

Importance of Auburn Infractions Case to The University's Basketball Coaching Staff and Compliance Efforts

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While it is not unusual in an infractions case for an individual who is aligned with a prospect to receive the designation of a representative of the university's athletics interests, one of the most interesting aspects of the Auburn infractions case is the type of information that was used to make the determination that the sponsor of the non-scholastic team was a representative of the university's athletics interests. While little information was available that indicated that the sponsor was encouraging prospects to attend the university, the committee noted that the actions of the university's coaching staff with this sponsor significantly resulted in the classification of the sponsor as a representative. The committee noted that an institution must be monitoring this relationship in order to reduce institutional responsibility for any violations. Also, this infractions report raised the issue of whether the actions of the team sponsor/coach with one prospect on the team could affect the eligibility of all team members under the NCAA amateurism legislation.

Concerning the type of information, in previous cases, a non-scholastic coach or individual who was a "friend" of a highly recruited prospect was not found to be a representative of the university unless information existed that this friend was encouraging the prospect to attend one or a few institutions. In this case, while one of the prospects reported that the sponsor was attempting to get him "interested" in the university, it appears the committee used more indirect evidence to make this finding. More specifically, the committee denoted the following information in its classification of this person a representative:

- (i) The number of telephone calls between the basketball staff and the team sponsor;
- (ii) The time of the calls (usually around a certain university event); and
- (iii) The assistance provided by the university's basketball staff with travel arrangements for the sponsor and prospects to visit campus.

The committee noted that the intent of the booster was also important to review. In previous cases, much emphasis was placed on whether the representative's actions benefited the university (e.g., did the prospect actually attend or receive an inducement). In this case, the committee discussed whether the actions were intended to benefit the university, regardless of their success.

Concerning institutional responsibility, in examining the intent, the committee noted that the liability and resulting institutional responsibility for the actions of these amateur teams representatives will vary depending upon several factors, including: (i) the extent to which the university knew or should have known about the conduct of this individual; (ii) the extent to which the university knew or should have known of the impact of this conduct on the amateur status of the prospect; and (iii) the direct or indirect knowledge of the university and the extent of institutional involvement in this pattern of conduct/relationship between the representative and the prospect.

This case further complicates the responsibilities of the compliance coordinator in two areas. The committee specifically indicated that a basketball staff may not "establish or maintain relationships" with these individuals without assuming some institutional responsibility. It did not indicate that these relationships should not exist. Rather, it appeared to indicate that if a relationship exists and a violation occurs, more institutional responsibility would exist for this type of violation in the future. This obligates a compliance coordinator to know the extent of the relationships between the non-scholastic coaches and the basketball staff.

The committee also noted that the provision of an impermissible benefit by the team sponsor/coach to a prospect could make the non-scholastic team a professional team, thus affecting the eligibility of other prospects on that team, even though the other prospects did not receive any benefit. While this may appear to be stretching NCAA legislation, the committee recently forwarded a memorandum to the Management Council outlining this issue. The committee specifically indicated its understanding of the legislation (with confirmation from appropriate NCAA staff) that the

eligibility of the other team members who did not receive impermissible benefits/inducements would be affected. Interestingly, with this rationale, if the team sponsor provided a team member with impermissible benefits and the sponsor was a representative of the university's athletics interests, it could be argued that the eligibility of the other team members would not be affected because it is a recruiting violation involving the booster and the prospect. If the sponsor is not a booster, the eligibility of the other team members could be affected because a violation of the amateurism legislation occurred. (During its April meeting, the Management Council referred the memorandum of the Infractions Committee to the AEC Cabinet for review). Nevertheless, it would be a nightmare for compliance coordinators if an amateurism violation involving a prospect at another institution affects the eligibility of one of its athletes, even though the prospect at the coordinator's institution did nothing wrong.

Athletics representatives can be categorized as traditional or non-traditional. After the Alabama infractions report and in several subsequent reports, the committee commented on a specific area within the traditional category entitled high access boosters. With the Auburn case, the non-traditional category is being further refined to denote non-scholastic coaches/sponsors.

In summary, while the university always had the responsibility to monitor its boosters, more monitoring may need to occur with the relationships of the non-scholastic coach/sponsor to the prospect, and the basketball coaching staff. Further, the potential eligibility ramifications to other members of the non-scholastic team, although these prospects were not involved in a violation, is an issue that could cause significant complications for a university's compliance staff.