

Independent Accountability Oversight Committee Procedures

These procedures constitute the operating procedures adopted by the NCAA Division I Board of Directors for the Independent Accountability Oversight Committee (Oversight Committee). The procedures provide basic information regarding the Oversight Committee's function in the independent accountability resolution structure. The Board of Directors may approve amendments to the procedures in consultation with the 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.

The 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 governing infractions cases. The procedures are available on the Independent Accountability Resolution Process website.

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Chapter 1 – Independent Accountability Oversight Committee

- 1-1. Defined.** The Oversight Committee oversees the independent accountability resolution structure and administers the independent accountability resolution process. The other bodies in the independent accountability resolution structure — the Infractions Referral Committee (IRC), Independent Resolution Panel (IRP) and Complex Case Unit (CCU) — report to the Oversight Committee. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 1-2. Duties.** As authorized by the bylaws, the Oversight Committee's duties include:
- a. Appointing and/or nominating for appointment of select members of the IRC, CCU and IRP, as follows:
 - (1) Appointing the IRP, NCAA Division I Committee on Infractions and NCAA Division I Infractions Appeals Committee members on the IRC.
 - (2) Appointing the independent external investigators and advocates on the CCU.
 - (3) Nominating individuals to serve on the IRP, subject to appointment by the Board of Directors.
 - b. Resolving operational matters related to the IRC in accordance with these and IRC procedures, including but not limited to:
 - (1) Appointing substitutes to the IRC when necessary to achieve quorum in the disposition of a referral request.
 - (2) Determining whether IRC members have a conflict of interest and should be recused from the disposition of a referral request, as necessary.
 - c. Resolving operational matters related to the CCU in accordance with these and CCU procedures, including but not limited to considering requests from the CCU regarding appropriate tools for investigation.
 - d. Resolving operational matters related to the IRP in accordance with these and IRP procedures, including but not limited to:
 - (1) Overseeing the generation and assignment of hearing panels and resolving matters related to panel composition during the processing of a case.
 - (2) Appointing an independent resource to confer with the hearing panel during its review of a case.

- (3) Recommending that the Board of Directors remove IRP members prior to the expiration of their terms when they do not properly discharge duties.
- e. Consulting with the Board of Directors to revise these and the IRC, CCU and IRP procedures, as necessary. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 1-3. Composition.** In accordance with the bylaws, the Oversight Committee consists of three independent members of the NCAA Board of Governors appointed by the Board of Governors to the committee, and the chair and vice chair of the Board of Directors. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 1-4. Terms of Service.**
 - 1-4-1. Independent Members of the Board of Governors.** The terms of service of the independent members of the Board of Governors shall commence and coincide with their respective terms on the Board of Governors. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
 - 1-4-2. Chair and Vice Chair of Board of Directors.** The terms of service of the chair and vice chair of the Board of Directors commence and coincide with their respective terms as NCAA Division I Board of Directors chair and vice chair. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 1-5. Interim Vacancies.**
 - 1-5-1. Independent Members of the Board of Governors.** The interim vacancy created by the departure of an independent member of the Board of Governors from the Oversight Committee shall be filled pursuant to the appointment process specified in the bylaws. The individual shall be appointed for the unexpired portion of the vacated term. A member who serves for less than one-half of the unexpired portion of the vacated term is not considered to have served a full term. An independent member may only serve for the duration of his or her term on the Board of Governors. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
 - 1-5-2. Chair and Vice Chair of Board of Directors.** The interim vacancy created by the departure of the chair or vice chair of the Board of Directors from the Oversight Committee shall be filled upon appointment of a new chair or vice chair to the Board pursuant to the Board's policies and procedures. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
 - 1-5-3. Business During Interim Vacancy.** The Oversight Committee may continue to conduct business with an interim vacancy, subject to the quorum necessary for the transaction of business as specified in Procedure 2-4. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

1-6. Removal. The Board of Governors chair may remove an independent member of the Board of Governors from service on the Oversight Committee should he or she determine that the member is not properly discharging his or her duties. Pervasive absences from meetings are grounds for removal. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

1-7. Chair.

1-7-1. Election. The Oversight Committee shall elect an independent member of the Board of Governors on the committee to serve as chair for a period of not more than three years. He or she is immediately eligible for re-election. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

1-7-2. Duties. The Oversight Committee chair shall:

- a. Preside over meetings.
- b. Speak on behalf of the committee regarding issues within the committee's jurisdiction pursuant to the Association-wide speaking agent policy.
- c. When requested by chief panel member assigned to a case, consult with the chief panel member regarding potential conflicts of interest involving panel members assigned to the case.
- d. Act on behalf of the committee, as appropriate.
- e. Perform other duties normally associated with a committee chair. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

1-7-3. Vacancy. In the event that the Oversight Committee chair leaves the position prior to expiration of his or her term, there shall be an election to fill the vacancy. The Oversight Committee vice chair shall assume the duties of the chair on an interim basis. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

1-8. Vice Chair.

1-8-1. Appointment. The Oversight Committee chair shall appoint the vice chair. Any committee member may serve as the vice chair. The vice chair does not ascend to the chair role automatically. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

1-8-2. Duties. The Oversight Committee vice chair shall:

- a. Perform the chair's duties if the chair is absent, recuses himself or herself, or is otherwise unable to serve as chair.
- b. Support the chair in executing his or her duties.
- c. Perform other duties at the request of the chair. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

Chapter Two – Meeting Operations

- 2-1. Frequency.** The Oversight Committee will meet as needed. Meetings may be held in-person or by teleconference or videoconference. Meetings are closed business meetings. The committee chair may invite guests to a meeting in a nonvoting capacity. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 2-2. Attendance.** Attendance at meetings is required. If an Oversight Committee member is unable to attend a meeting, he or she shall notify the committee chair and NCAA support staff. If the committee holds an in-person meeting, a committee member is considered to be in attendance at the meeting if he or she participates by teleconference or videoconference. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 2-3. Administration.** The Oversight Committee chair leads all meetings. In the event the chair is unable to lead a meeting, the vice chair shall lead the meeting. If both the chair and vice chair are absent or unable to lead a meeting, another committee member shall be selected to lead the meeting by a majority vote of all committee members present at the meeting. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 2-4. Quorum.** For the transaction of business, a quorum shall consist of three Oversight Committee members with at least one of these members being the Board of Directors chair or vice chair. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 2-5. Substitution.** Substitute members are only permitted if necessary, to obtain quorum in resolving operational matters related to the processing of an infractions case. In this event, the Board of Governors will substitute an independent member of the Board of Governors on the Oversight Committee with another independent member of the Board of Governors, and/or the chair or vice chair of the Board of Directors on the committee with another Board of Directors member. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 2-6. Voting.** All Oversight Committee members are eligible to vote, unless otherwise noted in these procedures. A motion is approved when a simple majority of committee members

present support an action. A tie vote results in the motion being defeated. Abstentions are not counted in the determination of a simple majority. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

2-6-1. Proxy Voting. Proxy voting is not permitted. Members must attend the meeting in which the vote is held and be present at the time of the vote. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

2-7. Conflict of Interest.

2-7-1. Committee-Specific Conflict of Interest Policy. No Oversight Committee member shall participate in a discussion or vote on any matter if he or she is directly connected with an institution under investigation or if he or she has a personal, professional or institutional affiliation that may create the appearance of partiality. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

2-7-2. Association-Wide Conflict of Interest Policy. The Oversight Committee is also subject to the Association-wide conflict of interest policy for committees. In accordance with NCAA Bylaw 21.02.5, no Oversight Committee member shall participate in a discussion or vote on any matter that might bring direct or indirect financial benefit to the member of any organization on which the member is financially interested (other than the member's institution or the conference of which it is a member). A violation of this rule by a committee member shall not invalidate the action taken by the committee if, following disclosure of the conflict of interest, the committee authorizes, ratifies or approves the action by a vote sufficient for the purpose, without counting the vote of the committee member with the conflict of interest. All committee members shall agree to this policy prior to committee service and shall abide by the policy at all times. The NCAA's current conflict of interest policy is located on NCAA.org or may be obtained from the NCAA national office. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

2-7-3. Recusal. Oversight Committee members are responsible for identifying conflicts of interest. If a conflict exists, the committee member will recuse himself or herself from participating in proceedings. The chair has the final authority to determine whether a conflict of interest exists, and an Oversight Committee member should be recused. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

2-8. Confidentiality. All infractions-related matters in cases referred to, or requested to be referred to, the independent accountability resolution structure are confidential. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

2-8-1. Confidential Information. Oversight Committee members shall not disclose confidential information to those outside of the independent accountability infractions process in contravention of applicable bylaws and procedures.

Confidential information includes but is not limited to identifying information related to the case; hearing panel members assigned to the case and independent resource for the hearing panel appointed to the case; submissions or filings related to a request for referral to the independent accountability resolution structure; submissions or filings related to the processing of a case before the IRP; investigative information; case record; institutional compliance reports; all other filings and other information submitted through the secure filing and case management system; and all other case-related information. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

Chapter Three – Case Processing Operations

- 3-1. Secure Filing and Case Management System.** The Oversight Committee will use a secure filing and case management system to notify parties of action taken by the committee related to the processing of an infractions case, as appropriate. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-2. Appointing Independent External Investigators and Advocates on CCU.** The Oversight Committee will appoint one or more independent external investigators and one or more independent external advocates on the CCU for a particular case from individuals nominated by the enforcement staff members on the CCU for that case. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-2-1. Information Considered.** In making the appointments, the committee will consider how the investigators and advocates meet needs associated with the case. This includes consideration of:
- a. Subject-matter expertise of the potential investigators and advocates.
 - b. Factors pertinent to the IRC's decision to refer the case.
 - c. Case posture and/or timing. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-2-2. Nominations by Enforcement Staff Members on CCU.** The enforcement staff members on the CCU will initially nominate independent external investigators and advocates for committee consideration. If the committee does not appoint the individuals subsequently nominated, the committee will independently make the appointments from the approved list of external investigators and advocates without considering additional nominations from the enforcement staff. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-3. Assigning Hearing Panels.

- 3-3-1. Panel Generation.** Unless otherwise directed by the Oversight Committee chair, the Oversight Committee shall oversee the use of a computer program to generate hearing panels to decide cases. The program will generate the five panel members, including the chief panel member, and an alternate panel member based on calendar availability, lack of a conflict of interest and assignment on other panels. The committee may modify the panel due to availability and subsequently disclosed conflicts of interest, generate the same panel for more than one case and/or reassign a case to a different panel. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-3-2. Notification.** The Oversight Committee will notify the parties and their conference(s) in writing of the assigned hearing panel when practicable after assignment. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-3-3. Conflict of Interest.** The Oversight Committee has the final authority to determine whether hearing panel members have a conflict of interest in accordance with the bylaws and IRP procedures and should be recused from a case. If a panel member is recused, the committee will appoint an alternate panel member in accordance with Procedure 3-3-4. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-3-4. Substitution.** If a panel member is unable to participate in the disposition of a case prior to the commencement of the hearing, the Oversight Committee will appoint the alternate panel member to replace the panel member. The committee may then use the computer program to generate another alternate panel member in accordance with Procedure 3-3-1. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-3-5. Expiration of Term During Review of a Case.** If a panel member's term expires during the review of a case, the Oversight Committee may request that the Board of Directors approve an extension of the panel member's term to permit the panel member to serve on the panel until release of the decision. *(Effective: 8/1/2019, Adopted: 7/31/2019)*
- 3-3-6. Assignment After Decision Release.** After a decision is released, in accordance with IRP procedures, a hearing panel may be assigned to review an institution's or individual's compliance with penalties, consider an institution's assertion that additional penalties should not be applied to an individual found in violation of the NCAA Constitution and bylaws through a show-cause hearing, and respond to requests from the NCAA Division I Committee on Legislative Relief regarding residence requirement waivers. In these circumstances, the Oversight Committee will appoint the same panel that adjudicated the case, if feasible, to review or respond. If not all members of the same panel are able to serve, the committee will

generate other panel members in accordance with Procedure 3-3-1 to complete the panel. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4. Appointing Independent Resource to Confer with Hearing Panel. At the request of the chief panel member, the Oversight Committee may appoint an independent resource to confer with a hearing panel during its review of a case. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4-1. Standard for Appointment. In accordance with the bylaws, the independent resource must be a member of the general public with formal legal training knowledgeable in the infractions process and with the NCAA Constitution and bylaws to confer with the hearing panel during the review of a case. In addition, the independent resource must not be associated with a collegiate institution, conference, or professional or similar sports organization and not presently represent coaches or athletes in any capacity, or have a conflict of interest as defined in the IRP procedures. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4-2. Request by Chief Panel Member. In requesting the appointment of an independent resource to confer with the hearing panel, the chief panel member may provide the Oversight Committee with names of individuals for consideration. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4-3. Notification. The Oversight Committee will notify the parties and their conference(s) of the appointed independent resource when practicable after appointment. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4-4. Conflict of Interest. The Oversight Committee has the final authority to determine whether the independent resource has a conflict of interest in accordance with the bylaws and IRP procedures and should be recused from a case. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

3-4-5. Substitution. If an independent resource is unable to confer with the hearing panel after appointment, the Oversight Committee may appoint another independent resource if requested by the chief panel member. *(Effective: 8/1/2019, Adopted: 7/31/2019)*

Chapter 4 – NCAA Policies¹

4-1. Expenses. The Oversight Committee is subject to Association expense policies. These include:

¹ These NCAA policies have been previously adopted by the Association prior to July 2019 and are effective for this committee August 1, 2019.

4-1-1 NCAA travel policies are provided to each new committee member. The Association's policies regarding meeting expenses are set forth in Bylaw 31.7.2. The NCAA pays for transportation to and from committee meetings, hotel room and tax charges at the meetings, and a \$75 per diem for each day, or part thereof, involved in traveling to and from and attendance at the meeting. All members are expected to use Short's Travel, the Association's travel agency, for their transportation arrangements to committee meetings or other events paid for by the NCAA.

4-1-2 Airline transportation and the hotel room and tax are billed directly to the NCAA; the member needs only to pay incidental charges to his or her room when leaving the meeting site. After the meeting, each member will receive electronically a form on which to claim per diem and any other expenses permitted under NCAA policies. The member will receive reimbursement for those expenses from the NCAA national office after each meeting. Also, early in each calendar year, each member will receive a Form 1099 reporting the amounts paid during the preceding year, if that amount exceeds \$600. In such instances, the member will declare that amount in filing his or her income tax return for that year; therefore, members will want to record their committee-related expenses in order to deduct the appropriate amount. Some Board members may prefer to have their expense reimbursement paid directly to their institutions to eliminate the need for such personal recordkeeping.

4-2. Speaking Agent Policy. The president of the Association, and the chair of the Board of Governors, are the only individuals authorized to speak on behalf of the Association, except as outlined below.

An individual on a committee who speaks or opines on an Association issue only has the authority to express the view of that individual or the member institution or conference that the individual represents on the committee, unless the individual has been designated by the Board of Governors as a speaking agent of the Association on that issue.

Committee chairs are hereby designated as speaking agents of their committees regarding issues within their committees' jurisdiction on which there is a consensus, except that positions of advocacy on behalf of the committee or Association to be communicated in writing or orally to persons or entities external to the Association, must have prior approval by the NCAA Board of Governors or the president of the Association.

The president of the Association is hereby granted authority to designate additional speaking agents of the Association.

4-3. Defense and Indemnity. The Association shall defend and indemnify any present or former employee, committee member or agent of the Association who was or is a party to, is threatened to be a party to, or who is subpoenaed to be deposed or to give evidence in,

any civil, criminal, administrative investigative action or proceeding, including those brought by the Association, provided the conditions enumerated below are met. For purposes of this policy, "committee" shall include all Association committees, boards, cabinets, councils, subcommittees and panels. Conditions for defense and indemnification are:

- 4-3-1 The person requesting defense and indemnification is being named as a party, subpoenaed to be deposed, or to give evidence by reason of the fact that the person was or is an employee, committee member or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another association, corporation, partnership, joint venture, trust or other enterprise.
- 4-3-2 The person is deemed to have been acting within the scope of the person's duties to the Association.
- 4-3-3 The person is determined to have been acting in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Association in the performance of the person's duties to the Association. In respect to any alleged criminal action or proceeding, the person must also be determined to have had no reasonable cause to believe the alleged conduct was unlawful.

[Note: The termination of any action or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption in regard to these determinations. However, if a person is adjudged to be liable for negligence or misconduct in the performance of the person's duty to the Association, there shall be no indemnification unless and only to the extent that the court in which such action or suit was brought, shall determine that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

- 4-3-4 The person promptly and timely notifies the Association's general counsel of the actual or threatened service of the process, subpoena and notice of deposition or other legal process, before incurring attorney fees or other expenses.
- 4-3-5 The person accepts counsel provided or approved by the Association, and agrees to accede to the legal strategies approved by the Association's general counsel, including any settlement determinations. In the event that the person wishes to hire other counsel, or not accede to the Association's legal strategies, the Association shall not be obligated to defend or indemnify the person, except when it is determined that a conflict of interest exists with the Association, such that retaining separate counsel is warranted.

4-3-6 The person agrees to repay any expenses, including attorney fees, incurred in bringing or defending a civil or criminal action or proceeding paid by the Association in advance of the final disposition of such action or proceeding if it is ultimately determined that the person is not entitled to be indemnified by the Association as authorized in this policy.

For purposes of the policy, indemnification shall consist of payment against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action or proceeding.

Determinations as to whether indemnification is proper in circumstances because the person has met the applicable standards of conduct set forth in this policy shall be made:

- a. By the Board of Governors, by a majority vote of a quorum, consisting of members who are not parties to such action or proceeding.
- b. If such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested Board of Governors members so directs, by independent legal counsel in a written opinion.
- c. By the Association's president, if so delegated by the Board of Governors.

The indemnification provided by this policy is not exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of members or disinterested Board of Governors members otherwise, both as to action in the person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be an employee, committee member or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was an employee, committee member or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status as such, whether or not the Association would have the power to indemnify the person against such liability under the provisions of this policy.

Effect of Change in Indemnification Law. If any change in any applicable law, statute, or rule expands the power of the Association to indemnify a person, the change shall be within the purview of the person's rights and the Association's obligations under this policy. If any change in any applicable law, statute or rule narrows the right of the Association to indemnify a person, the change shall have no effect on this policy or the parties' rights and obligations under this policy, except to the extent otherwise required by law, statute or rule to be applied to this policy.