

## MUSINGS OF A RELATIVELY NEW FAR

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One morning, in April of 2008, while I was innocently minding my own business and preparing for class, I received a call from the then-President's Chief of Staff. He invited me to join him for lunch with the Faculty Athletics Representative (FAR), Dr. Robert Baker. I did not suspect anything unusual about the invitation, because I knew, respected, and had worked with both of these individuals for some time. After all, I had previously served on Texas Tech's Faculty Athletics Council for roughly six years, and as part of preparing our institution's self-study for the NCAA re-certification process, I had spent the past year chairing the Governance and Compliance subcommittee. At the ensuing lunch, however, I was surprised to find a fourth place setting and chair at our table. Then, shortly after the three of us sat down, our President joined the group. My suspicions were of course immediately raised, and I learned that our FAR was planning to step down to resume full-time teaching. Much to my surprise, the President offered the position to me. After requesting a few days to think it over, I quickly accepted his offer.

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### I. MY BACKGROUND

I have been a fan of college sports since I was a child. I grew up in several Texas cities including San Antonio, Austin, and San Angelo, and I have been around college sporting events most of my life. My late father played basketball at Trinity in San Antonio in the early 1950s and became a high school coach after graduating. He was 6 feet 6 inches tall at a time when that was still rather unusual. After almost a decade of coaching basketball and a brief, one-year stint as a high school principal, my father moved us to Austin, Texas, where he returned to school to seek his Ph.D. From 1966-1968, Dad's two years at the University of Texas, he was a graduate assistant and coached the freshmen men's basketball team. (We had moved to Austin in August 1966, just days before the sniper's tragic killing spree from the top of the UT Tower). I was only in second and third grade during our two years in Austin, yet I still remember the excitement of going to college basketball games at the old, barn-like venue on campus, Gregory Gym. My mother taught elementary school, and she would take my brother and me to the basketball games after school, where we excitedly dined on hot dogs and watched the freshmen play. Thereafter, depending on the hour, my mother would allow us to stay for half, or all, of the varsity games. I also fondly remember my father taking us to UT baseball games and track meets during that period. In fact, the old baseball stadium was directly adjacent to the law school, where I would return many years later as a student. After my father completed his doctoral course work, he took a job at Angelo State University. He coached there for several years and later became chair of the Kinesiology department.

Angelo State has been in the NCAA Division II for many years, and is now a part of the Texas Tech University system, but in 1968 it was an NAIA school. It was only many years later that I came to realize and understand that, like other schools within the old Southwest Conference, UT's athletics teams had not yet been integrated during my father's tenure there from 1966-68. In contrast, like other small colleges in Texas (perhaps, most famously, Texas Western), Angelo State was integrated by that time. In that regard, it was unequivocally valuable during my formative years to spend countless hours hanging around the Angelo State gym where African-American, Hispanic, and Anglo

young men played together, showered together, studied together, and traveled together. It was only after I was fully grown that my father told my brother and me stories of how “his” Angelo State team had been discriminated against at various restaurants and hotels on road trips. To give you an idea of Texas in the 1960’s, I recall asking my parents who George Wallace was and why my classmates had voted overwhelmingly for him rather than Hubert Humphrey or Richard Nixon in our fourth grade mock election in November 1968.

Despite being quite mediocre in terms of talent, I always enjoyed playing sports. I never rose above third or fourth string on the junior high basketball squads, however, and after I was cut from the high school golf team, I wisely turned my focus elsewhere.

I graduated from the University of Texas School of Law in May 1982 and practiced as an attorney-advisor in the Office of the General Counsel to the Secretary of the Air Force at the Pentagon from January 1983 until Fall 1986. There, I primarily focused on government contracts law and devoted a good bit of my time to procurement fraud matters. I used to joke with my 1L Contracts students that I would never again see a contract with as many zeroes as some of the Defense Department contracts of that era. Today, however, given the increasingly growing television rights contracts in college athletics, I might have to retract that statement.

I returned to Texas in late 1986 and practiced in the Austin office of a Dallas-based law firm for a couple of years. I was part of the “Public Law” section of the firm, which was largely a euphemism for a lobbying and administrative law practice. In 1988, I had the opportunity to take a teaching job at Texas Tech and jumped at the chance. As one colleague told me after my arrival at Texas Tech, it would take only a few years for my “Burnt Orange” background to quickly bleed over to “Raider Red.” He turned out to be correct!

When I was appointed as FAR in 2008, I had been teaching for twenty years and served as our associate dean for academics and in other administrative roles for almost half of that time. After twenty years in one largely familiar universe, it has been interesting, challenging, and in many ways, revitalizing to now be

in a different role as our FAR. My background in administrative law and with fraud investigations has also been surprisingly helpful in working on NCAA-related matters.

## II. BECOMING FAR

I suspect that most of you serving as FARs did not know a great deal about the duties and responsibilities of serving as your campus FAR when you first took on the position. I certainly did not. I was also clueless as to the time commitment. The President's office offered me a reduced teaching load, but I foolishly declined. During my first year as FAR, I taught a course overload (including a course that I had not taught for over a decade and which was, effectively, a new "prep"), served as President of our local bar association, and – as described below – led our internal investigation of a major infractions case. I love to teach, but when the offer to teach a reduced load re-surfaced a year or so later, I gratefully accepted.

Given that I have served as our FAR for only four years, I want to focus my remarks on challenges and opportunities for the new FAR. In particular, I plan to address three topics that might be of interest – particularly for a new or relatively new FAR.

## III. OVERLAP

When it is time for you to retire or otherwise step down from your role as FAR, encourage your president or chancellor to appoint your successor prior to your departure date. I was able to overlap with and shadow my predecessor, Dr. Robert Baker, for almost six months, and that provided me with a significant, substantive background for when I took over full time. I also quickly came to admire the dedication and commitment my predecessor exhibited in his work as FAR. Our campus leadership intentionally arranged our overlap. Dr. Baker planned to step down at the end of the summer and return full-time to the Biology Department.<sup>1</sup> The NCAA re-certification site review team, however, scheduled its campus visit for October. Additionally, the Board of Regents appointed a new President who began work in

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<sup>1</sup> One certainly does not have to be a law professor to be a successful FAR. Dr. Baker is a mammalogist with a research specialty pertaining to bats and rats!

the late summer, and our compliance director was out on maternity leave for several months beginning in late August. Given this confluence of events, the President's office asked my predecessor to remain in place through the NCAA site visit. I benefited greatly because this overlap period allowed me to participate in numerous meetings, to help review several allegations of secondary violations, to join a Big 12 Conference telephonic waiver hearing, and to tag along to the September 2008 1A FAR annual conference and Big 12 quarterly meetings in Dallas. During this period, we also had to review a serious matter involving a talented student-athlete. Ultimately, we concluded that there were no rules violations. Because the issue potentially could have impacted eligibility, however, we spent two long, full days gathering information, interviewing individuals, obtaining statements, talking with NCAA staff, etc. I am thankful that Dr. Baker was still on the job when that matter arose because I was able to both participate and learn. Indeed, by the time I became the FAR in November, I had acquired a greater understanding and appreciation for the role I was expected to fulfill. I strongly recommend the shadowing process for your successor.

#### IV. ENFORCEMENT POLICY

I am also appreciative that my predecessor and our compliance director developed a written Rules Enforcement Policy prior to my accession. During my stint as FAR we have made some minor revisions, but overall we continue to operate investigations and reviews of possible NCAA violations within the context of our written policy.<sup>2</sup> I assume that it does not differ significantly from those at other schools, but I recognize that not all schools have such policies.

I first came to appreciate the importance of having a written policy in mid-February 2009. I had been serving as FAR for several months and fulfilling my duties had become somewhat commonplace, but that changed when our deputy compliance director called me about a new matter. He said ominously, "Brian, we have a problem. Can you come over as quickly as possible?" Upon arrival, I learned that a routine monitoring cross-check of

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<sup>2</sup> A copy of the Texas Tech Enforcement Policy is included as Appendix II.

coaches' contact logs with telephone bill data revealed that the men's golf coaches had transmitted 43 impermissible text messages. Further, the cross-check revealed that our softball coaches had also transmitted similar impermissible text messages during the same month. I then asked the compliance staff to schedule interviews of these coaches for the next morning, and directed the compliance staff to review that month's phone logs and billing data for all of our sports. This check revealed a small number of impermissible texts by the football staff. In the subsequent interviews, the coaches acknowledged that texts had been sent to prospects, and admitted that there were probably more from earlier months. Therefore, I directed the compliance staff to begin a review of coaches' logs and billing data for all 17 of our sports going back to the date the text message ban legislation first became effective. This review revealed that coaches in 14 of our 17 sports understood the text message rule and did not send *any* impermissible text messages during the period reviewed. Unfortunately, we found *hundreds* of disallowed text messages in the other three sports: men's golf, softball, and football. Clearly, these coaches did not follow the rules education that they had received on numerous occasions.

I determined, at that point, that we were likely looking at a major infractions case. Per the Enforcement Policy, I directed that the investigation be removed from athletics, and briefed the University President on the situation. From that point forward, a committee comprised of the Deputy General Counsel, the President's Chief of Staff (whose position and title later changed to University Counsel), and I, serving as chair, conducted our review together. The compliance office also provided support.

We called David Price, then-head of NCAA Enforcement, and Dan Beebe, then-commissioner of the Big 12 Conference, to alert them about the problem and tell them we were conducting an internal investigation. The written Enforcement Policy proved helpful over the next few months as we conducted dozens of interviews and reviewed seemingly endless telephone and text data.<sup>3</sup> We also hired Chuck Smrt of the Compliance Group as a consultant to assist our investigation. By June, we concluded our

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<sup>3</sup> I learned more about text messaging than I thought imaginable!

review. We continued to work with our President to assess self-imposed penalties, and by mid-July we submitted a lengthy self-report of violations.<sup>4</sup> Ultimately, the NCAA conducted further interviews and worked with us to resolve the matter through a process of summary disposition.

Having a written Enforcement Policy has also been valuable in reviewing routine allegations and secondary violations. For example, our compliance director logs all reviews, including those issues or allegations for which we determine no violation occurred. This practice proved helpful when the NCAA Enforcement staff made inquiries about other, different allegations that they received anonymously. Fortunately, we had already reviewed those matters in detail and retained our log sheets and supporting documentation regarding the allegations and our reviews. We provided all of the information about our internal reviews to the Enforcement staff, and after a series of on-campus interviews, they closed the review and took no further action.

An interesting and unexpected situation arose however, in connection with the Enforcement staff's campus visit. Consistent with the Enforcement policy, and with the blessing of the NCAA's investigating attorney, I alerted one of our head coaches that, in the next few days, the NCAA planned to interview one of the coach's student-athletes on campus. Per the NCAA's request, and consistent with our own policy, I did not reveal any details about the investigation. Apparently concerned about the pending review, the coach questioned the student-athlete about the matter. When the student-athlete explained he was unaware why the NCAA wanted to speak with him, the coach then questioned one of his teammates. The teammate responded, "Coach, maybe it's because he has been betting with another teammate on some pro basketball games." The coach promptly informed our compliance office and me. In fact, this gambling issue was not a part of the pending inquiry, but we called the lead investigating attorney from the enforcement staff that day to inform her of our internal discovery. Thereafter, the NCAA interviewed all members of the student-athlete's team. Although no violations resulted from the

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<sup>4</sup> My 36-page, single-spaced self-report – replete with a notebook of attachments and exhibits – will never be included as a publication on my vita, but preparing it probably took as much time or more than a typical law review article.

original purpose of the investigation, we collectively determined that two student-athletes had indeed engaged in impermissible gambling. Violations were reported, and they impacted the student-athletes' eligibility.

#### V. CHAPLAIN POLICY

A year into my tenure as FAR, Texas Tech experienced a highly publicized series of events that led to the termination of our former head football coach. (As you might be aware, most of the former coach's subsequent legal claims against the University have been barred due to state sovereign immunity.<sup>5</sup> Because the litigation remains pending, I will not discuss the situation further). The departure of Coach Mike Leach resulted in the hiring of Coach Tommy Tuberville.

In late spring, after Coach Tuberville and his staff arrived, I learned that, at the direction of the coaching staff, the local Fellowship of Christian Athletes planned to hire a chaplain for the football team. Because Texas Tech University is a public institution, I was concerned about the idea of hiring a religiously affiliated chaplain. I raised these concerns with both the then-athletics director and our deputy general counsel. At first, the former did not understand why I had concerns, and the latter only went so far as to assure me that no state funds would be used for the new chaplain's salary. Nevertheless, I was concerned about (1) those student-athletes who follow a faith other than Christianity, (2) those who might be Christians but not of the chaplain's denomination, and (3) those with no religious affiliation or interest. Also, I was apprehensive about possible coercion and the possibility that coaches or staff might mandate participation. I contacted the other FARs in the Big 12 to find out if any of their institutions had chaplains and what their respective policies were. (At the time, Baylor was the only religiously affiliated institution in the conference). I learned that of the public institutions, only Colorado and Iowa State had encountered this issue. Colorado, however, did not have a written policy and Iowa State had developed theirs only a year or two before. Using the Iowa State

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<sup>5</sup> Leach v. Texas Tech Univ., 335 S.W.3d 386 (Tex. App. – Amarillo 2011, pet. denied).

policy as a guide, I adapted their approach for our campus. After drafting our policy, I asked both the general counsel's office and my colleague, Professor Arnold Loewy, to review it. Although both acknowledged the adequacy of the new policy, Professor Loewy properly pointed out that if a Fellowship of Jewish Athletes or Fellowship of Islamic Athletes wanted to hire additional chaplains for Texas Tech, the University would need to allow it.<sup>6</sup>

## VI. CONCLUSION

I have enjoyed my first four years serving as our FAR. Although there are many challenges, I have found the role to be a terrific opportunity to serve our respective institutions, athletic departments, and student-athletes. Although many of our law faculty colleagues (and, perhaps, our deans) have little concept of what we do, our campus presidents or chancellors, athletics directors, compliance directors, and academics staff highly value and appreciate our hard work.

Unequivocally, the best part of the job has been the tremendous opportunity to form professional relationships and friendships with other FARs within the Big 12 and across the country. On that note, and separate and apart from the turmoil surrounding conference realignment, I regret losing regular contact with FAR friends from former Big 12 members who are now part of other conferences. It is nonetheless valuable to remain connected through our other national meetings and outlets, and I am appreciative of Professor Rychlak for putting this panel together.

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<sup>6</sup> A copy of the Texas Tech Chaplain Policy is included at Appendix I.

## APPENDIX I

**Texas Tech University**  
**Department of Intercollegiate Athletics**  
**Operating Policy and Procedure**  
Revised and posted 4/18/12

Section 20 – Policies on: Volunteer Chaplains

**20.0 VOLUNTEER CHAPLAINS**

Background: Although the term “chaplain” has traditionally denoted a person with inter-denominational and inter-faith responsibilities, it is not always perceived in such a manner. In addition, a chaplain is typically considered as a person who primarily provides faith-based resources and services. Although this policy permits a volunteer to provide such services, any person involved in such activities should keep a broad perspective, and facilitate the availability of the entire range of religious and non-religious counseling services available at TTU and the Lubbock community.

Given: (1) the potential adverse consequences to student-athletes who either subscribe to a faith different from that of a chaplain or hold no faith conviction; (2) the presence of a chaplain of a particular faith tradition could implicitly endorse one religion over another; and (3) concerns about the potential for coercion or discrimination, this policy has been established.

Policy: A head coach may be allowed, under the guidelines set forth in this policy, to authorize participation by a volunteer chaplain to counsel student-athletes on a voluntary basis and to assist student athletes in obtaining access to faith resources of their choice. A volunteer chaplain may not be compensated with any State, University, Athletics Department, Red Raider Club, or TTU Foundation funds other than being provided access to the necessary Athletics Department facilities (locker room, meeting

rooms, offices, etc.) and activities (games, practices, meetings, etc.) as required to provide the specific services requested. Any volunteer chaplain given special access to TTU student-athletes with the purpose of providing any form of religious or faith-based support should be provided with a copy of this policy and receive annual and regular, ongoing NCAA and conference rules education training.

The Athletics Department acknowledges the extremely diverse and vibrant religious communities present on the TTU campus and within the Lubbock community. These resources include an array of registered student organizations on campus with religious objectives, and a significant number of active churches and faith communities in the surrounding community representing a range of religions and denominations. The Athletics Department also recognizes that many of our student-athletes are faced with challenges deriving from their status as student-athletes. For example, given their public profile, student athletes sometimes have needs for heightened confidentiality related to sensitive issues. Further, their commitments to TTU often include schedule inflexibility. These types of unique challenges can make it more difficult for student-athletes to find faith resources in times of need.

For these reasons, the Athletics Department finds it reasonable to allow coaches to affiliate with a volunteer chaplain with the specific purpose of helping student-athletes gain access to and become connected with the existing faith communities, religious resources, and counseling services on the TTU campus and throughout the Lubbock community. Any such volunteer should not focus on any particular denomination or faith, but should facilitate student-athlete access to already-existing resources. The volunteer chaplain should have inter-faith and inter-denominational responsibilities.

The Athletics Department also recognizes the University's obligation to protect against discrimination on the basis of race, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, and Vietnam era or special disabled

veteran status, as per TTU operating policies. The Department further recognizes the obligation to protect all of our student-athletes against coercion toward religion or a particular religious viewpoint, as well as coercion away from religious faith or practice.

A volunteer chaplain given special access to student-athletes to provide religious or faith-based counseling is explicitly prohibited from:

- pressuring student-athletes to choose a particular religion or denomination
- pressuring student-athletes to choose religion over non-religion
- coercing students to participate in any type of religious activity
- leading any mandatory team activities with religious content, including prayer or religious studies
- discriminating against any student-athlete as prohibited by University policy

Further, a volunteer chaplain who is given special access to student-athletes to provide religious or faith-based counseling:

- should be available to all student-athletes as time permits
- is required to maintain the confidentiality of student-athletes (this reinforces the volunteer chaplain's role as a safe resource for student-athletes to seek guidance of their choice without fear of discrimination from coaches or others)
- is required to receive annual and regular, ongoing NCAA and conference rules education training
- should be available to meet the faith needs of student-athletes of all faiths equally, and not only those who share his or her particular denomination or faith
- may engage in voluntary religious activity with student-athletes seeking such engagement outside of team functions.

The following mechanisms will also be employed to guard against the potential for abuses or coercion by any volunteer chaplain given special access to student-athletes to provide religious or faith-based counseling:

(1) Student athletes will be informed that the services of a volunteer chaplain will be available to them at beginning-of-the-year team meetings, including new student athlete orientation. Head coaches, student athlete advisors, and Student Athlete Advisory Council members will also be briefed on these services and asked to be a source of information relating to the services. Any instances of coercion or pressure, or patterns of discrimination associated with this service, may also be reported to these individuals, along with TTU Athletics Compliance staff, Athletics Department administrators, the Faculty Athletics Representative, members of the Athletics Council, or TTU Student Counseling Center staff members.

(2) Although the volunteer chaplain service is available to all student-athletes, it is anticipated that most services will be provided to football student-athletes.

(3) Exit surveys of graduating and other student-athletes leaving the university will be expanded to cover perceptions of the volunteer chaplain.

## APPENDIX II

*Enforcement  
Policy & Procedure  
Texas Tech University*

**Objective:** To ensure a written policy and procedure is in place for review of potential NCAA, Big 12 and Texas Tech rules violations.

Texas Tech University is committed to the principle of institutional control and responsibility which obligates the institution to be in compliance with the rules and regulations of the NCAA and Big 12 Conference. Texas Tech University's president is responsible for the administration of all aspects of the athletics program. Texas Tech will monitor its programs to assure compliance and to identify and report to the NCAA instances in which compliance has not been achieved (NCAA Bylaws 2.1.1 and 2.8.1). Texas Tech shall conduct all investigations under the guidelines of this institutional policy, NCAA Bylaw 19 and Big 12 Conference Section 7.

Texas Tech University is committed to establishing the most effective procedures and qualified personnel to ensure that compliance is achieved. The Office of Compliance is headed by the Associate Athletic Director for Compliance. Day-to-day operations including but not limited to education of coaches, student-athletes and outside entities concerning standards of rules for compliance and monitoring activities occurs within this framework and direct reporting is to the Athletic Director. This initiative is responsible for the initial response to evidence or allegations of NCAA, Big 12 or Texas Tech rules violations under the leadership of the Associate Athletic Director for Compliance.

In accordance with NCAA, Big 12 Conference and Texas Tech rules and regulations, all suspected or alleged issues with the potential to result in an institutional, secondary or major violation will be communicated to the Faculty Athletic Representative (FAR). The FAR will determine the best course of action to investigate or audit the issue. The Associate Athletic Director for Compliance will brief the Athletic Director regarding potential

institutional or secondary violation issues. If evidence indicates that the allegation, information or observation has a potential major violation consequence then the supporting information is reported to the Office of the President through the FAR as it may be appropriate to be investigated differently. At this time, a formal investigation may be initiated and conducted through a committee established by the President. As judged appropriate the FAR can call a meeting of the General Counsel for the President, and the Athletic Director to discuss the evidence and appropriate action.

This initial investigation committee will consist of the FAR as chair, *University Counsel*, Office of General Counsel, and any other members as assigned by the President. The committee will review on a case by case basis the merits of the investigation being internal, external or a combination of both. The President is ultimately responsible to assign all or part of the investigation internally or as appropriate to an entity outside the university. *Since the President is ultimately responsible for ensuring the integrity of the investigative process he may remove members from the committee if there appears to be a conflict of interest. Further, if the President is named in the allegation, the investigation may be moved to the Chair of the Board. If any member of the Board is named in the allegation, the investigation will be moved outside of the institution.* This committee will meet annually or more often if appropriate to discuss its responsibilities and actions required if called into action. The university will provide training opportunities as needed for members of this committee. The FAR will notify the Big 12 Conference of the impending investigation. The Associate Athletic Director for Compliance may serve as a support member for this committee. It is important to protect the relationship of the Associate Athletic Director for Compliance with the coaches, student-athletes and athletic administration, therefore, the role of the Associate Athletic Director for Compliance will be to provide rules interpretations and insight during this process but not be a voting member. The reporting lines for the compliance office relative to an investigation of a possible major violation will be directly to the President's Office through the FAR. If the investigation documents a secondary or institutional policy violation, then the procedures (violation report

prepared by compliance and signed by the AD& FAR) are followed for reporting such a violation. The FAR will report to the NCAA Vice President for Enforcement and/or the Big 12 Conference Commissioner as appropriate concerning allegations of major violations. Communication with the applicable head coach will be handled by the Athletic Director in consultation with the FAR taking into account student-athlete welfare issues and the integrity of the investigation. Committee members have no obligation to provide information to anyone on campus or persons who may be interviewed as part of the investigation until the matter is fully processed as divulgence of information can compromise the integrity of the investigation. It is the responsibility of the FAR to brief the President as needed during the investigation. Texas Tech University will not permit retaliatory actions be taken against athletics staff or student-athletes who submit or are involved in a complaint or allegation concerning NCAA rules violations.

During an investigation release of information to the press or outside sources will be highly regulated. Initially the FAR will be responsible for responding to the press. However, as appropriate the President will decide how information is disseminated. The university recognizes that information provided to the media must document the procedures in place to investigate any rules allegation with institutional control and compliance being enforced. Further, the institution understands that dissemination of information can compromise the investigation. During the time of the investigation there will be minimal release of information. At the end of the investigation a written report will be submitted to the NCAA by the FAR and if appropriate may include a press briefing.

Definitions of Institutional Policy, Secondary and Major Violations:

**Institutional Policy Violation** (Bylaw 6.01) Inadvertent or isolated action by an institutional staff member that violates institutional policy thus increasing the risk that the institution cannot demonstrate compliance with NCAA and Big 12 rules. These violations will be documented and reported according to

institutional policy and can include disciplinary measures as approved by the Athletic Director.

**Secondary Violation** (Bylaw 19.02.2) A secondary violation is a violation that is isolated or inadvertent in nature, provides or is intended to provide only a minimal recruiting, competitive or other advantage and does not include any significant recruiting inducement or extra benefit. Multiple secondary violations by a member institution may collectively be considered a major violation. Secondary violations of Bylaws 10-17 are divided into two levels: Level I and Level II. Level I violations are reported to the NCAA national office as they occur and are discovered and continue to be formally processed by the enforcement staff. Level II violations are processed by institutions and conferences and are reported to the enforcement staff in a “violations report”.

**Major Violation** (NCAA Bylaw 19.02.2.2) All violations other than secondary violations are major violations, specifically including those that provide an extensive recruiting or competitive advantage.

DRAFT 7-3-06/ Revised 8-31-06/Revised 2/2/07/Revised 4/10/07 ~ 5/29/07, 10/19/07, 4-17-08; ER 6-13-11 JB

#### Procedures:

#### **Reporting a Violation**

- Any individual may report an alleged, rumored, or suspected violation to the Athletics Compliance Office, Ethics point (online) or the Faculty Athletics Representative. *Information* may be submitted verbally or in writing and may be anonymous.
- If an alleged violation is communicated *to or observed by* an athletics department staff member, the staff member is obligated to notify the Compliance Office in a timely manner.

#### **Conducting an Investigation of an Alleged NCAA, Big 12 or Texas Tech Rules Violation**

- The Compliance Office shall maintain a written record of all allegations/issues/violations.
- The Associate AD for Compliance is responsible for researching issues that may result in institutional policy or secondary violations. All issues will be reviewed with the FAR *who will determine the course of action for researching the issue*. The Athletic Director will be briefed as needed. If, at any time, it appears the issue could result in a major violation, the FAR will notify the President's Office who may invoke a formal investigation (see above policy).
- Appropriate interviews related to an investigation will be *determined and/or* scheduled by the FAR. Bylaw 10.1 statements will be administered at the time of the interview for student-athletes, coaches and staff (*when obvious information related to a secondary or institutional violation does not exist*). Boosters will be presented with an educational document that explains the interview and enforcement process at the time of interview. The Compliance Office shall maintain the investigations forms.
- *When it is not clear as to whether a secondary violation has occurred, the issue or allegation is entered on the allegations spreadsheet by the compliance office. On or around that time, the compliance office initiates an allegations form and documents the research done on the issue. The FAR reviews the information documented on the form and in consultation with the Associate Athletic Director for Compliance makes the final determination as to whether a secondary violation has occurred. The FAR and the Associate AD for Compliance both sign the allegations form and it is filed in the secondary violation notebook (allegations tab) for that particular academic year. If the allegation resulted in a secondary violation, it is reported to the NCAA or Big 12 per institutional procedure.*
- If a secondary violation has occurred, the Associate Athletic Director for Compliance will draft a written report and keep on file a copy of the report and supporting documentation which could include correspondence with the Big 12 Conference and the NCAA staff. The written report will be approved and signed by the Director of Athletics and the

FAR with copies of the report sent to the following: President, Conference Office, Sport Supervisor; and involved staff member(s). If student-athletes were involved in the violation, a copy of the report will be placed in that student-athletes file.

- The Compliance Office under the direction of the FAR and with support from the Athletic Director will be responsible for identifying procedures to address and correct identified deficiencies in policies, procedures and processes within the institution and athletics program.
- Materials including a chronology of events relative to an investigation of a potential major violation issue will be organized and maintained by the Athletic Compliance Office and will include at a minimum for each action, event, document recovery or interview (Date, Approximate Time, Persons Present, Topic of Conversation or Action, Interview, Location, Audio Record, Interview Notes/Summary, General Notes).
- Expenses related to an investigation of a potential major violation issue will be funded by the President's Office.
- Coaches: It is the responsibility of the Faculty Athletic Representative to communicate to the coaches and staff the nature of an investigation (relative to a potential secondary or major issue) if it should occur and that the procedure is in place well before an allegation and thus not personal in nature. The procedure is followed equally for everyone. And that a copy of the investigative procedures shall be made available to anyone upon request.

**Objective for adhering to institutional policy:**

- Texas Tech shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved.
- Texas Tech may be held accountable through the NCAA enforcement program for activities that clearly demonstrate a disregard for its stated policies.
  - It is the responsibility of the head coach and/or the head of the department to understand all applicable legislation as it pertains to their staff as they are

ultimately responsible for their program. Additionally per Bylaw 10.1, it is the responsibility of the head coach or the head of the department and their staff to report any violation of institutional, conference, or NCAA policy.

**Procedures for reporting and correcting violations of institutional policy**

- Identify the alleged violation of institutional policy.
- Identify the details relevant to the allegation by conducting interviews and/or gathering supporting documentation.
- A determination will be made by the Associate AD for Compliance as to whether institutional policy was violated
- Process institutional policy violation form.
- If the violation of policy is inadvertent and a first offense in that area, an institutional policy violation form will be processed through the compliance office and copied to the Head Coach/Department Head and the Athletic Director. The sport or department will receive an educational memo informing them of the violation and reemphasizing the importance of the policy. The form may be copied to the FAR, Sport Supervisor and President.
- If the violation of policy is inadvertent and a second offense in that area, an institutional policy form will be processed through the compliance office and will be copied to the Head Coach/Department Head, Athletic Director, President's Office, Sport Supervisor, and the FAR. The sport or department will receive an in-person educational meeting in which the policy and procedures will be reviewed in depth with the entire staff. Also, person(s) responsible for the violation will be issued a letter of admonishment from the Athletic Director.
- If the violation of policy is inadvertent and a third offense in that area, the coach or staff member shall be subject to disciplinary action as approved by the Athletic Director.
- If there is a blatant and intentional violation of institutional policy the FAR will meet with the Athletic

Director and with the approval of the CEO an appropriate disciplinary action will be taken by the university.

**Texas Tech NCAA Bylaw 10.1 Form**

Per NCAA Bylaw 10.1, I understand that I am obligated to fully cooperate with this investigation. I read NCAA Bylaw 10.1 (on back side of form) and understand its provisions and consequences.

Further, I understand that I shall not discuss details specific to this issue with any other person including student-athletes and coaches.

I understand that Texas Tech is committed to protecting the welfare of its student-athletes and I shall not communicate in any manner with a student-athlete relative to this issue. Actions contrary to this policy may result in disciplinary action.

This form was administered by the Associate Athletic Director for Compliance and/or the Faculty Athletics Representative.

**I understand NCAA Bylaw 10.1 and my cooperation related to NCAA rules issues.**

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Signed: Texas Tech Coach, Staff or Student-athlete

**Administered by:**

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Texas Tech Associate Athletic Director for Compliance or Faculty Athletics Representative

Date of Interview:

Location of Interview:

Persons Present:

### **NCAA Bylaw 10.1**

#### **10.1 UNETHICAL CONDUCT**

Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member (e.g., coach, professor, tutor, teaching assistant, student manager, student trainer) may include, but is not limited to, the following: *(Revised: 1/10/90, 1/9/96, 2/22/01)*

(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; *(Revised: 1/9/96)*

(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;

(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"); *(Adopted: 1/9/96, Revised: 8/4/05)*

(f) Knowing involvement in providing a banned substance or impermissible supplement to student-athletes, or knowingly providing medications to student-athletes contrary to medical licensure, commonly accepted standards of care in sports medicine practice, or state and federal law; (*Adopted: 8/4/05*)

(g) Failure to provide complete and accurate information to the NCAA or institution's admissions office regarding an individual's academic record (e.g., schools attended, completion of coursework, grades and test scores); (*Adopted: 4/27/06*)

(h) Fraudulence or misconduct in connection with entrance or placement examinations; (*Adopted: 4/27/06*)

(i) Engaging in any athletics competition under an assumed name or with intent to otherwise deceive; or (*Adopted: 4/27/06*)

(j) Failure to provide complete and accurate information to the NCAA, the NCAA Eligibility Center or the institution's athletics department regarding an individual's amateur status. (*Adopted: 1/8/07, Revised: 5/9/07*)

