I. INTRODUCTION

The NCAA Division I Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division I membership and the public. The COI decides infractions cases involving member institutions and their staffs.¹ This case involved a recruiting violation committed by multiple members of the football coaching staff at the University of Virginia.² A panel of the COI considered this case through the cooperative summary disposition process in which all parties agreed to the primary facts and violation, as fully set forth in the summary disposition report (SDR). The panel proposed additional penalties to the institution. Because the institution agreed to the violation and penalties, there is no opportunity to appeal.

As detailed in the SDR, all parties agreed that members of the institution's football coaching staff engaged in impermissible in-person, off-campus recruiting contacts with prospective student-athletes during an evaluation period. Specifically, during the spring 2016 evaluation period, seven members of the football coaching staff visited nearly two dozen high schools, where they posed for individual photographs with 32 prospects to verify the prospects' height and weight. The coaches then distributed the photographs to other members of the football coaching staff through a group text message. The parties agreed that the coaching staff's direct, face-to-face contact with the prospects violated NCAA recruiting bylaws and constituted a Level II violation. The panel concurs.

The panel accepts the parties' factual agreements and concludes that a violation occurred in this case. Based on the timing of the violation, the panel prescribed penalties using the current penalty guidelines. After considering the aggravating and mitigating factors, the panel classifies the case as Level II-Mitigated. Utilizing the penalty guidelines and NCAA bylaws authorizing additional penalties, the panel prescribes the following core penalties: a $5,000 fine and recruiting restrictions for the football staff.

¹ Infractions cases are decided by hearing panels comprised of NCAA Division I COI members. Decisions issued by hearing panels are made on behalf of the COI.
² A member of the Atlantic Coast Conference, the University of Virginia has an enrollment of 15,891 undergraduate students. It sponsors 12 men's and 13 women's sports. This was the institution's second major, Level I or Level II infractions case. The institution previously appeared before the COI in 1993 for a case involving its football program.
II. CASE HISTORY

This case originated on May 10, 2016, when the institution's head football coach contacted the senior compliance officer to discuss whether the football coaching staff's practice of taking photographs with prospects during an evaluation period was permissible. The compliance officer informed the head coach that this contact with prospects was not permissible, and the head coach instructed his staff to stop the practice immediately. The institution then commenced an internal review.

On June 23, 2016, the institution self-reported the contacts to the NCAA enforcement staff as a Level III violation. Specifically, the institution reported that from April 28, 2016, to May 6, 2016, seven members of the coaching staff visited 23 high schools where they posed for photographs with 32 prospects. Due to the number of impermissible recruiting contacts, the Level III staff transferred the matter to the investigations and processing staff. The enforcement staff issued a verbal notice of inquiry to the institution on September 26, 2016, and the two began a collaborative investigation. On December 2, 2016, the enforcement staff provided the institution with a draft notice of allegations. The institution subsequently notified the enforcement staff that it wished to process the case through summary disposition.3

On February 23, 2017, the institution and the enforcement staff submitted the SDR to the COI. A panel of the COI reviewed the SDR on March 21, 2017. Two days later, the panel proposed additional penalties to the institution, including the required $5,000 financial penalty for a Level II-Mitigated case, documentation of the institution's self-imposed rules education, and public reprimand and censure. The institution accepted the proposed penalties on March 27, 2017.

III. PARTIES' AGREEMENTS

A. PARTIES' AGREED-UPON FACTUAL BASIS, VIOLATION OF NCAA LEGISLATION AND VIOLATION LEVEL

The parties jointly submitted an SDR that identified an agreed-upon factual basis, violation of NCAA legislation and violation level. The SDR identified:

[NCAA Division I Manual Bylaws 13.02.5.2, 13.1.1.1 and 13.17.4.1 (2015-16) (Level II)]

It is alleged that from April 28, 2016, through May 6, 2016, seven members of the football coaching staff engaged in in-person, off-campus recruiting contacts with 32 football prospective student-athletes even though it was an evaluation period and such contacts were prohibited. Specifically, seven assistant football coaches had direct, face-

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3 Pursuant to COI Internal Operating Procedure (IOP) 4-15-4, hearing panels may view violations established through the summary disposition process as less instructive than a decision reached after a contested process.
to-face contact with the prospective student-athletes at their educational institutions, and had their photograph taken while standing next to the prospective student-athletes to validate their height and weight. [Bylaws 13.02.5.2, 13.1.1.1 and 13.17.4.1 (2015-16)]

B. PARTIES' AGREED-UPON AGGRAVATING AND MITIGATING FACTORS

Pursuant to Bylaw 19.6.2-(g), the parties agreed to the following aggravating and mitigating factors:

Agreed-upon aggravating and mitigating factors. [Bylaws 19.9.3 and 19.9.4]

a. Aggravating factors. [Bylaw 19.9.3]

None.

b. Mitigating factors. [Bylaw 19.9.4]

(1) Prompt self-detection and self-disclosure of the violation(s). [Bylaw 19.9.4-(a)]

(2) Prompt acknowledgement of the violation(s), acceptance of responsibility and imposition of meaningful corrective measures and/or penalties. [Bylaw 19.9.4-(b)]

(3) An established history of self-reporting Level III or secondary violations. [Bylaw 19.9.4-(d)]

(4) Implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches' control standards. [Bylaw 19.9.4-(e)]

IV. REVIEW OF CASE

The SDR fully detailed the parties' positions in the infractions case and included the agreed-upon primary facts, violation, violation level and aggravating and mitigating factors. After reviewing the parties' principal factual agreements and the respective explanations surrounding those agreements, the panel accepts the parties' SDR and concludes that the facts constitute a Level II violation.

The institution's football coaching staff engaged in impermissible recruiting contacts when they posed for photographs with prospective student-athletes during an evaluation period when NCAA recruiting legislation prohibits such contact. This conduct violated Bylaw 13.
Bylaw 13.02.5.2 prohibits in-person, off-campus recruiting contacts during an evaluation period. The bylaw defines an evaluation period as a time when it is permissible for authorized athletics department staff members to participate in off-campus activities to assess prospects' academic qualifications and playing ability. Bylaw 13.1.1.1 precludes any contact with prospects prior to the end of their junior year of high school. Bylaw 13.17.4.1 establishes the recruiting calendar for bowl subdivision football. Of particular relevance to this case, the bylaw identifies April 15 through May 31 as an evaluation period.

The violation in this case occurred when the institution's newly-hired football staff decided to begin personally verifying the height and weight of position-specific prospects before extending scholarship offers to them.4 The staff made this decision in early 2016 after previously relying on third-party verification of a particular prospect's height and weight, only to find when he arrived on campus that he was much smaller than expected. By that point, the staff had already extended a scholarship offer to the prospect. To avoid a recurrence of this situation, the staff decided to pose for photographs standing next to prospects in order to personally verify their height and weight. Thus, during the spring 2016 evaluation period, seven members of the coaching staff posed for photographs with a total of 32 prospects at 23 high schools. They distributed the photographs to other members of the football coaching staff via a group text message. The coaches engaged in this conduct from April 28, 2016, to May 6, 2016. They thought this direct, face-to-face contact was permissible because in their opinion it did not extend their interactions with the prospects beyond a standard greeting. The coaching staff was mistaken in this understanding.

By posing for photographs with these 32 prospects at their high schools prior to the end of the prospects' junior year, the coaching staff engaged in in-person, off-campus contacts during an evaluation period. The parties agreed, and the panel concludes, that these were impermissible contacts in violation of Bylaws 13.02.5.2, 13.1.1.1 and 13.17.4.1.

Pursuant to Bylaw 19.1.2, the panel concludes that the violation in this case is Level II because it provided, or was intended to provide, more than a minimal recruiting advantage. The COI has previously recognized that even fleeting face-to-face encounters during non-contact periods confer an unfair advantage on the institutions who engage in them. See Baylor University (2016) (concluding that two assistant football coaches' brief, "fan-like" exchanges with a prospect during an evaluation period constituted a Level II violation because the contact allowed the coaches to demonstrate their high regard for the prospect and establish a relationship with him); and University of Florida (2015) (concluding that a single impermissible contact was a Level II violation because in-person contacts help build relationships that are critical to recruiting and thus provide an advantage over institutions who are not engaging in such contacts). Here, the contact with the prospects, however brief, allowed the coaches to assess and demonstrate their interest in the prospects and thus gave the institution an advantage over other institutions who were abiding by the rules of the non-contact period. This constitutes a Level II violation.

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4 The institution hired the head football coach in December 2015. He brought with him a majority of the football coaching staff from his previous institution.
V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the panel accepts the parties' agreed-upon factual basis and violation and concludes that this case involved a Level II violation of NCAA legislation. The panel then determined the applicable penalty classification based on aggravating and mitigating factors. Level II violations are significant breaches of conduct that provide or are intended to provide more than a minimal but less than a substantial or extensive recruiting, competitive or other advantage. Specific examples of Level II violations include multiple recruiting violations that do not amount to a lack of institutional control and collective Level III violations.

The SDR identified one potential aggravating factor for the institution: Bylaw 19.9.3-(b) A history of Level I, Level II or major violations. The enforcement staff agreed with this aggravator, while the institution took no position. The panel acknowledges the institution's one previous major violation—a 1993 case involving the football program, which included extra benefits, personnel, financial aid and recruiting violations stemming from a lack of institutional control over university foundation funds. Because over 20 years have elapsed since the 1993 case and it involved violations of a different scope and severity, the panel determines that it is not an aggravating factor in this case. See Bylaw 19.9.3-(b) (permitting the COI to take account of the amount of time that has passed between violations and the similarity, severity and types of violations involved when determining whether this aggravator applies). The SDR also identified four mitigating factors agreed to by the institution and enforcement staff. The panel adopts all four mitigating factors. In particular, the panel recognizes the institution's system of compliance, which contributed to the head coach's prompt detection of the violation in this case.

This case involved violations that occurred after the adoption of the current version of Bylaw 19. Pursuant to Bylaw 19.9.1, the current penalty structure applies. The panel classifies the case as Level II-Mitigated.

Because the institution agreed to the facts, violation and the panel's proposed penalties, it will have no opportunity to appeal. All penalties prescribed in this case are independent and supplemental to any action that has been or may be taken by the Committee on Academics through its assessment of postseason ineligibility, historical penalties or other penalties. The institution's corrective action is set forth in the Appendix. After considering all information relevant to the case, the panel prescribes the following penalties. Those penalties that were proposed by the institution are so noted:

Core Penalties for Level II-Mitigated Violations (Bylaw 19.9.5)

1. Financial Penalty: The institution shall pay a $5,000 fine.5

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5 The fine shall be paid consistent with Division I COI Internal Operating Procedure 4-16-2.
2. Recruiting restrictions:

a. A two-for-one reduction in permissible contacts with each prospective football student-athlete during the next contact period following the release of this infractions decision. (Institution imposed)

b. A two-for-one (18-recruiting day) reduction in the number of days available for the spring 2017 evaluation period. (Institution imposed)

Additional Penalties for Level II-Mitigated Violations (Bylaw 19.9.7)

3. Public reprimand and censure.

4. Rules education for the institution's football coaching staff regarding the "bump" rule and evaluation period (institution imposed), with the institution providing documentation to the Office of the Committees on Infractions confirming completion of this rules education. Such documentation may include attendance lists and any materials presented during the educational session(s).

The COI advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The COI will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations may be considered grounds for extending the institution's probationary period, prescribing more severe penalties or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Carol A. Cartwright
Joel Maturi
Joyce McConnell
Eleanor Myers
Vince Nicastro
Joseph D. Novak
Sankar Suryanarayan, Chief Hearing Officer
APPENDIX

THE INSTITUTION'S CORRECTIVE ACTION AS IDENTIFIED IN THE FEBRUARY 23, 2017, SUMMARY DISPOSITION REPORT

Letters of admonishment for coaching staff associated with the pictures.