordinator's observation that the former vice president often directed her to award scholarships and he never gave her a reason or justification for the awarding of the financial aid, reflected the institution's lack of policies and procedures. She complied with the former vice president's request every time.

The provision of such benefits was contrary to one of the basic tenets of Division III membership, specifically, that Division III rules prohibit institutions from using athletics criteria in awarding financial aid. The large number of student-athletes and the length of time over which the institution awarded these impermissible benefits reflected a lack of institutional control.

Second, the institution failed to ensure the RA selection processes for student-athletes was the same as the existing official policies for the general student population. The institution developed specific criteria for RA candidates, required an interview and established a deadline for submission of the applications. Women's basketball student-athletes filled three of the 12 available RA positions. The former vice president selected all three, and they all either did not meet one or more of the established criteria and/or submitted their applications past the established deadlines. Thus, the selection of these three

student-athletes to RA positions deviated from the institution's normal process and reflected a lack of institutional control.

Third, the institution failed to monitor the conduct of the former vice president and the former head women's basketball coach. Because there was a lack of procedures with regard to the awarding of financial aid, these two staff members were free to collaborate in the awarding of impermissible financial aid and benefits for student-athletes. Further, there was no oversight of their actions. This lack of oversight was a significant contributing factor that allowed these two staff members to engage in the arranging and awarding of impermissible financial aid.

The former vice president oversaw 17 departments including athletics and admissions. In the eyes of the committee, the former vice president had a great deal of autonomy and wielded considerable power. Staff members reported being hesitant to question the former vice president's authority or decisions. Further, there was little, if any, oversight of the former vice president with regard to athletics compliance. The former vice president hired the former head volleyball coach and assigned her the additional duties of compliance. She was in no position to provide oversight of, or guidance for, the former vice president. In fact, the former vice president reported that he did not receive NCAA rules education. Consequently, the institution did not have systems, procedures and the leadership structure to monitor the former vice president and this was symptomatic of a lack of institutional control. The lack of oversight and monitoring of the former vice president were significant contributing factors in the violations that occurred in this case and reflective of a lack of institutional control.

Similarly, the institution failed to monitor the former head women's basketball coach. There was little, if any, oversight of the former head women's basketball coach and this allowed him to arrange and influence the awarding of impermissible financial aid for student-athletes. The former head women's basketball coach had direct access to the former vice president and used this access to request assistance in obtaining impermissible financial aid and other benefits for student-athletes. As with the former vice president, the institution did not have systems or procedures to monitor the activity of the former head women's basketball coach and this was symptomatic of a lack of institutional control.

Over the past decade, the committee has repeatedly warned that institutions must adhere to Division III financial aid legislation, particularly provisions relating to the exclusion of athletics criteria in the awarding of financial aid. In several instances, the committee has determined that institutions violating financial aid legislation lacked institutional control. See *Baldwin Wallace University* (2014) (involving a failure to exclude athletics consideration from the formulation of aid and allowing the athletics department to be directly involved in the formulation of



student-athletes' financial aid packages); *Kean University* (2012); *University of Southern Maine* (2012) (involving impermissible financial aid [pay for work not performed] extra benefits and unethical conduct) and; *MacMurray College* (2005).

The institution argued that the violations in this case were the result of the actions of a limited number of individuals, primarily the former vice president and the former head women's basketball coach. However, the institution admitted that, because athletics and admissions reported to the former vice president, "a structural institutional deficiency" existed within the institution's administrative organization.

The committee concludes that the institution's admitted "structural deficiency, a lack of policies and procedures, combined with weak oversight of the former vice president and the former head women's basketball coach, were the primary reasons why the violations in this case occurred. The violations were systemic, occurred over a period of at least five consecutive years, and involved 30 student-athletes who, collectively received \$255,097 in impermissible aid and/or benefits. The committee concludes that the conditions and circumstances that led to the violations in this case reflect that the institution lacked control and failed to meet the requirements under NCAA Constitution 2.1.1, 2.8.1 and 6.01.1.

## V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the committee concludes that this case involved major violations of NCAA legislation. The institution, the former vice president and the former head women's basketball coach committed major infractions when, during at least the 2010-11 through 2014-15 academic years, they facilitated, arranged or approved impermissible financial aid, benefits and cash awards to 30 student-athletes. Further, the institution lacked institutional control.

In prescribing the penalties, the committee considers the institution's cooperation in the processing of this case. NCAA Bylaws 19.01.3 and 32.1.4 address cooperation during the infractions process. The committee concludes that the cooperation exhibited by the institution was consistent with its obligation under the bylaws. Further, because of its 2011 major infractions case and pursuant to NCAA Bylaw 19.5.2.3, the institution is considered a repeat violator. As a result, the institution could have been subject to enhanced penalties under NCAA Bylaw 19.5.2.3.2. However, the committee decided not to prescribe the enhanced penalties because the institution took appropriate corrective actions following the discovery of the violations.

The committee prescribes the following penalties. The institution's self-imposed penalties are specifically identified. The institution's corrective actions are contained in Appendix One.

### **Penalties, Disciplinary Measures and Corrective Actions (NCAA Bylaw 19.5.2)<sup>9</sup>**

1. Public reprimand and censure.
2. Four years of probation from June 30, 2016, to June 29, 2020.<sup>10</sup> Recent Division III cases that included four years of probation for violations involving financial aid and benefits violations include *College of Staten Island* (2013) and *Kean University* (2012).
3. The women's basketball team shall end its season with the last scheduled regular season game for the 2016-17 season and shall not be eligible for post season competition.
4. The institution shall retain the services of an outside entity to perform an audit of its athletics program, with a particular emphasis on financial aid policies and procedures and the institution's organizational structure relative to intercollegiate athletics. It shall implement and abide by all recommendations made by the reviewer. The institution shall provide a copy of the reviewer's report in its first annual compliance report.
5. The following institutional staff members shall attend at least one NCAA Regional Rules Seminar during the period of probation: the director of athletics, the chief financial aid officer, the senior member of the institution's administration who oversees athletics and the head coaches of the nine involved sports (women's basketball, men's basketball, women's cross country, men's soccer, softball, women's swimming, men's tennis, women's volleyball and men's volleyball).
6. The former head women's basketball coach knowingly influenced the awarding of impermissible financial aid and benefits to student-athletes based on athletics leadership, ability, participation or performance. In some instances, the student-athletes did not meet the criteria for the financial aid awards and/or benefits. In doing so, the former head women's basketball coach also engaged in unethical conduct. Past cases involving coaches who violated ethical conduct legislation in the arranging or influencing the provision of impermissible financial aid or benefits include; *MacMurray College* (2005) (the head men's tennis coach knowingly arranged improper financial aid for international student-athletes) and *College of Staten Island* (2013).

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<sup>9</sup> Historically, the committee would vacate all postseason wins. The committee also has the bylaw authority to vacate all wins by the institution in which ineligible student-athletes competed. However, the committee is unable to do so in this case. Due to noncontroversial legislation adopted by the Division III Management Council in June 2014, student-athletes who received impermissible financial aid, but were unaware that they received improper financial aid, were not deemed ineligible and would not need to seek reinstatement. Noncontroversial legislation is immediately effective after it is adopted. The noncontroversial legislation was subsequently referred back to committee for a broader discussion at the NCAA Convention in January 2015. The result is the legislation was no longer effective as of January 17, 2015. However, the noncontroversial legislation applies to the institution and those involved in cases initiated during the effective period of the noncontroversial legislation. There is no indication that any of the student-athletes were aware that they were receiving impermissible financial aid. Therefore, the committee cannot prescribe a vacation penalty.

<sup>10</sup> Periods of probation always commence with the release of the infractions decision.

Therefore, the committee prescribes a one-year show-cause order for the conduct of the former head women's basketball coach. During the year, which begins on June 30, 2016, and ends June 29, 2017, the former head women's basketball coach shall be prohibited from all athletically related duties. He shall also attend an NCAA Regional Rules Seminar in either 2017 or 2018. Any member institution employing the former head women's basketball coach during the period of the show-cause order shall submit a letter to the Office of the Committees on Infractions (OCOI) agreeing to the conditions of the show cause. Furthermore, it shall file a report with the OCOI at the conclusion of the show-cause order. The report shall attest that the institution complied with the conditions of the show cause and shall document NCAA compliance education undertaken with the former head women's basketball coach.

7. The former vice president knowingly influenced, directed and/or permitted the awarding of impermissible financial aid and benefits to several student-athletes based on their athletics leadership, ability, participation or performance, and in some instances, for which the student-athletes did not meet the criteria for the financial aid awards and/or benefits. In doing so, the former vice president also engaged in unethical conduct. Therefore, the committee prescribes a one-year show-cause order for the conduct of the former vice president. During the year, which begins on June 30, 2016, and ends June 29, 2017, the former vice president shall be prohibited from all athletically related duties. This includes any involvement in the processes of admission and the awarding of financial aid for prospective student-athletes and enrolled student-athletes. Any member institution employing the former vice president during the period of the show-cause order shall submit a letter to the OCOI agreeing to the conditions of the show cause. Furthermore, it shall file a report with the OCOI at the conclusion of the show cause period. The report shall attest that the institution has abided by the conditions of the show cause and shall document NCAA compliance education undertaken with the former vice president.
8. During probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes' eligibility for admission, financial aid, practice or competition;
  - b. Submit a preliminary report to the Office of the Committees on Infractions by August 15, 2016, setting forth a schedule for establishing this compliance and educational program;
  - c. File with the Office of the Committees on Infractions an annual compliance report during each year of probation indicating the progress made with this program by April 30 of each year during the period of probation. Particular emphasis should be placed on compliance with Division III financial aid legislation and establishing a

- campus-wide system of rules education and compliance administered by trained and competent individuals. The report must include documentation of the institution's compliance with the penalties adopted and prescribed by the committee;
- d. Inform all prospective student-athletes in the sport of women's basketball that the institution is on probation for four years and explain the violations committed. The information must be provided in writing and for the full term of probation. The institution must provide this information as soon as practicable after the prospective student-athlete is recruited pursuant to NCAA Bylaw 13.02.8 and, in all instances, before the prospective student-athlete signs a financial aid agreement or initially enrolls at the institution, whichever is earlier; and
  - e. For the full term of probation, publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement including the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions decision located on the athletic department's main or "landing" webpage. The information shall also be included in an alumni publication. The statement must: (i) clearly describe the infractions; (ii) include the length of probation associated with the major infractions case; and (iii) give members of the general public a clear indication of what happened in the major infractions case to allow the public (particularly prospective student-athletes and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.
10. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

As required by NCAA legislation for any institution involved in a major infractions case, Baruch College shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, June 30, 2016. Further, the committee advises the institution that it should take every precaution to ensure that it observes the terms of the penalties. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations will cause the committee to consider extending the institution's probationary period, prescribing more severe penalties, or may result in additional allegations violations.

NCAA DIVISION III COMMITTEE ON INFRACTIONS  
Dave Cecil  
Amy Hackett, chair  
Tracey Hathaway  
Gerald Houlihan  
Gerald Young

**APPENDIX ONE**

**CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S NOVEMBER 10, 2015, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

1. The Division of Enrollment Management and Student Affairs was reorganized into two separate divisions.
2. The former vice president was relieved of his duties as sole head of the Department of Enrollment Management and Student Affairs and the Student Affairs function – including athletics – was removed from his area of responsibility.
3. The former vice president was admonished in writing, by the institution's president in his annual review.
4. The former head women's basketball coach was removed from the athletics program and reassigned to the Student Life office.

## **APPENDIX TWO BYLAW CITATIONS AND INTERPRETATION**

### **Division III 2010-11 through 2014-15 Manuals**

**2.1.1 Responsibility for Control.** It is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the Association. The institution's president or chancellor is responsible for the administration of all aspects of the athletics program, including approval of the budget and audit of all expenditures.

**2.8.1 Responsibility of Institution.** Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

**6.01.1 Institutional Control.** The control and responsibility for the conduct of intercollegiate athletics shall be exercised by the institution itself and by the conference(s), if any, of which it is a member. Administrative control or faculty control, or a combination of the two, shall constitute institutional control.

**10.01.1 Honesty and Sportsmanship.** Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

**10.1 Unethical Conduct.** Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

- (c) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;

**15.01.3 Financial Aid Not Administered by Institution.** A member institution shall not award financial aid to any student on the basis of athletics leadership, ability, participation or performance.

**15.4.1 Consistent Financial Aid Package.** The composition of the financial aid package offered to a student-athlete shall be consistent with the established policy of the institution's financial aid

office, regular institutional agency, office or committee for all students and shall meet all of the following criteria:

- (a) A member institution shall not consider athletics leadership, ability, participation or performance as a criterion in the formulation of the financial aid package;
- (b) The financial aid procedures used for a student-athlete are the same as the existing official financial aid policies of the institution;

**15.4.5 Athletics Staff Involvement.** Members of the athletics staff of a member institution shall not be permitted to arrange or modify the financial aid package (as assembled by the financial aid officer or financial aid committee) and are prohibited from serving as members of member institutions' financial aid committees and from being involved in any manner in the review of the institutional financial assistance to be awarded to a student-athlete.

**16.02.3 Extra Benefit.** An extra benefit is any special arrangement by an institutional employee or a representative of the institution's athletics interests to provide a student-athlete or the student-athlete's relative or friend a benefit not expressly authorized by NCAA legislation. Receipt of a benefit by student-athletes or their relatives or friends is not a violation of NCAA legislation if it is demonstrated that the same benefit is generally available to the institution's students or their relatives or friends or to a particular segment of the student body determined on a basis unrelated to athletics ability.

**16.1.3.1 Cash or Equivalent.** An individual may not receive a cash award for athletics participation. An individual may not receive a cash-equivalent award (i.e., an item that is negotiable for cash or trade or other services, benefits or merchandise) for athletics participation.

### **NCAA Interpretation**

On January 7, 2013, the NCAA Division III Academic and Membership Affairs staff issued an interpretation providing guidance related to staff involvement in arranging financial aid. The interpretation is titled "Athletics Department Staff Involvement with Financial Aid Office" and states:

The Interpretations and Legislation Committee confirmed that institutional athletics staff members (e.g., athletics directors, coaches, senior woman administrators, etc.) are precluded from being involved, in any manner, in the review of the institutional financial aid to be awarded to a student-athlete per NCAA Division III Bylaw 15.4.5 (athletics staff involvement) and Bylaw 15.4.6. Specifically, institutional athletics staff shall not influence a student-athlete's financial aid package (as assembled by the financial aid officer or financial aid committee) directly or indirectly.