

**Ruling of Canadian Interuniversity Sport (CIS) Discipline Committee
Regarding a self-disclosure of Brandon University**

Decision Rendered: June 3, 2004

CIS DISCIPLINE COMMITTEE:

Pat Murray, Athletic Director, York University (chair)
Sandy Slavin, Athletic Director, University of Lethbridge
Coleen Dufresne, Athletic Director, University of Manitoba
Bob Dubeau, Athletic Director, McGill University
Derryl Smith, Athletic Director, St. Thomas University

PROCESS:

In accordance with Section 90.40 – Conduct and Enforcement: Complaints, Investigation and Discipline Policy of the 2003 Canadian Interuniversity Sport (CIS) Policies and Procedures, the CIS Discipline Committee convened a discipline hearing on May 21 to hear the formal charge and to impose sanctions, if any, with respect to a self-disclosed breach of CIS regulations by Brandon University. The hearing was conducted by way of a review of documentary evidence and an oral hearing.

DETAILS:

- Mr. Rick Nickelchok, Athletic Director of Brandon University submitted a self-disclosure concerning a purported 'athletic award' pursuant to Section 90.40.3.3(a) – (h) of the CIS Policies and Procedures.
- The self-disclosure came about when a concern arose at Brandon University over a "Residence Fee Waiver and Scholarship Program" within the Senate (Athletic) Awards Committee. During an informal discussion between several members of the Committee and its Chair, the fact of such a program operating and its status arose. Discussions were initiated with the CIS.
- Through the program, selected students were offered residence accommodation at a preferred rate. The rate varied year to year but was equivalent to a predetermined number of weeks of residence accommodation per month based on the particular residence and room type. With the exception of the reduced residence cost, all other charges remained the same (e.g., food plan costs, and applicable penalties, etc.)
- The program was open to all students, in any year, attending the University.
- Selection criteria and a selection process were left to the Deans and Directors of the various units across campus. Each unit had full discretion on how candidates were to be selected and such a process could be unique to the unit.
- The program has been used for recruiting purposes by various faculties and departments across the campus, including the Department of Athletics.

- Athletic Directors sitting on the President's Advisory Group during the tenure of the Fee Waiver and Scholarship Program were as follows (the program was initiated in 2001):

▪ Prior to 2000	Mr. Tom Skinner
▪ 2000 – 2002	Mr. Ken Friesen
▪ 2002 – 2003	Mr. Dave Shyiak
▪ (August) 2003 – present	Mr. Rick Nickelchok
- Students could be selected through their academic faculty or through the Athletic Department although any such student would not receive a duplicate award.
- Athletics at Brandon University is a unit within the Faculty of Education. The Athletic Director reports to the Dean of the Faculty of Education. Responsibility for selection of students within the Department of Athletics was given to the Athletic Director. The Athletic Director delegated the job to the coaches. Coaches each implemented their own criteria and process for selection. It was indicated student athletes had to be a member of a team at the time of nomination and each coach could nominate up to 15 athletes.
- Financial need of students was not a consideration nor was year of study, academic standing or athletic ability (except for being a member of a team).
- In 2001-2002, 19 student athletes participated in the program. Eight (8) student athletes received awards in excess of their respective tuitions and compulsory fees.
- In 2002–2003, 29 student athletes participated in the program. Twelve (12) student-athletes received awards in excess of their respective tuitions and compulsory fees.

DECISION:

Upon hearing the matter, the Discipline Committee has determined that the formal charge has been satisfied, specifically, Brandon University is found to have breached four CIS Regulations:

- B.1.b Restriction on Receipt of Awards
 There is no restriction on the number and variety of awards that an athlete may receive in one academic year, except as follows:*
- i) an athlete may not receive Athletic (Financial) Awards under article C.4, C.5, C.6 and C.7 which aggregate more than the tuition and compulsory fees paid by the athlete.*
- D.2.a Approval of New Athletic Awards
 The following Athletic Awards and Scholarships shall be submitted to Canadian Interuniversity Sport for approval before being offered:*
- i) Athletic Award – University Funded*
 - ii) University Academic Scholarship with an Athletic Component*
 - iii) Athletic Award - Alumni, Private, Booster Club and Corporate Funded*

iv) University Bursary with an Athletic Component

(September 2001)

50.10.4.1.2 Restriction on Receipt of Awards

There is no restriction on the number and variety of awards that an athlete may receive in one academic year, except as follows:

- i) an athlete may not receive Athletic (Financial) Awards under article 50.10.5.4, 50.10.5.5, 50.10.5.6 and 50.10.5.7 which aggregate more than the tuition and compulsory fees paid by the athlete.*

50.20.1.2.1 Approval of New Athletic Awards

The following Athletic Awards and Scholarships shall be submitted to Canadian Interuniversity Sport for approval before being offered:

- i) Athletic Award – University Funded*
- ii) University Academic Scholarship with an Athletic Component*
- iii) Athletic Award - Alumni, Private, Booster Club and Corporate Funded*
- iv) University Bursary with an Athletic Component*

(September 2002)

In the absence of information to the contrary, we consider the student-athletes to be unwitting participants in the breach.

SANCTIONS:

In accordance with Section 90.40, the Discipline Committee has imposed the following sanctions:

- 1) That the University be fined \$4,000, payable to CIS by August 3, 2004; and,
- 2) That the University be levied the costs of the hearing (conference calls, disbursements related to the investigation, disbursements related to the consultation of legal counsel), payable to CIS by August 3, 2004; and,
- 3) That the University be put on probation for a period of two (2) years, which includes the 2004-2005 and the 2005-2006 academic years. During the probationary period, the University will be required to file with the CIS office, along with their annual Athletic (Financial) Awards reporting, a detailed list of student-athletes per sport (names to be withheld by the University for privacy) with detailed amounts of Athletic (Financial) Awards each athlete received during the academic year, as outlined in section 50 – Athletic (Financial) Awards - within the CIS's Policies and Procedures. The University will be required to provide each student-athlete receiving an Athletic (Financial) Award a complete list of CIS regulations governing Athletic (Financial) Awards. The student-athlete would then be required to sign-off as having read and understood these regulations (these records would be kept at the University and provided to the CIS upon request).

For information, this decision will be posted to the "Discipline/Appeals Results" section of the CIS website, with a corresponding communication forwarded to all member institution Athletic Directors.

Failure to comply with a penalty shall result in immediate suspension from participation in any and all activities of Canadian Interuniversity Sport, until such time as Brandon University complies. Failure to comply may also give rise to a complaint and the laying of a formal charge.

RATIONALE:

In the opinion of the CIS Discipline Committee, the "Residence Fee Waiver" at Brandon University awarded to student-athletes is a clear breach of CIS regulations in regards to Athletic Awards and their receipt. The fact that this breach occurred over a two year period was also a prime consideration.

In rendering its decision, the Committee does not consider the breach to have involved a willful or deliberate intention on the part of the University to circumvent any awards rules. Further, the Committee acknowledges and recognizes the University's immediate acknowledgement and assumption of responsibility for the breach when it was identified, as well as the University's cooperation in the investigation of this self-disclosed breach.