

Self-Report to the Ivy League

I. Introduction

The University of Pennsylvania has a long history of participation in Ivy League and other intercollegiate athletics, and the tradition of scholar-athletes is extremely important to the institution. A cardinal principle of Penn's athletic programs is that our participation in sports and games be strictly, in all respects, by the rules. Penn strives to teach its athletes, from their first day on campus, that playing fairly is as important as playing well. And Penn has maintained an unblemished record of managing its athletic programs by the book. The incident detailed in this report is an unfortunate exception to that record, an exception the University is committed to ensuring is never repeated.

On December 2, 1997, in my role as Provost of the University, I charged a committee to: (1) review the issue of NCAA eligibility as it relates to Mitchell Marrow's participation in Penn football during the 1997 season; (2) examine whether the actions taken by the Department of Recreation and Intercollegiate Athletics (DRIA) to restore Mr. Marrow's eligibility were appropriate; (3) review the procedures of the DRIA for monitoring eligibility issues; and (4) make appropriate recommendations. The Committee was composed of Dr. Peter Hand, Professor of Anatomy, School of Veterinary Medicine, Committee Chair; Dr. Wayne Worrell, Professor of Materials Science and Engineering, SEAS; Dr. Bernard Lentz, Director of Institutional Research and Analysis; and Debra Fickler, Associate General Counsel, acting in an *ex officio* capacity.

The University is writing to report the results of its review of this matter, based on the Committee's investigation. In so doing, the University is formally self-reporting a violation of NCAA Bylaws 14.01.2, 14.1.6 and 14.1.6.1* as a result of a student-athlete practicing and competing while not enrolled full-time. In addition, the University is reporting that it violated NCAA Bylaw 14.11.1, as a result of a misunderstanding of that rule, by allowing the student to compete in a game after the violation was discovered. Within the meaning of NCAA Bylaw 19.02.2.1, we conclude that these are secondary violations.

The University also has examined whether the NCAA "extra-benefits" legislation contained in Bylaw 16.02.3 was violated when the student, with the encouragement of the DRIA, made arrangements to add a course after the course add deadline and has concluded that there was no violation. Finally, the University reviewed whether this series of actions resulted in a lack of institutional control, as defined by NCAA Bylaw 6.01.1 or constituted unethical conduct as defined by NCAA Bylaw 10.1, and has also concluded that they did not.

II. Facts

As of the start of classes on September 3, 1997, Mr. Marrow was a full-time student registered for 4 course units, the NCAA equivalent of 16 credits, and the number of courses he needed to graduate in December, 1997. Beginning on September 9, 1997 and continuing through the end of the course add deadline on September 19, Mr. Marrow dropped and added

several courses. After September 9, 1997, he was registered for no more than 2 courses, the NCAA equivalent of 8 credits, and thus ineligible to practice and compete.

Adequate systems were in place at the DRIA to determine the eligibility of Penn students to participate in athletic programs at the beginning of each academic year and to monitor their continuing eligibility throughout the academic year. Unfortunately, as discussed below, the system to monitor full-time enrollment status was not applied by the DRIA in this semester, and Mr. Marrow's ineligibility was not discovered in a timely manner. Thus, from September 9 to November 19, Mr. Marrow practiced and competed while ineligible, playing in contests against the following seven opponents:

September 20—Dartmouth
September 27—Bucknell
October 18—Columbia
October 25—Brown
November 1—Yale
November 8—Princeton
November 15—Harvard

On November 19, DRIA first discovered that Mr. Marrow was registered as a part-time student. His mother telephoned the Athletic Academic Coordinator that morning to determine whether her son was on track to graduate and asked whether his tuition bill would be reduced to reflect his part-time status. When the DRIA confirmed that Mr. Marrow was a part-time student and not eligible for the final term exception, the Department instructed him that he could not practice or compete until and unless he regained full-time status. The DRIA also immediately reviewed the appropriate reports from the Registrar's Office and confirmed that there were no other similar eligibility issues in football or any other teams.

The DRIA sought to restore Mr. Marrow's full-time status and eligibility as soon as possible so that he could play in the November 22 Cornell game, the last game of the season and his last game as a student-athlete. The DRIA did not understand at that time that only the NCAA has the authority to restore eligibility once an athlete has competed while ineligible. The Department mistakenly believed that if Mr. Marrow could be restored to full-time status by adding an independent study course, under NCAA Bylaw 14.1.6.1.2 he would be eligible to play in the Cornell game. The DRIA also considered, but was not certain, that if Mr. Marrow was restored to full-time status as of the end of the semester, his full-time status might be retroactive, potentially making him eligible for the earlier games. It is clear that the Department acted as it did because of these mistaken beliefs: the Committee found no evidence that the DRIA acted to secure an unfair competitive advantage or for any other illegitimate reason.

At the time it discovered the eligibility issue, no one from the DRIA informed the Ivy League Office. The Department also did not inform the President or Provost.

On November 19, the DRIA spoke with the College Advising Office to investigate if Mr. Marrow's full-time status could be restored. The College Advising Office's stated position was that if the DRIA proposed a solution for making Mr. Marrow full-time—i.e. a faculty member

* The NCAA Bylaws cited in this report are contained in the Exhibit on page S-4.

approved a late independent study course request—then the Office would approve. The DRIA raised the possibility of an independent study course to Mr. Marrow, who then contacted and met with Dr. Beth Wenger, an Assistant Professor who taught one of his History classes, to see if she were willing to accept him as an independent study student at this late date. The DRIA also contacted Dr. Wenger to explain Mr. Marrow's eligibility problem and to see if the independent study course had been approved. Dr. Wenger consulted with her Undergraduate Chair, Dr. Bruce Kuklick and her Department Chair, Dr. Lynn Lees, and on November 20, Dr. Wenger notified Mr. Marrow that she would not approve an independent study course for him.

During the same period, the DRIA contacted Dr. Kenneth Shropshire, Associate Professor of Legal Studies in the Wharton School and Penn's NCAA Faculty Representative, to see if he knew of any faculty member who might be interested in offering an independent study course for a student-athlete who might have eligibility problems. Dr. Shropshire responded that he had a project in mind for an independent study course and that he would be willing to meet with the student in question. On November 21, Dr. Shropshire met with Mr. Marrow and agreed to approve the independent study course, the College Advising Office accepted the addition of the course, and Mr. Marrow became a full-time student registered for 3 course units, or the NCAA equivalent of 12 credit hours.

Mr. Marrow competed in the Cornell game on November 22. That made a total of 8 games, including all of Penn's Ivy League games, in which he competed while ineligible.

On November 24, several University members received telephone calls from a Philadelphia Inquirer reporter asking about the Mitchell Marrow eligibility issue. Dr. Diane Frey, Director of the College Advising Office, and Dr. Robert Rescorla, Undergraduate Dean of the School of Arts and Sciences, were two such individuals. After the Inquirer contact, Dr. Frey asked Dr. Rescorla to review her decision to approve the addition of the independent study course. On November 25, Dr. Rescorla overturned Dr. Frey's approval, and Mr. Marrow returned to part-time status carrying 2 course units.

The first institutional report to the Ivy League Office of a potential eligibility problem for a football player occurred on November 25.

III. Conclusions

A. Eligibility

Mr. Marrow was enrolled as a less than full-time student and thus was ineligible to practice or compete, from September 9 through November 21. Although he was enrolled as a full-time student on November 22 when he competed in the Cornell game, he was ineligible to compete because his eligibility had not been properly restored by the NCAA. The DRIA's belief that Mr. Marrow could become eligible for the Cornell game and/or could be made retroactively eligible was erroneous, but there is no evidence that this was other than a mistaken belief.

B. Institutional Control

The DRIA's actions constituted serious errors of judgment, but the University's actions in this case did not constitute a lack of institutional control, as defined by NCAA Bylaw 6.01.1.

1. Monitoring Eligibility

- The University has a number of systems in place to monitor and confirm that student-athletes who practice and compete are eligible under NCAA, Ivy League and Penn's own more stringent rules. With respect to establishing initial eligibility at the beginning of each academic year, these include: team eligibility meetings to review eligibility rules and have student-athletes complete all necessary compliance forms; distribution of the Penn Student-Athlete Handbook to every student-athlete; and review of the athletes' eligibility report prepared by the Registrar's Office that

highlights potential eligibility problems. Further, on the particular issue relevant to this matter, i.e. enrollment status, the DRIA receives from the Registrar's office each week the "Athletic Department Part-Time Student Listing". This report indicates in a clear and concise manner only those student-athletes in part-time status.

- The eligibility and other compliance procedures were extensively reviewed by the NCAA during Penn's certification process last spring. At the time of the NCAA certification, the Athletic Academic Coordinator at DRIA was responsible for monitoring student-athlete enrollment status by reviewing the Part-Time Student Listings. In spring, 1997, this responsibility was transferred to another DRIA administrator, the NCAA Compliance Coordinator. Unfortunately, the Compliance Coordinator did not fully assume this new responsibility and, in the fall of 1997, he neglected to review the weekly reports until the Marrow eligibility problem surfaced. Thus, despite the systems in place, Mr. Marrow practiced and competed virtually the entire season before the DRIA discovered that he was ineligible.

- The DRIA is accountable for monitoring institutional compliance and bears responsibility for its failure to identify Mr. Marrow's part-time status and ineligibility early in the fall, 1997 semester. The University is satisfied, however, that the failure to review the Part-Time Student Listings was an isolated breakdown and not part of any pattern of failures. DRIA administrators have confirmed that there has been no material change in the systems used to monitor compliance with NCAA eligibility and other rules since the NCAA certification review. And with the exception of the poorly effected transfer of responsibility for monitoring the weekly Part-Time Student Listings, there has been no other relevant transfer of responsibility since the NCAA review. Other than that single exception, the same systems are in place and the same administrators are performing the same monitoring and compliance functions. We therefore have every reason to believe that the failure in this case was an isolated occurrence.

The DRIA also bears responsibility for not understanding that only the NCAA could restore eligibility. Further, the DRIA bears responsibility for not notifying the Ivy League Office promptly, so that the Department could have been advised on how to proceed. Finally, the DRIA bears responsibility for not notifying the University's President and Provost of the eligibility problem immediately upon its discovery.

- Mr. Marrow, as a student-athlete, bears responsibility for understanding the eligibility rules that apply to him. In spring, 1997, he met individually with the NCAA Compliance Coordinator in the DRIA, to confirm his eligibility requirements as a fifth-year athlete. He attended the DRIA's annual mandatory eligibility seminars for all athletes, including the one on August 25, 1997, where the eligibility rules were explained and where the DRIA provided him with the Penn Student-Athlete Handbook outlining the eligibility rules. Further, if Mr. Marrow lacked understanding of the rules, he should have sought advice from the DRIA or his academic advisors on the implication of dropping to a 2-unit course load.

2. Reporting

- The University has a procedure for processing self-discovered violations that is described in the University's self-study report for NCAA certification. The procedure provides that all NCAA violations are to be reported to the Director of Athletics, the program's Associate Director, the head coach, and the person involved in the potential infraction. In the case of an eligibility problem, the Institutional Eligibility Officer should also be notified. In all such cases, the DRIA is expected to make a prompt report to the Ivy League.

- In this case, when the potential eligibility problem came to his attention on November 19, the NCAA Compliance Coordinator, who is also the Associate Director responsible for supervising the football program, quickly reported it to the Athletic Director, the head coach, and Mr.

Marrow. The Athletic Director then was called out of town for the rest of that week because of a death in his family. Given that Mr. Marrow had played seven games while ineligible, the DRIA should have reported immediately to the University's President and Provost and to the Ivy League office. This would have served both as notification to the Ivy League of the potential problem and as an avenue for seeking advice on whether and how to restore Mr. Marrow's eligibility.

- Between November 19 and 21, the DRIA was acting on the mistaken belief that Mr. Marrow could be made eligible for the Cornell game and possibly retroactively eligible for the earlier games. Based on this mistaken belief, the DRIA advised Mr. Marrow to pursue the addition of an independent study course and explained to the College Advising Office and to the faculty members involved that Mr. Marrow needed to restore his full-time status by November 21. There is no evidence of any impropriety in any DRIA conversations with the College Advising Office or with any faculty members during these two days before the Cornell game.

C. Independent Study Course Approvals

The approval of a late independent study course for Mr. Marrow did not confer a special benefit on him by virtue of his student-athlete status.

- At Penn, there are many types of independent study courses, within schools and departments, for undergraduate students. It is common for independent study courses to be arranged after the drop-add period and even very late in the semester. (In fall, 1997, 122 undergraduate independent study courses were added after the September 19 course add deadline, of which 31 were added in November and December. It is not known how many of these were cases where the student had been working with the faculty member but had failed to register for the independent study course earlier in the semester). The College Advising Office typically supports faculty member approvals of students' requests to add independent study courses, even if they are very late in the semester.

- At Penn, requests to add independent study courses for any student, including those late in the semester, are typically left to a faculty member's discretion.

- It was not out of the ordinary, and was appropriate, for Dr. Wenger to decline Mr. Marrow's independent study course request. (Professors in the History Department indicated to the Committee that they rarely grant requests for independent study courses.)

- It was also not out of the ordinary, and was appropriate, for Dr. Shropshire to approve Mr. Marrow's request for an independent study course. (Professor Shropshire indicated to the Committee that he generally approves a request for an independent study course, even late in the semester, if, as in this case, the student commits to making substantial progress in the course prior to the end of the semester.)

- Dean Rescorla is rarely asked to review decisions by the College Advising Office and did so in this case at the specific request of the Director of the College Advising Office. His decision was based solely on academic considerations and did not suggest that Dr. Shropshire or Dr. Frey acted improperly in approving the course to satisfy Mr. Marrow's course requirements.

D. Unethical Conduct

The DRIA did not engage in unethical conduct, as defined by NCAA Bylaw 10.1. Its failure to prevent Mr. Marrow from practicing and competing while ineligible was serious, but the failure arose from a mishandled transfer of responsibility, as previously described, and was inadvertent, not intentional. When the eligibility violation came to the DRIA's attention, the Department immediately instructed Mr. Marrow that he could not practice or compete and initiated action to attempt to restore his full-time status. The DRIA's plan to restore Mr. Marrow's eligibility by adding an independent study course late in the semester was consistent with the University's academic practices, though based on an erroneous understanding of the NCAA eligibility rules. Clearly, there

were substantial errors in action and judgment but, as previously stated, the Committee found no evidence of willful misconduct on the part of the DRIA.

IV. Actions

The University will take the following steps to ensure that all student-athletes who practice and compete are full-time students or meet the final term exception:

- The DRIA will scrupulously monitor full-time eligibility, particularly reviewing all weekly Athletic Department Part-Time Student Listings. The NCAA Compliance Coordinator and Athletic Director (or, in his absence, the Senior Associate Athletic Director) will initial the report each week to certify that each has reviewed it.

- The DRIA will ensure that any student-athlete who is determined to have competed while ineligible will not be permitted to continue to compete unless the NCAA restores his/her eligibility.

- The DRIA will immediately report all NCAA infractions to the Provost, the President and the Ivy League Office.

- The Athletic Director will review the division of responsibilities among the administrators in the Department. The NCAA Compliance Coordinator also manages eligibility issues and, in his role as Associate Director, has significant administrative responsibilities for oversight (e.g. schedules, budgets and staffing) of 17 intercollegiate sports, including football. The Athletic Director, in consultation with the Provost, will review the position description for the NCAA Compliance Coordinator/Associate Director and make any appropriate adjustments by April 30, 1998.

- All University employees involved in certifying athletic eligibility will attend an NCAA regional compliance seminar in the Spring, 1998.

- The DRIA will revise the Penn Student Athlete Handbook by April 30, 1998, to ensure that the eligibility rules are stated in as clear and simple a manner as possible.

- The advising office in each school will direct athletes who seek course load changes to the academic advisor in the school who is also the School Eligibility Officer (SEO). The SEO, who is generally familiar with athletic eligibility rules, will be responsible for alerting the student and the DRIA to any eligibility problems.

V. Consequences

As a result of the foregoing conclusions:

- Pursuant to NCAA Bylaws 19.6.1(b) and 31.10.5, Penn will forfeit all contests that Penn won in which Mr. Marrow competed, while ineligible, in the 1997 season.

- Penn recommends that the Ivy League vacate any Ivy League honors received by Mr. Marrow for the 1997 season.

- A letter will be sent to each administrator involved in or responsible for this set of events to identify any specific errors made by the individual, and the Athletic Director and the University's Institutional Eligibility Officer will discuss these matters personally with each administrator. Copies of these letters will be provided to the Provost, who will continue to review and monitor the performance of the Athletic Director. Copies will also be sent to the Ivy League office by January 9, 1998.

- Penn will distribute this report throughout the DRIA. The Athletic Director and the Institutional Eligibility Officer will conduct a meeting with all Athletics administrators to discuss the eligibility rules and procedures for dealing with future violations no later than January 16, 1998.

— Stanley Chodorow, Provost

Next Page: NCAA Bylaws Cited in the Self-Report

In the Exhibit below, excerpts from the NCAA Bylaws are given in the order of their citation in the text of the Self-Report.

Exhibit

NCAA Bylaws Cited in the Self-Report to the Ivy League

14.01.2 Academic Status. To be eligible to represent an institution in intercollegiate athletics competition, a student-athlete shall be enrolled in at least a minimum full-time program of studies, be in good academic standing and maintain satisfactory progress toward a baccalaureate or equivalent degree. A waiver of the minimum full-time enrollment requirement may be granted for a student enrolled in the final term of the baccalaureate program.

14.1.6 Full-Time Enrollment

14.1.6.1 Requirement for Practice. To be eligible to participate in organized practice sessions, a student-athlete shall be enrolled in a minimum full-time program of studies leading to a baccalaureate or equivalent degree as defined by the regulations of the certifying institution.

14.1.6.2 Requirement for Competition. To be eligible for competition, a student-athlete shall be enrolled in at least a minimum full-time program of studies leading to a baccalaureate or equivalent degree as defined by the institution, which shall not be less than 12 semester or quarter hours.

14.11.1 Obligation of Member Institution to Withhold Student-Athlete From Competition. If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Academics/Eligibility/Compliance Cabinet for restoration of the student-athlete's eligibility as provided in 14.12 if it concludes that circumstances warrant restoration.

19.02.2.1 Violation, Secondary. A secondary violation is one that provides only a limited recruiting or competitive advantage and that is isolated or inadvertent in nature. Repeated secondary violations by a member institution also may be identified by the group executive director for enforcement and eligibility appeals as a major violation. If the Committee on Infractions determines that repeated secondary violations have occurred and that the institution is not taking appropriate action to prevent such violations, a penalty appropriate for a major violation may be imposed.

16.02.3 Extra Benefit. An extra benefit is any special arrangement by an institutional employee or a representative of the institution's athletics interests to provide a student-athlete or the student-athlete's relative or friend a benefit not expressly authorized by NCAA legislation. Receipt of a benefit by student-athletes or their relatives or friends is not a violation of NCAA legislation if it is demonstrated that the same benefit is generally available to the institution's students or their relatives or friends or to a particular segment of the student body (e.g., foreign students, minority students) determined on a basis unrelated to athletics ability.

6.01.1 Institutional Control. The control and responsibility for the conduct of intercollegiate athletics shall be exercised by the institution itself and by the conference(s), if any, of which it is a member. Administrative control or faculty control, or a combination of the two, shall constitute institutional control.

10.1 UNETHICAL CONDUCT

Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member may include, but is not limited to, the following:

- (a) Refusal to furnish information relevant to an investigation of a possible violation of an NCAA regulation when requested to do so by the NCAA or the individual's institution;
- (b) Knowing involvement in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete;
- (c) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;
- (d) Knowingly furnishing the NCAA or the individual's institution false or misleading information concerning the individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation; or
- (e) Receipt of benefits by an institutional staff member for facilitating or arranging a meeting between a student-athlete and an agent, financial advisor or a representative of an agent or advisor (e.g., "runner").

14.1.6.1.2 Drop/Add Course. A student-athlete no longer shall be considered enrolled in a minimum full-time program of studies (after dropping a course that places the student below full-time status) when the dropped course becomes official in accordance with procedures determined by the institution for all students. A student who is adding a course to reach a full-time status shall become eligible for practice and competition once the course has been approved by the appropriate department head (or designated representative) and submitted to the registrar.

19.6.1 Penalties for Secondary Violations. . . . Among the disciplinary measures are: . . .

- (b) Forfeiture of contests in which an ineligible student-athlete participated

31.10.5 Forfeits. Neither the outcome nor the statistics in any completed contest are reversible by a forfeit due to postgame administrative actions, except as provided in 31.10.5.4 or by Committee on Infractions decisions. The actual results of the contest and the statistics shall be entered as such in both teams' all-time records, as well as in the coaches' records and in individual statistics. Contests later forfeited shall be denoted by the institution with an asterisk and a footnote.