

NEGOTIATED RESOLUTION¹

Southern Methodist University – Case No. 020296

September 4, 2024

I. CASE SYNOPSIS

Southern Methodist University (SMU), Ozzie Quevedo (Quevedo), head women's swimming coach, and the NCAA enforcement staff agree with the violations and penalties detailed below.

The case originated in June 2023 when Quevedo reported to the institution that he sent impermissible messages to a women's swimming student-athlete at another NCAA institution without first obtaining authorization through the notification of transfer process. As a result, the institution conducted an investigation and submitted a self-report of violations to the NCAA July 3, 2023. Specifically, the institution reported that despite knowing the student-athlete was not in the transfer portal, Quevedo sent 10 impermissible messages via WhatsApp to the student-athlete and communicated an offer of athletically related financial aid to transfer and compete at SMU. After receipt of the self-report, the enforcement staff began a collaborative investigation with the institution August 2, 2023. The investigation discovered additional facts demonstrating that prior to the impermissible messages, April 28, 2023, Quevedo participated in an impermissible phone call with the student-athlete and offered athletically related financial aid to compete at the institution. Additionally, April 29, 2023, Quevedo sent one impermissible email to the student-athlete's father.

Regarding Agreed-Upon Finding of Fact No.1, the institution, Quevedo and the enforcement staff agree that April 28, 2023, Quevedo had a telephone conversation with a University of Alabama (Alabama) women's swimming student-athlete. Quevedo confirmed that the student-athlete would receive financial aid if she were to compete at SMU. Shortly after, Quevedo impermissibly emailed the student-athlete's father. Finally, on May 18, Quevedo began sending WhatsApp messages to the student-athlete offering her athletics aid if she competed at the institution. The student-athlete declined the offer; however, Quevedo continued to send similar messages. Quevedo acknowledged that he knew he was not permitted to contact the student-athlete.

Regarding Agreed-Upon Finding of Fact No. 2, the institution, Quevedo and enforcement staff agree that Quevedo is responsible for the violations under NCAA Bylaw 11.1.1.1.

¹ In reviewing this agreement, the hearing panel made editorial revisions pursuant to NCAA Division I Committee on Infractions (COI) Internal Operating Procedure (IOP) 4-7-1-2. These modifications did not affect the substance of the agreement.

II. PARTIES' AGREEMENTS

A. Agreed-upon findings of fact, violations of NCAA legislation and violation levels.

1. [NCAA Division I Manual Bylaw 13.1.1.3 (2022-23)] (Level II)

The institution, Quevedo and enforcement staff agree that between approximately April 28 and May 18, 2023, Quevedo had impermissible communications with an Alabama women's swimming student-athlete and her father without first obtaining authorization through the notification of transfer process. Specifically, despite knowing the student-athlete was not in the transfer portal, Quevedo called her on or around April 28, sent her 10 messages via WhatsApp and sent her father one email to recruit her to the institution.

2. [NCAA Division I Manual Bylaw 11.1.1.1 (2022-23)] (Level II)

The institution, Quevedo and enforcement staff agree that during April and May 2023, Quevedo is responsible for the violations detailed in Agreed-Upon Finding of Fact No. 1.

B. Agreed-upon aggravating and mitigating factors.

Pursuant to Bylaw 19.10.3-(e), the parties agree that the aggravating and mitigating factors identified below are applicable. The parties assessed the factors by weight and number and agree that this case should be properly resolved as Level II – Mitigated for the institution and Level II-Standard for Quevedo.

Institution:

1. Aggravating factors (Bylaw 19.12.3.1).

- a. Multiple Level I and/or multiple Level II violations for which the institution is responsible [Bylaw 19.12.3.1-(a)].
- b. Persons of authority participated in the violation or related wrongful conduct [Bylaw 19.12.3.1-(e)].
- c. Intentional, willful or blatant disregard for NCAA bylaws by a person with institutionally derived authority [Bylaw 19.12.3.1-(i)].

2. Mitigating factors (Bylaw 19.12.4.1).

- a. Prompt self-disclosures of the violations [Bylaw 19.12.4.1-(a)].

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- b. Prompt acknowledgement and acceptance of responsibility for the violations [Bylaw 19.12.4.1-(b)].
- c. Affirmative steps to expedite final resolution of the matter [Bylaw 19.12.4.1-(d)].
- d. An established history of self-reporting Level III or secondary violations [Bylaw 19.12.4.1-(e)].²

Involved Individual (Quevedo):

- 1. Aggravating factors (Bylaw 19.12.3.2).
 - a. Multiple Level I and/or Level II violations [Bylaw 19.12.3.2-(a)].
 - b. Person of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct [Bylaw 19.12.3.2-(d)].
 - c. Conduct or circumstances demonstrating an abuse of a position of trust [Bylaw 19.12.3.2-(f)].
 - d. Intentional, willful or blatant disregard for NCAA bylaws [Bylaw 19.12.3.2-(i)].
- 2. Mitigating factors (Bylaw 19.12.4.2).
 - a. Prompt self-disclosure of violations [Bylaw 19.12.4.2-(a)].
 - b. Prompt acknowledgement and acceptance of responsibility for the violations [Bylaw 19.12.4.2-(b)].
 - c. Affirmative steps to expedite final resolution of the matter [Bylaw 19.12.4.2-(c)].
 - d. The absence of prior conclusions of Level I, Level II or major violations during his approximate 11 years as an NCAA coach.

III. OTHER VIOLATIONS OF NCAA LEGISLATION SUBSTANTIATED; NOT ALLEGED

None.

² The institution reported 88 Level III violations from 2019 to 2023, an average of approximately 17 per year.

IV. REVIEW OF OTHER ISSUES

The institution and enforcement staff agree that a proposed finding of fact for failure to monitor is not appropriate. Within the first two weeks of employment, the institution educated and trained Quevedo on recruiting and the transfer portal process. Quevedo initiated the improper communications, and the institution had no knowledge of the violations until Quevedo reported them to the institution's compliance department. Quevedo acknowledged that he also was previously educated and trained on the transfer portal process from other institutions prior to starting his employment with the institution.

V. PARTIES AGREED-UPON PENALTIES³

All penalties agreed upon in this case are independent and supplemental to any action that has been or may be taken by the NCAA Division I Committee on Academics through its assessment of postseason ineligibility, historical penalties or other penalties.

Pursuant to Bylaw 19.10.3-(e), the parties agree to the following penalties:

Core Penalties for Level II – Mitigated Violations (Bylaw 19.12.6)

1. Probation: One year of probation from September 4, 2024, through September 3, 2025.
2. Financial penalty: The institution shall pay \$5,000 to the NCAA.
3. Recruiting visit restrictions:
 - a. The institution shall reduce official paid visits in the women's swimming and diving program for the 2024-2025 academic year by 10% of the average number of official paid visits in women's swimming and diving during the previous three years.
 - b. The institution shall prohibit unofficial visits in women's swimming and diving for one week during the 2024-25 academic year.
4. Recruiting communication restrictions: The institution shall prohibit recruiting communications (i.e., telephone calls, text messages and any correspondence) in women's swimming and diving for four weeks. The institution self-imposed and the coaching staff served a two-week recruiting communication restriction from

³ All penalties must be completed during the time periods identified in this decision. If completion of a penalty is impossible during the prescribed period, the institution shall make the NCAA Committee on Infractions aware of the impossibility and must complete the penalty at the next available opportunity.

November 14 to 26, 2023. Those weeks may be counted toward the four-week restriction. The remaining two weeks shall apply when the transfer portal window for women's swimming and diving begins during the 2024-25 academic year. This will run concurrently with the show-cause order.

Core Penalties for Level II – Standard Violations (Bylaw 19.12.6)

5. Show-cause order: Quevedo violated recruiting legislation when he had several impermissible communications with a student-athlete at another NCAA institution who was not in the transfer portal. Therefore, Quevedo shall be subject to a one-year show-cause order from September 4, 2024, through September 3, 2024. In accordance with Bylaw 19.12.6.4 and NCAA Division I Committee on Infractions Internal Operating Procedure 5-15-5, any employing member institution shall ensure Quevedo is restricted from attending practice during 15 consecutive days of the 2024-25 women's swimming and diving championship season, shall suspend Quevedo for two dates of competition (January 24 and 25, 2025) per the terms below in No. 6, and Quevedo shall attend the 2025 NCAA Regional Rules Seminar at his own expense. Any member institution that employs Quevedo in an athletically related position during the one-year show-cause period shall abide by the terms of the show-cause order unless it contacts the Office of the Committees on Infractions (OCOI) to make arrangements to show cause why the terms of the order should not apply.

6. Suspension: Bylaw 19.12.6.5 and the Figure 19-1 penalty guidelines contemplate suspensions. Therefore, any member institution that employs Quevedo in an athletically related position shall suspend Quevedo from 10% of the women's swimming and diving regular season contests during the 2024-25 academic year. This suspension corresponds with the two dates of competition January 24 and 25, 2025. The provisions of this suspension apply to all athletically related duties and require that Quevedo not be present or have contact or communication with women's swimming and diving coaching staff members or student-athletes during the suspension period. The suspension begins at 12:01 a.m. January 24, 2025, and ends at 11:59 p.m. January 25, 2025. During the suspension period, Quevedo may not participate in any coaching activities, including but not limited to, team travel, practice, video study, recruiting and team meetings. Any employing institution may not utilize Bylaw 11.02.2.2 to replace Quevedo on a temporary basis during the period of suspension. The results of those contests from which Quevedo is suspended shall not count toward the coach's career record if he is in the role of head coach at the time of suspension. The suspension shall run concurrently with the show-cause order.

Additional Penalties for Level II – Mitigated Violations (Bylaw 19.12.8)

7. Public reprimand and censure through the release of the negotiated resolution agreement.
8. During this period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for recruiting and certification legislation.
 - b. Submit a preliminary report to the OCOI by October 31, 2024, setting forth a schedule for establishing this compliance and educational program.
 - c. File with the OCOI annual compliance reports indicating the progress made with this program by July 31st during each year of probation. Particular emphasis shall be placed on rules education and monitoring related to NCAA recruiting legislation, transfer portal process and related rules education.
 - d. Inform prospects in the women's swimming and diving program in writing that the institution is on probation for one year and detail the violations committed. If a prospect takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospect signs a National Letter of Intent.
 - e. Publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport programs and a direct, conspicuous link to the public infraction's decision located on the athletics department's main website "landing page" and in the media guides for the women's swimming and diving program. Permissible website posting locations include the main navigation menu or a sidebar menu. The link may not be housed under a drop-down menu. Further, the link to the posting (i.e., the icon or the text) must be titled "NCAA Infractions Case." With regard to the content of the posting, the institution's statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the case; and (iii) give members of the general public a clear indication of what happened in the case to allow the public (particularly prospects and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.

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9. Following the receipt of the final compliance report and prior to the conclusion of probation, the institution's president shall provide a letter to the Committee on Infractions affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

VI. OTHER AGREEMENTS

The parties agree that this case will be processed through the NCAA negotiated resolution process as outlined in Bylaw 19.10, and a hearing panel comprised of members of the NCAA Committee on Infractions will review the negotiated resolution. The parties acknowledge that the negotiated resolution contains agreed-upon findings of fact of NCAA violations and agreed-upon aggravating and mitigating factors based on information available at this time. Nothing in this resolution precludes the enforcement staff from investigating additional information about potential rules violations. The parties agree that, pursuant to Bylaw 19.1.3, the violations identified in this agreement occurred and should be classified as Level II – Mitigated for the institution and Level II-Standard for Quevedo.

If a hearing panel approves the negotiated resolution, the institution and head women's swimming coach agree that they will take every precaution to ensure that the terms of the penalties are observed. The institution and head women's swimming coach acknowledge that they have or will impose and follow the penalties contained within the negotiated resolution, and these penalties are in accordance with those prescribed in Bylaws 19.12.6, 19.12.7, 19.12.8 and 19.12.9. The OCOI will monitor the penalties during their effective periods. Any action by the institution or Quevedo contrary to the terms of any of the penalties or any additional violations may be considered grounds for prescribing more severe penalties or may result in additional allegations and violations.

The parties acknowledge that this negotiated resolution may be voidable by the Committee on Infractions if any of the parties were aware or become aware of information that materially alters the factual information on which this negotiated resolution is based.

The parties further acknowledge that the hearing panel, subsequent to its review of the negotiated resolution, may reject the negotiated resolution. Should the hearing panel reject the negotiated resolution, the parties understand that the hearing panel will issue instructions for processing of the case pursuant to hearing resolution (Bylaw 19.8) or limited resolution (Bylaw 19.9) and prior agreed-upon terms of the rejected negotiated resolution will not be binding.

Should a hearing panel approve the negotiated resolution, the parties agree that they waive NCAA hearing and appellate opportunities.

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VII. DIVISION I COMMITTEE ON INFRACTIONS APPROVAL

Pursuant to NCAA Bylaw 19.10.1, the panel approves the parties' negotiated resolution agreement. The panel's review of this agreement is limited. Panels may only reject a negotiated resolution agreement if the agreement is not in the best interests of the Association or if the agreed-upon penalties are manifestly unreasonable. *See* Bylaw 19.10.4. In this case, the panel determines the agreed-upon facts, violations, aggravating and mitigating factors, and classifications are appropriate for this process. Further, the parties classified this case as Level II–Mitigated for SMU and Level II-Standard for Quevedo. The agreed-upon penalties align with the ranges identified for core penalties for Level II-Mitigated and Level II-Standard cases in Figure 19-1 and Bylaw 19.12.7 and the additional penalties available under Bylaw 19.12.9. Pursuant to Bylaw 19.10.6, this negotiated resolution has no precedential value.

The COI advises SMU and Quevedo that they should take every precaution to ensure that they observe the terms of the penalties. The COI will monitor the institution while it is on probation to ensure compliance with the penalties and terms of probation and may extend the probationary period, among other action, if the institution does not comply or commits additional violations. Likewise, any action by the institution and/or Quevedo contrary to the terms of any of the penalties or any additional violations shall be considered grounds for prescribing more severe penalties and/or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Norman Bay

Richard Ensor, chief hearing officer

Vince Nicastro

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APPENDIX

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APPENDIX

SOUTHERN METHODIST UNIVERSITY'S CORRECTIVE ACTIONS

Once the violation was discovered, the institution notified the enforcement staff of the violation; submitted a comprehensive self-report to the NCAA; provided a letter of admonishment to the head women's swimming coach; declared the student-athlete ineligible at the institution and reinstatement will not be pursued.