Procedures for Reporting and Reviewing Information About a Potential NCAA Rules Infraction

I. Background

The University of Colorado at Boulder (CU Boulder) must diligently monitor the conduct of its intercollegiate athletics program to promote compliance with all applicable rules and regulations of the National Collegiate Athletic Association (NCAA).

CU Boulder follows an established reporting procedure for reviewing and reporting potential rules violations. In addition to this established reporting procedure, CU Boulder has developed a clearly defined process to manage situations with major implications involving campus intercollegiate athletics, including NCAA breaches of conduct and other matters of significance. The process for managing NCAA violations includes an option of utilizing a committee external to the Department of Intercollegiate Athletics to manage the investigation of such situations and to advise directly the Chancellor.

II. Violations of NCAA Rules Defined

The structure of NCAA Enforcement and violation categories and definitions were updated as of August 1, 2013. The former ‘major infractions’ and ‘secondary infractions’ have been divided into four new levels of infractions. The updated levels of infractions aim to better define violations and provide appropriate penalties for those occurrences.

An incidental infraction (Level IV), as defined in NCAA Bylaw 19.1.4, is one that is technical in nature and does not constitute a Breach of Conduct. Multiple or repeated Level IV violations collectively may constitute a Breach of Conduct.

A Breach of Conduct (Level III), as defined in NCAA Bylaw 19.1.3, is one or more violations that are isolated or limited in nature; provide no more than a minimal recruiting, competitive or other advantage, and provide no more than a minimal impermissible benefit. If the NCAA Committee on Infractions determines that repeated Level III violations have occurred and that the institution is not taking appropriate action to prevent such violations, a penalty appropriate for a Significant Breach of Conduct may be imposed.

A Significant Breach of Conduct (Level II), as defined in NCAA Bylaw 19.1.2, is one or more violations that provide or are intended to provide more than a minimal but less than a substantial or extensive recruiting, competitive or other advantage; include more than a minimal but less than a substantial or extensive impermissible benefit; or involve conduct that may compromise the integrity of the NCAA Collegiate Model.

A Severe Breach of Conduct (Level I), as defined in NCAA Bylaw 19.1.1, is one or more violations that seriously undermine or threaten the integrity of the NCAA Collegiate Model. This includes any violation that provides or is intended to provide a substantial or extensive recruiting, competitive or other advantage, or a substantial or extensive impermissible benefit.
The NCAA Constitution and Bylaws represent a complex set of regulations. Compliance efforts are continuous, and, although the ultimate goal is to have no violations, a compliance program that encourages self-reporting and conducts monitoring activities *should* report several violations per year. In the history of intercollegiate athletics at CU Boulder, the University has managed five of the former ‘major infractions’; thus, preparing for this possibility is important.

**III. Initial Reporting of Potential Level III and Level IV Violations**

1. All Athletic Department staff members, student-athletes, or CU Boulder employees with **direct involvement in athletics** are obligated to report verbally or in writing any violations or possible violations of which they are aware. All other individuals (e.g., students, prospective student-athletes, CU Boulder employees without direct involvement in athletics, members of the community) are encouraged to report verbally or in writing any alleged, rumored, or suspected violations.

2. A report of a violation or possible violation can be made to the following individuals:
   - if appropriate, the immediate supervisor of the person reporting;
   - Director of Compliance;
   - Associate Directors of Compliance;
   - the Director of Athletics, any Associate or Assistant Director of Athletics;
   - the Faculty Athletics Representative (FAR);
   - the Chancellor;
   - the Office of University Counsel.

All individuals to whom the violation or possible violation is reported, with the exception of the Director of Compliance, are obligated in turn to report the violation to the Athletics Office of Compliance Services.

3. A report of a violation or possible violation should include the following:
   - date(s) and time(s) of violation;
   - individual(s) involved in the violation;
   - description of the violation;
   - reason(s) the violation occurred, and
   - if applicable, a statement of actions which have been or will be taken in order to prevent a similar violation from recurring.

**IV. Evaluating and Conducting an Investigation of an Alleged Violation**

1. At an early stage, the Director of Compliance will notify the FAR and, as necessary, the Managing Senior Associate University Counsel (MSAUC) of the report of an alleged violation. Based on the judgment of the Director of Compliance, s/he may communicate the alleged violation to the Director of Athletics. Based on the judgment of the FAR, s/he or the FAR may communicate the alleged violation to the Chancellor.

2. If, at any juncture after the discovery of the alleged violation, the Athletics Office of Compliance Services, the FAR, the MSAUC, the Director of Athletics, or other relevant person determines that an alleged violation could reach Severe or Significant Breach of
Conduct proportion, they will report this to the Chancellor. The Chancellor, at his or her discretion, may activate the Intercollegiate Athletics External Review Committee (IAERC -- see Section V below) to advise him or her regarding the alleged violation, its investigation, and provide an assessment of the need for outside assistance.

3. Unless the Chancellor has activated the IAERC and charged it with conducting an investigation, the Athletics Office of Compliance Services is responsible for conducting investigations of all NCAA rules violations. As a matter of course, the FAR will commonly be involved in the investigation of potential violations. As a matter of course, both the FAR and the MSAUC will be involved in the investigation of potential Severe or Significant Breach of Conduct violations.

4. Upon completion of the investigation, the Athletics Office of Compliance Services, in consultation with the FAR and, as necessary, the MSAUC, will determine if a violation has occurred. In this process, the Athletics Office of Compliance Services shall assess the appropriate weight and credibility of the evidence and shall determine whether the evidence, when considered as a whole, establishes that a violation occurred.

5. The Athletics Office of Compliance Services will prepare any reports required by the NCAA and/or the Pac-12 Conference. The FAR will review any reports that require his/her signature. Both the FAR and the MSAUC will be involved in the drafting of reports relating to Severe or Significant Breaches of Conduct. Reports that are submitted to the NCAA or the Pac-12 Conference will be distributed in a timely fashion by copy to the Chancellor, the Director of Athletics and other appropriate University employees.

6. If the eligibility of a student-athlete or prospect is affected by the violation, CU Boulder will request reinstatement of eligibility, if deemed appropriate. The NCAA Student-Athlete Reinstatement Committee will respond as to the reinstatement of the individual's eligibility and any penalty that must be served prior to reinstatement.

7. As necessary, the Athletics Office of Compliance Services will inform the MSAUC of the responses to a violation report received from the NCAA and/or the Pac-12 Conference.

8. The Athletics Office of Compliance Services shall maintain a written record of all alleged violations. The record shall consist of the following:
   a. Date the alleged violation was reported and by whom the violation was reported.
   b. Detailed summary of the nature of the alleged violation, including the names of all persons involved in the alleged violation.
   c. Chronology of actions taken by the University in the investigation of the alleged violation.
   d. Rationale for concluding whether the allegation was or was not determined to be a violation of NCAA regulations.
   e. If a violation has occurred, the Director of Compliance will keep on file a copy of the report of the violation and subsequent correspondence with the Pac-12 Conference for Level IV violations and the NCAA for Level I, II and III violations.

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1 Note: The Pac-12 and the NCAA automatically inform the Chancellor, AD and FAR, in addition to the DOC.
f. The Athletics Office of Compliance Services will maintain the reports of alleged violations for a period of at least six years. Records and reports of confirmed violations will be maintained in the office’s permanent files.

V. Management Process for Potential Significant or Severe Breaches of Conduct

The investigation and possible subsequent reporting of a potential Significant or Severe Breaches of Conduct or other matter of significance to CU Boulder regarding intercollegiate athletics requires significant additional resources, including personnel. A key element of managing a major infraction is institutional control. Once a potential Significant or Severe Breach of Conduct is recognized, CU Boulder and its chief officer must ensure that effective, adequate actions and controls are instituted. To assist and affect institutional control, the Chancellor, at his or her discretion, may activate the IAERC to advise him or her regarding the alleged violation, its investigation, and provide an assessment of the need for outside assistance. Subject to the approval of the Chancellor, the IAERC maintains discretion to adopt procedures other than those outlined in this policy, as the specific situation may dictate. At the request of the Chancellor, the IAERC may carry out or participate in the investigation with possible participation of the Office of Internal Audit, an outside entity and other outside individuals. The organization and coordination of the investigating team will be determined by the Chancellor.

The IAERC convened by the Chancellor shall include the following individuals:
• Faculty Athletics Representative, (Chair),
• Vice Chancellor for Student Affairs,
• A representative of University Communications,
  A representative of the Office of University Counsel, who shall serve as an advisor to the IAERC, and
• Other individual(s) of appropriate expertise, as determined by the Chancellor.

Any member of the IAERC who believes that he or she is unable to be an objective participant, or that an actual or perceived bias may be present, is expected to remove himself or herself from the Committee for that particular matter.

The purview of the IAERC extends beyond potential NCAA Significant or Severe Breaches of Conduct and includes other situations of major importance related to University intercollegiate athletics. The role of the IAERC is advisory to the Chancellor.