

STATEMENT OF THE CASE

University of North Carolina-Chapel Hill – Case No. 00231

September 19, 2016

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**I. BRIEF HISTORY (CASE CHRONOLOGY)**

March 12, 2012 – The NCAA Division I Committee on Infractions issued the University of North Carolina, Chapel Hill, public infractions report.

May 2, 2012 – The Hartlyn and Andrews report of the review of courses in the Department of African and Afro-American Studies (AFRI/AFAM) was issued.

December 19, 2012 – The Martin report was issued regarding academic anomalies.

February 2014 – Ken Wainstein of the law firm of Cadwalader, Wickersham and Taft LLP (Cadwalader) notified the NCAA enforcement staff of the investigation into the "irregular" courses offered in the AFRI/AFAM department.

June 2, 2014 – Jon Duncan, NCAA vice president of enforcement, sent a letter to Rick Evrard, outside counsel to the institution, informing the institution that the enforcement staff would investigate potential violations of NCAA legislation.

June 30, 2014 – The enforcement staff issued a verbal notice of inquiry to the institution.

October 21, 2014 – Cadwalader issued its report on the irregular AFRI/AFAM courses.

January 12, 2015 – The institution submitted its response to an inquiry by the Southern Association of Colleges and Schools Commission on Colleges.

May 20, 2015 – The staff issued the notice of allegations to the chancellor of the institution; Jan Boxill (Boxill), philosophy instructor, director of the Parr Center for Ethics, women's basketball athletic academic counselor in the Academic Support Program for Student-Athletes (ASPSA) and chair of the faculty; Deborah Crowder (Crowder), former student services manager in the AFRI/AFAM department; and Julius Nyang'oro (Nyang'oro), former professor and chair in the AFRI/AFAM department.

July 31, 2015 – The enforcement staff made the 2011 investigative file available to the institution for review.

August 10, 2015 – The enforcement staff and institution notified the Committee on Infractions of the need to reopen the investigation.

August 26, 2015 – The enforcement staff and institution participated in a conference call at the request of the chair of the Committee on Infractions.

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April 25, 2016 – The enforcement staff issued the amended notice of allegations to the chancellor of the institution, Boxill, Crowder and Nyang'oro.

August 1, 2016 – The institution submitted its response to the amended notice of allegations.

August 1, 2016 –

August 11, 2016 – The enforcement staff conducted a prehearing conference with the institution.

August 15, 2016 – The enforcement staff conducted a prehearing conference with Boxill.

September 19, 2016 – The enforcement staff submitted its reply and statement of the case to a hearing panel of the Committee on Infractions, the institution and involved individuals.

**II. ALLEGATION NO. 1 – Boxill knowingly provided academic extra benefits to women's basketball student athletes.** [NCAA Division I Manual Bylaws 10.1, 10.1-(c) and, 16.11.2.1 (            and            through            )]

**Alleged Level of Allegation No. 1:** Severe Breach of Conduct (Level I Violation).

**A. Position of institution.**

1. Position on the allegation.

The institution agrees the factual information in subparagraphs (a), (b), (d) through (o), and (q) support a violation of Bylaw 16.11.2.1 but argues (c), (p) and (r) are barred on procedural grounds.

In addition, the institution asserts Boxill's violations do not amount to unethical conduct.

2. Position on the level of the violation.

The institution argues the violations are Level III.

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**B. Position of Boxill.**

1. Position on the allegation.
  
2. Position on the level of the violation.

**C. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff argues the allegation as drafted demonstrates Boxill's willful pattern of providing impermissible academic assistance to women's basketball student-athletes over the course of seven years.

2. Position on the level of the violation.

The enforcement staff maintains the factual information supports violations of both extra benefit and unethical-conduct legislation, and the violations are Level I.

**D. Remaining issues in Allegation No. 1.**

1. Is Allegation No. 1 barred on grounds related to jurisdiction, procedure or statute of limitations?
2. Does the factual information support violations of NCAA Bylaws 10 and 16 as alleged?
3. Should any violations that occurred be Level I, as alleged, or Level II or Level III?

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**III. ALLEGATION NO. 2 – Crowder engaged in unethical conduct and failed to cooperate when she refused to interview with the enforcement staff. [NCAA Division I Manual Bylaws 10.1, 10.1-(a) and 19.2.3 (2014-15)]**

**Alleged Level of Allegation No. 2:** Severe Breach of Conduct (Level I Violation).

**A. Position of institution.**

1. Position on the allegation.

The institution agrees Crowder engaged in unethical conduct and failed to cooperate in the investigation.

2. Position on the level of the violation.

The institution takes no position on the level of Allegation No. 2.

**B. Position of Crowder.**

1. Position on the allegation.

Crowder has provided no response.

2. Position on the level of the violation.

Crowder has provided no response.

**C. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff believes the violations occurred as alleged.

2. Position on the level of the violation.

The enforcement staff believes the violations are Level I.

**D. Remaining issues in Allegation No. 2.**

None.

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**IV. ALLEGATION NO. 3 – Nyang'oro engaged in unethical conduct and failed to cooperate when he refused to interview with the enforcement staff. [NCAA Division I Manual Bylaws 10.1, 10.1-(a) and 19.2.3 (2014-15)]**

**Alleged Level of Allegation No. 3:** Severe Breach of Conduct (Level I Violation).

**A. Position of institution.**

1. Position on the allegation.

The institution agrees Nyang'oro engaged in unethical conduct and failed to cooperate in the investigation.

2. Position on the level of the violation.

The institution takes no position on the level of Allegation No. 3.

**B. Position of Nyang'oro.**

1. Position on the allegation.

Nyang'oro has provided no response.

2. Position on the level of the violation.

Nyang'oro has provided no response.

**C. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff believes the violations occurred as alleged.

2. Position on the level of the violation.

The enforcement staff believes the violations are Level I.

**D. Remaining issues in Allegation No. 3.**

None.

**V. ALLEGATION NO. 4 – The institution failed to monitor ASPSA, the AFRI/AFAM department and Boxill. [NCAA Division I Manual Constitution 2.8.1 (2005-06 through 2010-11)]**

**Alleged Level of Allegation No. 4:** Severe Breach of Conduct (Level I Violation).

**A. Position of institution.**

1. Position on the allegation.

The institution agrees that it failed to monitor Boxill but argues anything related to ASPSA and the AFRI/AFAM department is barred on procedural grounds.

2. Position on the level of the violation.

The institution argues its failure to monitor Boxill is a Level II violation.

**B. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff believes the institution failed to monitor Boxill, ASPSA and the AFRI/AFAM department.

2. Position on the level of the violation.

The enforcement staff believes the failure to monitor amounts to a Level I violation.

**C. Remaining issues in Allegation No. 4.**

1. Did the institution fail to monitor not only Boxill, but ASPSA and the AFRI/AFAM department, as well?
2. Is the failure to monitor allegation a Level I or Level II violation?

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**VI. ALLEGATION NO. 5 – The institution lacked control of the AFRI/AFAM department, including student-athlete enrollment in the courses, and failed to adequately guide and supervise ASPSA staff. [NCAA Division I Manual Constitution 2.1.1, 2.8.1 and 6.01.1 (2002-03 and 2005-06 through 2010-11)]**

**Alleged Level of Allegation No. 5: Severe Breach of Conduct (Level I Violation).**

**A. Position of institution.**

1. Position on the allegation.

The institution argues the enforcement staff is prohibited from bringing this allegation due to procedural issues.

2. Position on the level of the violation.

The institution disputes the allegation entirely.

**B. Position of enforcement staff.**

1. Position on the allegation.

The enforcement staff argues against the procedural objections of the institution and believes the information supports a lack of control violation.

2. Position on the level of the violation.

The enforcement staff believes the lack of control amounts to a Level I violation.

**C. Remaining issues in Allegation No. 5.**

Whether the procedural arguments raised by the institution bar this allegation, and if not barred, whether the facts and circumstances support a finding a lack of institutional control violation.



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**VI. POTENTIAL AGGRAVATING AND MITIGATING FACTORS**

Pursuant to NCAA Bylaw 19.7.1, the enforcement staff has identified the following potential aggravating and mitigating factors that a hearing panel may consider.

**A. Institution.**

| Aggravating Factors  | Identified By     | Party Agreement   |             |
|--|-------------------|-------------------|-------------|
|  |                   | Enforcement Staff | Institution |
| Multiple Level I violations  | Enforcement Staff | Yes               | No Position |
| A history of Level I, Level II or major violations   | Enforcement Staff | Yes               | No Position |
| Lack of institutional control  | Enforcement Staff | Yes               | No Position |
| Persons of authority condoned, participated in or negligently disregarded the violation(s) or related wrongful conduct | Enforcement Staff | Yes               | No Position |
| Mitigating Factors   |                   |                   |             |
| An established history of self-reporting Level III or secondary violations   | Enforcement Staff | Yes               | No Position |

**B. Involved individual [Crowder].**

| Aggravating Factors  | Identified By     | Party Agreement   |                     |
|--|-------------------|-------------------|---------------------|
|  |                   | Enforcement Staff | Involved Individual |
| Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information | Enforcement Staff | Yes               | No Position         |
| Mitigating Factors   |                   |                   |                     |
| None   |                   |                   |                     |

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**C. Involved individual [Nyang'oro].**

| Aggravating Factors  | Identified By     | Party Agreement   |                     |
|--|-------------------|-------------------|---------------------|
|  |                   | Enforcement Staff | Involved Individual |
| Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information | Enforcement Staff | Yes               | No Position         |
| Mitigating Factors   |                   |                   |                     |
| None   |                   |                   |                     |

**D. Involved individual [Boxill].**

| Aggravating Factors  | Identified By     | Party Agreement   |                     |
|--|-------------------|-------------------|---------------------|
|  |                   | Enforcement Staff | Involved Individual |
| Unethical conduct  | Enforcement Staff | Yes               |                     |
| Persons of authority condoned, participated in or negligently disregarded the violation(s) or related wrongful conduct | Enforcement Staff | Yes               |                     |
| Mitigating Factors   |                   |                   |                     |
| None   |                   |                   |                     |

[NOTE: The enforcement written reply and the parties' responses to the notice of allegations may be referenced for further detail regarding the aggravating and mitigating factors.]