



Buckner

**NEW NCAA ENFORCEMENT PROCESS:
INVESTIGATIVE RESOURCE NO. 2**

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INTRODUCTION

Buckner provides the “New NCAA Enforcement Process: Investigative Resource No. 2” to supplement the checklists, forms and resources included in the “NCAA Enforcement Investigations Toolkit”. This resource and the Toolkit, which are available for download on the law firm website (www.bucknersportslaw.com), contains information and recommendations that are designed to assist campus and athletics administrators with preparing policies, procedures, strategies and protocols to address investigations of alleged NCAA rules-violations that are processed under the new enforcement process (revised Bylaw 19).

RESOURCES

Core Steps in an Investigation

A comprehensive internal investigation will use, at a minimum, the steps listed below. [Note 1: The order for each step will depend on the unique circumstances of an investigation.] [Note 2: An investigator may repeat some of the listed steps during an investigation.]

1. Preliminary determination (i.e., intake of allegation, investigation plan preparation).
2. Selection of an investigator.
3. Establishment of an investigation file.
4. Document collection.
5. Document analysis.
6. Interviews.
7. Forensic analysis.
8. Research.
9. Field activities and experiments.
10. Follow-up investigative activities.
11. Evaluation of evidence.
12. Findings development.
13. Report preparation and submission.

Duties and Responsibilities of University Administrators during an Investigation

President/chancellor and director of athletics

1. Ensure the investigation is comprehensive.
2. Ensure all corrective measures and penalties are being implemented by the institution.
3. Ensure the investigation is being conducted pursuant to prevailing NCAA and legal standards.
4. Obtain a working knowledge of the enforcement process and the relevant investigative issues.
5. Provide the investigator with the necessary authority to get things done.

Note: The president will be answerable to how the investigation was conducted during the infractions hearing.

Faculty athletics representative (if the person is not conducting the investigation)

1. Serve as a resource to the investigator.
2. Review ways to enhance institutional control and rules-compliance.

General-counsel

1. Keep the investigation focused.
2. Ensure all corrective measures and penalties are being implemented by the institution.
3. Ensure the investigation is being conducted pursuant to prevailing NCAA and legal standards.
4. Obtain a working knowledge of the enforcement process and the relevant investigative issues.
5. Ensure university staff cooperates with the investigator.
6. Research legal and regulatory issues that may affect the investigation.
7. Communicate with outside agencies (if the investigation requires).
8. Serve as the university contact for the outside investigator.
9. Plan to address relevant open records laws (for state institutions).

Senior compliance officer and athletics compliance staff

1. Remain focused on the job.
2. Review ways to enhance institutional control and rules-compliance.
3. Serve as a resource to the investigator.

Human-resources

1. Communicate any human resource-related issues or requirements to the general-counsel and investigator.
2. Ensure the investigator is following the necessary personnel and human-resources guidelines during the investigation.

Procedures for the Collection of Evidence

The collection and processing of evidence should be conducted according to established procedures. The following guidelines can be used to collect evidence:

1. Evidence should be marked on the evidence bag or container or the item itself (as applicable). The marking should show:
 - a. The evidence's original position and location.
 - b. The person who found the evidence.
 - c. The file or case number.
 - d. The date and time of collection.
2. Each piece of evidence should be placed in a separate, clean and proper sized container (e.g., evidence bag or container, sterile package) to prevent cross-contamination or damage.
3. The evidence container/package should be sealed to retain the evidence and prevent any unauthorized handling of the evidence.
4. The information relating to the evidence should be recorded in an evidence log.
5. Evidence needing expert analysis should be processed by an appropriate agency or authority (e.g. forensic laboratory).
6. A record of evidence should be maintained that shows the chain of custody (specifically, the records should note any movement of the evidence).