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## NCAA acted outside the norm with Penn State, but what does it mean?

By acting on criminal case and with uncommon speed, some worry rules have changed when it comes to penalties. A former chairwoman of NCAA panel says simple jurisdiction over manual is 'now gone.'

By Baxter Holmes

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The NCAA has done more than hammer the Penn State football program with crippling sanctions. It has entered the crime business.

In past situations in which athletics and criminal activity intertwined, the NCAA got involved only after its rules had been violated. For example, in 2003, when Baylor basketball player Patrick Dennehy was killed by a teammate, the NCAA stepped in with penalties when it learned the coach was paying players.

Whether the NCAA overstepped its bounds in the Penn State case has been debated. Oregon State President Ed Ray, chairman of the NCAA executive committee, met the topic head on during a news conference to discuss the situation, saying, "Not only does the NCAA have the authority to act in this case, we also have the responsibility to say that such egregious behavior is not only against our bylaws and constitution, but also against our value system and basic human decency."

VIDEO: Chris Dufresne on Penn State penalties

There's no doubt the NCAA acted out of the norm in reacting to what investigators say was a cover-up by top school officials of allegations that led to the conviction of former football assistant Jerry Sandusky on multiple counts related to the sexual abuse of children.

In this instance, the NCAA not only acted on a criminal case but also with uncommon speed, skipping its usual routine of snails-paced investigation followed by protracted infractions hearings.

In announcing the sanctions, NCAA President Mark Emmert often used the word "unprecedented" to describe the situation. But now some observers are wondering whether the Penn State case would remain unique for long.

"In the system up until [Monday], the line to maintain was an easy one," said Jo Potuto, former chairwoman of the NCAA Division I committee on infractions.

"It might have been not palatable, it might not have been fully understood, but it was easy, because people could say, the NCAA has jurisdiction over what is in the NCAA manual.... That's now gone."

Michael Buckner, a Florida lawyer who has represented schools in infractions cases, said the NCAA's actions with Penn State mark a "slippery slope" and that clients have already raised concerns.

"This should have gone through the enforcement process, no matter how egregious the facts are," Buckner said, adding, "Now, what's the standard?"

Emmert received special approval from the Division I board of directors and NCAA executive committee to act as he did — the first-ever sanctioning by an NCAA president. He based his conclusions on the Freeh Report, an investigation commissioned by Penn State and conducted by a group led by former FBI Director Louis Freeh.

The resulting penalties included a \$60-million fine, loss of scholarships, a four-year postseason ban, loss of bowl revenue and 112 vacated victories.

Emmert stressed the Penn State scandal had provided "a very distinct and very unique circumstance."

Steve Morgan, who supervised the NCAA's enforcement staff that investigated Southern Methodist University in the mid-1980s, wondered whether it might actually be the start of something new.

"It really does make you stop and wonder: Is there an attempt to get more of an executive authority involved in the disciplinary process than what the members have created over the years?" asked Morgan, an attorney at Bond, Schoeneck & King, one of the firms that represents schools and athletes in NCAA cases.

Morgan said he has talked to university presidents, athletic directors and others in college athletics from around the country and none have indicated the desire to cede that kind of authority to one person.

"This case, this process, how this was handled, will be a point of reference for a long time," said Tom Yeager, a former chairman of the infractions committee. "Those that believe it might be indicative of something to their benefit, I'm sure they'll use it. Those who think it's irrelevant will argue that.

"But it's going to go on and on for a long time."

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