

Executive Summary of Final Report

NCAA Working Group on Collegiate Model – Enforcement
August 2012

In August 2011, NCAA President Mark Emmert met with over 50 presidents and chancellors of member institutions to address the erosion of public trust in intercollegiate athletics. The presidents identified several areas of concern, including the need to refocus the Association's enforcement program to place greater emphasis on those violations that most seriously denigrate the collegiate model. They also focused on the need to provide strong disincentives to deter violations. The Working Group on Collegiate Model - Enforcement ("working group") was charged with recommending revisions of the current enforcement program to protect the collegiate model and restore public trust in collegiate sports and the NCAA.

The working group circulated an Interim Report in February 2012 outlining its preliminary proposals. The working group sought and received feedback from the membership, the NCAA staff, members of the Committee on Infractions ("COI") and members of the Infractions Appeals Committee ("IAC"). After reviewing the feedback, the working group submits its Final Report together with proposed revisions to Bylaw 19. The working group's recommendations include significant changes to the current violation and penalty structures and to the infractions review process.

It is important to note at the outset that the current COI has provided helpful feedback and insights throughout this process and is committed and receptive to change. The COI is comprised of hard-working and capable individuals. The changes recommended in this report reflect recognition of the significant amount of work involved in the process and of the membership's expressed desire for greater consequences for violations.

Implementation of a Four-Tier Violation Structure

The working group recommends implementing a new four-level violation structure that identifies with greater precision the relative severity of infractions by using the following classifications: Level I – Severe Breach of Conduct; Level II – Significant Breach of Conduct; Level III – Breach of Conduct; and Level IV – Incidental Infractions. This structure will provide member institutions and involved individuals more detailed notice of the nature and gravity of alleged infractions and better ensure enforcement efforts are focused on behaviors that clearly violate NCAA enduring values.

Distinctions between the most serious violations and corresponding penalties will be further refined based on aggravating and mitigating factors in a case. Specifically, Level I and II violations will be sub-classified as aggravated, standard or mitigated, and the COI may prescribe penalties from a higher or lower range based on its weighing of these factors.

Adoption of Penalty Guidelines for Core Penalties

As revised, Bylaw 19 would include penalty guidelines clearly specifying core penalties for Level I and II cases. Based on the message from the August 2011 presidential meeting, and on membership input, these penalty guidelines represent a ratcheting up of typical penalties. After determining the appropriate sublevel (aggravation, standard or mitigation) for Level I or II cases, the COI will prescribe a penalty from a range of set penalty guidelines in each of the following areas: (a) competition limitations; (b) financial penalties; (c) scholarship limitations; (d) recruiting limitations; (e) probation; (f) when applicable, show-cause orders. If extenuating circumstances are found, the COI will have discretion to depart from the core penalties. The COI will also retain discretion to apply additional penalties and to consider the impact on student-athletes who were not involved in the violation. Although the COI retains some discretion to prescribe the appropriate mix of penalties for a particular case, it is expected that the penalties for these Level I and II cases will be significantly more stringent than those for the current major cases.

- Although the "repeat violator" terminology does not appear in the proposed bylaw, the concept will be expanded by treating violation history as an aggravating factor for purposes of calculating a penalty. When warranted by the circumstances, the so-called "death penalty" in current Bylaw 19.5.2.1.2 will be available.
- Core penalties will include head coach suspensions, through show-cause orders, for Level I and II violations by the coach's staff where the coach has not promoted an atmosphere of compliance or monitored staff, and in certain cases resolved through Level III procedures. Head coaches must set the tone for compliance within sport programs and will be held accountable for oversight when violations occur.
- The new bylaw also is designed to provide greater accountability for the leadership of member institutions. Specifically, COI decisions in certain cases may identify head coaches, presidents or chancellors, directors of athletics, and/or any individual with direct responsibility and oversight of the athletics department, even where those individuals were not directly involved in the underlying violations. If appropriate, the COI may identify the chair or other members of the institution's governing body in the public decision as well.
- A new penalty structure will allow the COI to prescribe effective penalties, provide predictability through fixed penalty ranges, and better delineate between individual and institutional responsibility for infractions. It also will deter violations because institutions and involved individuals will know that any advantage gained from committing a violation will be outweighed by the corresponding penalty.

Expansion of the Committee of Infractions and Streamlining Review of Alleged Infractions

The following proposals are examples of many procedural recommendations designed by the working group to expedite resolution of alleged violations with fairness and transparency:

- Expand the COI to no more than 24 members, including the following individuals (if possible): current or former university presidents or other senior institutional administrators, current or former directors of athletics, former NCAA coaches, representatives from conference offices, university faculty (including faculty athletics representatives), athletics administrators with compliance experience and members of the general public with legal backgrounds. A larger COI will decrease individual workload, thereby encouraging service on the committee and expedite the timeline for resolution of cases.
- Level I and II cases will be heard by panels of five to seven COI members. The current appeal process would remain largely the same. Level III cases would be processed by the enforcement staff, with appeals presented to a panel of the COI. Conferences would be responsible for resolving Level IV cases.
- Increased use of video or telephone conference hearings, increased opportunities for written submission of cases and broader use of the summary disposition process will allow institutions and involved individuals more control over the means by which cases are heard and make resolution more cost effective.

Increased Focus on Shared Responsibility and Institutional Integrity

The working group believes the Association should endeavor to expand the focus on the principles of shared responsibility and institutional integrity. Expectations of institutions, conferences and the enforcement staff should be clearly communicated so all parties understand their responsibilities at the outset and during an investigation of a potential Level I or II violation. Institutions and involved individuals should be recognized in the enforcement process for exceeding those expectations. The working group believes there are critical issues surrounding the notion of institutional integrity that go beyond the scope of the group's charge yet need to be addressed. To that end, the working group recommends that a separate group be charged with defining institutional integrity. The working group will make specific recommendations regarding the focus of institutional integrity and pledges its ongoing support to that group.

Other Changes to Bylaws 19 and 32

In addition to recommendations regarding the COI procedures and the penalty/violation structures, the working group also took the opportunity to update and streamline bylaws governing the enforcement program. For example, the working group recommends legislative

changes designed to codify current practices. The working group also recommends creating a single bylaw addressing the entire enforcement program rather than retaining Bylaws 19 and 32 separately.

Conclusion

These recommendations and others are discussed in greater detail in the full report, and many are codified in the proposed Bylaw 19. The working group believes the changes, if adopted, would support the NCAA's enduring values, further the Division I Collegiate Model and satisfy the charge assigned by the NCAA leadership.

Final Report

NCAA Working Group on Collegiate Model - Enforcement
August 2012

INFORMATIONAL ITEM.

This report contains proposals and recommendations of the Working Group on Collegiate Model – Enforcement. Since this group's preliminary report to the NCAA Board of Directors in January 2012, extensive outreach efforts have been made to solicit feedback from the membership. This feedback led to changes in the interim recommendations of the working group.

The working group is pleased to present its proposals for adoption by the Board, with an expected effective date of August 2013. The working group considered various implementation scenarios to determine the precise effective date that allows for adequate notice for all members and involved individuals and also ensures that the new structure and processes are fully operational as soon as possible. After reviewing multiple options, the working group developed a final effective date schedule and implementation plan for the new violation, process and penalty recommendations for the Board to consider. That plan is set forth in Section E of this report.

A. Background.

History may well observe that 2011 was the year that intercollegiate athletics faced its most difficult challenges. However, 2011 may also be the year remembered as that in which higher education's presidents and chancellors committed to broad structural and environmental changes designed to re-center college sports on a set of enduring values.

Public trust in intercollegiate athletics has eroded and needs to be restored. The loss of trust creates urgency, but this loss of trust is not driving the urgency to make changes. Rather, the driving force is recognition by presidential leadership that the values of intercollegiate athletics have become muddled and need to be brought to the forefront of the work we do. Significant change is not optional. Through a series of revelations that began with the 2011 New Year and extended into the fall, there has been mounting evidence that the historical management and control structure for intercollegiate athletics, from the development and implementation of national policy to the self-policing of violations, must be re-evaluated and subject to change. Among the most pressing issues are:

- A risk-reward analysis of the intentional violation of national policy that fails to deter violations and that often is based on financial pressure.
- An emphasis on winning that takes prominence over integrity.
- An ever-growing expectation for national policy to codify all behavior and avoid institutional or individual judgment and responsibility.

- An increase in third-party interference with, and influence on, prospective student-athletes, student-athletes and coaches, which is usually based on money-making potential. Regulation of third-party conduct is difficult because these persons are not NCAA members and not subject to NCAA enforcement actions.
- Compensation packages for coaches that are in excess of those generally offered at the institution, as well as the rising number of non-coaching personnel with large salaries within a model that holds the student-athlete as an amateur.
- The loss of faith in the good intentions of intercollegiate athletics to serve as a co-curricular component of higher education.
- The perception that powerhouse coaches/athletics departments have greater authority than college or university presidents and governing bodies.
- Public distrust of the NCAA's ability to police itself. Membership distrust of the processes used to investigate violations and make decisions with serious consequences for institutions and individuals (coaches and student-athletes).
- Developments in intercollegiate athletics that push the perception of intercollegiate athletics toward the professional model.

As a result of the threats described above, NCAA President Mark Emmert and more than 50 presidents and chancellors gathered in August 2011 to examine in broad terms how to sustain the collegiate model and restore public trust in college sports and the NCAA. It was clear that presidents were "mad as hell" and resolved to take action. What emerged from the presidential retreat was a call for the transformation of intercollegiate athletics. The presidents emphasized that there are four acknowledged enduring values that are guiding the entirety of their efforts and will be the measures against which all policies and judgments will be tested:

- Student-athlete success is paramount, both academically and athletically.
- The collegiate model must embed the values of higher education, including shared responsibility and accountability; this model should be protected and sustained.
- In the collegiate model of athletics, amateurism is the student-participation model that guides the relationship between students and institutions.
- In the collegiate model of athletics, the guiding principles should be based on fair opportunities to compete among institutions with similar commitments to inter-collegiate athletics.

The presidents identified five significant areas of concern: (1) standards and metrics for the academic success of Division I student-athletes; (2) the allocation of financial resources within intercollegiate rules; (3) the financial well-being of student-athletes; (4) a realigning of how rules governing intercollegiate athletics are determined and an enhanced expectation of shared responsibility at the campus, conference and national levels; and (5) the strong and swift enforcement of those rules that place the greatest emphasis on those violations that, if left unattended, most significantly denigrate the

collegiate model. The Working Group on Collegiate Model - Enforcement was formed to primarily focus on the fifth concern, along with contributing to a better definition and clearer expectation of shared responsibility (part of the fourth concern).

B. Introduction and Brief Overview of Proposed Concepts.

This working group was tasked with creating a multi-level violation structure, a streamlined approach for processing cases and an enhanced penalty structure for NCAA infractions. The working group also was charged with re-establishing a sense of shared responsibility, among the interested individuals and entities in intercollegiate athletics, for NCAA compliance and enforcement. The group undertook this work pursuant to the Association's core purpose of governing competition in a fair, safe, equitable and sportsmanlike manner. The group also acted pursuant to the Association's principle of integrating intercollegiate athletics into higher education to ensure that the educational experience of the student-athlete remains paramount. In addition, the group's work was based on the Association's enduring values of student-athlete success, the collegiate model, amateurism and fair competition.

In formulating its recommendations, the working group communicated regularly with the Working Group on Collegiate Model – Rules. Both groups have appointed subgroups to identify subjects of common interest and work together to ensure consistent recommendations and desired outcomes in those areas. The Enforcement Working Group believes that its recommendations can be applied to the current bylaw structure and also to the deregulated structure envisioned by the Rules Working Group. The group considered whether the enforcement recommendations should be delayed until the Rules Working Group completed its work. Since the enforcement recommendations apply to the current rules and will work well, if not better, with the proposed concepts of the Rules Working Group, the Enforcement Working Group determined that the enforcement recommendations should not be delayed. In fact, it is likely that the proposed violation structure (e.g., multi-level approach) will be helpful to the Rules Working Group as it considers which rules are significant and which ones should be deregulated.

Finally, in undertaking this task, the group developed the following three guiding principles:

- The Principle of Fairness – Any new violation and penalty structure must be fair to all parties involved in the process and consider the interests of all member institutions that uphold integrity through bylaw compliance. Appropriate weight should be given to fair process considerations for those alleged to have committed violations or who otherwise may have been involved. In addition, the severity of penalties must have a direct correlation with the significance of the violations, as identified by the membership and staff, as well as the NCAA enduring values.

- The Principle of Accountability – The new violation and penalty structures should be designed to hold those institutions, coaches, administrators and student-athletes who violate the rules accountable for their conduct, both at the individual and institutional levels. In addition, both the NCAA staff and membership (coaches, administrators, institutions and conferences) must understand the shared responsibility of accountability to the intercollegiate model.
- The Principle of Process Integrity – Any new structures must be designed to ensure effectiveness and efficiency in the process and its results. The new structures must be easily understood, legitimate, timely, respecting of confidentiality while transparent with the process, and sufficiently workable to establish clear and strict guidelines and boundaries.

Based on these guiding principles, the working group has (1) reached a number of conclusions regarding the NCAA's current violation, process and penalty structures, as well as the means by which responsibilities for enforcement efforts are currently shared among interested individuals and entities; (2) developed a series of recommended actions to improve the current structures and definition of shared responsibility for enforcement; and (3) identified the anticipated outcomes for each of the proposed actions. In sum:

- The violation structure: The working group believes that the NCAA must adopt a new violation structure. The new structure must recognize and categorize the varying levels of infractions, from most severe breaches of conduct to incidental infractions, and must strongly discourage behaviors that most clearly undermine the fundamental principles on which the bylaws are based. The working group recommends that the Association adopt a multi-level violation structure to achieve this goal. Pursuant to the recommended violation structure, infractions will be categorized as severe breaches of conduct (Level I), significant breaches of conduct (Level II), breaches of conduct (Level III) and incidental infractions (Level IV). Cases involving Level I and II violations will be further categorized into sublevels based on the presence and balancing of aggravating and mitigating factors. The working group anticipates that the proposed structure will provide member institutions and involved individuals with better notice of infractions, and the level of seriousness assigned the infractions, for which they will be held accountable if NCAA bylaws are violated. Further, the group anticipates that the proposed structure will better ensure that enforcement efforts are focused on those infractions that clearly violate NCAA enduring values.
- The process: The working group believes that alleged bylaw violations must be resolved more efficiently and expeditiously, but that process integrity and fairness must be protected. More transparency, where appropriate, will increase the membership's understanding of how and why decisions are made. To address these issues, the working group recommends that the Association adopt new case

procedures that increase the size and composition diversity of the existing Committee on Infractions, from which panels of the committee will be assigned to hear the most serious infractions cases, and that other procedures be modified and introduced to more efficiently hear and resolve allegations of bylaw infractions. The working group anticipates that the proposed procedural changes will (1) result in a more efficient resolution of alleged infractions, (2) allow institutions and involved individuals more control over the means by which cases are heard and ultimately resolved, and (3) increase the perceived fairness of the process and bring more transparency to more components of the process. The working group notes that additional staff resources already provided to the Committee on Infractions as a result of the 2011 retreat also will address the concerns raised by the presidents.

- The penalty structure: The working group believes that strong penalties must be prescribed for those infractions that clearly violate the NCAA's enduring values. The working group also believes that the current penalty structure does not sufficiently deter serious violations. The group further believes that under the current penalty structure, some individuals and institutions have concluded that the risk/severity of NCAA penalties is worth the anticipated benefits and unfair advantages that flow from deliberate NCAA bylaw violations (the risk-reward analysis). Finally, the group believes that any penalty structure must recognize the efforts of college and university presidents, as those institutional leaders take steps to ensure fair play, compliance and accountability on their respective campuses. To address these issues, the group recommends that the Association adopt a set of penalty guidelines for the most serious violations. The proposed guidelines will set a range of core penalties that the Committee on Infractions may prescribe in given situations (along with other available penalties, as appropriate) depending on the violation level and aggravating/mitigating factors in each case.

The recommended core penalties include those (1) identified by the membership as most effectively deterring serious rules violations, and/or (2) identified by the group as those that historically have best addressed the gravity of the violations involved in infractions cases. The group is proposing that the core penalties be prescribed in Level I and II cases. The proposed guidelines aim to find an appropriate balance allowing the Committee on Infractions sufficient discretion to prescribe penalties while also assuring stronger and consistently applied penalties. The group recognizes that, in addition to core penalties, the Committee on Infractions must retain discretion to customize prescribed penalties, depending on the facts of each case, to include other penalties outside of those identified as core and to depart upward or downward in extenuating circumstances. Additionally, penalties currently available to the Committee on Infractions for major violations, and those available to enforcement staff for secondary violations, will remain. Finally, the guidelines include a framework by which the Committee on Infractions may take into account aggravating

and mitigating circumstances on a case-by-case basis that may affect the overall severity of any penalties to be prescribed.

During discussions of institutional penalties, the working group recognized the importance of the work of the student-athlete reinstatement staff and the Student-Athlete Reinstatement Committee in cases that include student-athlete involvement and culpability. Given that the working group's charge was directed solely to institutional penalties, the working group recommends further review of student-athlete reinstatement procedures by an appropriate NCAA body or a third party.

- Accountability of those in charge: The group believes that head coaches must set the tone and culture for compliance within sport programs, and any penalty structure must address negligent oversight within a particular sport that undercuts overall institution and/or Association expectations. To change the culture, a head coach's suspension, through a show-cause order, should occur for the violations of his/her staff for Level I and II violations when the coach has not promoted an atmosphere of compliance or monitored his/her staff, as well as in certain cases resolved through Level III procedures. Likewise, presidents and directors of athletics must take responsibility and be accountable for their oversight of athletics programs and for hiring coaches who violate NCAA bylaws.
- Shared responsibility and institutional integrity: Group members agree that there are issues directly affecting the integrity of intercollegiate athletics that go beyond the scope of the group's charge related to shared responsibility. Nonetheless, the group believes that these issues warrant immediate and focused attention. The group focused on the phrase "institutional integrity" as a larger effort, beyond shared responsibility and institutional control. Institutional integrity is grounded in the notion of establishing universal industry standards and principles for member institutions, conferences, NCAA staff and committees to uphold. Part of this effort should aim to integrate athletics departments into the core of the institution, reaffirming institutional control of all operations.

The working group does not believe that the changes to the enforcement process, detailed in this report, completely solve this problem. While a more effective enforcement model, coupled with the work of the Rules Working Group, are critical steps, reaching a common understanding of what standards should be met to sustain institutional integrity is equally (if not more) important. Institutions must be expected to achieve and sustain standards of excellence. Some of these standards are detailed below. The group recommended at the January 2012 Board of Directors meeting that a separate group (with an extended timeline to 2013) be charged with defining institutional integrity. The Enforcement Working Group's charge to better define shared responsibility should be part of the larger effort to define standards of institutional integrity. This group is committed to defining shared responsibility as it

relates to the process of investigations and other enforcement issues, and will share that work with the institutional integrity group for inclusion in the broader effort.

The Enforcement Working Group recommends that the following be considered by the institutional integrity group:

- Adopting standards that are related to athletics compliance and auditing functions and designed to integrate athletics into the overall university compliance and auditing practices.
 - In considering such standards, the group should consider moving the reporting line of the athletics compliance office outside of the athletics department.
 - Such standards also could expand the role of institutional auditing to include, or at least recognize, institutional control of the athletics programs.
- Adopting standards that are related to institutional and conference reporting/transparency.
 - Such standards could, for example, create uniform expectations for conference roles and responsibilities in major infractions investigations.
- Creating standards for achieving presidential and board oversight of athletics departments.
- Developing professional codes of conduct for all involved in intercollegiate athletics.
- Requiring professional training and certification of all Division I staff and coaches, including continuing certification criteria that, if not met, may result in revocation of certification.
- Developing an annual review and sign-off process by which the institution's president certifies that the institution is in full compliance with standards.

C. Narrative Description and Rationale for the Working Group's Recommendations.

1. Violation structure.

The working group examined the current NCAA violation structure. The group believes that the current secondary and major violation structure does not provide sufficient discretion or flexibility to respond appropriately to either the most serious infractions or intentional violations that are currently labeled secondary. In addition, the group has determined that some current major violations should

be handled through a different classification system that allows better delineation between individual and institutional responsibility for the infractions. As a result of these and other considerations, the working group is recommending a move from the current model (secondary/major) to a four-level violation structure.

The proposed violation structure would be composed of the following levels:

- Level I – Severe breaches of conduct.
 - A severe breach of conduct is behavior that seriously undermines or threatens the integrity of any NCAA enduring value, including any violation that provides or is intended to provide a substantial or extensive recruiting, competitive or other advantage, or a substantial or extensive impermissible benefit. Among other examples, the following may constitute a severe breach of conduct:
 - Lack of institutional control;
 - Academic fraud;
 - Failure to cooperate in an NCAA enforcement investigation;
 - Individual unethical or dishonest conduct, regardless of whether the underlying institutional violations are considered Level I;
 - Bylaw 11.1.2.1 violation by a head coach resulting from an underlying Level I violation by an individual within the sport program;
 - Cash payment or other benefits intended to secure, or which resulted in, enrollment of a prospective student-athlete;
 - Intentional violations or reckless indifference to the NCAA Constitution or bylaws; or
 - Collective Level II and/or III violations.

- Level II – Significant breaches of conduct.
 - A significant breach of conduct is behavior that provides or is intended to provide more than a minimal but less than a substantial or extensive recruiting, competitive or other advantage; includes more than a minimal but less than a substantial or extensive impermissible benefit; or involves conduct that may compromise any NCAA enduring value. Among other examples, the following may constitute a significant breach of conduct:
 - Violations of NCAA bylaws that do not rise to a Level I violation and are more serious than a Level III violation;
 - Failure to monitor (these violations will be presumed Level II but may be deemed to be of a Level I nature if the failure is substantial or egregious);

- Systemic violations that do not amount to a lack of institutional control;
 - Multiple recruiting, financial aid or eligibility violations that do not amount to a lack of institutional control;
 - Bylaw 11.1.2.1 violation by a head coach resulting from an underlying Level II violation by an individual within the sport program; or
 - Collective Level III violations.
- Level III– Breaches of conduct.
 - A breach of conduct is behavior that is isolated or limited in nature; provides no more than a minimal recruiting, competitive or other advantage; and provides no more than a minimal impermissible benefit. Among other examples, the following may constitute a breach of conduct:
 - Inadvertent violations of NCAA bylaws that are isolated or limited in nature.
 - Extra-benefit, financial aid, academic eligibility and recruiting violations, provided they do not create more than minimal advantages.
 - Level IV – Incidental infractions. (The working group notes that ultimately this level may not be necessary, or may not encompass many violations, depending on the adopted work of the Rules Working Group).
 - An incidental infraction is a minor infraction that is technical in nature and does not constitute a Level III violation. Level IV infractions generally will not impact eligibility for intercollegiate athletics. Multiple or repeated Level IV infractions collectively may constitute a Level III violation. Types of Level IV infractions include, but are not limited to, the following:
 - Camp brochures.
 - Recruiting correspondence related to size, paper limitations.
 - Institutional promotional activities.
 - No IRL activation prior to official visit.
 - Other minor, paperwork and technical violations.

The proposed multi-level violation structure provides greater flexibility than the current model. Under the proposed multi-level model, infractions may be more appropriately categorized and penalties may be prescribed that better reflect the severity of the infraction. In addition, under the proposed system, a member institution may be charged with rules violations at a different level than those with which an individual is charged. For example, under the proposed model, the

member institution may be charged with one level of infraction (based on the underlying nature of the violation), and an involved individual may be charged at a higher level (based on the underlying violation and then unethical conduct to try to cover up the violation; e.g., if the individual commits a Level III recruiting violation and then lies about it during the investigation). Finally, the four-level violation structure allows the enforcement staff to resolve the infractions cases with minimal impact to NCAA enduring values more efficiently and focus its primary resources on the most serious infractions cases. The end result, the working group believes, is that the proposed violation structure will result in greater accountability for the most serious offenders of the NCAA Constitution and bylaws.

2. Process structure.

In order to ensure an effective and efficient enforcement program under the new multi-level violation structure, the group recommends that changes be made to the NCAA Committee on Infractions process. The working group noted that the commitment and work of the committee has been exemplary despite an increasing workload. The expertise of the committee and value of a peer review model should be retained to hear and decide the most serious allegations of violations of NCAA enduring values.

The working group recommends that the committee be composed of a larger pool of individuals (a maximum of 24 voting members) from which panels will be composed. The working group recommends that the committee be larger to expedite the timeline for resolving cases and to encourage service by a broader pool of volunteers by decreasing individual workloads. The proposed committee would include among its members, to the extent reasonably possible, individuals from each of the following categories:

- Current or former university presidents, vice presidents or other senior institutional administrators.
- Current or former directors of athletics.
- Former NCAA coaches.
- Representatives from conference offices.
- University faculty, including, but not limited to, faculty athletics representatives.
- Athletics administrators with compliance experience.
- Members of the general public with legal backgrounds.

The working group believes that strong committee diversity, including ethnic minority and gender diversity, is critically important to ensure a strong committee, bringing with it valuable perspectives. With respect to former

presidents, coaches and athletics directors serving on the committee, the working group believes their service on the committee must begin within three years of their retirement date or their completion of similar service to ensure those individuals are not too far removed from the relevant issues facing collegiate athletics.

In cases involving allegations of Level I or II violations, the group recommends that five to seven committee members be selected from a minimum of three representative groups to hear the cases. Each panel should reflect the Association's commitment to diversity and also should include at least two members with experience serving on the Committee on Infractions. The chair of the Committee on Infractions will assign one panel member to serve as chief hearing officer of the panel and would retain the authority to request substitute panel members if conflicts arise. The chief hearing officer will generally be the panel member with the greatest length of service on the Committee on Infractions. In addition, each panel would include an individual, selected by the chief hearing officer in consultation with the committee chair, to serve as the Committee Appeals Advocate to represent the committee if the decision is appealed and an individual responsible for conducting the press conference when the infractions decision of the case is released (these individuals would be provided media training by NCAA staff).

The chair of the Committee on Infractions would be selected through the governance process. The working group is currently studying the most effective way to select individuals to serve on the Committee on Infractions, as well as the most effective process for incorporating additional members to ensure consistency and stability within the committee. The working group recommends phasing in additional Committee on Infractions members over a period of time, which could begin prior to the implementation date, by which time at least 16 members should be appointed. In addition, the working group recommends that the phase-in of new members continue up to or near 24 total members by a reasonable date determined by the Committee on Infractions. The working group recommends additional measures to vet prospective members before their appointment, including but not limited to an interview process and more formal procedures to screen nominees. The working group believes that the current Committee on Infractions can provide valuable input regarding the expansion of the committee and the selection of new members.

By increasing the overall size of the committee, more committee panels are available to hear cases more efficiently. At the same time, the overall workload of each individual member is significantly reduced. It is expected that members will hear two to three Level I cases per year (if 24 total members), compared to the current approximate 10 to 12 hearings annually, in addition to cases processed

via summary disposition. As a result, Level I and II violation cases can be scheduled more often and processed more expediently. The working group recommends that hearings for Level I cases be scheduled on a minimum of 10 occasions during a calendar year, and that hearings for Level II cases be scheduled each month.

Additionally, the working group recommends a number of other process modifications, applicable to cases categorized as Level I or II, including the following:

- Increase the availability of Committee on Infractions consideration based only on written case submissions for Level II cases, at the option of the institution and/or involved individuals, with agreement by the enforcement staff, even when there is disagreement on the facts, so that certain matters may be decided without the need for a hearing.
- Maintain some form of the summary disposition process allowing for written case submissions for Level I cases when all issues are agreed upon.
- Explore the development of a new summary disposition process so that the summary disposition report also could be used as the infractions decision, with necessary additional comments added by the Committee on Infractions to explain any unique factors or rationale. For summary dispositions in which there is disagreement on the penalties, an expedited hearing will occur. If the committee decides some comment on the case or penalties is necessary, the committee may attach an abbreviated committee statement to the decision.
- Redesign the notice of allegations to allow the member institution and/or involved individuals immediate access to the information on which the allegations are based. The enforcement staff then would prepare a position statement and/or document listing remaining issues (e.g., items of disagreement) to facilitate the hearing.
- Introduce the concept of a "Rocket Docket" (an expedited hearing) for Level II cases, at the request of the involved institution and/or involved individuals, whereby responses are due within 30 days of the receipt of the notice of allegations and a hearing is conducted within 30 days of the receipt of the response.
- Conduct Level II hearings via videoconference, unless an in-person hearing is requested.
- Use of an online case materials submission system and videoconferencing.
- Introduce time expectations, which are not limits, especially for more complex cases or where additional information is sought by the committee during or after the hearing, for the preparation of hearing transcripts (two weeks), as well as the issuance of infractions decisions (four weeks).

The committee staff would be responsible for conducting a comprehensive orientation program for new committee members, as well as routine and continuing education for all committee members. The committee staff also could provide input, as necessary, regarding consistency of decisions between and among cases. The recommended penalty guidelines discussed below will assist in maintaining consistency with Committee on Infractions decisions, as the committee will be responsible for providing detailed explanations of any deviation from the penalty guidelines.

The working group believes that the proposed modifications will increase the efficiency with which a current major infractions case is completed. The group anticipates, for example, that the proposed process structure for less serious major infractions cases (now proposed as Level II cases) could decrease the total process timeline under the current system by as much as 50 percent. At the same time, the group believes that the proposed process options will allow institutions and involved individuals greater flexibility in choosing the manner in which the infractions case will be decided and the timeline under which the case may be brought to final resolution.

The working group recognizes that a larger Committee on Infractions and the use of panels to hear cases means the entire committee will not convene regularly at hearings. Accordingly, the working group recommends that the entire Committee on Infractions be required to meet at least twice per year, with at least one in-person meeting, to discuss policy and procedural matters, discuss and review panel case decisions and rationale, and identify current trends in enforcement in order to anticipate new issues. Doing so will give the committee the opportunity to ensure that different panels are making consistent findings and conclusions and issuing prescribed penalties across cases decided by the panels.

The working group also recommends that the Committee on Infractions, Infractions Appeals Committee and the enforcement staff be required to conduct a self-study every three years to review their overall operations and compliance with procedural requirements. At the conclusion of the self-study, the Committee on Infractions and the Infractions Appeals Committee should submit a self-critical analysis for review by the Board of Directors, and the enforcement staff should submit a similar report to the NCAA president.

After consultation with the Infractions Appeals Committee, it does not appear that significant changes will be needed to the appeals process for Level I and II cases. However, the workload of the current five-member committee should be monitored with the option of expanding to a committee of 10 individuals, creating two panels of five individuals to hear appeals. Each panel would include an

individual to serve as vice-chair for a particular hearing. Other recommended appeal process modifications for Level I and II cases include the following:

- Appeals can be considered via written submission, videoconference or in-person oral arguments.
- Designation, prior to each Committee on Infractions hearing, of an active committee member to serve as the NCAA committee appeals advocate during the appeals process (similar to the current Committee on Infractions appeals coordinators). These individuals will attend Committee on Infractions hearings, but will not participate, and will be staffed by the office of the Committees on Infractions.
- Introduce time limitations for the preparation of hearing transcripts (two weeks), as well as the issuance of appeals decisions (four weeks).

With respect to matters categorized as Level III or IV, the working group recommends the following:

- In situations involving Level III violations, NCAA staff will continue to work with institutions, much the same as under the current secondary violations process, to determine whether infractions have occurred and, if so, the appropriate penalties to be prescribed.
- In Level III matters, member institutions would continue to have access to a case precedent database, thereby allowing confirmation that staff-prescribed penalties are consistent with those prescribed in similar, previously decided situations.
- Appeals of Level III violations will be submitted in writing to a Committee on Infractions panel.
- In situations involving Level IV issues, the conference with which the involved institution is associated will work with the institution to determine whether issues need to be addressed and, if so, the appropriate penalties to be prescribed, if any. The working group also is exploring the possibility of a Level IV database.
- Any appeal opportunities for Level IV violations and penalties would be within the purview of the conference.

For cases involving multiple levels of violations and cases in which an individual is charged with a different level of violation than the institution, the highest level of violation will dictate the process. For example, if a case involves a coach being charged with a Level I violation and the institution being charged with a Level II violation, the case will be adjudicated using the process for Level I violations.

3. Penalty structure.

The working group examined the current NCAA penalty structure. The working group recognizes the widespread perception that the current penalty model leads to inconsistent and insufficient penalties and does not adequately deter some institutions and individuals from engaging in conduct contrary to the NCAA bylaws. As a result, for cases involving Level I and II violations, the working group recommends a range of penalties set out in penalty guidelines.

The goals, in considering the proposed penalty guidelines in cases in which the most significant violations are substantiated, are to, among other things (a) provide member institutions (and the individuals associated with the member institutions) with notice of a range of potential penalties in given situations, as well as the factors that will be relied upon to adjust the severity of those penalties; (b) ensure consistency in applying penalties among and between NCAA member institutions, and provide the Committee on Infractions some latitude to adjust the penalty on a case-by-case basis; (c) through mitigating factors that specifically recognize exemplary cooperation and self-reporting, foster a more expedient enforcement process without compromising the integrity or fairness of the process; (d) recognize and address the need for institutional leadership and responsibility for the overall intercollegiate athletics programs, whereby actions (or failures to act) of persons of authority are taken into account in the assessment of, and ultimately reflected in, the penalties prescribed; (e) recognize and address those situations in which a head coach, or others within a program, fosters an environment within the program that is inconsistent with the Association's compliance expectations; and (f) recognize and respond to the perceived need to impose more severe penalties designed to deter the risk-reward analysis (for the institution and/or persons associated with the member institutions) and address any unfair advantage from the violation.

The working group incorporated the penalties identified by the NCAA membership, via the Presidential Retreat Survey, as those with the most significant impact on an institution and the most deterrent effect on other institutions and individuals. The working group also reviewed data obtained from previously decided NCAA infractions cases to discern penalty patterns and levels of penalty severity under given circumstances. Based on the available information, including that specifically mentioned, the working group recommends that the following penalties constitute core penalties and form the basis for the penalty guidelines: (a) competition limitations; (b) financial penalties; (c) scholarship limitations; (d) recruiting limitations; (e) probation; and (f) when applicable, show-cause orders.

The working group also recommends that penalties currently imposed on "repeat violators," including the so-called "death penalty" for an institution, be retained. In fact, the working group recommends that those penalties not be limited to repeat violators moving forward. Accordingly, penalties like prohibition on outside competition, the elimination of all recruiting activities and others previously reserved for repeat violators generally will be available to the Committee on Infractions in more cases and may be imposed when warranted based on the violations found and the balancing of aggravating and mitigating factors.

The working group is cognizant of the fact that many institutional penalties have either a direct or indirect impact on student-athletes who may not have been involved with the violations. Competition limitation (postseason bans) is the penalty with the most direct impact on these student-athletes. Scholarship reductions also have an impact on these student-athletes, but more indirectly. Conversely, postseason bans and scholarship reductions have been identified by the membership as being the most significant types of penalties, having the most deterrent effect and being the most effective penalties to address the advantages gained as a result of significant violations.

The working group struggled with this dichotomy but ultimately concluded that protecting the interests of all member institutions by significantly penalizing those institutions that violate the NCAA Constitution and bylaws is paramount. As a result, postseason bans and scholarship reductions must be used in the enforcement process. People (coaches, administrators, student-athletes) comprise institutions and sports programs, and there is no practical way to impose meaningful penalties on an institution without affecting some individuals who may not have had any involvement in or benefitted from the violations for which the institution is responsible. Accordingly, the working group considered options to offset the impact of institutional penalties on uninvolved student-athletes. The working group's recommendations are as follows:

- The working group recommends that the Committee on Infractions require institutions subject to a postseason competition penalty be required to notify student-athletes in the involved sport who meet the requirements set forth in Bylaw 14.8.2-(c) that they have a transfer waiver opportunity.
- The working group also is exploring other options such as an amendment to Bylaw 14.8.2-(c) specifically stating that the committee may support a residence requirement waiver in circumstances where the committee imposed a financial aid award reduction. The working group recommends further review of this option.

Each of the core penalties identified above includes varying degrees of severity. The working group believes that the severity of the penalty prescribed must correspond with the significance of the violation(s) and the institution's and individual's actions before, during and after the investigation. The recommended core penalties are set out below:

a. Penalties in proposed penalty guidelines.

(1) Competition limitations.

- Limitations are prescribed on the institution's participation in postseason play for varying lengths of time (depending on the severity of the infractions) in given sports.

(2) Financial penalties.

- The institution is required to return revenue received from a given (fact-specific) event or series of events (e.g., revenues received for participation in a tournament, bowl game or televised broadcasts), or the amount of gross revenue (if any) generated from the involved sport.
- A fine is prescribed, the amount of which is based on the severity of the infractions and a percentage of the total budget of the involved sport program.
- A reduction in, or elimination of, NCAA monetary distribution for sports sponsorship and/or grants-in-aid.

(3) Scholarship limitations.

- Limitations are prescribed on the availability of athletics scholarships in head count and equivalency sports (by percentage) for varying lengths of time in given sports. Presently, the Committee on Infractions works with institutions as needed to stagger scholarship penalties that otherwise would impact already-committed aid.

(4) Recruiting limitations.

- Limitations are prescribed on the number of allowable official paid visits at the institution for varying lengths of time in given sport.
- Limitations are prescribed on the number of scheduled unofficial visits at the institution for varying lengths of time in

given sports to include the provision of complimentary tickets and local transportation.

- Limitations are prescribed on the institution's off-campus recruiting efforts for varying lengths of time in given sports.
- Limitations are prescribed on the institution's other recruiting efforts, including communication restrictions (e.g., telephone contact and written correspondence), for varying lengths of time in given sports.

(5) Show-cause orders (if applicable in a given case).

- Length of show-cause restrictions.
- Components of the show-cause order (e.g., suspension of coach from games and/or season).

(6) Probation.

- Conditions are prescribed with which the institution must comply during a set period of time, the length of which is dependent on the severity of the infraction(s). The committee has the discretion to determine which of the following should apply in a particular case. The working group recommends that probation include required action by institutional leaders acknowledging the violations and pledging compliance moving forward. Any accompanying public announcements would need to be approved by the office of the Committees on Infractions to ensure the appropriate message is being delivered. Many of the responsibilities tied to probation have fallen to the compliance staff of an institution. The working group recommends shifting the burden and responsibility to the president, director of athletics and coaching staff of the involved program. The suggested discretionary conditions include:
 - Submission of compliance reports during the period of probation.
 - Acknowledgement in alumni publications, media guides and recruiting materials identifying the violations committed, the terms of probation, and penalties prescribed.
 - Written confirmation to the committee that the institution's president or chancellor met with student-athletes, athletics department staff and other relevant parties to personally

affirm his or her commitment to NCAA rules compliance, shared responsibility and preserving the integrity of intercollegiate athletics.

- Requiring an institution to announce during broadcast contests, on its website and in institutional publications that it is on probation and the reasons why the probation was prescribed.
- Implementation of educational or deterrent programs.
- Audits for specific programs or teams.
- In cases where an institution is found to lack institutional control and serious remediation is necessary in-person reviews of the institution's athletics policies and practices by the office of the Committees on Infractions or, in limited circumstances, where appropriate, a Committee on Infractions member(s).

In addition to these core penalties, other potential penalties would remain available to the Committee on Infractions. These include, among others, the following:

- Vacation of contests and records.
- Public reprimand and censure.
- Full-/partial-season ban for involved sports.
- Prohibition of all coaching staff members in the sport from involvement directly or indirectly in any coaching activities at the institution during a prescribed period.
- Disassociation of athletics representatives.
- Requirement that all institutional staff members serving on the NCAA Board of Directors or other committees or cabinets resign those positions and be precluded from serving for a period of time (or resign from leadership positions on NCAA councils, committees or cabinets).
- Requirement that the institution relinquish its NCAA voting privileges for a period of time.
- Notification to regional accrediting agency of academic violations or questionable procedures.
- Recommendation by the Committee on Infractions to the Executive Committee that the institution's membership be suspended or terminated.
- Return of individual and team awards to the Association.
- Prohibition against television appearances.

- Publicizing institutions on probation on the NCAA website, in appropriate NCAA publications and in NCAA championship game programs of the involved sport(s).
- Other penalties as appropriate.

The working group believes that the proposed penalty guidelines will afford the Committee on Infractions a more sophisticated structure by which it may consider certain aggravating and mitigating factors in particular infractions cases. The working group recommends that the best means by which the committee may prescribe a penalty that falls within a more/less severe range of penalties is if it finds that certain aggravating and/or mitigating circumstances exist in Level I or II cases.

b. Aggravating and mitigating factors.

Distinctions between the most serious violations and corresponding penalties will be refined further based on aggravating and mitigating factors in each case. The Committee on Infractions will determine the weight of the individual factors found in a given case and may balance these factors in the decision-making process. The proposed lists of factors follow:

Aggravating factors.

- Multiple Level I violations by the institution or involved individual;
- A history of Level I, Level II or major violations by the institution, sport program(s) or involved individual. Additional considerations include:
 - The amount of time between the occurrences of violations;
 - The similarity, severity and types of violations involved;
 - Efforts to implement previously prescribed corrective measures; and
 - Other factors the committee deems relevant to the infractions history.
- Lack of institutional control;
- Obstructing an investigation or attempting to conceal the violation;
- Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information;
- Violations were deliberate, premeditated or committed after substantial planning;
- Multiple Level II violations by the institution or involved individual;

- Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct;
- One or more violations caused significant ineligibility or other substantial harm to a student-athlete or prospective student-athlete;
- Conduct or circumstances demonstrating an abuse of a position of trust;
- A pattern of noncompliance within the sport program(s) involved;
- Conduct intended to generate pecuniary gain for the institution or involved individual;
- Intentional, willful or blatant disregard for the NCAA Constitution or bylaws; or
- Other facts warranting a more severe penalty.

Mitigating factors.

- Prompt self-detection and self-disclosure of the bylaw violation(s);
- Prompt acknowledgement of the violation, acceptance of responsibility and (for an institution) imposition of meaningful corrective measures and/or penalties;
- Affirmative steps to expedite final resolution of the matter;
- An established history of self-reporting Level III or secondary violations;
- Implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches control standards;
- Exemplary cooperation such as:
 - Identifying individuals (to be identified by the enforcement staff), documents and information of which the enforcement staff was not aware;
 - Expending substantial institutional resources to expedite a thorough and fair collection and disclosure of information; or
 - Recognizing and bringing to the attention of the enforcement staff additional violations discovered in the investigation of which the enforcement staff was not aware.
- The violations are unintentional, limited in scope and represent a deviation from otherwise compliant practices by the institution or involved individuals; or
- Other facts warranting a lower penalty.

c. Classifications of Level I and II cases.

The committee will find whether one or more aggravating and/or mitigating factors exist and, if so, determine how much weight to assign each factor. After the committee weighs aggravating and mitigating factors, it will classify the case into one of the following sublevels: aggravation, standard penalty or mitigation.

[See Attachment A for Penalty Guidelines Flow Chart.]

<u>Level I</u>	<u>Level II</u>
Aggravation	
Standard penalty	Aggravation
Mitigation	Standard penalty
	Mitigation

Based on the determined case classification, the penalties, as outlined in the penalty guidelines, will apply unless extenuating circumstances are found by the committee meriting an upward or downward departure.

[See Attachment B for the Penalty Guidelines.]

4. Accountability.

a. Head coach responsibility.

The working group believes head coaches are in the best position to create a culture of integrity and accountability. The working group examined what changes can be made to encourage coaches to direct their staffs and student-athletes to uphold NCAA bylaws while also creating strong penalties when coaches fail to meet this responsibility.

The membership has acknowledged through Bylaw 11.1.2.1 that there is a level of responsibility a head coach has for the administration of his/her program. When there is a failing by the head coach to carry out this responsibility, it is appropriate for there to be a penalty on the program, including the Committee on Infractions directing the institution, through a show-cause order, to suspend the head coach from coaching-related activities for a specified period of time.

The working group recognizes that employment decisions related to coaches or any athletics personnel rest solely with member institutions.

(1) The violation: Change emphasis from knowledge to responsibility for major (Level I and II) violations.

For Level I and II violations, Bylaw 11.1.2.1 (Responsibility of Head Coach) is the centerpiece of the working group's recommendations. Since 2008, there have been 15 cases where a head coach was found to have violated this bylaw for either not promoting an atmosphere of compliance or for not monitoring his/her staff, or both. The rationale for Proposal No. 2004-102 notes that when a serious violation occurs in a program, the head coach is "presumed to have knowledge and, therefore, responsibility" for what happened. Rather than focusing on knowledge, or the presumption of it, the working group proposes that the bylaw and the supporting rationale be amended to presume only responsibility. The amended bylaw and rationale would apply to all violations occurring after the adoption date of October 2012. Accordingly, if a violation occurs in a program, the head coach is presumed responsible (instead of knowledgeable and, therefore, responsible) for not promoting an atmosphere of compliance and/or monitoring his/her staff. If the coach cannot overcome that presumption of responsibility by demonstrably showing what he/she did to both promote an atmosphere of compliance and monitor his/her staff, the coach is presumed responsible under this bylaw and will be charged for violating it.

[See Attachment C for proposed amendment to Bylaw 11.1.2.1.]

(2) The penalty guidelines.

Violations of Bylaw 11.1.2.1 are considered either Level I or II as noted in the violation section of the report. The level of the violation will correspond with the underlying violation that occurred in the coach's program. The working group recommends that the penalty guidelines emphasize that violations of this bylaw may, as appropriate, result in a suspension from contests through a show-cause order. The number of contests involved, if any, will depend on the aggravating and mitigating factors present in the case. Thus, the employing institution of a head coach who violates this bylaw will withhold the coach from a certain number of contests pursuant to a show-cause order unless the institution appears before the Committee on Infractions in a subsequent hearing and shows cause why the suspension should not be

applied. The membership has consistently indicated (in the 2011 Presidential Retreat Survey and during presentations and meetings with enforcement staff) that the penalties most likely to deter violations are suspensions. The specific suspension prescribed would be based on the severity of the violation(s) and would be within ranges established in the penalty guidelines.

Institutionally imposed suspensions are currently a penalty available to the Committee on Infractions, and the committee has directed an institution to impose a suspension for a violation of Bylaw 11.1.2.1 in a previous infractions case and accepted an institutionally imposed suspension in another case. The working group recommends that the Board of Directors support a recommitment to the original intent of Bylaw 11.1.2.1 with the clarifying amendment to the rule and rationale. The specific penalty guidelines for Bylaw 11.1.2.1 violations would be effective August 1, 2013, for all violations occurring after October 30, 2012. In the interim, the working group notes that the appropriate penalty for Bylaw 11.1.2.1 violations will be decided by the Committee on Infractions.

(3) Level III violations (currently secondary violations).

The working group recommends coaching suspensions for certain Level III violations, including suspension of head coaches when their staff members commit what are currently serious secondary violations. Suspension of head coaches for violations committed by assistant coaches of identified Level III violations will become effective August 1, 2013, for violations committed on or after August 1, 2013.

By way of background, the American Football Coaches Association (AFCA) approached the enforcement staff and Committee on Infractions in the summer of 2010 requesting that suspensions be prescribed for what the AFCA members deemed serious secondary violations. Since acting on that request, the enforcement staff has directed the institution to suspend five assistant football coaches for committing secondary violations. Similarly, in 2009, the Board of Directors passed legislative reform to address issues in the men's basketball recruiting environment. A component of that reform included a head coach suspension by the institution at the direction of the enforcement staff from a contest

when he or his staff committed specifically identified secondary violations.

The working group is supportive of including other sports and proposes that the list of identified violations be examined and expanded as appropriate to address what are presumed to be intentional secondary recruiting violations that undermine the integrity of the sports. The point is that head coaches can set the tone, and if a coaching staff member knows that the head coach will be suspended for acts of the staff members, there is a greater incentive for the head coach to set clear expectations of full compliance and for the staff to comply.

In addition, the working group recommends that institutionally imposed suspensions of coaches for designated Level III recruiting violations be publicly released by the enforcement staff. Currently, secondary violations (Level III) are not made public. For suspensions to have the desired impact, however, others must know about the consequences of committing violations. The working group also recommends that athletics department staff members' and coaches' violation histories, for the most recent five years of Level III violations, be made available to member institutions that request such information. The working group recommends that the enforcement staff identify, where possible, which Level III violations were self-disclosed by the head coach or his/her staff.

b. Accountability for presidents and directors of athletics.

In addition to coaches, the working group recognizes the need to address the accountability of an institution's president and/or director of athletics when major violations occur. Currently, and under the proposed Level I and II violations, if a president or director of athletics is directly involved in a violation, he or she will be named in the allegation. There currently is no mechanism, however, to hold those individuals publicly accountable for violations that occur under their watch if they are not directly involved in violations. As a result, the working group believes some minimal level of public accountability for the leaders of an involved institution is appropriate for infractions cases involving a Level I lack of institutional control violation, or a Level I or II failure to monitor violation. Specifically, the names of leaders of the involved institution who held the positions at the time the violations occurred should be printed at the top of

the public infractions decision upon release. It is recommended that the persons identified in the public infractions decision include the following:

- (1) President or chancellor of the institution (for lack of institutional control cases).
- (2) Director of athletics and/or individual responsible for oversight of the athletics department (for lack of control and failure to monitor cases).
- (3) Head coaches of involved sports (for any violations involving the coach's program).

If deemed appropriate by the Committee on Infractions, the chair of the board or other board members may be identified on the public infractions decision.

Printing these names on the infractions decision creates a record of names of individuals who: (1) oversaw the institution, the athletics department and specific sport programs at the time an institutional control or failure to monitor violation occurred; and (2) oversaw a sport program at the time a Level I and/or II violation occurred in that program. Therefore, even after leaving the involved institution, there is a record of the infraction that occurred while he/she was responsible for leading the institution, athletics department or sport program. Because of this, it would be possible for an institution to determine (through a database maintained by the NCAA) when and if a violation occurred under a specific individual's leadership.

5. Shared responsibility specific to compliance efforts and investigations.

Rules compliance cannot be achieved unless all interested parties (a) assume responsibility for identified roles in the compliance and enforcement processes over which they have control; (b) are held accountable for those deficiencies in the compliance and enforcement processes for which they have responsibility; and (c) are recognized, in a tangible and meaningful way, if the identified compliance and enforcement expectations are effectively met or exceeded. To address these needs, the working group recommends that the concept of shared responsibility be better defined and specific expectations be identified for given roles within the compliance and enforcement processes to ensure that, to the extent reasonably possible, all relevant and material facts are developed, regardless of impact. Specifically, the working group supports the following concepts to better define the role of each party involved in the enforcement process. (The working group has directed the staff to seek the responses of conferences and athletics directors

to these supported concepts prior to making an official recommendation of any policy or guideline in the October 2012 report to the Board.)

First, the working group recognizes that there is a lack of uniform expectations for conference office involvement related to enforcement issues. Therefore, the working group agrees that conference offices should not lead investigations. In instances where conferences receive reasonably reliable information indicating that a Level I or II violation occurred, the NCAA enforcement staff should be notified and the conference office may be requested not to notify the school that allegedly committed the violation(s). Once the NCAA enforcement staff is notified, they should take the lead in determining how the investigation should be conducted.

Second, institutions should contact the NCAA enforcement staff as soon as it is determined that reasonably reliable information exists indicating that a Level I or II violation might have occurred. Institutional involvement in NCAA investigations can vary widely. Some institutions exercise passive involvement in investigations, some purposefully participate minimally and others earnestly try to uncover the full facts, regardless of the impact. The working group agrees that there should be a clear expectation that the institution will cooperate with the staff during any ensuing investigation just as there needs to be clear guidance on when institutions should notify the enforcement staff. It should be noted that notifying the staff will not automatically result in the staff taking a lead role in the investigation. The staff may agree that the institution should lead the investigation and provide regular updates to the staff, or the staff may decide that immediate staff involvement is necessary. The level of involvement by the staff upon notification will be decided on a case-by-case basis. Finally, consistent with current Bylaw 32.1.4, the enforcement staff will usually share information with the institution during an investigation; however, to protect the integrity of the investigation, the staff may not, in all instances, be able to share information with the institution. The working group agrees that, to the maximum extent feasible, the enforcement staff should conduct its investigation in a manner that causes minimal effect and disruption of ongoing operations of the institution under investigation and take all reasonable steps to ensure any ongoing violations are stopped. Providing the institution with relevant information affords the institution better notice of possible violations and/or the opportunity to stop continuing violations, increases the institution's knowledge of the level of seriousness of the violation(s), and enhances the ability of the institution to assist in the investigation.

D. Desired Outcomes.

Ultimately, the working group wants those involved in intercollegiate athletics to believe that upholding the NCAA Constitution and bylaws is critically important, and violators will be dealt with swiftly, judiciously and seriously. Similarly, the working group aims to contribute to the larger effort by university presidents to restore public trust in intercollegiate athletics as an integral part of higher education rather than a stand-alone revenue stream.

The specific outcomes the working group expects from the changes to the violation, process and penalty structures are noted below.

1. Violation structure.

A new violation structure that appropriately categorizes the severity of infractions and allows for different levels of accountability for institutions and individuals.

2. Process structure.

a. A faster mode for processing violations that delivers expediency without compromising process integrity or fairness.

- Clear metrics for every stage of processing a case.

b. Clear understanding of what aspects of enforcement cases can be more transparent and corresponding transparency where appropriate.

3. Penalty structure.

a. Strong penalties that are predictable, deter the risk-reward analysis and address any unfair advantage.

b. Clear definition of institutional control.

- Rewards/incentives for effective compliance programs.
- Rewards/incentives for strong institutional action to address wrongdoing.

c. Rewards/incentives for individuals acknowledging violations.

4. Accountability.

- a. Increased accountability for head coaches.
- b. Public accountability for presidents, chancellors and directors of athletics.

5. Shared responsibility.

- a. Strengthened support for institutional leadership.
- b. Clear definition of shared responsibility and resulting expectations of individuals, institutions, conferences and the national office staff.

E. Implementation of New Enforcement Program.

Attached to this report is proposed Bylaw 19. (See Attachment D) Proposed Bylaw 19 reflects the working group's recommended new violation structure, new violation processing structure and new penalty structure (collectively, "new enforcement structure"). As discussed in the following section, it also incorporates relevant portions of current Bylaw 32 and conforms to the general template used by the Rules Working Group in other areas of the NCAA Manual.

The working group recommends that the Board implement the new enforcement structure without waiting for the Rules Working Group to complete its work. Accordingly, the Enforcement Working Group seeks Board action on amended Bylaw 19 at the October 2012 meeting, with an effective date of August 2013.

Under this implementation strategy, notice of the new enforcement structure will be provided to the membership October 30, 2012. On August 1, 2013, the new enforcement structure will become effective in its entirety. All cases processed by the Committee on Infractions after August 1, 2013, will be adjudicated under the new enforcement structure.

Not all violations occurring before October 30, 2012, can be processed before the new enforcement structure goes into effect. Thus, there will be violations that were committed before notice of the new structure that nonetheless are processed under it. Applying harsher penalties in such cases pursuant to the new penalty matrix could be perceived as unfair because institution/involved individual that committed a pre-October 30, 2012, violation would have done so prior to notice of the new penalty guidelines.

Amended Bylaw 19.11.1 remedies this concern. Pursuant to amended Bylaw 19.11.1, in cases where the violation occurred prior to October 30, 2012, the hearing panel must

deviate from the core penalty guidelines if the applicable core penalties from the guidelines are harsher than the penalties that would have been prescribed under the enforcement structure previously in place. For violations that begin before October 30, 2012 and continue thereafter, the hearing panel will prescribe penalties from the revised penalty structure unless it determines that the conduct constituting a violation predominately occurred before October 30, 2012.

This implementation strategy is simple and logistically feasible, ensures that the new enforcement structure will be fully operational as soon as possible, and alleviates fairness concerns resulting from the transition to a new enforcement structure.

F. Revisions to Bylaw 19.

The proposals outlined in this report are incorporated into proposed Bylaw 19. For example, the recommendations contained herein impact current bylaws governing, among others, the violation structure, the makeup of the Committee on Infractions, the processing of cases and the calculation of penalties. Those bylaws have been amended accordingly, together with other revisions that are necessary to implement the proposals and assure consistency of language.

The working group also took this opportunity to review the overall structure of bylaws relating to enforcement and makes additional proposals regarding bylaws impacting the enforcement program.

Presently, rules governing the enforcement program are spread between Bylaws 19 and 32, often creating confusion. Consistent with the broader effort to streamline and simplify the Division I Manual, the working group proposes creating a single bylaw to address the enforcement program. The working group believes a single bylaw will be clearer and simpler to understand and apply. Therefore, the substantive provisions of Bylaw 32 were incorporated into Bylaw 19, and more detailed procedural matters can be articulated in Internal Operating Procedures ("IOPs") outside the Division I Manual. Examples of items that may be addressed in IOPs include, but are not limited to, the following:

- Methods of assigning hearing panels to cases and scheduling hearings.
- Methods of submitting materials for review by the respective committees.
- Details about the conduct of hearings, such as order and timing of presentations.
- Quorum requirements.
- Details of staff investigations, such as methods of recording or memorializing interviews (and related timelines).
- Methods of maintaining the "hard copy" case file in the national office.

Also consistent with the broader effort to streamline and simplify the Division I Manual, the working group proposes removing provisions in Bylaw 19 that are duplicative of bylaws appearing elsewhere in the Manual. These include current Bylaws 19.01.4 (Violations by Institutional Staff Members, which is identical to Bylaw 11.1.2) and 19.5.3 (Discipline of Affiliated Members, which is identical to Constitution 3.4.5.1). Similarly, the working group proposes updating the introductory portions of Bylaw 19 to reflect current priorities in a template consistent with the work of the Rules Working Group.

In some areas, current bylaws do not reflect current practices of the enforcement staff or the relevant committees. The working group recommends revising the bylaws to reflect current practices. Examples include the following:

- Prescribed penalties are automatically stayed when an institution or involved individual files an appeal (unless a committee orders otherwise). However, that important practice is not reflected in the Manual, and the working group proposes simple bylaws to capture current practices. These appear in new Bylaws 19.12.2.2 (for Levels I and II) and 19.13.4.1 (for Level III).
- The current practice is for members of the enforcement staff to have private communications with individuals about matters under investigation. To clarify that these communications are not improper, new Bylaw 19.1.3 (Public Disclosure, derived from Bylaw 32.1.1) and new Bylaw 19.7.2 (Public Announcements, derived from current Bylaw 32.1.2) prohibit public releases by the staff.
- New Bylaw 19.9.4 is revised to codify the enforcement staff's authority to amend allegations in connection with the prehearing conference.
- At present, coaches generally are not "involved individuals" in secondary cases, do not receive notice or the opportunity to be heard under Bylaw 19.4.2 and do not have standing to appeal under Bylaw 19.6.1. Coaches subject to a show-cause order, however, are given the opportunity to respond and appeal. Because penalties prescribed in Level III cases may materially impact individual coaches subject to show-cause orders, the working group proposes expressly granting those individuals involvement in the processing of Level III cases. The amended bylaws confirm that an individual subject to a show-cause order shall receive notice of alleged violations and an opportunity to respond (new Bylaw 19.13.1), together with the opportunity to seek appellate review by the Committee on Infractions (new Bylaw 19.13.4).

Findings of Violations

- Committee on Infractions determines violations.
- Committee on Infractions determines the level for each violation.

Determination of Circumstances

- Committee on Infractions reviews any proposed aggravating and mitigating circumstances for both the institution and involved individual.
- Committee on Infractions slots the institution's and the individual's case into the penalty guidelines based on the committee's determination on the aggravating or mitigating circumstances.

Application of Penalty Guidelines

- Committee on Infractions determines penalty from the range of penalties in the guideline for that particular slotting.
- Committee on Infractions has the option to deviate from the range in this slot if the committee articulates specific extenuating circumstances.

Proposed Penalty Matrix
(WORKING DRAFT)
Version No. 6 (July 12, 2012)

**ATTACHMENT B
SUPPLEMENT NO. 3B
DI Board of Directors 8/12**

<u>Violation Level I</u>	<u>Violation Level II</u>	<u>Competition Penalties: Postseason Ban</u> *Competition penalties may be used singularly or in combination		
Aggravation		2 to 4 years		
Standard	Aggravation	1 to 2 years		
Mitigation	Standard	0 to 1 year		
	Mitigation	0		
<u>Violation Level I</u>	<u>Violation Level II</u>	<u>Financial Penalties: Fine (Percent of total budget for sport program)</u>	<u>Financial Penalties: Negate revenue from sport program for years in which violations occurred</u>	<u>Financial Penalties: Reduce or eliminate NCAA monetary distribution for sports sponsorship and/or grants-in-aid</u>
Aggravation		\$5,000 plus 3 to 5%	Impose this penalty if greater than percent of budget fine + \$5,000.	Alternative financial penalty.
Standard	Aggravation	\$5,000 plus 1 to 3%		Alternative financial penalty.
Mitigation	Standard	\$5,000 plus 0 to 1%		Alternative financial penalty.
	Mitigation	\$5,000*		Alternative financial penalty.
		* A minimum \$5,000 financial penalty will be imposed to ensure the penalty will be at least as significant as the fine imposed for a Level III violation.		
<u>Violation Level I</u>	<u>Violation Level II</u>	<u>Scholarship Reductions of Involved Sport(s) Program(s)*</u>		
Aggravation		25 to 50%	* For cases in which financial aid overages have occurred, a minimum 2-for-1 reduction in financial aid awards shall apply up to at least 20% of the team financial aid limit.	
Standard	Aggravation	12.5 to 25%		
Mitigation	Standard	0 to 12.5%		
	Mitigation	0 to 5%		

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<u>Violation Level I</u>	<u>Violation Level II</u>	<u>Show-Cause Order</u>	<u>Restrictions</u>	
Aggravation		5 to 10 years	All athletically related duties	
Standard	Aggravation	2 to 5 years	All or partial coaching and recruiting duties (including game suspensions)	
Mitigation	Standard	1 to 2 years	All or partial coaching and recruiting duties (including game suspensions)	
	Mitigation	0 to 1 years	All or partial coaching and recruiting duties (including game suspensions)	
		<u>Head Coach Restrictions (game suspensions via show cause for 11.1.2.1)</u>		
<u>Violation Level I</u>	<u>Violation Level II</u>			
Aggravation		50 to 100%		
Standard	Aggravation	30 to 50%		
Mitigation	Standard	0 to 30%		
	Mitigation	0 to 10%		
<u>Violation Level I</u>	<u>Violation Level II</u>	<u>Recruiting Visit Restrictions</u>	<u>Recruiting Communication Restrictions</u>	<u>Off-Campus Recruiting Restrictions</u>
Aggravation		25 to 50% 14- to 26-week ban on unofficial visits (No scheduled unofficial visits and no complimentary tickets.) 25 to 50% cuts in official paid visits (Based on the average number provided during the previous 4 years.) Football: 15 to 28 visits (need to account for unused visits from the previous year, if any). Basketball: 4 to 6 visits. Baseball: 7 to 13 visits.	25 to 50% 14- to 26-week ban on communication with all prospects	25 to 50% Sports with no limits: 14- to 26-week ban on all contacts and evaluations 25 to 50% cuts in Recruiting Person Days (RPD) or Evaluation Days (ED) MBB: 34 to 65 (RPD) WBB: 26 to 50 (RPD) MFB: 11 to 21 Fall; 44 to 84 Spring (ED) WSB: 13 to 25 (ED) WVB: 21 to 40 (ED)

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<u>Violation Level I</u>	<u>Violation Level II</u>	<u>Recruiting Visit Restrictions</u>	<u>Recruiting Communication Restrictions</u>	<u>Off-Campus Recruiting Restrictions</u>
Standard	Aggravation	<p>12.5 to 25 %</p> <p>7- to 13-week ban on unofficial visits (No scheduled unofficial visits and no complimentary tickets.)</p> <p>12.5 to 25% cuts in official paid visits (Based on the average number provided during the previous 4 years.)</p> <p>Football: 8 to 14 visits (need to account for unused visits from the previous year, if any). Basketball: 2 to 3 visits. Baseball: 4 to 7 visits.</p>	<p>12.5 to 25 %</p> <p>7- to 13-week ban</p>	<p>12.5 to 25 %</p> <p>No limit sports: 7- to 13-week ban</p> <p>MBB: 17 to 33 (RPD) WBB: 13 to 25 (RPD) MFB: 6 to 11 Fall; 22 to 42 Spring (ED) WSB: 7 to 13 (ED) WVB: 11 to 20 (ED)</p>
Mitigation	Standard	<p>0 to 12.5%</p> <p>0 to 6-week ban on unofficial visits (No scheduled unofficial visits and no complimentary tickets.)</p> <p>0 to 12.5% cuts in official paid visits (Based on the average number provided during the previous 4 years.)</p> <p>Football: 0 to 7 visits (need to account for unused visits from the previous year, if any). Basketball: 0 to 2 visits. Baseball: 0 to 4 visits.</p>	<p>0 to 12.5%</p> <p>0 to 6-week ban</p>	<p>0 to 12.5%</p> <p>No limit sports: 0 to 6-week ban</p> <p>MBB: 0 to 17 (RPD) WBB: 0 to 13 (RPD) MFB: 0 to 6 Fall; 0 to 21 Spring (ED) WSB: 0 to 7 (ED) WVB: 0 to 10 (ED)</p>

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<u>Violation Level I</u>	<u>Violation Level II</u>	<u>Recruiting Visit Restrictions</u>	<u>Recruiting Communication Restrictions</u>	<u>Off-Campus Recruiting Restrictions</u>
	Mitigation	0 to 5% 0 to 3-week ban on unofficial visits (No scheduled unofficial visits and no complimentary tickets.) 0 to 5% cuts in official paid visits (Based on the average number provided during the previous 4 years.) Football: 0 to 3 visits Basketball: 0 to 1 visit Baseball: 0 to 2 visits	0-5% 0 to 3-week ban	0 to 5% No limit sports: 0 to 3-week ban MBB: 0 to 7 (RPD) WBB: 0 to 5 (RPD) MFB: 0 to 3 Fall; 0 to 9 Spring (ED) WSB: 0 to 3 (ED) WVB: 0 to 4 (ED)
<u>Violation Level I</u>	<u>Violation Level II</u>	<u>Probation</u>		
Aggravation		6 to 10 years		
Standard	Aggravation	2 to 6 years		
Mitigation	Standard	0 to 2 years		
	Mitigation	0 years		
NCAA/07/12/12/JRL:ajw				

**ATHLETICS PERSONNEL -- CONDUCT OF ATHLETICS PERSONNEL --
RESPONSIBILITY OF HEAD COACH**

Intent: To clarify that a head coach is presumed responsible for the actions of the activities of all assistant coaches and other administrators involved with the program who directly or indirectly report to the head coach.

Bylaws: Amend 11.1.2.1, as follows:

11.1.2.1 Responsibility of Head Coach. **An institution's head coach is presumed to be responsible for the actions of all assistant coaches and other administrators who report, directly or indirectly to the head coach.** ~~*It shall be the responsibility of an*~~ An institution's head coach ~~*to*~~ **shall** promote an atmosphere ~~*for*~~ **of** compliance within ~~*the*~~ **his or her** program ~~*supervised by the coach*~~ and ~~*to*~~ **shall** monitor the activities ~~*regarding compliance*~~ of all assistant coaches and other administrators involved with the program who report, directly or indirectly, to the coach.

Source: Working Group on the Collegiate Model -- Enforcement

Effective Date: October 30, 2012

Proposal Category: Amendment

Topical Area: Personnel

Rationale: The rationale for Proposal No. 2004-102 stated "A head coach should be presumed to have knowledge and, therefore, responsibility for the actions of those individuals associated with his or her team whom the coach directly or indirectly supervises." Rather than focusing on knowledge, or the presumption of knowledge, the bylaw is amended to presume only responsibility. Accordingly, if violations happen in a program, the head coach is presumed responsible (instead of knowledgeable, and therefore, responsible) for not promoting an atmosphere of compliance and/ or monitoring his or her staff. If the head coach cannot overcome the presumption of responsibility by demonstrating what he or she did to promote an atmosphere of compliance and monitor his or her staff, the head coach is presumed responsible under this bylaw and will be charged for not upholding this legislation.

Estimated Budget Impact: None.

Impact on Student-Athlete's Time (Academic and/or Athletics): None.

History

July 2, 2012: Submit; Submitted for consideration.

Proposed Article 19

BYLAW, ARTICLE 19

Enforcement

The operating bylaws in this Article are designed to further the Division I Collegiate Model and the NCAA's Commitments identified in Article 2. The enforcement provisions are important to the Association because they encourage shared responsibility by each member institution in assuring compliance with the NCAA Constitution and bylaws. They also provide strong disincentives for noncompliance, fair and efficient procedures for resolving allegations of noncompliance, and meaningful penalties for conduct in violation of the NCAA Constitution and bylaws. An effective enforcement program is essential to the viability of the Association and the conduct of its affairs.

19.1 GENERAL PROVISIONS

19.1.1 Mission of the Enforcement Program. It is the mission of the NCAA enforcement program to uphold integrity and fair play among the NCAA membership, and to impose appropriate and fair penalties if violations occur. One of the fundamental principles of the enforcement process is to ensure that those institutions and student-athletes abiding by the NCAA Constitution and bylaws are not disadvantaged by their commitment to compliance. The program is committed to the fairness of procedures and the timely resolution of infractions cases. The ability to investigate allegations and penalize infractions is critical to the common interests of the Association's membership and the preservation of its enduring values.

19.1.2 Accountability. The enforcement program shall hold institutions, coaches, administrators and student-athletes who violate the NCAA Constitution or bylaws accountable for their conduct, both at the individual and institutional levels.

19.1.3 Public Disclosure. Except as provided in this Article, the Committee on Infractions, the Infractions Appeals Committee and the enforcement staff shall not make public disclosures about a pending case until the case has been announced in accordance with prescribed procedures. An institution and any individual subject to the NCAA Constitution and bylaws involved in a case shall not make public disclosures about the case until a final decision has been announced in accordance with prescribed procedures.

19.1.4 Penalty Structure. The enforcement program shall address the varying levels of infractions and, for the most serious infractions, include guidelines for a range of penalties, which the Committee on Infractions may prescribe, subject to review by the Infractions Appeals Committee. Penalties shall depend on the relative severity of the infraction(s), the presence of aggravating or mitigating factors and, in some cases, the existence of extenuating circumstances.

19.1.5 Exemplary Conduct. Individuals employed by or associated with member institutions for the administration, the conduct or the coaching of intercollegiate athletics are, in the final analysis, teachers of young people. Their responsibility is an affirmative one, and they must do more than avoid improper conduct or questionable acts. Their own moral values must be so

certain and positive that those younger and more pliable will be influenced by a fine example. Much more is expected of them than of the less critically placed citizen.

19.2 DEFINITIONS

19.2.1 Involved Individual. Involved individuals are current or former institutional staff members and current or former student-athletes who have received notice of involvement in alleged violations.

19.2.2 New Evidence. New evidence is relevant, material information that could not have reasonably been ascertained prior to the Committee on Infractions hearing.

19.2.3 Show-Cause Order. A show-cause order is an order that requires a member institution to demonstrate to the satisfaction of the Committee on Infractions why it should not be subject to a penalty or additional penalty for not taking appropriate disciplinary or corrective action against an institutional staff member or representative of the institution's athletics interests found by the Committee as having been involved in a violation of the NCAA Constitution or bylaws.

19.3 VIOLATION STRUCTURE

19.3.1 Severe Breach of Conduct (Level I Violation). A severe breach of conduct is behavior that seriously undermines or threatens the integrity of any NCAA enduring value, including any violation that provides or is intended to provide a substantial or extensive recruiting, competitive or other advantage, or a substantial or extensive impermissible benefit. Among other examples, the following may constitute a severe breach of conduct:

- (a) Lack of institutional control;
- (b) Academic fraud;
- (c) Failure to cooperate in an NCAA enforcement investigation;
- (d) Individual unethical or dishonest conduct, regardless of whether the underlying institutional violations are considered Level I;
- (e) Bylaw 11.1.2.1 violation by a head coach resulting from an underlying Level I violation by an individual within the sport program;
- (f) Cash payment or other benefits intended to secure, or which resulted in, enrollment of a prospective student-athlete;
- (g) Intentional violations or reckless indifference to the NCAA Constitution or bylaws; or
- (h) Collective Level II and/or III violations.

19.3.2 Significant Breach of Conduct (Level II Violation). A significant breach of conduct is behavior that provides or is intended to provide more than a minimal but less than a substantial or extensive recruiting, competitive or other advantage; includes more than a minimal but less

than a substantial or extensive impermissible benefit; or involves conduct that may compromise any NCAA enduring value. Among other examples, the following may constitute a significant breach of conduct:

- (a) Violations that do not rise to the level of a Level I violation and are more serious than a Level III violation;
- (b) Failure to monitor (these violations will be presumed Level II but may be deemed to be of a Level I nature if the failure is substantial or egregious);
- (c) Systemic violations that do not amount to a lack of institutional control;
- (d) Multiple recruiting, financial aid, or eligibility violations that do not amount to lack of institutional control;
- (e) Bylaw 11.1.2.1 violation by a head coach resulting from an underlying Level II violation by an individual within the sport program; or
- (f) Collective Level III violations.

19.3.3 Breach of Conduct (Level III Violation). A breach of conduct is behavior that is isolated or limited in nature; provides no more than a minimal recruiting, competitive or other advantage; and provides no more than a minimal impermissible benefit. Among other examples, the following may constitute a breach of conduct:

- (a) Inadvertent violations that are isolated or limited in nature; or
- (b) Extra-benefit, financial aid, academic eligibility and recruiting violations, provided they do not create more than minimal advantages.

19.3.4 Incidental Infraction (Level IV Violation). An incidental infraction is a minor infraction that is technical in nature and does not constitute a Level III violation. Incidental infractions generally will not impact eligibility for intercollegiate athletics. Multiple or repeated Level IV infractions collectively may constitute a Level III violation.

19.4 EXPECTATIONS AND SHARED RESPONSIBILITY

19.4.1 Member Responsibility for Compliance. Each institution has an affirmative obligation to monitor and control its athletics programs, its representatives and its student-athletes to assure compliance with the Constitution and bylaws of the Association.

19.4.2 Member Responsibility to Report Noncompliance. Each institution has an affirmative obligation to report all instances of noncompliance to the Association in a timely manner.

19.4.3 Responsibility to Cooperate. All representatives of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Committee on Infractions and the Infractions Appeals Committee to further the objectives of the Association and its enforcement program. The responsibility to cooperate requires institutions and individuals to protect the integrity of investigations and to make a full and complete

disclosure of any relevant information, including any information requested by the enforcement staff or relevant committees. All representatives of member institutions have an affirmative obligation to assist in developing full information to determine whether a possible violation has occurred and the details thereof.

19.4.3.1 Exemplary Cooperation. Exemplary cooperation by an institution or involved individual may constitute a mitigating factor for purposes of calculating a penalty when a violation has occurred. Institutions or involved individuals may demonstrate exemplary cooperation while denying some or all of the alleged violations and otherwise acting in furtherance of their independent interests.

19.4.3.2 Failure to Cooperate. Failing to satisfy the responsibility to cooperate may result in an independent allegation and/or be considered an aggravating factor for purposes of calculating a penalty. Institutional representatives and the involved individual may be requested to appear before a hearing panel of the Committee on Infractions at the time the allegation is considered.

19.5 COMMITTEE ON INFRACTIONS

19.5.1 Composition of Committee. The Board of Directors shall appoint a Committee on Infractions comprised of no more than 24 members to act as hearing officers in infractions proceedings of the Association. The Board of Directors shall also appoint one member of the committee to serve as chair and another member to serve as vice chair. If at any time the chair is unavailable to act as such, the vice chair is empowered to exercise the functions of the chair. The committee shall reflect the Association's commitment to diversity. To the extent reasonably possible, the Committee shall include members from each of the following categories:

- (a) Current or former college or university presidents, chancellors or other senior institutional administrators (no more than three years removed from employment by a member institution or similar service at the time of his or her initial appointment);
- (b) Current or former directors of athletics (no more than three years removed from employment by a member institution or similar service at the time of his or her initial appointment);
- (c) Former NCAA coaches (no more than three years removed from employment by a member institution or similar service at the time of his or her initial appointment);
- (d) Representatives from conference offices;
- (e) University staff or faculty, including but not limited to faculty athletics representatives;
- (f) Athletics administrators with compliance experience; and

- (g) Members of the general public with formal legal training who are not associated with a collegiate institution, conference, or professional or similar sports organization and who do not represent coaches or athletes in any capacity.

19.5.2 Temporary Substitutes. If it appears that one or more members of the committee will be unable to participate in the disposition of a case, the chair may designate a former member or members of the committee to rejoin the committee for purposes of consideration and disposition of that case.

19.5.3 Hearing Panels of the Committee. Unless ordered otherwise by the committee chair, cases involving Level I or Level II violations will be presented to and decided by hearing panels consisting of no less than five and no more than seven members of the full Committee on Infractions. Decisions issued by hearing panels are made on behalf of the Committee on Infractions.

19.5.4 Conflict of Interest. No member of a hearing panel shall participate in a case when he or she is directly connected with an institution under investigation or if he or she has a personal, professional or institutional affiliation that may create the appearance of partiality. It is the responsibility of the panel member to remove himself or herself if a conflict exists. Objections to the participation of a panel member should be raised as soon as recognized but will not be considered unless raised at least one week in advance of the panel's review of the case. Objections will be decided by the committee chair.

19.5.5 Term of Office. Members appointed on or before August 1, 2013, shall be assigned to serve a one-, two- or three-year term as necessary to assure alternating expiration of terms. Thereafter, members shall be appointed to serve a three-year term, which shall commence on the first day of August following the member's appointment. Regardless of when appointed, a member may be reappointed for additional three-year terms but shall not serve more than three consecutive terms on the committee.

19.5.6 Authority and Duties of Committee. Disciplinary or corrective actions other than suspension or termination of membership may be prescribed by members of hearing panels of the Committee on Infractions present and voting at any duly called hearing thereof, provided the call of such a hearing shall have contained notice of the situation presenting the disciplinary problem. Actions of panels in cases involving Level I or II violations, however, shall be subject to review by the Infractions Appeals Committee. The penalties prescribed by a panel are separate and apart from any penalties prescribed as part of the Academic Performance Program by the Committee on Academic Performance. The Committee on Infractions shall:

- (a) Find facts related to alleged bylaw violations;
- (b) Conclude whether the facts constitute a violation of the NCAA Constitution or bylaws;
- (c) Upon concluding that one or more violations occurred, prescribe an appropriate penalty consistent with the provisions of this Article;

- (d) Coordinate with the office of the Committees on Infractions as necessary for logistic, administrative or other support related to implementation of the committee's decisions;
- (e) Monitor compliance with prescribed penalties. In the event an institution fails or refuses to implement prescribed penalties, a hearing panel of the committee may prescribe additional penalties, provided the institution is given the opportunity to appear before the panel and the opportunity to appeal any additional penalty;
- (f) Consider complaints alleging the failure of any member to maintain the academic or athletics standards required for membership or the failure of any member to meet the conditions and obligations of membership in the Association;
- (g) Formulate and revise internal operating procedures and revise investigative guidelines. Committee amendments to the procedures and guidelines shall be effective immediately and subject to ratification by the Board of Directors; and
- (h) Carry out such other duties directly related to the administration of the Association's enforcement program.

19.5.7 Duties of Committee Chair. The duties of the committee chair, or his or her designee, shall be as follows:

- (a) Schedule and preside over two annual meetings of the full committee. In the interim between meetings of the full committee, the chair shall act on behalf of the committee, subject to committee ratification at its next meeting;
- (b) For each hearing panel, appoint a chief hearing officer to preside over cases assigned to the panel. The chief hearing officer will generally be the panel member with the greatest length of service on the Committee on Infractions;
- (c) At the request of the enforcement staff, determine whether to grant limited immunity to an institutional employee with responsibilities related to athletics based on information that the employee reports when he or she would otherwise be subject to disciplinary action as described in Bylaws 19.11.5.4 and 19.11.8-(i). Such immunity shall not apply to the employee's involvement in violations of NCAA legislation not reported, to future involvement in violations of NCAA legislation by the employee or to any action taken by an institution;
- (d) At the request of the enforcement staff, determine whether to grant limited immunity to a student-athlete or prospective student-athlete when he or she might otherwise be declared ineligible for intercollegiate competition based on information reported to the enforcement staff by the individual or a third party associated with the individual. Such immunity shall not apply to the individual's involvement in violations of NCAA legislation not reported, to future involvement in violations of NCAA legislation by the individual or to any action taken by an institution;

- (e) Coordinate with the office of the Committees on Infractions as necessary for logistic, administrative or other support; and
- (f) Coordinate with the office of the Committees on Infractions regarding hearing panel assignments, committee meetings and training activities.

19.5.8 Duties of the Chief Hearing Officer. The duties of the chief hearing officer shall be as follows:

- (a) Consider and decide scheduling requests and extensions of time regarding hearing-related deadlines;
- (b) For each hearing panel, appoint an individual responsible for conducting the press conference when the panel's decision is released;
- (c) For each case set for hearing and in consultation with the committee chair, designate a panel member to serve as the committee appeals advocate for any appeal from the decision of the panel; and
- (d) Coordinate with the office of the Committees on Infractions as necessary for logistic, administrative or other support related to hearings to which the chief hearing officer is assigned.

19.6 INFRACTIONS APPEALS COMMITTEE

19.6.1 Composition of Committee. The Board of Directors shall appoint an Infractions Appeals Committee to act as appellate hearing officers upon appeals from decisions involving Level I or II violations by the Committee on Infractions. The committee shall be comprised of five members. At least one member shall be from the general public and shall not be connected with a collegiate institution, conference, or professional or similar sports organization, or represent coaches or athletes in any capacity. The remaining members shall presently or previously be on the staff of an active member institution or member conference, but shall not serve presently on the Board of Directors. There shall be no subdivision restrictions except that all nonpublic members may not be from the same subdivision. The committee shall reflect the Association's commitment to diversity.

19.6.2 Temporary Substitutes. If it appears that one or more of the committee members will be unable to participate in the disposition of a case, the chair may designate a former member or members of the committee to rejoin the committee for purposes of consideration and disposition of that case.

19.6.3 Conflict of Interest. No member of the Infractions Appeals Committee shall participate in a case when he or she is directly connected with an institution under investigation or if he or she has a personal, professional or institutional affiliation that may create the appearance of partiality. It is the responsibility of the committee member to remove himself or herself if a

conflict exists. Objections to the participation of a committee member should be raised as soon as recognized, but will not be considered unless raised at least one week in advance of the committee's review of the case.

19.6.4 Term of Office. A member shall serve a three-year term, which shall commence on the first day of September following the member's appointment. A member may be reappointed for additional terms but shall not serve more than nine years on the committee.

19.6.5 Authority of Committee. The Infractions Appeals Committee shall:

- (a) Consider appeals from decisions of a hearing panel of the Committee on Infractions;
- (b) Affirm, reverse or vacate and remand the panel's findings, conclusions, penalties, corrective actions, requirements, and/or other conditions and obligations of membership prescribed for violations of the NCAA Constitution or bylaws; and
- (c) Formulate and revise its operating procedures. Committee amendments to the procedures shall be effective immediately and subject to ratification by the Board of Directors. The procedures shall include guidance on the conduct of appeal hearings.

19.7 REVIEW AND INVESTIGATION OF ALLEGED VIOLATIONS

19.7.1 Enforcement Staff to Receive Information and Conduct Investigations. Information regarding an alleged failure to comply with the NCAA Constitution or bylaws or to meet the conditions and obligations of membership shall be provided to the enforcement staff. Upon receipt of such information, the enforcement staff shall determine whether an investigation is warranted or whether the matter may be resolved without a formal investigation. If an investigation is warranted, the enforcement staff shall conduct an investigation on behalf of the entire membership to develop, to the extent reasonably possible, all relevant information. The enforcement staff will usually share information with the institution during an investigation, including information that may assist the institution in stopping an ongoing violation. However, to protect the integrity of the investigation, the staff may not in all instances be able to share information with the institution.

19.7.1.1 Conflict of Interest. Any enforcement staff member who has or had a personal relationship or institutional affiliation that may create the appearance of partiality should refrain from participating in the case.

19.7.2 Public Announcements. The enforcement staff shall not publicly confirm or deny the existence of an infractions case before complete resolution of the case pursuant to this Article. However, if information concerning a case is made public, the institution, enforcement staff and the involved individual may confirm, correct or deny the information made public.

19.7.3 Notice of Inquiry to Institution.

Before the enforcement staff conducts an inquiry on an institution's campus, the enforcement staff shall notify the institution's president or chancellor of the inquiry, either orally or in writing. This notice shall toll the statute of limitations. The institution shall be informed of its obligation to cooperate and of the confidential nature of the inquiry. The institution shall be notified that if the inquiry develops reliable information of a possible Level I or II violation, a notice of allegations will be produced. In the alternative, the institution will be notified that the matter may be processed as a Level III violation or that the matter has been concluded. *(Revised: 10/27/11)*

19.7.4 Representation by Legal Counsel. When an enforcement staff member conducts an interview that may develop information detrimental to the interests of the individual being questioned, he or she may be represented by personal legal counsel.

19.7.5 Interview Notices.

19.7.5.1 Disclosure of Purpose of Interview. When an enforcement staff member requests information that could be detrimental to the interests of the student-athlete or institutional employee being questioned, that individual shall be advised that the purpose of the interview is to determine whether the individual has knowledge of or has been involved directly or indirectly in any violation of the NCAA Constitution and bylaws.

19.7.5.2 Responsibility to Provide Truthful Information. At the beginning of an interview involving the enforcement staff, a current or former student-athlete or a current or former institutional employee shall be advised that refusing to furnish information or providing false or misleading information to the NCAA, conference or institution may result in an allegation that the individual has violated NCAA ethical-conduct bylaws.

19.7.6 Interviews with Member Institution. The athletics director or other appropriate official of an institution shall be contacted by the enforcement staff in order to schedule interviews on the institution's campus with enrolled student-athletes or coaching or other institutional staff members with athletically related responsibilities who are believed to have knowledge of possible violations. Interviews should be conducted without disrupting normally scheduled academic activities whenever reasonably possible.

19.7.6.1 Presence of Institutional Representative During Interview. If an interview with an enrolled student-athlete or athletics department staff member is conducted on the campus of an institution, an institutional representative(s) (as designated by the institution) may be present during the interview, provided the subject matter to be discussed in the interview relates directly to the individual's institution or could affect the individual's eligibility or employment at the institution. If the enforcement staff wishes to discuss information with a student-athlete or staff member that is related solely to institutions other than the one in which the student-athlete is enrolled or the staff member is employed, and would not reasonably affect the student's eligibility or the staff member's employment at that institution, the institutional representative shall not be present during that portion of the interview. In such a situation (after the institutional representative has departed), any information inadvertently reported by the student-

athlete or the staff member that is related to his or her own institution shall not be used against the student-athlete, staff member or that institution.

19.7.7 Use of Court Reporters. Institutional representatives or individuals being interviewed may use a court reporter to transcribe an interview subject to the following conditions. The institution or individual shall:

- (a) Pay the court reporter's fees;
- (b) Provide a copy of the transcript to the enforcement staff at no charge; and
- (c) Agree that the confidentiality standards of Bylaw 19.7.8 apply. An institutional representative or individual who chooses to use a court reporter shall submit a written notice of agreement with the required conditions to the enforcement staff prior to the interview.
- (d) If the enforcement staff chooses to use a court reporter, the NCAA will pay all costs of the reporter. A copy of the transcript prepared by the court reporter for the enforcement staff shall be made available to the institution and the involved individuals through the secure website. (*Adopted: 4/24/03, Revised: 5/22/09*)

19.7.8 Statement of Confidentiality. Individuals and institutional representatives shall be required to agree not to release recordings or interview transcripts to a third party. A statement of confidentiality shall be signed or recorded prior to an interview. Failure to enter into such an agreement would preclude the individual or institutional representative from recording or transcribing the interview. (*Adopted: 4/23/03, Revised: 4/10/06*)

19.7.9 Access to Information. For all cases to be considered by the Committee on Infractions, the enforcement staff shall make available to the institution or involved individuals copies of recorded interviews, interview summaries and/or interview transcripts, and other evidentiary information pertinent to the case. The institution and involved individuals may review such information through a secure website or at the NCAA national office.

19.7.10 Termination of Investigation. The enforcement staff shall terminate the investigation related to any notice of inquiry in which information is developed that does not appear to be of sufficient substance or reliability to warrant a notice of allegations or notice of Level III allegations.

19.7.11 Statute of Limitations. Allegations included in a notice of allegations shall be limited to possible violations occurring not earlier than four years before the date the notice of inquiry is provided to the institution or the date the institution notifies (or, if earlier, should have notified) the enforcement staff of its inquiries into the matter. However, the following shall not be subject to the four-year limitation:

- (a) Allegations involving violations affecting the eligibility of a current student-athlete.

- (b) Allegations in a case in which information is developed to indicate a pattern of willful violations on the part of the institution or individual involved, which began before but continued into the four-year period.
- (c) Allegations that indicate a blatant disregard for the Association's fundamental recruiting, extra-benefit, academic or ethical-conduct bylaws or that involve an effort to conceal the occurrence of the violation. In such cases, the enforcement staff shall have a one-year period after the date information concerning the matter becomes available to the NCAA to investigate and submit to the institution a notice of allegations concerning the matter.

19.8 SUMMARY DISPOSITION PROCESS

19.8.1 Summary Disposition Election. In a case involving Level I or II violations, institutions, involved individuals and the enforcement staff may elect to use the summary disposition procedures specified below. To invoke the summary disposition procedures, the enforcement staff, involved individuals, if participating, and the institution must agree to summary disposition. The institution, an involved individual or the enforcement staff may require, as a condition of agreement, that the parties jointly submit the proposed findings to the chair of the Committee on Infractions or his or her designee for a preliminary assessment of the appropriateness of the use of the summary disposition process. (*Adopted: 1/16/93, Revised: 4/22/98, 6/11/07, 8/12/10, 4/26/12*)

19.8.2 Written Report. The institution, involved individuals and the enforcement staff shall submit a written report setting forth:

- (a) The proposed findings of fact;
- (b) A summary of information on which the findings are based;
- (c) A stipulation that the proposed findings are substantially correct;
- (d) A statement identifying the violation(s) of the NCAA Constitution and bylaws;
- (e) The parties' agreement on the overall level of the case;
- (f) A stipulation by the enforcement staff that the investigation, if conducted by the institution, was complete and thorough and that the institution cooperated fully in the process;
- (g) A statement of unresolved issues; and
- (h) A list of any agreed-upon aggravating and mitigating factors.

19.8.3 Proposed Penalties. The institution and involved individuals shall submit proposed penalties from the guidelines set forth in Bylaw 19.11 and Figure 19-1. The institution and involved individuals also may submit a statement regarding any aggravating or mitigating factors and other considerations that may impact the penalty or penalties.

19.8.4 Committee on Infractions Review. A hearing panel of the Committee on Infractions shall consider the case during a subsequent meeting.

19.8.4.1 Review of Investigation. The panel shall determine whether a thorough investigation of possible violations of the NCAA Constitution or bylaws has been conducted (by the enforcement staff and/or the institution). If the panel determines that the investigation was inadequate, it shall notify the enforcement staff and the parties and allow them to respond as appropriate.

19.8.4.2 Additional Information or Clarification. The panel may contact the institution, enforcement staff and involved individuals for additional information or clarification prior to accepting or rejecting the proposed findings.

19.8.4.3 Approval of Findings and Penalties. If the agreed-upon findings and proposed penalties are approved, the panel shall prepare a report of its decision or adopt the written report of the parties. The panel may make additional comments explaining its analysis or amend the proposed findings, provided any addition or amendment is editorial and does not alter the substance of the findings. The written report may identify the chancellor or president of the institution (in cases involving lack of institutional control); the director of athletics and/or any individual with direct responsibility and oversight of the athletics department (in cases involving lack of control and failure to monitor); the head coach(es) of the sport(s) involved; and, if appropriate, the chair or other members of the institution's governing body. The panel shall forward the report to the enforcement staff and the parties and publicly announce the resolution of the case.

19.8.4.4 Findings Not Approved. If the panel does not approve the findings, the case shall be processed pursuant to Bylaw 19.9.1.

19.8.4.5 Penalties Not Approved. If the panel accepts the agreed-upon findings but proposes penalties in addition to those set forth in the parties' written report, the institution and/or involved individuals may accept those penalties or request an expedited hearing on penalties before the panel. The institution and/or involved individuals may appear before the panel in person, by videoconference or other mode of distance communication as the panel may deem appropriate to discuss the proposed additional penalties. The institution and/or involved individuals also may provide a written submission in lieu of a hearing. The panel shall only consider information relevant to the imposition of penalties during the expedited hearing or, if no hearing is requested, on the written record. At the conclusion of the expedited hearing or review of the written record, the panel shall prepare a written report and provide notification of its decision. The institution and/or any involved individuals may appeal additional penalties to the Infractions Appeals Committee.

19.9 NOTICE OF ALLEGATIONS AND OPPORTUNITY TO RESPOND

19.9.1 Notice of Allegations. If the enforcement staff determines after an investigation that there is sufficient information to conclude that a hearing panel of the Committee on Infractions could conclude that a violation occurred, it shall issue a cover letter and notice of allegations to the chancellor or president of the institution involved (with copies to the faculty athletics representative and the athletics director and to the executive officer of the conference of which the institution is a member). The institution and/or involved individual(s), if applicable, shall be given notice of the alleged violation(s), the details of the allegations, the possible Level of each violation, the available hearing procedures and the opportunity to answer the allegations. The notice of allegations shall also identify the factual information and aggravating and/or mitigating factors on which the enforcement staff may rely in presenting the case.

19.9.1.1 Notice to Institution's Administration. The cover letter accompanying each notice of allegations shall:

- (a) Inform the president or chancellor of the matter under inquiry and request the cooperation of the institution in obtaining all the pertinent facts;
- (b) Request the president or chancellor to respond to the allegations and to provide all relevant information that the institution has or may reasonably obtain, including information uncovered related to new violations. The responsibility to provide information continues until the case has been concluded;
- (c) In cases where there will be an in-person hearing, request the president or chancellor and other institutional staff to appear before a hearing panel of the Committee on Infractions at a time and place determined by the panel;
- (d) In cases where there will be an in-person hearing, inform the president or chancellor that if the institution fails to appear after having been requested to do so, it may not appeal the panel's decision or the resultant penalty; and
- (e) Inform the president or chancellor that the enforcement staff's primary investigator in the case will be available to discuss the development of its response and assist in locating various individuals who have, or may have, important information regarding the allegations.

19.9.1.2 Notice to Involved Individual(s). The enforcement staff shall notify involved individuals of the allegation(s) in a notice of allegations in which they are named. The involved individual shall receive notice of his or her duty to cooperate in the investigation and to appear at a hearing if requested (and the potential consequences for failing to appear). The involved individual shall also be advised that the enforcement staff's primary investigator in the case will be available to discuss the development of the individual's response. If an involved individual is employed at a member institution, a copy of the notification shall also be forwarded to the chancellor or president and the director of athletics of his or her current institution.

19.9.2 Responses by Institutions or Involved Individuals. Any response to the notice of allegations shall be submitted to the hearing panel and the enforcement staff, and pertinent portions to the institution and all involved individuals, not later than 90 days from the date of the notice of allegations unless the chief hearing officer grants an extension. The enforcement staff may establish a deadline for the submission of responses to any reasonable time within the 90-day period, provided the institution and all involved individuals consent to the expedited deadline. Failure to submit a timely response may be viewed by the panel as an admission that the alleged violation(s) occurred. An institution or involved individual may not submit additional documentary evidence without prior authorization from the chief hearing officer.

19.9.3 Submissions by Enforcement Staff. Within 60 days after the institution and involved individual(s), if any, submit written responses to the notice of allegations, the enforcement staff shall submit a written reply to the hearing panel, and pertinent portions to an involved individual or institution. In addition to submitting its reply and after the prehearing conference, the enforcement staff shall prepare a statement of the case setting forth a brief history of the case, a summary of the parties' positions on each allegation and a list of any remaining items of disagreement. Involved individuals will be provided those portions of the statement in which they are named.

19.9.4 Prehearing Conference. Within 60 days after the institution and involved individual(s), if any, submit written responses to the notice of allegations, the enforcement staff shall consult with institutional representatives and other involved individuals in order to clarify the issues to be discussed during the hearing, make suggestions regarding additional investigation or interviews that should be conducted by the institution to supplement its response and identify allegations that the staff intends to amend or withdraw. The enforcement staff shall conduct independent prehearings with the institution and/or any involved individuals, unless mutually agreed by all parties to do otherwise.

19.9.5 Deadline for Submission of Written Material. Except as otherwise ordered by the chief hearing officer, all written material from the parties to be considered by the hearing panel must be received by the hearing panel, enforcement staff, institution and any involved individuals at least 30 days prior to the date the panel considers the case. Information may be submitted at the hearing subject to the limitations set forth in Bylaw 19.9.7.3.

19.9.6 Prehearing Procedural Issues. The chief hearing officer has authority to resolve procedural matters that arise prior to an infractions hearing.

19.9.7 Committee Hearings. The hearing panel assigned to a case shall hold a hearing to make factual findings and to conclude whether violations of the NCAA Constitution or bylaws occurred and, if so, to determine appropriate penalties as set forth in this Article. In cases that involve a small number of contested issues or cases in which the contested issues are relatively uncomplicated, the institution and/or the involved individual may make a written request to appear before the panel by videoconference or other mode of distance communication. The decision regarding the use of videoconferencing (or another mode of communication) rests with the panel. In Level II cases, the hearing will be conducted by telephone or videoconference

unless an in-person hearing is requested by the panel, institution, enforcement staff or involved individual, or unless all participating parties agree to submit the case in writing without a hearing.

19.9.7.1 Allegations of Violations in Multiple Levels. Where violations from multiple levels are identified in the notice of allegations, the case shall be processed pursuant to procedures applicable to the most serious violation(s) alleged.

19.9.7.2 Expedited Hearing. In Level II cases, the institution or involved individual may petition the chief hearing officer for an expedited hearing and an accelerated schedule for written submissions. The petition shall be submitted no later than 30 days after the date of the notice of allegations. The enforcement staff may respond to the petition within five business days. The chief hearing officer may grant or deny such a petition and set a reasonable schedule in his or her discretion.

19.9.7.3 Information Considered at Hearings. At a hearing and subject to procedures of the Committee on Infractions, the parties or their legal counsel may deliver opening and closing statements, present factual information, make arguments, explain the alleged violations and answer questions from panel members. Any oral or documentary information may be received, but the panel may exclude information that it determines to be irrelevant, immaterial or unduly repetitious.

19.9.7.3.1 Information from Confidential Sources. At a hearing, the parties, including the enforcement staff, shall present only information that can be attributed to individuals who are willing to be identified. Information obtained from individuals not wishing to be identified shall not be relied on by the hearing panel in concluding whether a violation occurred. Such confidential sources shall not be identified to the hearing panel, the institution or an involved individual.

19.9.7.3.2 Information Relevant to Possible Penalties. Institutional, conference and enforcement staff representatives and any involved individuals are encouraged to present all relevant information that should be considered in arriving at appropriate penalties.

19.9.7.4 Scope of Inquiry. When an institution and/or involved individual appear before a hearing panel to discuss a response to the notice of allegations, the hearing shall be directed toward the general scope of the notice of allegations but shall not preclude the panel from concluding that any violation occurred based on information developed or discussed during the hearing. In any case, the panel may make specific factual findings based on information presented by the parties or at a hearing even if different from the notice of allegations.

19.9.7.5 Appearance of Individuals at Hearings. Except as otherwise provided herein or as ordered by the chief hearing officer, hearing attendees shall be limited to institutional representatives (Bylaw 19.9.7.5.2), involved individuals, enforcement staff representatives, hearing panel members, representatives from the office of the

Committees on Infractions, representatives from the office of legal affairs, the audio recorder, court reporter and other technical/support staff as permitted by the chief hearing officer. An individual who appears before the panel may appear with personal legal counsel. At his or her discretion, the chief hearing officer may exclude an individual and his/her counsel from those portions of the hearing concerning matters where the individual is not involved.

19.9.7.5.1 Request for Specific Individuals. Institutional officials, current or former staff members, or enrolled student-athletes who are specifically requested to appear before the hearing panel at an institutional hearing are expected to appear in person and may be accompanied by personal legal counsel. Failure to attend may result in a violation of this bylaw.

19.9.7.5.2 Representatives of Institution. Except as otherwise ordered by the chief hearing officer, at the time an institution appears before the hearing panel, its representatives should include the institution's chancellor or president, the head coach of the sport(s) in question, the institution's director of athletics and/or any individual with direct responsibility and oversight of the athletics department, chief NCAA compliance officer, faculty athletics representative, legal counsel (if any), enrolled student-athletes whose eligibility could be affected by information presented at the hearing, and any other representatives whose attendance has been requested by the panel. Additional individuals may be included among the institution's representatives only if specifically approved.

19.9.7.5.3 Representative of Member Conference. A representative of a conference may attend an institutional hearing involving a conference member.

19.9.7.5.4 Prohibited Attendance by Conflicted Committee Members. A member of the Committee on Infractions or the Infractions Appeals Committee who is prohibited under Bylaws 19.5.4 or 19.6.3 from participating in an infractions proceedings may not attend a Committee on Infractions hearing involving his or her institution unless specifically requested by the chief hearing officer.

19.9.7.6 Recording of Proceedings. The proceedings of infractions hearings shall be transcribed by a court reporter (unless otherwise agreed) and shall be recorded by the hearing panel. No additional verbatim recording of the proceedings will be permitted. In the event of an appeal, a transcript of the proceedings shall be reproduced and submitted to the Infractions Appeals Committee and made available for review by the appealing parties through a secure website.

19.9.8 Posthearing Committee Deliberations. After all presentations have been made and the hearing has been concluded, the hearing panel shall excuse the parties and deliberate in private.

19.9.8.1 Request for New Information. In arriving at its decision, the hearing panel may request additional information from any source, including the institution, the enforcement

staff or an involved individual. In the event that new information is requested, all parties will be afforded an opportunity to respond at the time such information is provided.

19.9.8.2 Request for Interpretation. The hearing panel may request that the NCAA academic and membership affairs staff provide an interpretation of applicable bylaws based on facts submitted by the panel. If an interpretation is requested, the institution, involved individuals and the enforcement staff will be notified in writing of the interpretation request and the response. The institution may appeal the interpretation in accordance with Constitution 5.4.1.2. (*Adopted: 4/28/11, Revised: 8/11/11*)

19.9.8.3 Basis of Decision. The hearing panel shall base its decision on information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs.

19.9.8.4 Imposition of Penalty. If the hearing panel concludes that a violation occurred, it shall prescribe an appropriate penalty pursuant to Bylaw 19.11 or recommend to the Board of Directors suspension or termination of membership in an appropriate case. Failure to fully implement the prescribed penalty may subject the institution, and/or an institution employing an involved individual under a show-cause order, to further disciplinary action by the Committee on Infractions.

19.10 NOTIFICATION OF COMMITTEE ON INFRACTIONS DECISION

19.10.1 Infractions Decision. After a hearing, the hearing panel shall prepare and approve the final written infractions decision containing a statement of findings, conclusions, penalties, corrective actions, requirements and (for institutions) any other conditions and obligations of membership.

19.10.1.1 Provision of Decision to the Parties. The decision shall be sent to the chancellor or president of the involved institution (or his or her designee), any involved individuals and the vice president of enforcement.

19.10.1.2 Public Infractions Decision. Once the decision has been provided to the parties, the hearing panel shall release a public infractions decision. The public infractions decision will not include names of individuals, but the panel may, in its discretion, identify the chancellor or president of the institution (in cases involving lack of institutional control); the director of athletics and/or any individual with direct responsibility and oversight of the athletics department (in cases involving lack of control or failure to monitor); the head coach(es) of the sport(s) involved; and, if appropriate, the chair or other members of the institution's governing body.

19.10.1.3 Public Announcement. When the public infractions decision has been released, the panel member designated by the chief hearing officer may make a public announcement related to the infractions case. The institution and/or any involved individuals shall be requested not to comment publicly concerning the case prior to the time the NCAA's public announcement is released.

19.10.1.4 Decision to Infractions Appeals Committee. The hearing panel shall forward a copy of the public infractions decision to the Infractions Appeals Committee at the time of the public announcement.

19.10.2 Reconsideration by the Hearing Panel. When a decision has been publicly announced by the hearing panel, and the appeal opportunity has been exhausted, there shall be no reconsideration of the decision except as follows.

19.10.2.1 New Evidence or Prejudicial Error. A hearing panel may reconsider a decision upon a showing of new evidence that is directly related to the decision or upon a showing that there was prejudicial error in the procedure that was followed in the processing of the case.

19.10.2.1.1 Review Process. Any institution or involved individual that initiates such a review shall submit a brief of its request to a hearing panel of the Committee on Infractions and furnish sufficient copies of the brief for distribution to all members of the panel. The panel shall review the brief and decide by majority vote whether it shall grant a hearing of the reconsideration.

19.10.2.1.2 No Imposition of New Penalty. If reconsideration is granted, the panel may reduce or eliminate a penalty but may not impose any new penalty. The panel's decision with respect to the penalty shall be final and conclusive for all purposes.

19.10.2.2 Penalty Modified or Set-Aside Outside the Association. Should any portion of the penalty in the case be modified or set-aside for any reason other than by appropriate action of the Association, the penalty shall be reconsidered by a hearing panel. In such cases, any extension or adjustment of a penalty shall be prescribed by the panel after notice to the institution and an opportunity to respond. Any such action by the panel may be reviewed by the Infractions Appeals Committee.

19.10.3 Finality of Decisions. Any decision by a hearing panel of the Committee on Infractions that is not appealed or reconsidered pursuant to Bylaw 19.10.2 shall be final, binding and conclusive, and shall not be subject to further review by any governance body.

19.11 PENALTIES

19.11.1 Application. The penalties set forth in this section shall be prescribed for violations committed after October 30, 2012. Penalties prescribed for violations committed before October 30, 2012, shall be the penalties set forth in this section or the penalties that would have been prescribed under the 2011-12 Division I Manual, whichever is less. For violations that commence before October 30, 2012, and continue after October 30, 2012, the hearing panel shall prescribe the penalties set forth in this section unless it determines that the conduct constituting a violation predominately occurred before October 30, 2012.

19.11.2 Factors Affecting Penalties. The hearing panel shall determine whether any factors are present in a case that may affect penalties. The panel shall weigh any factors and determine if a

case should be subject to standard penalties or if the case should be classified with aggravation or mitigation, and therefore subject to a higher or lower range of penalties. Absent extenuating circumstances, core penalties corresponding to the classification shall be prescribed as set forth in Figure 19-1.

19.11.2.1 Aggravation. A case where aggravating factors outweigh mitigating factors. Cases should not be classified as aggravated solely because the number of aggravating factors is larger than the number of mitigating factors. An egregious aggravating factor may outweigh multiple mitigating factors.

19.11.2.2 Standard. A case where no mitigating or aggravating factors are present or where aggravating and mitigating factors are generally of equal weight.

19.11.2.3 Mitigation. A case where mitigating factors outweigh aggravating factors. Cases should not be classified as mitigated solely because the number of mitigating factors is larger than the number of aggravating factors.

19.11.3 Aggravating Factors. Aggravating factors are circumstances that warrant a higher range of penalties in a particular case. A hearing panel of the Committee on Infractions determines whether aggravating factors are present in a case and the weight assigned to each factor. Examples of aggravating factors include but are not limited to the following:

- (a) Multiple Level I violations by the institution or involved individual;
- (b) A history of Level I, Level II or major violations by the institution, sport program(s) or involved individual. Additional considerations include:
 - (1) The amount of time between the occurrences of violations;
 - (2) The similarity, severity and types of violations involved;
 - (3) Efforts to implement previously-prescribed corrective measures; and
 - (4) Other factors the committee deems relevant to the infractions history.
- (c) Lack of institutional control;
- (d) Obstructing an investigation or attempting to conceal the violation;
- (e) Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information;
- (f) Violations were premeditated, deliberate or committed after substantial planning;
- (g) Multiple Level II violations by the institution or involved individual;
- (h) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct;
- (i) One or more violations caused significant ineligibility or other substantial harm to a student-athlete or prospective student-athlete;

- (j) Conduct or circumstances demonstrating an abuse of a position of trust;
- (k) A pattern of noncompliance within the sport program(s) involved;
- (l) Conduct intended to generate pecuniary gain for the institution or involved individual;
- (m) Intentional, willful or blatant disregard for the NCAA Constitution or bylaws; or
- (n) Other facts warranting a higher penalty range.

19.11.4 Mitigating Factors. Mitigating factors are circumstances that warrant a lower range of penalties in a particular case. A hearing panel of the Committee on Infractions determines whether mitigating factors are present in a case and the weight assigned to each factor. Examples of mitigating factors include but are not limited to the following:

- (a) Prompt self-detection and self-disclosure of the violation(s);
- (b) Prompt acknowledgement of the violation, acceptance of responsibility and (for an institution) imposition of meaningful corrective measures and/or penalties;
- (c) Affirmative steps to expedite final resolution of the matter;
- (d) An established history of self-reporting Level III or secondary violations;
- (e) Implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches control standards;
- (f) Exemplary cooperation such as:
 - (1) Identifying individuals (to be interviewed by the enforcement staff), documents and other information of which the enforcement staff was not aware;
 - (2) Expending substantial institutional resources to expedite a thorough and fair collection and disclosure of information; or
 - (3) Recognizing and bringing to the attention of the enforcement staff, in a timely manner, additional violations discovered in the investigation of which the enforcement staff was not aware.
- (g) The violations were unintentional, limited in scope and represent a deviation from otherwise compliant practices by the institution or involved individual; or
- (h) Other facts warranting a lower penalty range.

19.11.5 Core Penalties for Level I and II Violations. Upon concluding that an institution or involved individual committed one or more Level I or II violations, and after determining the appropriate classification based on aggravating and mitigating factors, the hearing panel shall prescribe core penalties from the ranges set forth in Figure 19-1 and described below. The panel may depart from the core penalties only as set forth in Bylaw 19.11.6.

19.11.5.1 Competition Penalties. Competition limitations on the institution's participation in postseason play in the involved sport(s).

19.11.5.2 Financial Penalties. Financial penalties may include requirements that an institution pay a fine, return revenue received from a specific athletic event or series of events, or face reduction in or elimination of monetary distribution by the Association.

19.11.5.3 Scholarship Reductions. Scholarship limits on the number of financial aid awards that may be provided during a specified period.

19.11.5.4 Show-Cause Orders. Upon a determination by a hearing panel that an institution has not taken appropriate disciplinary or corrective action regarding an individual found in violation of the NCAA Constitution or bylaws, the panel may issue an order that the institution take additional disciplinary or corrective action including but not limited to restriction of some or all athletically related duties as set forth in Figure 19-1 unless the institution appears before the panel to show cause why the additional penalties should not be applied. Decisions regarding disciplinary or corrective actions involving personnel shall be made by the institution, but the determination of whether the action satisfies the institution's obligation of NCAA membership shall be solely that of the Committee on Infractions.

19.11.5.5 Head Coach Restrictions. Upon a determination by the hearing panel that an employing institution has not taken appropriate disciplinary or corrective action regarding a head coach found in violation of Bylaw 11.1.2.1, the panel may issue an order that the institution suspend the coach for a number of contests from the range set forth in Figure 19-1 that would apply to the underlying violation(s) unless the institution appears before the panel to show cause why the suspension should not be applied. Decisions regarding disciplinary or corrective actions involving personnel shall be made by the institution, but the determination of whether the action satisfies the institution's obligation of NCAA membership shall be solely that of the Committee on Infractions.

19.11.5.6 Recruiting Restrictions. Recruiting restrictions may include limitations for varying lengths of time on official visits; unofficial visits (the number of scheduled unofficial visits, provision of complimentary tickets and local transportation); recruiting communications (telephone and written correspondence); and off-campus recruiting activities.

19.11.5.7. Probation. The hearing panel may prescribe probationary conditions designed on a case-by-case basis to remediate weaknesses detected in the institution's administration of its athletics programs. Prior to expiration of the probation period, the office of the Committees on Infractions will review the athletics policies and practices of the institution before the institution is restored to full rights and privileges of membership in the Association. If an institution fails to satisfy all probationary conditions, the committee may extend the probationary period and/or prescribe additional penalties. Conditions of probation may include but are not limited to the following:

- (a) Submission of compliance reports during the period of probation;
- (b) Acknowledgement in alumni publications, media guides and recruiting materials identifying the violations committed, the terms of probation, and penalties prescribed;
- (c) Written confirmation to the committee that the institution's president or chancellor met with student-athletes, athletics department staff and other relevant parties to personally affirm his or her commitment to NCAA rules compliance, shared responsibility and preserving the integrity of intercollegiate athletics;
- (d) Requiring an institution to announce during broadcast contests, on its website and in institutional publications that it is on probation and the reasons why the probation was prescribed;
- (e) In cases where an institution is found to lack institutional control and serious remediation is necessary, in-person reviews of the institution's athletics policies and practices by the office of the Committees on Infractions or, in limited circumstances, where appropriate, committee member(s) or a third party;
- (f) Implementation of educational or deterrent programs; or
- (g) Audits for specific programs or teams.

19.11.6 Departures from Level I and II Core Penalties. Upon a finding of extenuating circumstances, the hearing panel may depart from the core penalties in Figure 19-1, provided the panel explains in its decision the basis for its prescription of penalties different than those set forth in Figure 19-1.

19.11.7 Additional Penalties for Level I and II Violations. In addition to the core penalties for Level I and II violations, the panel may prescribe one or more of the following penalties:

- (a) Prohibition against specified competition in the sport;
- (b) Prohibition of all coaching staff members in the sport from involvement directly or indirectly in any coaching activities at the institution during that period;
- (c) The elimination of all initial grants-in-aid and all recruiting activities in the sport involved for a prescribed period;
- (d) Prohibition against institutional staff members serving on the Board of Directors, Leadership Council, Legislative Council, or other cabinets or committees of the Association for a prescribed period (or requirement that any institutional staff members serving in leadership positions on any NCAA council, cabinet or committee resign their leadership positions);

- (e) Requirement that the institution relinquish its voting privilege in the Association for a prescribed period;
- (f) Recommendation that the institution's membership in the Association be suspended or terminated under Bylaw 3.2.5;
- (g) Public reprimand and censure;
- (h) Vacation of records in contests where a student-athlete competed while ineligible, including one or more of the following:
 - (1) Vacation of individual records and performances;
 - (2) Vacation of team records and performances, including wins from the career record of the head coach in the involved sport, or, in applicable cases, reconfiguration of team point totals; or
 - (3) Return of individual or team awards to the Association.
- (i) Prohibition against television appearances of the institution in the sport in which the violation occurred. The penalty shall specify that the institution may not enter into any contracts or agreements for such appearances until the institution has been restored to full privileges of membership. The Board of Directors is authorized to permit a closed-circuit telecast, limited to the campus of the opponent of the ineligible institution, provided no rights fee is to be paid to the ineligible institution;
- (j) Pursuant to a show-cause order, disassociation of relations with a representative of an institution's athletics interests including:
 - (1) Not accepting any assistance from the individual that would aid in the recruitment of prospective student-athletes or the support of enrolled student-athletes;
 - (2) Not accepting financial assistance for the institution's athletics program from the individual;
 - (3) Ensuring that no athletics benefit or privilege be provided to the individual that is not generally available to the public at large; and
 - (4) Taking such other actions against the individual that the institution determines to be within its authority to eliminate the involvement of the individual in the institution's athletics program.
- (k) Publicizing institutions on probation on the NCAA website, in appropriate NCAA publications and in NCAA championship game programs of the involved sport(s);
- (l) Institutionally imposed suspension of a staff member from some or all athletically related duties for a specified period, pursuant to a show-cause order, where he or she engaged in or condoned a Level I or II violation; or

- (m) Other penalties as appropriate.

19.11.8 Penalties for Level III and IV Violations. Penalties for Level III and IV violations may include, but are not limited to, the following:

- (a) Termination of the recruitment of a prospective student-athlete by the institution or, if the prospective student-athlete enrolls (or has enrolled) in the institution, direction that the institution take appropriate action regarding his or her eligibility pursuant to Bylaw 14.11 and/or not allow the student-athlete to participate in intercollegiate athletics unless and until his or her eligibility is restored by the Student-Athlete Reinstatement Committee;
- (b) Forfeiture/vacation of contests in which an ineligible student-athlete participated;
- (c) Prohibition of the head coach or other staff members in the involved sport from participating in any off-campus recruiting activities for up to one year;
- (d) An institutional fine for each violation, with the monetary penalty ranging in total from \$500 to \$5,000, except when an ineligible student-athlete participates in an NCAA championship or other postseason competition, in which case the \$5,000 limit shall not apply;
- (e) Reduction in the number of financial aid awards that may be awarded during a specified period in the sport involved to the maximum extent of 20 percent of the maximum number of awards normally permissible in that sport;
- (f) Institutional recertification that its current athletics policies and practices conform to all requirements of the NCAA Constitution and bylaws;
- (g) Institutionally imposed suspension of the head coach or other staff members for one or more competitions;
- (h) Public reprimand; and
- (i) Requirement that a member institution that has been found in violation, or that has an athletics department staff member who has been found in violation of the NCAA Constitution or bylaws while representing another institution, show cause why a penalty or an additional penalty should not be imposed if it does not take appropriate disciplinary or corrective action against the athletics department personnel involved, any other institutional employee if the circumstances warrant or representatives of the institution's athletics interests.

19.11.9 Show-Cause Penalties. In the event a hearing panel of the Committee on Infractions imposes additional penalties upon an institution for Level I or II violations pursuant to Bylaw 19.11.5.4, the institution shall be provided the opportunity to appear before the panel. Further, the institution shall be provided the opportunity to appeal any additional penalty imposed by the panel.

19.11.10 Notification to Regional Accrediting Agency. In cases where the hearing panel has found academic violations or questionable academic conduct, the president may forward a copy of the public infractions decision to the appropriate regional accrediting agency.

19.11.11 Recommendation to Committee on Athletics Certification. The hearing panel may recommend to the Committee on Athletics Certification that an institution's certification status be reviewed as a result of the institution's completed infractions case.

19.11.12 Obligation of Institution to Take Appropriate Action. When a violation has been found that affects the eligibility of one or more student-athletes, the institution involved and its conference(s), if any, shall be notified of the violation and the name(s) of the student-athlete(s) involved. If the institution fails to take appropriate action by declaring the student-athlete ineligible, the involved institution shall be required to show cause to the Committee on Infractions why additional penalties should not be prescribed for a failure to abide by the conditions and obligations of membership if it permits the student-athlete(s) to compete in intercollegiate athletics.

19.12 APPEAL OF DECISIONS

19.12.1 Basis for Granting an Appeal.

19.12.1.1 Penalties. A penalty prescribed by the hearing panel, including determinations regarding the existence and weighing of any aggravating or mitigating factors, shall not be set aside on appeal except on a showing by the appealing party that the panel abused its discretion. The Infractions Appeal Committee may affirm a penalty for any reason in the record.

19.12.1.2 Findings and Conclusions. A hearing panel's factual findings and its conclusion that one or more violations occurred shall not be set aside on appeal except on a showing by the appealing party that:

- (a) A factual finding is clearly contrary to the evidence presented to the panel;
- (b) The facts found by the panel do not constitute a violation of the NCAA Constitution or bylaws; or
- (c) There was a procedural error and but for the error, the panel would not have made the finding or conclusion.

19.12.2 Appeal by Institution or Involved Individual. Institutions participating in the proceedings of a hearing panel may appeal the panel's findings, conclusions, penalties, corrective actions, requirements and/or other conditions and obligations of membership prescribed for violations of the NCAA Constitution or bylaws. An involved individual participating in the proceedings of the panel and who the panel concluded committed a violation may appeal the panel's conclusion with regard to that individual or a show-cause order prescribed for violations in which he or she is named. The notice of intent to appeal must be presented in writing to the

Infractions Appeals Committee not later than 15 calendar days after the date the hearing panel releases the public infractions decision.

19.12.2.1 Contents of Notice of Intent to Appeal. The notice of intent to appeal shall include the following:

- (a) The date on which the decision of the hearing panel was released to the public;
- (b) A statement indicating whether the appealing party desires to submit its appeal in writing only or requests an in-person oral argument. An appealing party may not request an in-person oral argument unless that party made an appearance before the hearing panel; and
- (c) If the appealing party is an involved individual, a statement indicating whether he or she is employed at an NCAA institution. If the involved individual's employment status changes during the course of the appeal, the statement shall be amended promptly to reflect the change and the identity of the new employer.

19.12.2.2 Stay of Penalties. Upon the timely filing of a notice of intent to appeal and unless ordered otherwise by the Infractions Appeals Committee, any penalties prescribed by a hearing panel of the Committee on Infractions shall be stayed during the pendency of the appeal.

19.12.3 Written Materials on Appeal. Appealing parties may submit materials as set forth below, subject to procedures promulgated by the Infractions Appeals Committee or as otherwise directed by the committee. A deadline for the submission of a document shall be met if the document is submitted electronically to the NCAA staff liaisons to the Infractions Appeals Committee by 5 p.m. Eastern time on the due date. At the earliest opportunity after a document is submitted electronically, the submitting party shall provide a hard copy of the document directly to all members of the committee.

19.12.3.1 Initial Submission by Institution or Involved Individual. Within 30 days after receipt of the Infractions Appeals Committee's acknowledgement of a timely notice of intent to appeal, an appealing institution or individual shall provide its initial submission in support of its appeal to the Infractions Appeals Committee.

19.12.3.2 Response by Committee Appeals Advocate. Within 30 days after receipt of an initial submission by an institution or involved individual, the committee appeals advocate shall submit a response to the Infractions Appeals Committee. The response shall include the following:

- (a) A statement of the origin of the case;
- (b) The violations of the NCAA Constitution and bylaws, as determined by the hearing panel;

- (c) Disciplinary or corrective actions taken by the institution or conference or any other agency involved in the particular incident;
- (d) A statement of the prescribed penalties, corrective actions, requirements and other conditions and obligations of membership;
- (e) The issues raised in the appeal;
- (f) The response(s) to the issues raised by the appealing parties; and
- (g) A transcript of any hearing conducted by the Committee on Infractions.

19.12.3.3 Rebuttal by Institution or Involved Individual. Within 14 days after receipt of the committee appeal advocate's response, an institution or involved individual may submit a rebuttal to the Infractions Appeals Committee. The rebuttal may only address issues contained in the initial submission or the committee appeals advocate's response.

19.12.3.4 Enforcement Staff Statement. Within 10 days after the deadline for submission of all rebuttals, the enforcement staff may provide a written statement to the Infractions Appeals Committee regarding perceived new information, errors, misstatements and omissions relating to the initial submission(s), the committee appeals advocate's response and/or rebuttal documents.

19.12.4 Information Considered on Appeal. The Infractions Appeals Committee shall consider only the information contained in the record of proceedings before the Committee on Infractions, the record on appeal and argument presented during the appeal hearing, if any.

19.12.5 Appeal Arguments. Where one or more of the appealing parties request oral argument, oral argument may be conducted as set forth below, subject to procedures promulgated by the Infractions Appeals Committee or as otherwise directed by the committee.

- (a) Only those individuals identified in Bylaw 19.9.7.5 may attend the appeal hearing;
- (b) The parties may be represented by legal counsel and shall be permitted a reasonable time to make oral presentation to supplement the written appeal;
- (c) The Infractions Appeals Committee may question representatives of the institution, the Committee on Infractions or enforcement staff, as well as any other persons appearing before it, in order to determine the issues related to the appeal;
- (d) Representatives from the enforcement staff may participate during the oral argument but such participation shall be limited to the opportunity to provide information regarding perceived new information, errors, misstatements and omissions;
- (e) If an institution or involved individual appeared before the Committee on Infractions but waived the right to appeal, the institution or involved individual

may elect to be present in person and/or by counsel as a silent observer during the oral argument;

- (f) If oral argument is permitted for an involved individual, the individual and personal legal counsel may appear before the appeals committee at the time it considers the pertinent decisions; and
- (g) If the institution or involved individual elects to appeal in writing only, the committee appeals advocate's written response specific to that written appeal shall be considered without any in-person appearance.

19.12.6 Decision of the Infractions Appeals Committee. After considering the appeal and deliberating privately, the Infractions Appeals Committee shall prepare a written decision and provide a copy to any appealing party (including the president or chancellor of an institution currently employing an involved individual), the committee chair, the committee appeals advocate and the vice president of enforcement. Once the decision has been provided to the parties, the committee shall release a public appeal decision. The public appeal decision will not include names of individuals, but the committee may, in its discretion, identify the chancellor or president of the institution (in cases involving lack of institutional control); the director of athletics and/or any individual with direct responsibility and oversight of the athletics department (in cases involving lack of control or failure to monitor); the head coach(es) of the sport(s) involved; and, if appropriate, the chair or other members of the institution's governing body.

19.12.7 Final Decision not Subject to Further Review. Any decision of the Infractions Appeals Committee shall be final, binding and conclusive, and shall not be subject to further review by any governance body.

19.13 NOTICE OF ALLEGATIONS, OPPORTUNITY TO RESPOND AND PENALTIES (LEVEL III CASES)

19.13.1 General Process for Alleged Violations. A Level III case is a case presenting Level III or IV violations that do not collectively constitute a Level II violation. An institution or involved individual subject to a show-cause order in a Level III case may be represented by legal counsel and shall be provided the following:

- (a) Notice of any specific allegations and the facts upon which such allegations are based; and
- (b) An opportunity to provide a written response to the vice president of enforcement, or designee, to answer such allegations by the production of evidence and to appeal to a hearing panel of the Committee on Infractions.

19.13.2 Determination by Enforcement Staff. After reviewing relevant information and consulting with the institution or involved individual, the enforcement staff shall conclude whether one or more Level III violations occurred. If the enforcement staff concludes that the alleged violation(s) should not be processed as a Level III case, it may process the case as Level

I or II as appropriate, refer the case to the institution's conference for resolution as a Level IV case, or determine that no further action is required.

19.13.3 Authority to Prescribe Penalties. As authorized by the Committee on Infractions, upon a conclusion that one or more Level III violations occurred, the vice president of enforcement, or his or her designee, may determine whether a penalty is warranted and, if so, prescribe an appropriate penalty pursuant to Bylaw 19.11.8. Failure to fully implement the penalty may subject the institution to further disciplinary action by the NCAA.

19.13.4 Appeal to Committee on Infractions. If an institution or involved individual subject to a show-cause order disputes an action by the enforcement staff regarding a Level III violation, the institution or involved individual may appeal by submitting a written notice of appeal to the Committee on Infractions within 30 days after receipt of the enforcement staff's decision. An institution that self-reported the violation may appeal a penalty prescribed by the enforcement staff, but not the violation. An institution or involved individual subject to a show-cause order may request the opportunity to appear in person or by video or telephone conference. If no such request is made, or if the request is denied, a hearing panel of the committee will review the appeal on the basis of the written record. The panel shall not deny an involved individual's request to appear in person if a show-cause order was prescribed.

19.13.4.1 Stay of Penalties. Upon the timely filing of a notice of appeal and unless ordered otherwise by a hearing panel of the Committee on Infractions, any penalties prescribed by the enforcement staff shall be stayed during the pendency of the appeal.

19.14 NOTICE OF ALLEGATIONS, OPPORTUNITY TO RESPOND AND PENALTIES (LEVEL IV CASES)

19.14.1 Conference Policies. Member conferences shall establish, publish and adhere to policies for the investigation and resolution of alleged Level IV infractions. Such policies shall afford institutions notice of alleged infractions and an opportunity to respond.

19.14.2 Determination by Conference. Cases involving only Level IV infractions shall be processed by the institution's athletics conference. The conference shall work with the institution to determine whether compliance deficiencies need to be addressed and, if so, the appropriate penalties to be imposed, if any. In cases involving multiple or repeated Level IV infractions, the conference may consult with the NCAA enforcement staff to conclude whether the allegations should be treated as Level III violations. Any infractions processed and penalties imposed by the conference shall be kept on file for review by the NCAA enforcement staff. Failure to fully implement the penalties may subject the institution to disciplinary action by the NCAA.

19.14.2.1 Institutions without Conference Affiliation or with Multiple Affiliations. Cases involving only Level IV infractions at institutions that are not affiliated with an athletics conference shall be processed by the NCAA enforcement staff. If an institution is affiliated with more than one conference, the infraction shall be processed by the conference governing the sport in which the infraction occurred.

19.14.2.2 Review of Level Determination. The vice president of enforcement or his or her designee may determine that an infraction processed by a conference as a Level IV infraction should have been processed at a different level. Subject to any applicable statute of limitations, the enforcement staff shall notify the conference and involved institution that the case was not processed correctly, that the enforcement staff intends to resolve the case pursuant to this Article and that the NCAA may take appropriate action.

19.15 RESTITUTION

If a student-athlete who is ineligible under the terms of the Constitution, bylaws or other legislation of the Association is permitted to participate in intercollegiate competition contrary to such NCAA legislation but in accordance with the terms of a court restraining order or injunction operative against the institution attended by such student-athlete or against the Association, or both, and said injunction is voluntarily vacated, stayed or reversed or it is finally determined by the courts that injunctive relief is not or was not justified, the Board of Directors may take any one or more of the following actions against such institution in the interest of restitution and fairness to competing institutions:

- (a) Require that individual records and performances achieved during participation by such ineligible student-athlete shall be vacated or stricken;
- (b) Require that team records and performances achieved during participation by such ineligible student-athlete shall be vacated or stricken;
- (c) Require that team victories achieved during participation by such ineligible student-athlete shall be abrogated and the games or events forfeited to the opposing institutions;
- (d) Require that individual awards earned during participation by such ineligible student-athlete shall be returned to the Association, the sponsor or the competing institution supplying same;
- (e) Require that team awards earned during participation by such ineligible student-athlete shall be returned to the Association, the sponsor or the competing institution supplying same;
- (f) Determine that the institution is ineligible for one or more NCAA championships in the sports and in the seasons in which such ineligible student-athlete participated;
- (g) Determine that the institution is ineligible for invitational and postseason meets and tournaments in the sports and in the seasons in which such ineligible student-athlete participated;
- (h) Require that the institution shall remit to the NCAA the institution's share of television receipts (other than the portion shared with other conference members) for appearing on any live television series or program if such ineligible student-

athlete participates in the contest(s) selected for such telecast, or if the Board of Directors concludes that the institution would not have been selected for such telecast but for the participation of such ineligible student-athlete during the season of the telecast; any such funds thus remitted shall be devoted to the NCAA postgraduate scholarship program; and

- (i) Require that the institution that has been represented in an NCAA championship by such a student-athlete shall be assessed a financial penalty as determined by the Committee on Infractions.