

Complex Case Unit Procedures

These procedures constitute the operating procedures and investigative guidelines adopted by NCAA Division I Board of Directors for the Complex Case Unit (CCU). The primary purpose of these procedures is to provide member institutions and involved individuals with basic information regarding the complex case CCU's investigation and processing functions in connection with alleged violations of the NCAA Constitution and bylaws. The provisions are designed to reflect the obligations of all parties to cooperate during investigations to discover accurate facts in a timely manner. These procedures do not articulate all of the CCU's activities, nor does it apply to traditional enforcement investigations, or NCAA Divisions II and III. The Independent Resolution Panel's (IRP) procedures are available on the Independent Accountability Resolution Process website. Enforcement staff Internal Operating Procedures (IOPs) are available [here](#). The administrative procedures for Divisions II and III are contained in Article 32 of their respective NCAA Manuals and the enforcement and NCAA Division I Committee on Infractions IOPs of their respective divisions.

The Board of Directors may approve amendments to the procedures in consultation with the Independent Accountability Oversight Committee (Oversight Committee) without prior notice. Amendments are immediately effective when approved by the Board of Directors. The Oversight Committee will make editorial, formatting and/or typographical corrections as needed that do not rise to the level of an amendment.

These procedures do not constitute legal advice, do not have the force of law and do not confer any independent right, contractual or otherwise. The NCAA Division I Constitution and bylaws remain the controlling authority. The procedures are available on the Independent Accountability Resolution Process website.

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Chapter 1 – Complex Case Unit

1-1. Duties. As detailed in Bylaw 19.11.2.4.3, the CCU reports to the Oversight Committee. The CCU's duties include, but are not limited to, investigating potential violations and processing cases before the Independent Resolution Panel (IRP). (*Effective: 8/1/2019, Adopted: 7/31/2019*)

1-2. Composition. Pursuant to Bylaw 19.11.2.4.1 and subject to appointment by the Oversight Committee, the CCU will consist of at least one independent external advocate, at least one external independent investigator and not more than one member of the enforcement staff, whose role will be limited to serving as a resource to the independent external investigator and independent external advocate by providing process support and information related to previous investigative efforts connected to the case. (*Effective: 8/1/2019, Adopted: 7/31/2019*)

1-2-1. Enforcement Staff.

1-2-1-1. Assignment of Enforcement Staff. Once a case has been referred to the IRP, the vice president of enforcement, in conjunction with the managing director of enforcement, will assign a member of the enforcement staff to the matter. The enforcement staff must adhere to the conflict of interest policy outlined in Bylaw 19.11.2.4.4. (*Effective: 8/1/2019, Adopted: 7/31/2019*)

1-2-2. External Advocate.

1-2-2-1. Selection. The enforcement representatives on the CCU shall assess the case upon referral and identify one or more external advocates to nominate as a member of the CCU. Pursuant to Bylaw 19.11.2.4.4, the nominee shall have no conflict of interest. The external advocate(s) shall be identified based on the needs associated with the referred case, including but not limited to:

- a. Subject-matter expertise.
- b. Factors pertinent to the Independent Referral Committee's (IRC's) decision to refer a case to the IRP (Bylaw 19.11.3.1).
- c. Posture and/or timing of case. (*Effective: 8/1/2019, Adopted: 7/31/2019*)

1-2-2-2. Nomination and Appointment. Once the enforcement representatives on the CCU have identified one or more external advocates, they shall forward the nominee's name to the Oversight Committee for approval and appointment. If the enforcement staff and Oversight Committee cannot agree on the appropriate external advocate, the Oversight Committee may appoint one independently. (*Effective: 8/1/2019, Adopted: 7/31/2019*)

1-2-3. External Investigator.

1-2-3-1. Selection. The enforcement representatives on the CCU shall assess the case upon referral and identify one or more external investigators to nominate as a member of the CCU. Pursuant to Bylaw 19.11.2.4.4, the nominee shall have no conflict of interest. The external investigator(s) shall be identified based on the needs associated with the referred case, including but not limited to:

- a. Subject-matter expertise.
- b. Factors pertinent to the IRC's decision to refer a case to the IRP (Bylaw 19.11.3.1).
- c. Posture and/or timing of case. (*Effective: 8/1/2019, Adopted: 7/31/2019*)

1-2-3-2. Nomination and Appointment. Once the enforcement representatives on the CCU have identified one or more external investigator(s), they shall forward the nominee's name to the Oversight Committee for approval and appointment. If the enforcement staff and Oversight Committee cannot agree on the appropriate external investigator, the Oversight Committee may appoint one or more independently. (*Effective: 8/1/2019, Adopted: 7/31/2019*)

Chapter 2 - Case Management

2-1. Case Management Plan.

2-1-1. Overview. In accordance with Bylaw 19.11.5.6.2 and after reviewing party submissions set forth in this chapter, the chief panel member of the IRP hearing panel will schedule deadlines for matters related to the case and memorialize the deadlines in a confidential case management plan. The case management plan may include deadlines for supplemental investigation, if any, case processing, submission of information and submission of any pre-hearing motions. (*Effective: 8/1/2019, Adopted: 7/31/2019*)

2-1-2. Parties in Agreement. If the CCU, institution and any identified involved individuals reach an agreement on all deadlines related to the case, they may submit their agreed-upon deadlines to the chief panel member in writing. (*Effective: 8/1/2019, Adopted: 7/31/2019*)

2-1-3. Parties Not in Agreement. If the CCU, institution and/or identified involved individuals cannot reach an agreement on all deadlines related to the case, the CCU will submit proposed deadlines to the chief panel member in writing. After the CCU submits its proposed deadlines, other parties may submit their own proposed

deadlines in writing within seven calendar days. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

Chapter 3 - Investigations

3-1. Information Gathering. If further investigation is warranted pursuant to Bylaw 19.11.2.4.3, the CCU has the responsibility to gather information regarding possible violations using any of the following investigative tools:

- a. Letter of inquiry.
- b. Interviews with individuals who may have relevant knowledge.
- c. Document and record requests.
- d. Review of publicly available information.
- e. Observation of public places (on or off campus).
- f. Research.
- g. Communications between departments of the NCAA national office.
- h. Communications with sources.

If the CCU intends to use any other investigative tool, it should first obtain written approval from the Oversight Committee. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-2. Misrepresentation of Identity. In no case shall a CCU member misrepresent his or her identity or title to an individual who may provide information relevant to an investigation. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-3. Interviews.

3-3-1. Interview Record. It is preferable that the CCU digitally record the interview and have it transcribed. Any party present may also record the interview if the party agrees to maintain the confidentiality of the recording as required under Bylaw 19.11.4.6. Non-recorded interviews may still be relied upon provided the CCU summarizes the information reported in a memorandum. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-3-2. Parties Who May be Present During Interview. In addition to the CCU and the interviewee, the interviewee may have personal legal counsel/advisor present. If

the interviewee is a current employee or student-athlete of the involved institution, the involved institution may have a representative present. All other parties may only participate as described in Bylaw 19.11.4.5.1 or at the discretion of the CCU. Interview procedures and participation post issuance of a notice of allegations (NOA) are outlined in IRP Procedure 4-3-3. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4. Document and Record Requests.

3-4-1. Production of Documents and Records. The CCU may request documents and records from any person who may have relevant information and identify a reasonable deadline for the submission of requested materials. The CCU may require the documents be produced in a specified format and require the respondent to upload the documents or records into a software system that aids in the organization and searching of documents. The CCU may also require individuals subject to the investigation to provide electronic devices to an appropriate entity to be imaged, searched and/or otherwise reviewed. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4-2. Responsibility to Maintain Case File. The CCU is responsible for maintaining case materials obtained during the investigation, including recorded interviews, interview summaries, interview transcripts and other relevant documents and information. Such material will be retained consistent with the NCAA's document retention/destruction policy. Personal notes, impressions or communication of the CCU do not become part of the case file. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4-3. Communications. Upon request, members of the CCU will discuss the status of the investigation with the president, chancellor or designated representative of the institution. The CCU shall have discretion on how much information about the investigation to share. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4-4. Disclosures. The parties shall not disclose information about an investigation in violation of Bylaw 19.11.4.2 or contrary to instructions of the CCU. If a party improperly discloses information, the CCU may investigate the source of leaked or disclosed information and bring appropriate allegations if the IRP could conclude from the information discovered that a party violated confidentiality expectations. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-5. Limited Immunity. Limited immunity is an investigative tool that allows information to be elicited from a prospective, current or former student-athlete and a current or former institutional staff member ("individual") concerning his or her potential involvement in or knowledge of NCAA violations. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

- 3-5-1. When to Request.** The CCU may request limited immunity for an individual at any time during the pendency of an investigation or during the processing of the case. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-5-2. Representation by Legal Counsel.** Recipients of or candidates for limited immunity may be represented by personal legal counsel or another advisor throughout the process. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-5-3. Factors to Consider.** In determining whether to seek limited immunity, the CCU may consider the following factors:
- a. Whether the individual is a prospective student-athlete, current or former student-athlete, or a current or former staff member.
 - b. Whether the individual received limited immunity in the past, and if so, the value of the information reported to the CCU.
 - c. Whether the individual has information that will assist the investigation or otherwise support or refute allegations.
 - d. The likelihood of obtaining relevant information with or without the grant of limited immunity.
 - e. The nature of the potential allegations involved in the case.
 - f. The position of the individual's institution on the request for limited immunity.
 - g. The impact on the timeliness of an investigation.
 - h. Any other circumstances supporting or refuting a grant of limited immunity. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-5-4. Process for Requesting.** Pursuant to IRP Procedure 4-9-4, limited immunity may be requested by the CCU. The request for limited immunity shall be made in writing, addressed to the chief panel member of the IRP or designee, and shall contain a brief summary of the relevant facts that support a grant of limited immunity. The request shall also identify the involved parties and state whether the involved parties are represented by legal counsel or other advisor. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-5-5. Acknowledgement.** The CCU shall prepare an appropriate document outlining the IRP's terms and conditions of the limited immunity agreement. The acknowledgment shall be signed by all parties subject to the limited immunity agreement, with a copy of the acknowledgment being provided to all signatories. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

- 3-5-6. Record Keeping (Pertaining to Limited Immunity).** The CCU shall maintain copies of approvals and denials of applications for limited immunity in the case file and make those records available to the appropriate parties via the secure filing and case management system. The presumption is that all parties will have access to all approvals and denials of applications for limited immunity. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-5-7. Revocation.** The CCU may seek revocation of limited immunity pursuant to IRP IOP 4-9-6. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-5-8. Process Following Revocation.** If the chief panel member or designee revokes a grant of limited immunity, the CCU may put the individual at-risk in the underlying allegation(s) pursuant to Bylaw 19.11.5 and, where appropriate, may also allege an unethical-conduct violation pursuant to Bylaw 10.1. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

Chapter 4 - Charging Decisions and Processing of Violations

- 4-1. AMA Audit.** If the CCU intends to issue, supplement or amend allegations, the CCU may submit the draft or amended NOA to the academic and membership affairs (AMA) staff for an audit of the cited bylaws. One or more of the AMA CCU liaisons, in consultation with the appropriate bylaw team(s), will review the draft or amended NOA to determine whether (1) the allegations, as drafted, support that a violation occurred; (2) the cited bylaws are appropriate; (3) the appropriate versions of the bylaws are cited; and (4) additional bylaws should be cited. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 4-2. Interpretation Request.** The institution and CCU may submit a joint statement of agreed-upon facts to the AMA staff for a formal interpretation. If the institution and CCU are unable to reach agreement on the facts, or if there is an unreasonable delay in reaching agreement on the facts, a party may submit an individual request for an interpretation. In either case, the AMA staff will render a decision based on the facts submitted and notify all parties participating in a case of the outcome. If the institution submits an interpretation or participates in a joint submission, it may appeal an AMA staff interpretation to a committee of representatives from member institutions as allowed by applicable legislation and AMA procedures. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 4-3. Incorporation of Charging Guidelines.** The CCU adopts by incorporation all provisions of enforcement IOP 2-4 regarding charging guidelines for an NOA. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

- 4-4. Access to Information through Secure Website.** In matters to be presented to the IRP, the institution and involved individuals will have access to pertinent case materials as described in Bylaw 19.11.4.7 as soon as feasible after the issuance of the NOA (or after referral if the matter is referred post-NOA). The information will be accessible through the secure filing and case management system. All information contained in the secure filing and case management system is governed by the rules of confidentiality, as set forth in Article 19 and the secure filing and case management system's terms of service. The CCU may add pertinent factual information to the secure filing and case management system after the NOA is issued. (*Effective: 8/1/2019, Adopted: 7/31/2019*)