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September 19, 2019

VIA EMAIL

Mr. Jon Duncan
Vice President of Enforcement
P.O Box 6222
Indianapolis, Indiana 46206

RE: Infractions Cases Related to the Southern District of New York Investigations.

Dear Mr. Duncan:

The Chair of the Division I Committee on Infractions (COI), Greg Christopher, designated me to address hearing procedural matters for infractions cases connected to the basketball-related criminal matters in the U.S. District Court for the Southern District of New York (SDNY). The enforcement staff has submitted one such case to the COI for processing, and through normal docket management, I understand more cases will follow in the coming months. Accordingly, I issue this master letter to apply to all infractions cases connected to the SDNY litigation in order to better manage these cases. This letter offers observations regarding the processing of these cases in three areas: (1) inclusion and presentation of information for resolution; (2) potential processing options for the COI; and (3) a short stay.

With respect to the first area, these cases must be presented in a manner in which the COI can resolve them in a fair and efficient manner. Thus, the enforcement staff should utilize stipulated facts where practicable.

If cases derive from potentially overlapping or related conduct and actors, the enforcement staff is in the best position to identify those threads and ensure that the resolution of any one case does not subsequently contradict others. In that way, the order in which notices of allegations (NOAs) are issued may be important.

The enforcement staff should also ensure that case records are transparent and manageable. Factual Information (FIs) should be well-organized. The purpose for the items included in the record should be clear. This request applies to all FIs but is particularly important for FIs imported pursuant to NCAA Bylaw 19.7.8.3.1. Information utilizing the importation bylaw should be evidence from an appropriate adjudication, which is relevant and material to the infractions case. Likewise, the enforcement staff should be clear if its position is that a fact has been adjudicated as final and determinative.

With regard to the second area, the COI is considering strategic procedural options that best position the COI to absorb cases and decide them in a fair and efficient manner. To meet this goal, the COI may identify a subset of COI members to serve as a pool from which panels will be generated pursuant to Bylaw 19.3.3. Preliminarily, that pool will consist of 14 members—a number that balances the need for consistency in subject matter across panels while preserving the COI's commitment to generated panels based on experience, diversity and a lack of conflicts of interest. Further, a petition to refer a case or cases to the Independent Accountability Resolution Process remains an option pursuant to Bylaw 19.11.3.

Finally, in order to allow the enforcement staff and parties to consider how to apply these observations, the COI will not act on any SDNY-related cases until November 20, 2019. For the currently issued NOA, all briefing deadlines are now stayed. The COI's preference is that no NOAs will be issued during this time period. However, should the enforcement staff choose to issue any NOAs, the COI will not act on them and all briefing deadlines will be stayed. After November 20, 2019, I will assess the status of any NOAs before the COI and inform the parties of next steps. Because this master letter applies across all SDNY-related cases, the enforcement staff should provide it to all institutions and, where appropriate, potential parties and include it in the case record.

If you have any questions or concerns, please contact Joel McGormley, managing director of the Office of the Committees on Infractions, at 317-917-6774 or jmcgormley@ncaa.org or Matt Mikrut, director, at 317-917-6838 or mmikrut@ncaa.org.

Sincerely,

Dr. Carol Cartwright, President Emerita
Bowling Green and Kent State Universities
Chair designee
NCAA Division I Committee on Infractions

CC: mjm

cc: Selected NCAA Staff Members