

## **Institutional Control and Failure to Monitor**

1. Legislation.
  - a. NCAA Constitution 2.1.1 and 2.1.2.
    - (1) Institution is responsible for controlling compliance of its athletics program.
    - (2) President is responsible for administration of athletics.
    - (3) Institution's responsibility includes actions of staff members and boosters.
  - b. NCAA Constitution 6.01.1 – Administrative control or faculty control, or a combination of the two, shall constitute institutional control.
  - c. NCAA Constitution 2.8.1.
    - (1) Institution is responsible for monitoring compliance, identifying and reporting violations, cooperating with the NCAA and taking corrective action.
    - (2) Institution is responsible for compliance of staff, student-athletes and boosters.
  
2. Failure to Monitor vs. Lack of Control.
  - a. D-I: In recent years, failure to monitor was cited at a greater rate than lack of control, suggesting that institutions may be doing a better job of putting systems for control in place but need to enhance monitoring.
  - b. D-II/D-III: In recent years, lack of control was cited in nearly every case, suggesting that institutions may still have work to do in establishing appropriate systems for control.
  - c. Considerations when evaluating failure to monitor vs. lack of control (not intended to be an exhaustive list):
    - (1) Duration/frequency of violations.
    - (2) Visibility of violations.
    - (3) Warning signs to institution.
    - (4) Number of involved student-athletes/teams.
    - (5) Number of involved staff members.

- (6) Significance of impermissible benefit.
  - (7) Recruiting/competitive advantage gained.
  - (8) Self-report or report from outside source.
- d. Multiple failures to monitor can be viewed as a lack of institutional control.
  - e. In failure to monitor cases, adequate systems for compliance often exist, but the institution fails to pay proper attention to a limited area and/or for a limited period of time.
3. Head Coach's Responsibility – NCAA Bylaw 11.1.2.1.

Head coaches have a responsibility to promote an atmosphere for compliance within the program and monitor the activities of assistants and staff who report directly or indirectly to the head coach.

4. Failure to Monitor Case Studies.

- a. University of Arkansas, Fayetteville (2007).
  - (1) Recruiting benefits (lodging, transportation, academic assistance) from a coach to a prospect on campus prior to initial full-time enrollment, and unethical conduct by the coach.
  - (2) Institutional failure to monitor.
    - (a) Institution was aware the prospect was in the community prior to enrollment but took insufficient steps to monitor that he was not receiving impermissible assistance.
    - (b) Institution had a previous major case involving similar issues, which should have heightened the level of monitoring.

- b. Middle Tennessee State University (2008).
  - (1) International women's volleyball student-athlete participated while ineligible because she was a professional in her native country prior to enrollment.
  - (2) Former head coach and institution charged with failures to monitor.
    - (a) Former head coach failed to disclose that the student-athlete previously attended a post-secondary institution in her native country and may have been a professional.
    - (b) Institution failed to perform an adequate review of the student-athlete's background despite red flags.
    - (c) Institution failed to provide rules education to the volleyball staff and had not fully educated the new eligibility certification officer.

5. Institutional Control.

- a. NCAA membership services staff does not provide interpretations on institutional control.
- b. Committee on Infractions position paper (1996).
- c. Pillars of Institutional Control.
  - (1) Compliance systems – Implement systems in areas of fundamental legislation (not intended to be an exhaustive list):
    - (a) Financial aid.
    - (b) Eligibility certification.
    - (c) Recruiting.
    - (d) Amateurism.
    - (e) Sports wagering.
    - (f) Camps and clinics.
    - (g) Student-athlete employment.
    - (h) Extra benefits.

- (i) Playing and practice seasons.
- (j) Booster activities.
- (k) Investigations and self-reporting of violations.
- (2) Monitoring/enforcement.
  - (a) Regularly check and document operations of compliance systems.
  - (b) Compliance personnel should be visible and proactive.
- (3) Rules education.
  - (a) Provide resources and tools needed to achieve compliance.
  - (b) Consistent and appropriate education for coaches, administrators, student-athletes, booster organizations, on-campus personnel, etc.
  - (c) Training for new personnel shortly after employment begins.
- (4) Commitment to compliance.
  - (a) Communicate expectation of compliance from the top level down.
  - (b) Demonstrate commitment to investigating allegations and self-reporting violations.
  - (c) Impose appropriate discipline for violations.

6. Institutional Control Case Study – Florida International University (2008).

- a. 46 ineligible student-athletes in 15 sports over five years, and over-awarded financial aid in three sports over three years.
- b. Lack of institutional control.
  - (1) Inadequate compliance staffing.
  - (2) Failure to include admissions, registrar, financial aid and FAR in compliance effort.
  - (3) Inadequate education for staff making certification decisions.
  - (4) Failure to respond to institutional control concerns raised by inadequate eligibility software.