



(8 pages via Email Attachment)

DATE: July 19, 2013

To: Sonya Christian, President, Bakersfield College
Ryan Beckwith, Athletic Director, Bakersfield College
Jim Sartoris, SCFA Conference Commissioner

CCCAA Appeals Board
Linda Lacy, Chair Cerritos College
Tod Burnett, Saddleback College
Rosa Carlson, Porterville College
Joe Wyse, Shasta College
Pamela Walker, American River College

FROM: Carlyle Carter, CCCAA Executive

SUBJECT: Appeal on Behalf of Bakersfield College

Please be advised that the CCCAA Appeals Board has denied the appeal for Bakersfield College.

See the enclosed for a detailed response to the appeal.

Please note that Bakersfield College has a right to appeal the decision of the CCCAA Appeals Board to the next level in the appeals process which is to the full CCCAA Board of Directors. Please review CCCAA Constitution Article 7 for details of the specifics of the appeal process which includes a time deadline for submission.

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DATE: July 19, 2013

TO: Sonya Christian
President, Bakersfield College

FROM: CCCAA Appeals Board

RE: Bakersfield College Appeal

In response to Bakersfield College's appeal to the California Community College Athletic Association (CCCAA) Appeals Board we believe that it would be beneficial to provide the following background information regarding the organization and pertinent policies and practices:

The California Community College Athletic Association (CCCAA) is a voluntary membership organization with oversight responsibilities in the establishment of rules and regulations governing intercollegiate athletics amongst the 104 Community Colleges offering athletic programs. The governing structure of CCCAA begins with appropriate and adequate oversight at the College and District level to ensure compliance with the member adopted rules, regulations, policies and procedures. Each year member College Presidents and Directors of Athletics apply their signatures to the CCCAA document (R-1) *Statement of Compliance* "to verify that our college shall adhere to the CCCAA Constitution and Bylaws rules and regulations". The R-1 further states:

"The athletic administrators of our college have reviewed the contents, interpretations, and implications of the current CCCAA Constitution and Bylaws with our staff, employees, representatives, and each person who works with the athletic program, with additional emphasis on rules of recruitment, eligibility, decorum, and sport seasons. In addition, the college will complete by November 1 a Statement of Compliance Title IX Gender Equity Form (FORM R-4) regarding state and federal Title IX laws pertaining to interests and abilities for men and women for the preceding year. We affirm that our representatives shall adhere to its rules and regulations. We understand that violations of the CCCAA Constitution and Bylaws may subject our college and/or personnel to penalties"

In addition, every member college must annually complete in-service compliance training for all institutional representatives (athletic staff and employees) involved in the athletic program. Each member must sign the CCCAA form R-2 (Statement of In-Service Training) which states:

“By placing my signature below, I verify that I have received in-service training on the contents, interpretations, and implications of the current CCCAA Constitution and Bylaws, have taken the CCCAA Online Compliance Rules Exam, and that I have received a copy of the CCCAA Decorum Policy as well as the recruiting policies. I affirm that as an institutional representative, I shall adhere to the rules and regulations of the CCCAA Constitution and Bylaws, and understand that violations of the CCCAA Constitution and Bylaws may subject myself, program, and the college to penalties”

Further, every student wishing to participate in intercollegiate athletics must complete and sign the CCCAA Form 1 (Student Eligibility Report). Each member college has a responsibility to ensure that students are aware of policies that directly affect their ability to participate both academically and athletically. Included on the Form 1 is the following statement:

“I understand that I may not receive financial assistance or other special privileges for my participation in athletics.”

Subsequent to the completion of the review and explanation of the CCCAA Form 1 Student Eligibility Report, the coach, Athletic Director, Registrar or Administrative Representative and Student Athlete sign the form which certifies that the student is eligible for participation. By signing the form 1 the student signifies that:

“...there are special rules for student athletes. I understand and will abide by the above statements and all rules of athletic eligibility. My signature below certifies that the information I have given on each side of this form is true. Information falsely given or concealed by me will cause my college's forfeitures of all games, meets, and/or matches in which I may compete, and that I may be designated ineligible for further competition.”

As with most competitive environments, but especially in intercollegiate athletics, there are always concerns with competing on a “level playing field”. This, in fact, is mythical in nature as it is not possible to guarantee that all Colleges approach athletics in the same way. For instance, the CCCAA has members that have as few as 2 sports while others have in excess of 20. There are members that are located in urban settings with nearby competitors less than 10 miles away and there are member colleges that travel in excess of 100 miles or more to their nearest competitor. Obviously, the amount of resources required varies differently depending on each individual college situation and policy cannot “level that out”. In attempting to govern intercollegiate athletics the only guarantee that members should be able to rely on is that all members are held accountable for complying with the same rules, regulations, policies and practices that they, collectively have adopted. When a college is alleged to have deviated from the agreed upon “policies” the first step in due process is to allow the college to respond to the allegations by conducting an internal review. This can be done through an “in-house” investigation or by retaining the services of an independent, non-affiliated individual or agency to investigate the allegations and submit a self-report of the findings. The latter in most cases is seen as preferred to avoid any appearance of a conflict of interest.

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In the case in question, in January of 2013, Bakersfield College received an initial inquiry from the Southern California Football Association Commissioner (SCFA), Mr. Jim Sartoris, regarding the activities of the Bakersfield College Helmet Club. Upon acknowledged receipt of the SCFA request, Bakersfield College requested and received a 1 month extension to provide a response. Bakersfield College retained the services of an outside accounting firm to “conduct a review and provide information to be used in development of ...responses...to questions.” The SCFA received a response from Bakersfield College on February 28, 2013 to the initial inquiry. Following the review of the college response, Mr. Sartoris sent the College President a series of follow-up questions via email on March 11, 2013 requesting a response by March 25, 2013. On March 22, Bakersfield College requested an extension until April 30th. The SCFA extended the deadline but only until April 19, 2013 which was agreed to by the College. On April 19, 2013 the SCFA received an investigative report from the Bakersfield College Vice President for Student Services that was conducted by the accounting firm. Discussions (in-person) were held between the Bakersfield VP and Mr. Sartoris followed by email exchanges for further clarification. On May 8, 2013 Bakersfield College submitted their official self-report based upon the independent investigator findings. Bakersfield College self-reported that several infractions of CCCAA policy were committed by the Bakersfield College football program involving Bylaw 2 of the CCCAA Constitution. Specifically, Bylaw 2.11 (Subsidizing, Inducements, and Special Privileges).

Bylaw 2.11.2 Subsidizing is defined as providing any manner of service or financial assistance to prospects or student athletes that is not available to all other students. Subsidization in any manner by the college or individual(s) or groups acting in the interest of the college is not permitted.

As a part of the internal investigation, the investigator conducted on-campus interviews with the following individuals (by position)

1. A Former President of Bakersfield College
2. A Former Interim President of Bakersfield College
3. Vice President for Student Affairs
4. Vice Chancellor for Human Resources
5. Vice Chancellor for Operations
6. Athletic Director
7. Head Football Coach
8. Assistant Athletic Director and Head Softball Coach
9. Administrative Assistant for Athletics
10. A representative of the Bakersfield College facilities
11. A representative of Bakersfield College Maintenance
12. Director of the Bakersfield College Foundation
13. Head Track and Field Coach
14. Assistant Track and Field Coach
15. Head Volleyball Coach
16. Head Baseball Coach
17. President of the Helmet Club
18. Bookkeeper of the Helmet Club

On May 8, 2013 Bakersfield College self-reported that:

1. A number of student athletes in the football program were paid for work from funds raised by a football booster club outside the oversight of the college. This arrangement was provided to football student athletes only, outside of the college official "work study" program and not available to the general student population.
2. Football student athletes were provided access to housing by the head football coach that was not available to all students at the college.
3. The head football coach facilitated the payment of rent by football student athletes by acting as a "middle man" in collecting the rent checks and forwarding the payment to the property owner. This service was not available to the general student population.
4. The football team was provided a weekly meal. This was a special, subsidized privilege, not available to other athletic teams or the general student population of the college.
5. The football team was provided a pre-game dinner before home games.

As a result of the self-reported list of infractions, the SCFA concurred with Bakersfield College that violations of Bylaw 2 occurred and would result in sanctions generally outlined in CCCAA Constitution Article 7.4.12 and based on knowledge of "similar" infraction cases. Bakersfield College did recommend program sanctions with the submission of the self-report but those sanctions did not reflect the severity of the infractions nor previous sanctions associated with similar infraction cases. The SCFA issued sanctions were forwarded to the College on May 13, 2013. Upon receipt of a copy of the findings and SCFA letter to Bakersfield College outlining the sanctions, the CCCAA issued sanctions in accordance with the Constitution (Article 7.4.12.2) associated with contests involving Bakersfield College football during post-conference competition. In both instances, the College was informed of their right to appeal under the CCCAA Appeals process outline in CCCAA Constitution Article 7.

On May 24th the SCFA received a request to extend the 10-day deadline to submit an appeal which was recommended to be granted and forwarded to the CCCAA Appeals Board for review. The CCCAA Appeals Board granted the extension to June 12, 2013.

On June 12, 2013 Bakersfield College submitted and appeal to the SCFA Appeals Board.

On June 24, 2013 the SCFA Appeals Board recommended denial of the appeal and sent an email to Commissioner Sartoris reflecting their decision. Commissioner Sartoris transmitted the SCFA Appeals Board recommendation to deny to Bakersfield College and inform them of their right to the next level of appeal with the CCCAA Appeals Board.

Only July 9, 2013 Bakersfield College filed an appeal with the CCCAA Appeals Board via the office of the CCCAA CEO and President. On July 10, 2013, the CCCAA Executive electronically transmitted the Bakersfield College appeal to the members of the CCCAA Appeals Board.

CCCAA Appeals Board Review of Bakersfield College Appeal

On July 16, 2013, members of the CCCAA Appeals Board held a conference call to review the Bakersfield College appeal.

The Bakersfield College appeal to the CCCAA Appeals Board stated (in-part) the following:

1. We believe it was a patent conflict of interest for Commissioner Sartoris to issue a decision on the appeal of his own ruling. We received no communication at all from the SCFA Appeals Board, no explanation of its findings, and no description of process used to establish its findings.

Response: Article 7.4.8.8 states that the decision of the conference appeals board shall be distributed by the conference commissioner in writing to the appealing party, the appellant's school's athletic director, the appellant school's college president, and the CCCAA Executive. It must be noted that Commissioner Sartoris notified Bakersfield College of their right to appeal and recommended review of the appellate process. As such, Mr. Sartoris communicated the decision of the Conference Appeals Board exactly as prescribed in the above constitutional reference.

2. We request a ruling that the SCFA Appeals Board failed to provide either due process or fair procedure in its denial of the College's request for a testimonial hearing; that the SCFA Appeals Board did not provide findings, evidence or analysis to support its decision, and did not provide a decision authored by its members.

Response: The CCCAA Appeal Process is defined in Article 7 of the CCCAA Constitution approved and adopted by the member colleges (which included Bakersfield College). Testimonial hearings may be convened after a vote of the appellate body who may invite parties to present evidence in person.

3. The College seeks a testimonial hearing and review of the ten points of error contained within the June 12, 2013 appeal to the SCFA Appeals Board and the supporting evidence, which is attached hereto and incorporated herein by reference.

Response: In reviewing the appeal, the CCCAA Appeals Board noted that a testimonial hearing was requested by Bakersfield College. The determination was made that based on the self-reported information from Bakersfield College it was not necessary to seek additional information in the form of a testimonial hearing. In reviewing the June 12, 2013 appeal submitted initially to the SCFA which asserts that the original self-report submitted by the College contained "ten points of error", the Appeals Board provides the following response:

1. **Error No. 1 Employment Opportunities as Subsidy – The CCCAA Appeals Board finds this claim to not only be invalid but demonstrates that those responsible for oversight of the athletic program lack the basic understanding of CCCAA Bylaw 2.11.2. The practice of providing employment opportunities exclusively and selectively to football student athletes regardless of the rate of pay is a violation and by its execution is a subsidy as defined in Bylaw 2.11.2. These employment opportunities were not available to all students and moreover were outside of the control and oversight of the College Office of Financial Aid. The violation stands.**
2. **Error No. 2 Inducement – The CCCAA Appeals Board would be in agreement with the claim that identifying employment opportunities available to all students would not be considered an inducement nor would referencing "work study" if in fact these were truly a part of the Office of Financial Aid administered Federal Work Study program. The College agrees that the**

availability of these employment opportunities is “special privileges” and therefore are violations, but only of a “technical” nature. The violation stands.

3. Error #3 and # 4– Housing Assistance as Subsidy – The conflicting statements by the accountant investigator are problematic. There was never an assertion by the SCFA that the housing in question was not at a fair market value. The College stated: *“Football student athletes were provided access to housing by the head football coach that was not available to all students at the college.(Violation of 2.11.1;2.11.2.C.)* The SCFA used this information in preparation of the sanctions. For the College to subsequently claim that “The evidence does not support such a finding” is an error of the stated facts as provided by the College self-report. There is sufficient evidence in the statements asserted in the College self-report and in statements attributed to the Head Football Coach contained in the appeal to indicate that the housing referred to in response to the prospective student athlete questions were specific to the two properties. The violations stand.
4. Error #5 Special Privilege – Rent Payments – The CCCAA Appeals again must point to the lack of Constitutional knowledge by Bakersfield athletics relating to what is defined as a “special privilege”. Bylaw 2.11.4 specifically states: “Student athletes may only receive services that are available to all eligible students”. The Bylaw also identifies certain categories “which are permissible”. By default, if the activity is not listed it is not permissible. The question should be asked, Do all students have the ability to have an institutional office serve as a place where they can deliver their rent payment? If the answer is “no” the service provided by the athletic department specifically for football student athletes is a Special Privilege. The violation stands.
5. Error #6 and #7 Weekly meal – Subsidy/Special Privilege – The institutional self-report indicated that: *“The football team was provided a weekly meal. This was a special, subsidized privilege, not available to other athletic teams or the general student population of the College. (Violation of 2.11.1, 2.11.2, 2.11.2.B., 2.11.4)”* The CCCAA Appeals Board once again points to the basic definition of subsidy as defined in CCCAA Bylaw 2.11.2. The “barbecues” were restricted to the football participants and guests and were not available to student-athletes from other sports or the general student population. The violations stand.
6. Error #8 Meal Before Home Games – Special Privileges – It was self-reported by the College that: *“The football team was provided a pre-game dinner before home games. (Violation of 2.11.4.B.3.)”* CCCAA Bylaw 2.11.4.B.3. states: “Meals provided either prior to or following home contests are permissible if they are infrequent “special occasions”. It would be a violation if a team was provided a pre-game meal by an individual(s) or agency prior to every home game. This would be a form of subsidization.” The violation stands.
7. Error #9 Student Ineligibility – The CCCAA Appeals Board again must question the basic knowledge and understanding of the policies and practices of the CCCAA Constitution of those responsible for oversight of the athletic program. Each year CCCAA member athletic departments are required to “...certify athletic eligibility” by submitting Form 1, Student Eligibility and Form 3, Team Eligibility, to the conference commissioner’s office...”(CCCAA Bylaw 1.4.1.) Form 1 completion (student athlete portion) is typically guided by either the Athletic Director or an institutional representative with competence in eligibility rules, policies and practices that affect both academic and athletic eligibility. The Form 1, Item # 7 specifically states: “I understand that I may not receive financial assistance or other special privileges for my participation in athletics.” Students sign-off that they understand the rules and that information falsely given or concealed...will cause my college’s forfeiture of all

games, meets, and/or matches in which I may compete, and that I may be designated ineligible for further competition. In order to complete each student athlete's eligibility certification, the coach, Athletic Director and Registrar or Administrative Representative must also sign the form. In addition, any violations of CCCAA Bylaw 2 are subject to penalties as indicated in Article 7.4.12 which may include, but not be limited to the loss of eligibility, forfeiture of contests, etc. (7.4.12.2). Article 7.4.12.3 indicates that the penalty for the participation of an ineligible athlete in any contest shall include forfeiture of the contest in which the athlete participated. The Commissioner did not exceed his authority but rather applied the applicable Bylaw and correct sanction(s) for the self-reported violations. Furthermore, the subsequent CCCAA sanctions were appropriate as applied according to Article 7.4.12.2 and 7.4.12.3. The violation stands.

8. **Error #10 Penalties and Sanctions – The College asserts that the sanctions/penalties imposed are “excessive, disproportionate and not supported by the Bylaws.” The CCCAA Appeals Board finds that the College has failed to recognize the severity of the infractions which further points to a lack of knowledge and understanding of the CCCAA Constitution and standard practices by those responsible for the administration and oversight of the intercollegiate athletic program. As indicated in the report of the investigator, there is evidence that some of the practices of subsidy and special privilege have been going on for several years and many College personnel were aware of some of the events as well as the employment of football student athletes. It was also stated that the athletic director questioned the permissibility of the barbecues and mentioned it to the coach but did not follow through to curtail the activity.**

As a result of the extensive review of all of the submitted appeal materials by Bakersfield College the CCCAA Appeals Board finds as follows:

The documentation presented, which includes Bakersfield College's self-reported violations, identify several violations of Bylaw 2.11 Subsidizing, Inducements, and Special Privileges. In addition, the penalties assessed meet the standards outlined in the CCCAA Constitution 7.4.12.

It is the expectation that college athletic personnel know the rules and regulations governing community college athletics. It also expected that they convey this information to their college administration, those connected with athletics, including outside support groups, and student athletes.

The CCCAA Appeals Committee, after review of the documents and participation in a conference call on July 17, 2013, voted unanimously to deny the appeal by Bakersfield College.

cc: Jim Sartoris