



[THIS REPORT DOES NOT REFLECT THE DECISIONS MADE BY THE NCAA DIVISION I INFRINGEMENTS APPEALS COMMITTEE RELATIVE TO THIS CASE. FOR A FULL EXPLANATION OF THE APPEALS COMMITTEE'S DECISION, SEE THE INFRINGEMENTS APPEALS COMMITTEE'S REPORT LINKED TO THIS CASE'S WEBPAGE.]

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UNIVERSITY OF CALIFORNIA, BERKELEY
PUBLIC INFRINGEMENTS REPORT

I. INTRODUCTION.

On April 12, 2002, officials from the University of California, Berkeley, appeared before the Division I Committee on Infractions to address allegations of NCAA violations in the institution's football program. The university, a member of the Pacific-10 Conference, has an enrollment of approximately 32,000 students and sponsors 13 men's and 13 women's intercollegiate sports. The institution had previous infractions cases in 1997 (men's basketball); 1988 (football); 1972 (football); 1971 (men's track); and 1957 (football). Because violations of NCAA legislation in this case occurred within five years of its 1997 case, the institution is considered a repeat-violator as prescribed in NCAA Bylaw 19.6.2.3.

This case primarily concerned violations of NCAA bylaws governing ethical conduct (academic fraud), academic eligibility, the obligation to withhold ineligible student-athletes from competition, extra benefits, improper recruiting inducements, and lack of institutional control. For the most part, the violations in this case were not contested. The university acknowledged the gravity of this case, as stated in the following excerpt from its response to the letter of official inquiry:

Cal fully acknowledges that this is a serious case. The evidence shows that academic improprieties occurred and that a Cal professor was directly involved; that the two involved student-athletes were allowed to participate during the 1999 football season as a result of fraudulently obtained eligibility certifications; that athletics administrators failed to

adequately investigate the circumstances of the retroactive enrollments and credits on which the fall 1999 eligibility of two football student-athletes was established; and that due to an inadequate internal investigation and an inaccurate and misleading report to the Pac-10, Cal failed to maintain institutional control over its eligibility certification system and its process for investigating and reporting possible NCAA rules violations.

As indicated above, the most serious violations in this case involved two football student-athletes (henceforth, "student-athlete 1" and "student-athlete 2" who were provided fraudulent credits in two courses taught by a tenured professor (henceforth, "the professor").

The genesis of the case was in May 1999, when the institution's academic study center staff became aware of information concerning the two student-athletes' plans to add retroactively, 1999 spring semester classes taught by the professor. Some concern was expressed about these arrangements, and on June 10, 1999, the faculty athletics representative at the time initiated a cursory inquiry by sending an e-mail to the professor informing him of satisfactory progress requirements, but took no further action. In August 1999, the two student-athletes received grades of "C" in the courses, despite the fact that both did little or no course work to earn the credits. A short time after receiving the fraudulent credit in the two courses, the two student-athletes were certified as eligible by the new faculty athletics representative.

In the fall of 1999, the NCAA received information from an anonymous source indicating that the two student-athletes had received fraudulent credit. The NCAA informed the conference office, which, in turn, informed the university of this information. The university launched an internal investigation and, in a January 27, 2000, report to the Pacific-10 Conference, concluded that no violations occurred regarding the two student-athletes in question. The conference initiated its own probe into the matter in February 2000. In the fall of 2000, the conference issued a preliminary allegations report to the institution alleging that NCAA violations of academic fraud, extra benefits, competition of ineligible student-athletes and a lack of institutional control had occurred. At that time, the university retained the services of an outside law firm to conduct an independent investigation. The university's second investigation confirmed that the conference's allegations were substantially correct. The university appeared before the Pacific-10 Conference Compliance and Enforcement Committee on March 1, 2001, and on March 8, the conference's committee concluded that NCAA violations of academic fraud, extra benefits, competition of ineligible student-athletes and a lack of institutional control had occurred. The Pacific-10 Conference commended the university for the thoroughness of its second investigation.

In early June 2001, the conference forwarded its final infractions report to the enforcement staff, and a short time later the enforcement staff sent a letter of preliminary inquiry to the institution. During the summer of 2001, the enforcement staff conducted its own investigation, and on September 6, issued a letter of official inquiry. In early November, the institution submitted its response to the letter of official inquiry. The institution was initially scheduled to appear before the Division I Committee on Infractions during its February 2002 meeting, but the appearance was postponed because of information received in late January by the enforcement staff from the conference office indicating that potential major violations of NCAA legislation occurred at the university in 1999 and 2000 relating to student-athletes' receipt of hotel incidental expenses. It was agreed that additional investigation by the institution was needed. On March 5 the institution notified the enforcement staff that additional violations were found relating to hotel incidental expenses during the 1997, 1998, and 2001 football seasons. On April 3, the institution submitted a self-report pertaining to the impermissible hotel incidental expenses.

II. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.

A. UNETHICAL CONDUCT – ACADEMIC FRAUD, ACADEMIC INELIGIBILITY, FAILURE TO WITHHOLD INELIGIBLE STUDENT-ATHLETES FROM COMPETITION. [NCAA Bylaws 10.1-(b), 14.4.3.1, 14.4.3.1.3 and 14.11.1]

In August 1999, student-athletes 1 and 2 were involved in academic fraud when the professor awarded academic credit to the young men, even though they did not attend a sufficient number of class sessions or complete a sufficient amount of coursework to receive academic credit in the professor's courses. Additionally, the institution permitted the two student-athletes to compete during the fall of 1999, even though they had failed to maintain NCAA satisfactory progress and were ineligible for competition. Specifically:

1. In August 1999, the professor allowed student-athlete 1 to enroll retroactively in a course the professor taught during the 1999 spring semester, and subsequently awarded student-athlete 1 a grade of "C" for the course, even though the young man attended limited class sessions, if any, and completed little or no coursework. The professor's requirements for the course included a midterm exam worth 100 points, a final exam worth 100 points, two objective tests worth 50 points, and class participation worth 50 points

2. In August 1999, the professor allowed student-athlete 2 to enroll retroactively in a course taught by the professor during the 1999 spring semester and subsequently awarded student-athlete 2 a grade of "C" for the course, even though the young man attended limited class sessions, if any, and completed little or no coursework. The professor's requirements for the course included a midterm exam worth 100 points, a final exam worth 100 points, two objective tests worth 100 points, and class participation worth 100 points.
3. During the fall semester of 1999, the institution permitted student-athlete 1 to compete, even though the young man had not maintained NCAA satisfactory progress, as he earned only nine credit hours during the 1998 fall semester, six credit hours during the 1999 spring semester, and six credit hours during the summer session of 1999. Therefore, student-athlete 1 was three credit hours short of the minimum 24 credit hours student-athletes were required to complete during the fall and spring semesters of the 1998-99 academic year.
4. During the fall semester of 1999, the institution permitted student-athlete 2 to compete, even though the young man had not maintained NCAA satisfactory progress, as he earned only eight credit hours during the 1998 fall semester, six credit hours during the 1999 spring semester and six credit hours during the 1999 summer session. Therefore, student-athlete 2 was four credit hours short of the minimum 24 credit hours student-athletes were required to complete during the fall and spring semesters of the 1998-99 academic year.

Committee Rationale

The institution and the enforcement staff were in substantial agreement regarding the facts, and the committee found that violations occurred as outlined in Finding II-A as it pertains to fraudulent academic credit awarded to student-athletes 1 and 2 and their ineligible competition.

Based on the evidence obtained both during the investigation conducted by the university's independent investigator and the NCAA's subsequent inquiry, the committee concurred with the following conclusions made by the institution and enforcement staff:

1. Student-athletes 1 and 2 each arranged with the professor for academic credit that

was not earned during the spring 1999 semester to be retroactively added to each young man's spring 1999 semester academic record;

2. Student-athlete 1 and the professor knew that the academic credit the professor awarded to student-athlete 1 for the course had not been earned during the spring 1999 semester.
3. Student-athlete 2 and the professor knew that the academic credit the professor awarded to the student-athlete for another course had not been "earned" during the spring 1999 semester; and finally,
4. The retroactive academic credit arrangements made between the two student-athletes and the professor were done so with the knowledge of each individual that NCAA continuing eligibility/satisfactory-progress legislation would be circumvented. No other conclusion can be supported given that the faculty athletics representative, at the time, advised the professor of the "75/25 rule" (Bylaw 14.4.3.1.3) in his June 10, 1999, e-mail, and that the professor discussed the "rules concerning summer work" with student-athlete 1 at the time he approved the young man's retroactive add petition.

In addition to the conclusions stated above, it was found that the retroactive academic credits awarded to student-athletes 1 and 2 were also not earned during the summer. The awarding of academic credit in which the required academic work was never performed not only violated NCAA ethical conduct, academic eligibility and extra-benefit legislation, but it also violated the institution's academic rules and standards of conduct.

These conclusions were based in substantial part on the following:

1. Neither of the two student-athletes had even a rudimentary recollection of some of the specific subjects covered in the course lectures and on the exams.
2. There was a lack of any documentation of academic work done by either young man for the courses in question. The professor claimed that he discarded the work, including examinations, not long after the semester in question ended. This was suspicious in that as a result of the faculty athletic representative's June 10, 1999, e-mail, the professor knew that the retroactive academic credits of the two student-athletes might very well be reviewed, and it would seem logical that he would want to ensure he could document his justification for awarding the credits. Further, the professor's failure to retain any records relating to his students' grades was contrary to university guidelines and, thus, brings into question the professor's motive and his credibility. The university's "Faculty Guide to

Campus Life” advised faculty to “keep the grade list should a student challenge the mark” and retain copies of exams for 13 months if they are not returned to the students. The university’s senior academic administrator reported that “departments often do not have formal policies (regarding retention of grade documentation), but I have never known a professor to throw away a grade sheet. There are too many occasions (writing letters of reference for example) when you need them, thus, we do not regulate the keeping of them, because people always do it.”

3. The professor had a lack of recall of any academic work done by either young man for the courses in question. Again, the committee believed this was suspicious given the notice the professor had that these retroactive credits might be questioned.
4. The professor conceded that it is “conceivable” neither of the two student-athletes did “much of” the academic work he had expected or told them to do for the courses in question. Further, the professor admitted to a colleague that he (the professor) had been “ripped off” by the two student-athletes and that he had given them a grade and credit for the courses in question without them doing the work.
5. Both young men made statements to their football position coach signifying that special arrangements had been made with the professor to resolve their academic deficiencies.
6. The two student-athletes never purchased textbooks for these courses. Further, the two student-athletes’ academic advisor had the responsibility of monitoring the academic progress of the two young men for each course in which they were enrolled, and to ensure that they remained academically eligible. However, in this instance, the two student-athletes did not disclose to their academic advisor that these courses were among those they were taking. If they were in fact taking these courses, there is no good reason why they did not want their advisor to know, especially in light of the fact that the two student-athletes’ academic eligibility depended upon the successful completion of these courses.

Since the professor never had, nor does he now have, any athletically related duties at the institution, he is not at risk for his involvement in this finding. He was interviewed by the university and the enforcement staff, but he was not provided a copy of the allegations made by the NCAA against him, nor was he offered an opportunity to respond to the allegations. He did, however, admit to “errors in judgment” relative to the academic fraud in this finding. He attributed these errors to, among other things, “carelessness” and “misplaced trust.”

B. IMPERMISSIBLE EXTRA BENEFITS, FAILURE TO WITHHOLD INELIGIBLE STUDENT-ATHLETES FROM COMPETITION. [NCAA Bylaws 14.11.1, 16.8.2.5, 16.12.2.1 and 16.12.2.2]

During the 1997, 1998, 1999, 2000 and 2001 football seasons, 38 football student-athletes received extra benefits in the form of incidental expenses, values ranging from nominal to \$323.03, while lodging at hotels for competitions. Additionally, of those 38 student-athletes, 27 were permitted to compete prior to repaying the amount of benefit received and, therefore, competed while ineligible. Also, of those 27 student-athletes who were permitted to compete while ineligible, two of the student-athletes received benefits valued over \$100, and were permitted to compete prior to receiving formal restoration from the NCAA student-athlete reinstatement staff.

The following chart sets forth the incidental charges incurred by student-athletes who received \$25 or more:

Student-Athlete	Year Expense Incurred	Amount of Incidental Expenses	Number of Competitions While Ineligible	Repayment Made (Y/N)
Student-athlete 3	1997	\$30	8	N
Student-athlete 5	1998/ 1999	\$5.43/\$51.16	12	N
Student-athlete 1	1999	\$48.41	3	N
Student-athlete 13	1999	\$42.46	1	N
Student-athlete 16	1999	\$48.51	1	N
Student-athlete 18	1999/ 2001	\$.75/\$31.31	8	Y
Student-athlete 19	1999	\$36.72	8	N
Student-athlete 20	1999	\$170.42	10	N
Student-athlete 21	1999	\$323.03	11	N
Student-athlete 23	1999	\$61.31	11	N
Student-athlete 25	1999	\$34.04	20	N
Student-athlete 29	1999	\$37.76	11	Y
Student-athlete 30	1999	\$27.82	9	Y
Student-athlete 33	2000	\$39.13	11	N
Student-athlete 35	2000	\$93.40	7	N
Student-athlete 36	2000	\$35.42	0	N
Student-athlete 38	2001	\$84.69	0	Y

[Note: If each of the above instances were considered in isolation, the value of most of these benefits would have rendered the individual violations as secondary. However, due to the number and scope of these benefits, which were provided over a five-year period, it was clear that there was a pattern of violations, which caused the violation, when considered as a whole, to rise to level of major.]

Committee Rationale

The institution and the enforcement staff were in substantial agreement regarding the facts, and the committee found that violations of NCAA legislation occurred as set forth in this finding. The circumstances surrounding this finding were an element in the committee's determination that the university lacked institutional control, as set forth in Findings II-D-5 through II-D-7.

C. RECRUITING INDUCEMENTS, FAILURE TO WITHHOLD INELIGIBLE STUDENT-ATHLETES FROM COMPETITION [NCAA Bylaws 13.2.1, 13.2.2.1 and 14.11.1]

During the 2000-01 academic year, three prospective football student-athletes received improper inducements. Specifically, the prospective football student-athletes received incidental expenses, values ranging from \$22.81 to \$114.24, while lodging at a hotel for an official visit. Additionally, even though one of the prospective student-athlete's inducements was valued over \$100, the institution permitted the young man (henceforth, "prospect A") to compete the following season without applying NCAA eligibility legislation and seeking formal restoration from the NCAA student-athlete reinstatement staff. Also, the institution permitted one other prospective student-athlete at the time (henceforth, "prospect B") to compete the following season prior to repaying the value of the inducement received.

Following are the incidental charges incurred by the prospective student-athletes:

Prospective Student-athlete	Amount of Incidental Expenses	Number of Competitions While Ineligible	Repayment Made (Y/N)
Prospect A	\$114.24	4	Y
Prospect B	\$72.03	11	Y
Prospect C	\$22.81	0	Y

Committee Rationale

The institution and the enforcement staff were in substantial agreement regarding the facts and the committee found that violations of NCAA legislation occurred as set forth in this finding. The circumstances surrounding this finding were an element in the committee's determination that the university lacked institutional control, as set forth in Finding II-D-7.

D. LACK OF INSTITUTIONAL CONTROL. [NCAA Constitution 2.1, 2.8.1 and 6.01.1]

The institution demonstrated a failure to exert appropriate institutional control and monitoring in the conduct and administration of its athletics program in that it failed to investigate adequately the violations as indicated in Finding II-A of this report despite repeated warning signs that violations may have occurred. Further, the institution also demonstrated a failure to monitor its football program and/or exert appropriate institutional control in that systemic breakdowns led to the repeated ineligible competition of football student-athletes as outlined in Findings II-B and II-C.

With regard to the investigation of the academic fraud involving the professor and student-athletes 1 and 2, the following was found relative to institutional control:

1. Late in the spring semester of the 1998-99 academic year, an academic advisor for student-athletes (henceforth, "academic advisor A") called a meeting with the assistant to the faculty athletics representative, another academic advisor for student-athletes 1 and 2 (henceforth, "academic advisor B"), a third academic advisor for student-athletes (henceforth, "academic advisor C") and the director of academic services. In this meeting, academic advisor A made a statement that she had just learned from another football student-athlete that student-athletes 1 and 2 were planning to retroactively add 1999 spring classes taught by the professor, and she was concerned because student-athletes 1 and 2 may not have been attending the classes or doing the coursework. Academic advisor B, the advisor for student-athletes 1 and 2, reported that he was not aware of this problem because student-athletes 1 and 2 might not have been attending their required weekly academic progress meetings with academic advisor B. The meetings were required because the institution regarded student-athletes 1 and 2, who were freshmen, as academically at risk. At the meeting, the group decided to have the faculty athletics representative

communicate with the professor regarding these matters. The faculty athletics representative sent the professor two e-mails that made no reference to the two student-athletes. Copies of the e-mails were sent to others, including the director of athletics, but there was no further investigation of these matters. No one at the institution inquired specifically of the professor or student-athletes 1 and 2 about academic advisor A's concerns.

2. During the summer of 1999, the head football coach expressed concern to the director of athletics about possible improprieties involving student-athletes 1 and 2 retroactively adding the professor's spring classes to maintain NCAA eligibility. The director of athletics informed the head football coach that a professor's judgment could not be questioned as to whether a grade was earned. Further, the head football coach's concern was not forwarded to the compliance office.
3. In August 1999, the assistant to the faculty athletics representative informed the new faculty athletics representative of the concerns expressed about the grades earned by student-athletes 1 and 2 in the professor's classes the previous spring. The new faculty athletics representative had been appointed to the position in the previous month. The new faculty athletics representative telephoned the professor and asked, generally, if the professor's grades related to student-athletes were appropriate, to which the professor responded that all of his grades were appropriate. The new faculty athletics representative did not ask the professor any specific questions about student-athletes 1 and 2 or their spring classes.
4. In October 1999, the Pacific-10 Conference office advised the institution about information obtained by the NCAA which indicated that the professor might have improperly awarded academic credit to student-athletes 1 and 2. Subsequently, the institution conducted an inadequate investigation and submitted a report to the Pacific-10 Conference, which was in part inaccurate and misleading. Specifically, regarding the institution's investigation, while the institution interviewed student-athlete 2, the interview was brief, informal and over the telephone. The institution did not interview student-athlete 1 or even ask the professor whether the young men completed any coursework. Regarding the report to the Pacific-10 Conference, on January 27, 2000, the institution reported that both student-athletes 1 and 2 retroactively added the same course when, in fact, student-athlete 2 retroactively added a different course. The

report to the Pacific-10 Conference also stated that the institution interviewed the professor three times with respect to student-athletes 1 and 2 when, in fact, the faculty athletics representative had contacted the professor by telephone only once. The institution also reported that the young men completed the required coursework during the academic year to earn academic credit in the professor's courses when, in fact, the young men did not complete all of the required coursework.

Associated with the extra benefits resulting from incidental expenses incurred during hotel stays, the following was found relative to institutional control:

5. During the 1997-98, 1998-99 and 1999-00 academic years, the football staff and business office staff became aware that football student-athletes received extra benefits as outlined in Finding B but failed to notify the compliance office of the violations. Additionally, the football staff failed to recognize the eligibility reinstatement requirements for student-athletes who receive extra benefits.
6. During the 1997-98, 1998-99 and 1999-00 academic years, the associate athletics director with football oversight failed to report the extra benefits violations outlined in Finding II-B because he believed that the institution's policy was that if repayment was collected from student-athletes, the violation did not need to be reported. This belief was also shared by the institution's faculty athletics representative at the time. The associate athletics director also assumed that the assistant athletics director for compliance and the director of athletics were aware of the violations when, in fact, they were not.
7. In November 2000, the assistant athletics director for compliance failed to recognize eligibility reinstatement requirements for student-athletes and thus failed to ensure that football student-athletes were declared ineligible and withheld from competition after the business office provided documentation indicating that the young men had received hotel incidental expenses. Also, during the 2000-01 academic year, the assistant athletics director for compliance became aware that prospective football student-athletes received inducements as outlined in Finding II-C but failed to report the violations. Additionally, the assistant athletics director for compliance failed to recognize the eligibility reinstatement requirements for prospective student-athletes who receive inducements valued over \$100.

Committee Rationale

The institution and enforcement staff were in substantial agreement regarding the facts and that violations occurred as outlined in Findings II-D-2 through II-D-7 and that those facts support a finding of a lack of institutional control and monitoring. However, the institution disagreed with the enforcement staff that facts outlined in Finding II-D-1 constituted lack of institutional control and monitoring. The committee found that the violations which occurred in Findings II-D-1 were also indicative of a lack of institutional control and monitoring.

With specific reference to Finding II-D-1, the institution did not believe that the circumstances of this finding constituted lack of appropriate control and monitoring inasmuch it believes the office of the faculty athletics representative responded appropriately in May 1999. The committee disagreed. The committee noted that there was considerable concern within the office of academic services with regard to the retroactive adds on the part of student-athletes 1 and 2 for subjects taught by the professor. The concern was such that the issue was relayed to the faculty athletics representative at the time. Rather than initiating an inquiry, or confronting the professor with these concerns, the faculty athletics representative at the time sent a very unspecific, ineffectual e-mail to the professor regarding this issue. In reference to this e-mail message, the faculty athletics representative said:

I know (the professor) pretty well and I didn't want to accuse him of doing something that he hadn't done, and might never do, so I crafted what I thought was a pretty diplomatic kind of statement indicating to him what the rules are. I kind of couched it because I didn't want to point the finger at him.

Contrary to the university's position, the committee believed that the action taken by the then faculty athletics representative in response to the concerns raised by the academic services was inadequate. Rather than making an effort to investigate the situation, the then faculty athletics representative appeared more concerned with not offending the professor.

The situation was exacerbated when, several months later, the new faculty athletics representative certified student-athletes 1 and 2 as eligible despite the fact that he had been informed by his assistant that there were still some concerns with the two student-athletes' retroactive course adds. In response to these concerns, the new faculty athletics representative contacted the professor, but recalled "very little" of the conversation and took no notes. During the independent investigator's inquiry into this issue, the new

faculty athletics representative stated that in retrospect, he probably should have done more. He said that because he had known the professor for four to five years, having initially met him through university functions, and because the professor's reputation was one of a respected member of the Cal faculty with "great standing" at the university, he felt the professor's word as a faculty member should be treated as his bond. The new faculty representative also said,

Knowing what I know now, as a more experienced faculty rep, I would have more thoroughly questioned (the professor) and I would have requested either documentation of paperwork (assignments, exams, etc.) for the course or some other justification for the grades and the retroactive adds.

Given the concerns of the prior faculty athletics representative, the continuing concerns of the assistant to the faculty athletics representative and the information then known or discoverable, the new faculty athletics representative's inquiries were clearly not adequate. The new faculty athletics representative failed to interview either young man or to inquire of their Athletic Study Center advisors, and he conducted only a brief, non-specific telephone inquiry of the professor. That inquiry included no request for documentation of the young men's work or questions about when they performed work for their credits, and no written record of the inquiry was made.

In October 1999, a short time after the young men were incorrectly certified as eligible, the NCAA received information from an anonymous source questioning the retroactive adds and the legitimacy of the credit the two young men received in the professor's courses. The NCAA sent this information to the Pacific-10 Conference, which, in turn, requested that the university investigate the matter. The assistant athletics director for compliance) conducted the inquiry and submitted the results to the conference in a January 27, 2000, report.

The university's initial report to the conference concluded that the retroactive adds were completed "in accordance with University of California policy" and that "the student-athletes did not receive an extra benefit." That conclusion was not supported by the evidence and the report was inaccurate. The university acknowledged that the staff members responsible for investigating and reporting possible NCAA (and Pac-10 Conference) rules violations – the faculty athletics representative and the assistant athletics director for compliance – did not adequately respond to the late October 1999 request of the Pac-10 for an investigation of the circumstances of the retroactive adds and credits received by student-athletes 1 and 2, and of the two young men's eligibility certifications. The university acknowledged further that the internal report to the Pac-10 was incomplete, included inaccuracies, and stated a conclusion that was not supported by

the evidence. Finally, the university acknowledged that the report was not carefully reviewed to ensure its accuracy and thoroughness.

III. COMMITTEE ON INFRACTIONS PENALTIES.

For the reasons set forth in Parts I and II of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation.

A. CORRECTIVE ACTIONS TAKEN AND PENALTIES SELF-IMPOSED BY THE UNIVERSITY AND THOSE IMPOSED BY THE PACIFIC-10 CONFERENCE.

In determining the appropriate penalties to impose, the committee considered the institution's self-imposed corrective actions and penalties, in addition to those sanctions imposed by the Pacific-10 Conference. Among the actions the university has taken or will take are the following:

Corrective Measures and Self-imposed Penalties.

1. The university has identified a certain date, early in each semester, after which no student-athlete may "drop" or "add" a course without prior substantive review and written approval, first by the student-athlete's athletic study center advisor and second by the faculty athletics representative. Further, both the athletic study center advisor and the faculty athletics representative have been required to make and maintain a separate written record of the basis for their approvals.
2. The university's enrollment system has been amended to ensure that college administrators and the registrar's office are aware when a drop or add petitioner is a student-athlete, in order for the college and the registrar to ensure compliance with the faculty athletics representative's approval requirement on the form used to effect the drop or add.
3. The position description of the assistant athletics director for compliance has been amended to more fully describe and specify authority for investigating and reporting potential NCAA and Pac-10 violations. Further, in order to ensure the independence of this investigation function and the quality of reports to the Pac-10 and/or the NCAA of possible major rules violations, the assistant athletics director for compliance

should report to and be supervised by the office of the assistant chancellor for legal affairs with respect to those functions.

4. The athletic study center advising staff has been required to maintain detailed and comprehensive records of all meetings, discussions, conferences, etc., relating to any interim change in a student-athlete's academic course load and other matters that may impact the student-athlete's eligibility.
5. Each college and the office of the registrar has been required to maintain copies of all petitions and related paperwork for approved adds and drops by the institution's student-athletes.
6. The retroactive add procedures has been modified to ensure appropriate substantive review and approval by a responsible level of authority in the dean's offices.
7. Findings of academic violations on the part of any university faculty member has been subject to the institution's misconduct procedure for appropriate action.
8. In compliance with NCAA guidelines, the professor in this case has been disassociated from further involvement with the university's athletics programs. A letter of this disassociation has been sent to the involved professor.
9. The findings of academic violations on the part of the two student-athletes involved in this case were forwarded to the university's student conduct office for appropriate action. No punitive action was taken because both student-athletes have since dropped out of school.
10. The university's intercollegiate athletics program has been placed on institutional probation for two years, with periodic reports to be prepared for the chancellor and the Pac-10 Conference, detailing the implementation and monitoring of corrective measures.
11. Letters of admonishment have been issued to those institutional officers identified as sharing responsibility for the failure to adequately investigate possible NCAA rules violations and to ensure that a complete and accurate investigation report was submitted to the Pac-10 Conference.

Corrective Measures and Penalties Imposed by the Pacific-10 Conference

1. The university has adopted a compliance oversight plan/organizational structure that clearly delineates the communication lines and division of responsibilities among all persons with compliance oversight responsibility, including the assistant vice-chancellor for legal affairs, the faculty athletics representative, the athletics director, the assistant athletics director for compliance and the director of eligibility.
2. The university has been required to issue a follow-up report to the conference's Compliance and Enforcement Committee after two years, describing how that structure is working, and report any changes made in organization, procedures or responsibilities.
3. The university has been placed on conference probation for one-year beginning on March 8, 2001.
4. The university has reduced the number of initial counters in football by a total of four during the 2001-02 and 2002-03 academic years in any combination the university chooses. The university has also reduced the total number of football counters by four during the above two-year period. [Note: The university imposed the four initial grant reduction and total grant reduction all in the 2001-02 academic year.]
5. The university has issued letters of reprimand to the current faculty athletics representative and to the assistant athletics director for compliance.
6. The university has forfeited its victory against Arizona State (September 25, 1999) due to the contributions of student-athletes A and B to that victory.

B. ADDITIONAL PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.

The Committee on Infractions agreed with and approved of the actions taken by the university and the Pacific-10 Conference, but it imposed additional penalties because of the university's recent infractions history and a significant lack of institutional control in this case. The committee noted that this was the university's fourth appearance before the committee since 1988 and the third

major infractions case in that period. Further, as stated at the outset of this report, the university is considered under NCAA bylaws to be a repeat major violator. Based upon these circumstances, the committee believed that significant sanctions were warranted, including a lengthy probationary period.

The committee imposed the presumptive penalties required under Bylaw 19.6.2.1 that were applicable to the violations in this case. The committee made the decision not to impose the presumptive penalties relating to recruiting, because recruiting violations were not a significant aspect of this case. Further, the committee decided not to impose any of the discretionary penalties for repeat-violators specified under Bylaw 19.6.2.3.2. The committee decided not to impose the repeat-violator penalties because of the actions taken by the university and the Pacific-10 Conference to institute appropriate corrective measures and to self-impose meaningful penalties upon the university. The additional penalties imposed by the committee are as follows:

1. The university shall be publicly reprimanded and censured.
2. The university shall be placed on five years of probation beginning on March 8, 2001, and concluding on March 7, 2006. The committee considered the five-year probationary period to have begun on March 8, 2001, the date of the Pacific-10 Conference's Compliance and Enforcement Committee's infractions report, and the starting date for the one-year conference probationary period, for which the committee credited the university.
3. The institution's football team shall end its 2002 season with the playing of its last regularly scheduled, in-season contests and shall not be eligible to participate in any bowl game or take advantage of the exemption provided in Bylaw 17.10.5.3 for preseason competition.
4. In addition to the conference-imposed reduction of four initial grants and four total counters in football which were taken during the 2001-02 academic year, the institution shall further reduce the permissible limit of initial grants in the sport of football by a total of nine during the 2002-03 through 2005-06 academic years, with no less than two grant cuts in any given year.
5. Pursuant to NCAA Bylaw 19.6.2.2-(e)-(2), the committee confirms that the university will vacate its team record as well as any individual records of the two student-athletes who participated in football contests while

academically ineligible during the 1999 season as set forth in Finding II-A of this report. In conjunction with this penalty, the university's records regarding football will be reconfigured to reflect the vacation of the 11 contests in which the two student-athletes competed during the 1999 season. This vacation of performances shall be recorded in all publications in which football records for that season are reported, including, but not limited to, university media guides, recruiting material, and university and NCAA archives.

6. In accordance with Bylaw 19.6.2.7, the NCAA president shall forward a copy of the public infractions report to the appropriate regional accrediting agency.
7. During this period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel, and all university staff members with responsibility for the certification of student-athletes for admission, retention, financial aid, or competition;
 - b. Utilize an outside independent agency to conduct a comprehensive audit of the athletics department with particular focus on academic standards and practices involving student-athletes and proper compliance procedures including monitoring and reporting of potential violations.
 - c. Submit a preliminary report to the director of the committees on infractions by August 15, 2002, setting forth a schedule for establishing this compliance and educational program; and
 - d. File with the committee's director annual compliance reports indicating the progress made with this program by April 15 of each year during the probationary period. Particular emphasis should be placed on adherence to NCAA academic standards, certification of initial eligibility, monitoring of expenses provided to student-athletes and prospects, proper investigating and reporting of potential NCAA violations, and ethical conduct expectations for staff members at NCAA member institutions. The reports must also include documentation of the university's compliance with the

penalties (adopted and) imposed by the committee. Documentation relating to late and retroactive adding of courses by student-athletes should be included. Further, the committee directs that the report to the Pacific-10 Conference referenced in conference penalties/corrective actions number two (2) be included in the appropriate annual report submitted to the NCAA, in addition to the outside audit specified in Penalty III-B-7-(b).

8. At the conclusion of the probationary period, the university's president shall provide a letter to the committee affirming that the university's current athletics policies and practices conform to all requirements of NCAA regulations.
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As required by NCAA legislation for any institution involved in a major infractions case, the University of California, Berkeley, shall be subject to the provisions of NCAA Bylaw 19.6.2.3, concerning repeat-violators, for a five-year period beginning on the effective date of the penalties in this case, June 26, 2002.

Should California appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the members of the appeals committee. This response may include additional information in accordance with Bylaw 32.10.5. A copy of the report would be provided to the institution prior to the institution's appearance before the appeals committee.

The Committee on Infractions wishes to advise the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods, and any action contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period, as well as imposing more severe sanctions in this case.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

NCAA COMMITTEE ON INFRACTIONS

Paul Dee
Craig Littlepage
Gene Marsh
Andrea Myers
James Park Jr.
Josephine Potuto
Thomas Yeager, chair

APPENDIX

CASE CHRONOLOGY.

1999

May - The institution's academic study center staff became aware of the plans of student-athletes 1 and 2 to retroactively add 1999 spring classes.

June 10 - The then faculty athletics representative contacted the professor via electronic mail regarding retroactively added courses.

Summer - The head football coach expressed concern to the director of athletics about student-athletes 1 and 2 and their classes.

August 17 - Student-athlete 1 was awarded four credit hours for Ethnic Studies 21AC. Student-athlete 2 was awarded four credit hours for UGIS 56.

August 24 - The new faculty athletics representative contacted the professor by phone and the professor confirmed that all grades assigned to student-athletes were in accordance with the appropriate institutional policy.

August 25-27 - The faculty athletics representative certified student-athletes 1 and 2 as eligible.

October 8 - An anonymous source contacted the NCAA enforcement services staff and reported that student-athletes 1 and 2 received fraudulent credit.

October - The Pacific-10 Conference informed the institution of the allegations from the NCAA related to student-athletes 1 and 2.

2000

January 27 - The institution submitted an inaccurate report to the Pacific-10 Conference indicating that violations involving student-athletes 1 and 2 did not occur.

February - The Pacific-10 Conference began an investigation into the matter involving student-athletes 1 and 2.

October 16 - The Pacific-10 Conference issued a preliminary allegations report to the institution alleging that NCAA violations of academic fraud, extra benefits, competition of ineligible student-athletes and lack of institutional control had occurred.

2001

January 31 - The institution submitted a report to the Pacific-10 Conference in response to the preliminary allegations indicating that NCAA violations of academic fraud, competition of ineligible student-athletes and lack of institutional control had occurred.

March 1 - The institution appeared before the Pacific-10 Conference Compliance and Enforcement Committee in Case No. 1999-129 involving allegations related to the academic credit awarded to student-athletes 1 and 2.

March 8 - The Pacific-10 Conference Compliance and Enforcement Committee concluded that NCAA violations of academic fraud, extra benefits, competition of ineligible student-athletes and lack of institutional control had occurred.

June 4 - The Pacific-10 Conference forwarded its final infractions report to the enforcement staff.

June 15 - The enforcement staff sent a letter of preliminary inquiry to the president of the institution.

July 3 - The NCAA enforcement staff began conducting interviews and collecting material.

August - Student-athlete 2 enrolled at another Division I institution and began practice.

August 24 - The other Division I institution declared student-athlete 2 ineligible for competition and sought his reinstatement. The NCAA student-athlete reinstatement staff reinstated student-athlete 2 on the conditions that he be withheld from nine contests for issues related to satisfactory progress and 20 percent of the 2001 contests (two contests) for issues related to academic fraud. This was a total of 11 contests - the entire 2001 season. The student-athlete reinstatement staff's decision was upheld on appeal.

September 6 - The enforcement staff issued a letter of official inquiry to the president of the institution.

November 8 - The institution submitted its response to the letter of official inquiry.

December 6 - A prehearing conference was conducted with the institution and the enforcement staff.

2002

January - The associate athletics director and the eligibility director in the office of the current faculty athletics representative met to discuss the report of the former assistant athletics director for compliance regarding violations related to football student-athletes' receipt of hotel incidental expenses.

January 23 - The associate athletics director notified the Pacific-10 Conference that violations related to football student-athletes' receipt of hotel incidental expenses could be major and required additional investigation by the institution. The Pacific-10 Conference notified the enforcement staff of such information.

February 4 - The institution completed its initial investigation related to hotel incidental expenses and agreed with the enforcement staff that the enforcement staff needed to conduct additional interviews. The institution, the enforcement staff, and the director of the NCAA infractions committee contacted the chair of the NCAA Division I Committee on Infractions, and received permission to postpone the institution's February 9, 2002, appearance at the infractions hearing in order to conduct further investigation.

February 6 - The enforcement staff and institution began joint interviews related to hotel incidental expenses.

March 5 - The institution notified the enforcement staff that additional violations related to hotel incidental expenses during the 1997, 1998 and 2001 football seasons were discovered.

April 3 - The institution submitted a self-report related to hotel incidental expenses.

April 4 - The enforcement staff submitted an amended Case Summary.

April 12 - The university appeared before the NCAA Division I Committee on Infractions.

June 26 - Infractions Report No. 196 is released.