

## **10. RESOLUTIONS OF DISPUTES, ARBITRATION AND SUSPENSIONS**

### ***A. Resolution of Disputes, Exclusive Remedy***

#### **(1) Scope of Procedure**

For all claims, demands, or disputes having any impact on ice hockey or between, by or among Members of USA Hockey which fall within the jurisdiction of this Bylaw (collectively, "Disputes"), the procedures established in this Bylaw shall constitute the sole and exclusive remedy for dispute resolution. For the disciplinary procedures applicable to inline hockey, see the USA Hockey InLine Rules and Regulations.

#### **(2) Purpose**

It is the specific purpose of this Bylaw 10 to provide for a uniform method of resolving all Disputes and to utilize the specific skills, expertise and background of people experienced in hockey and sports administration matters. The procedures contained in this Bylaw 10 are sometimes referred to collectively as the "Dispute Resolution Procedure." It is the further purpose of this Bylaw 10 to provide an administrative procedure that is a full and complete substitute for any court proceedings.

#### **(3) Protected Competition Defined**

As used herein, the term "Protected Competition" shall have the meaning ascribed to it in Article I, Section 2 of the USOC Constitution. Without limiting the foregoing, such term shall include (i) competition by Registered Team Members or Allied Members in the following international ice hockey competitions: the Olympic Games, Pan American Games, Operation Gold, World Championships, or international championships recognized by the International Ice Hockey Federation ("IIHF"), the Paralympic Games, or an International Paralympic Committee-recognized World Championship in events on the Paralympic Games program, and (ii) any domestic amateur hockey competition or event organized and conducted by USA Hockey in its selection proceedings and publicly announced in advance as a competition or event directly qualifying each successful competitor therein as an athlete representing the United States in a competition listed under the preceding clause (i). For purposes of the foregoing definition of Protected Competition, actual tryouts for the team which will participate in competition set forth in (i) shall be included.

#### **(4) Domestic Competition Defined**

As used herein, the term "Domestic Competition" shall mean any ice hockey competition other than Protected Competition.

#### **(5) Submission to Dispute Resolution Procedure**

Each Registered Team Member, Allied Member, and other person within the jurisdiction of USA Hockey (including, but not limited to each parent, guardian, agent or other person, and each Affiliate Association, league, club, sponsor, facility or other group or organization) agrees to abide by this Dispute Resolution Procedure by virtue of membership, affiliation or participation at any time in USA Hockey or a sanctioned USA Hockey game or program. All inline hockey members agree to abide by the Dispute Resolution Procedure

provided in the USA Hockey InLine Rules and Regulations.

#### **(6) Failure to Follow Process**

In addition to any other sanctions applicable hereunder, the failure to follow and abide by the Dispute Resolution Procedure

(a) shall make a Member, and any person or entity representing, participating with or aiding such Member, liable for any and all expenses and costs, direct and indirect, and including reasonable court costs and attorney fees and the value of volunteer time, incurred by USA Hockey, its Affiliate Associations, directors, officers, or agents; and

(b) In USA Hockey's and/or the Affiliate Association's discretion, such person may be immediately suspended and/or disqualified from membership and forfeiture of the right to participate in USA Hockey or any of its sanctioned events or any of its Affiliate Associations.

### ***B. Suspensions Generally/Domestic Competition [When Hearing is Required]***

#### **(1) General**

Except as set forth under paragraph (2) of this Bylaw 10.B, no Registered Team Member, Allied Member, or Affiliate Association and other persons within the jurisdiction of USA Hockey (including, but not limited to each parent, guardian, agent or other person, and each, league, club, sponsor, facility or other group or organization) engaged in Domestic Competition or participation at any time in USA Hockey or a sanctioned USA Hockey Game or Program, who is alleged to have failed to comply with or who has allegedly violated any of these Bylaws or the Applicable Rules, or to have otherwise engaged in conduct unsuitable for the sport of ice hockey, may be suspended from participation, unless such party shall have received a prior hearing as provided for in Bylaw 10.C (Non-playing Rule violations) or Bylaw 10.D (Playing Rule violations).

#### **(2) Prior Hearing Not Required**

Except as otherwise stated in this paragraph (2), the suspensions listed below shall not require a prior hearing under Bylaws 10.C (Non-Playing Rule violations) or 10.D (Playing Rule Violations) hereof.

#### **(a) Playing Rule Suspension**

USA Hockey playing rules suspensions which are expressly permitted by such playing rules ("Playing Rule Suspension"), shall not require a Bylaw 10.D suspension hearing ("Playing Rule Hearing"); provided, however, that a Playing Rule Suspension shall require a Playing Rule Hearing if the suspension occurs as a result of imposition of a match penalty, and in such event a hearing shall be held in accordance with the requirements of Bylaw 10.D. Any Playing Rule Suspension shall remain in force and be final unless modified or revoked at a hearing.

#### **(b) Officiating Suspensions**

In the case of a suspension of an official:

1. The applicable state association or USA Hockey league or local supervisor of officials shall have the authority to suspend a referee up to ten (10) days, and
2. The state association or Affiliate Association shall have the authority to suspend a referee after a hearing or in accordance with a summary suspension pursuant to the bylaws, rules and regulations of the suspending authority.
3. The boycotting of any game(s) by any official(s) due to any disciplinary action taken in accordance with these Bylaws shall subject said official(s) to additional sanctions as may be invoked by the organization subjected to said boycott after a hearing.
4. If any registered USA Hockey official is restricted or denied assignment eligibility for any USA Hockey game by an officials' organization or group of officials ("Officials' Organization"), except for good cause shown in accordance with the Officials' Organization written rules and then only for a very limited duration without a hearing as provided herein, then said Officials' Organization shall be subject to suspension or expulsion in accordance with the rules and regulations herein and that restriction or denied assignment shall have no effect.

#### **(c) Assault of Game Official**

With respect to suspensions resulting from assaults on game officials from match penalties in violation of Rule 601(g)1 or 601(j)1 (Physical Assault on Game Officials) of USA Hockey's Playing Rules, there shall be immediate suspension from all USA Hockey sanctioned games and practices and a hearing under Bylaw 10.D. (Playing Rule violations) by either the governing state association or Affiliate Association, its designated hearing body, or the Junior Council sanctioned league, which shall exercise original jurisdiction in the matter. If the match penalty is affirmed, the player or team official shall be suspended for not less than one calendar year with one calendar year probation thereafter. Suspensions under this paragraph (c) shall be immediately reported to the applicable Affiliate Association(s), and the appropriate registrar(s). Any game official assessing said penalty shall file with his/her USA Hockey District Referee-in-Chief a written game report within forty-eight (48) hours of the incident. The Referee-in-Chief shall immediately investigate the incident and promptly submit a written opinion, together with the game sheets and reports to the suspending authority, indicating whether the incident is applicable under Rule 601(g)1 or 601(j)1 or is more applicable under a different playing rule. A copy of the Referee-in-Chief's written report and opinion shall be sent by the suspending authority to both the player, team official and game official involved. The Registrar may accept a registration subject to the terms of this suspension.

#### **(d) Summary Suspension**

Summary suspensions may be permitted pursuant to the bylaws,

rules and regulations of the affiliate, only in those cases where a participant has been assaulted, or subject to physical or sexual abuse as described in the policies of USA Hockey, or other violations of USA Hockey policies as set out in the Annual Guide, or the affiliates' comparable policies, that have been reviewed, and approved by USA Hockey, and shall not require a pre-suspension hearing for purposes of this Bylaw 10.B. The suspended party, at the time of notice of the suspension, must be provided written notice of the right to request a hearing. In the event the suspended person requests a hearing from the suspending authority, that hearing shall be held in accordance with Bylaw 10.C. (Non-Playing Rule violations). In order to request a hearing of a summary suspension, the suspended party must request the hearing in writing from the suspending authority within seven (7) days of being notified of the suspension.

#### ***C. Suspension or Disciplinary Hearings/Domestic Competition (Non-Playing Rules)***

This Bylaw 10.C. applies to matters not involving alleged violations of USA Hockey's Playing Rules, and applies with respect to Domestic Competition and all other violations of USA Hockey or Affiliate Bylaws, policies, rules, or regulations which are not governed by Bylaw 10.D. (Playing Rules), 10.E. (Protected Competition), or 10.F. (Doping Hearings).

#### **(1) General**

Any person or organization ("Party") who:

- (a) Has the right to a hearing where the decision may impose a suspension under Bylaw 10.B.; or,
- (b) Desires to contest a suspension or other disciplinary action under Bylaw 10.B., where no hearing was held and the suspended or disciplined Party has requested a hearing in writing by notice to the disciplining authority within seven (7) days of being notified of the suspension or discipline; or
- (c) Desires to contest an administrative action or decision by USA Hockey, an Affiliate Association or a local league, association or program that affects the Party's eligibility to participate (an "Administrative Action") is entitled to a hearing as set forth in this Bylaw 10.C.
- (d) Notwithstanding the foregoing:
  1. in high school or college club hockey where membership and eligibility issues are determined pursuant to rules, regulations and dispute resolution procedures of a national, state or district interscholastic athletic organization, the hearing procedures set forth in this Bylaw 10.C. shall not apply to the extent that such organization's rules, regulations and/or dispute resolution procedures also address the matter, and
  2. the hearing and dispute resolution procedures set forth in this Bylaw 10.C. are not intended to provide hearings, or require a party to pursue a hearing, for the purpose of determining liability or damages for personal injury claims, or dues or fees disputes.

## **(2) Hearing Procedure**

Any hearing convened under this Bylaw 10.C. shall be conducted under the following rules:

### **(a) Hearing Committee**

The disciplinary authority, or for hearings under 10.C.(1)(c), the party taking the Administrative Action, shall appoint a hearing committee, which is recommended to be a minimum of three (3) persons and must be reasonably disinterested and impartial. In the case of the suspension or discipline of a referee or coach, the District or Affiliate Association Referee-in-Chief or Coach-in-Chief, as appropriate, or his/her designee, shall serve on the hearing committee.

### **(b) Hearing Time Frame**

The hearing committee shall offer to hold a hearing and that offer shall be to hold the hearing within thirty (30) days of: (i) receipt of the demand for the hearing, (ii) notification of the completion of an appropriate investigation of the facts giving rise to the proposed suspension or discipline, or (iii) the Administrative Action, but not to generally exceed sixty (60) days from receipt of the demand for the hearing. Any suspension, discipline or Administrative Action pending a hearing shall remain in effect until a decision is rendered.

### **(c) National Team Person as a Party**

If any Party is on a national team of USA Hockey, upon written notice to the disciplinary authority from the national team coach, general manager or team leader that the Party is scheduled for international competition as a representative of the national team within thirty (30) days of the event supporting the suspension or discipline, the disciplinary authority shall notify the Executive Director of USA Hockey and transfer jurisdiction to USA Hockey for the procedures under Bylaw 10.E. (Suspensions–Protected Competition) except that by electing to proceed within USA Hockey's procedures, the Party waives his or her rights under the USOC Constitution Article IX which allows for a direct appeal to the USOC. In either event, the disciplinary authority shall be entitled to all rights of a party proposing suspension or discipline under Bylaw 10.E. herein.

### **(d) Hearing Notice**

The hearing committee shall provide at least seven (7) days written notice of the convening of the hearing to the Party, the person(s) or party(s) proposing suspension, discipline or Administrative Action, and other interested party(s) who shall be included at the discretion of the hearing committee. The Party, and each person or party proposing suspension or discipline, or who has taken the Administrative Action, are sometimes referred to herein as "parties" or "party."

### **(e) Hearing Location**

The hearing shall be convened in a location which is accessible to the Party.

### **(f) Hearing Procedure**

The Party shall be afforded a fair hearing, which shall include, but not necessarily be limited to:

1. Reasonable notice of the grounds for the proposed suspension, discipline or Administrative Action, but any grounds supported by the evidence presented may be considered in reaching a decision;
2. The possible consequences of an adverse finding;
3. The reasonable opportunity to present their case and argument in accordance with the hearing authority's rules;
4. The appeal procedure when a decision is rendered.

### **(g) Conduct of Hearing**

The hearing committee may, in its discretion, hold a formal or informal hearing (which may include a telephonic hearing), hear any evidence it believes is relevant to the issue(s) before it, place limits on time, evidence and documentation, have witnesses or written statements, establish other hearing rules so long as each party is treated in a substantially equal manner. The Rules of Evidence in Judicial Proceedings shall not apply to this hearing.

### **(h) Burden of Proof**

In the case of a suspension or discipline, the burden of proof shall be on the party proposing the suspension or discipline by a preponderance of the evidence. (i.e., more likely true than not true). In the case of an Administrative Action, the burden of proof shall be on the party challenging the Administrative Action to prove that the Administrative Action was made in an arbitrary or capricious manner or was not supported by facts. In a contest of an Administrative Action, only the evidence presented to or considered by the decision makers taking the Administrative Action shall be presented or considered in the hearing to contest that Administrative Action.

### **(i) Decision**

The hearing committee will use reasonable efforts to: (i) render its decision to the parties to the hearing within five (5) business days of the close of the hearing; and, (ii) prepare and deliver a written decision to the parties to the hearing within fifteen (15) business days of the close of the hearing. The written decision shall contain findings of material facts, conclusions and the order of the hearing committee.

### **(j) Written Record**

Any party may request, in writing and prior to the hearing, that a written record of the hearing be made. Upon that request, the hearing committee shall provide for a written record which may consist of a recording, audio or video, of the hearing at the

discretion of the hearing committee. The cost of providing for a court reporter's transcript shall be paid for by the party who desires such a record.

#### **(k) Scope of Suspension**

Except as set forth in these Bylaws, any suspension or discipline invoked after the hearing by a league or local program shall be in effect only for the program governed by the disciplinary authority, subject to the applicable state association or Affiliate Association's authority to review, affirm, extend or modify the action taken. If the disciplinary authority wishes to extend any suspension or discipline it ordered beyond its program, it must notify, as applicable, the state or Affiliate association. If the suspension or discipline is imposed by a state or Affiliate association and the state or Affiliate association wishes to extend the suspension or discipline beyond its jurisdictional, geographical territory, it shall advise the Executive Director of USA Hockey of the suspension or discipline by providing a copy of the written notice of suspension

or discipline and requesting that USA Hockey, its Districts, Affiliates, and Members honor the suspension or discipline imposed. Thereafter, the Executive Director of USA Hockey shall promptly notify each of its Districts and Affiliates of the suspension or discipline which shall honor the suspension or discipline.

#### ***D. Suspension Hearings/Domestic Competition (Playing Rules)***

This Bylaw 10.D. applies to alleged violations of USA Hockey's playing rules, and applies only with respect to Domestic Competition.

#### **(1) Hearing Committee**

The disciplinary authority shall appoint a hearing committee, which is recommended to be a minimum of three (3) persons and reasonably independent and objective.

#### **(2) Hearing Procedure**

The Party shall be afforded the following:

##### **(a) Reasonable Notice of Grounds**

At least seven (7) days notice of the hearing and reasonable notice of the grounds for the proposed hearing, along with a copy of the score sheet and/or referee report, which shall be considered reasonable notice but any grounds supported by the evidence presented may be considered in reaching a decision. The Party, and each person or party proposing suspension, are sometimes referred to herein as "parties" or "party."

##### **(b) Reasonable Opportunity to Hear and Present**

The reasonable opportunity to hear the case against them and present their case and argument in accordance with the suspending authority's rules, but not necessarily the right to cross examine witnesses (which shall only be permitted if so decided by the hearing committee).

#### **(c) See Documents**

The opportunity to see score sheets and the referee's report, if any.

#### **(d) Advised of Appeal Procedure**

The appeal procedure when a decision is rendered.

#### **(3) Conduct of Hearing**

The hearing committee may, in its discretion, hold a formal or informal hearing; hear any evidence it believes is relevant to the issue(s) before it; place limits on time, evidence and documentation; have witnesses or written statements; and establish other hearing rules. The Rules of Evidence in Judicial Proceedings shall not apply to this hearing.

#### **(4) Burden of Proof**

The burden of proof shall be on the party proposing the suspension by a preponderance of the evidence (i.e., more likely true than not true).

#### **(5) Decision**

The hearing committee will use reasonable efforts to render its decision to the parties to the hearing within five (5) business days of the close of the hearing.

#### **(6) Scope of Suspension**

Except as set out in these Bylaws, any suspension invoked after the hearing shall be in effect only for the program governed by the suspending authority subject to the state association or Affiliate Association's authority to review, affirm, extend or modify the action taken. If the suspension is imposed by a state or Affiliate association and the state or Affiliate association wishes to extend the suspension beyond its jurisdictional, geographical territory, it shall advise the Executive Director of USA Hockey of the suspension by providing a copy of the written notice of suspension and requesting that USA Hockey, its Districts, Affiliates, and Members honor the suspension imposed. Thereafter, the Executive Director of USA Hockey shall promptly notify each of its Districts and Affiliates of the suspension which shall honor the suspension.

### ***G. Appeals***

#### **(1) Right to Appeal**

Except as otherwise noted in Bylaw 10.H., any person or entity suspended or otherwise disciplined, or who desires to appeal an Administrative Action (as defined in Bylaw 10.C.), may, after a hearing or a failure to have a hearing in accordance with these Bylaws, appeal an order of suspension, other disciplinary action or Administrative Action or a failure to have a hearing as provided in this Bylaw 10.G., as follows:

##### **(a) Playing Rule Suspension/Bylaw-Rule Suspensions Appeal**

Playing Rule Suspensions or suspensions for violations of bylaw and/or rules of local, league or District organizations, or by a committee of a state association or an Affiliate Association, or for

conduct unsuitable for the sport of ice hockey, shall be appealed, as applicable, to the board of directors of the state association, or, where no state organization exists, to the Affiliate Association's board of directors, or the designated committee of such board of directors (the "Appeal Authority"). Upon the written appeal of any person or entity whose suspension has been upheld by a state or Affiliate Association, the Executive Committee of USA Hockey shall allow an appeal of such suspension to be determined by it pursuant to the provisions of this appeal procedure, provided that the appealing party shall have the burden of production and of proving that the Appeal Authority committed a gross abuse of discretion. The Executive Committee may delegate, or assign to a subcommittee, the duties of determining whether or not an appeal meets jurisdictional requirements of this Bylaw 10.

**(f) Appeals Not Involving Suspensions**

Appeals of Administrative Actions or other disciplinary action that does not involve a suspension, shall be appealed, as applicable, to the board of directors of the state association, or, where no state organization exists, to the Affiliate Association's board of directors, or the designated committee of such board of directors (the "Appeal Authority"). There shall be no further appeals of Administrative Actions or other disciplinary actions not involving a suspension.

**(2) Appeal Procedures**

**(a) Notice of Appeal/Failure to Appeal**

The appealing person, or organization, must notify the disciplinary authority or party taking the Administrative Action, and Appeal Authority of an appeal, in writing, within ten (10) days from receipt of the decision from the hearing body or the date of the failure to have a hearing in accordance with these Bylaw. If the notice of appeal is not received by the appropriate Appeal Authority within the ten (10) day period, the suspension, discipline or Administrative Action shall be final.

**(b) Reasons for Appeal/Notice**

The Appealing Party shall submit, at a minimum, a written statement of why the suspension, discipline or Administrative Action should be overruled or reversed, ("Statement of Appeal") which shall be delivered to the appropriate Appeal Authority within thirty (30) days of the date of the decision appealed from.

The Statement of Appeal shall also include the written record (if it was requested by any party) and decision of the hearing body and any other information as may be requested by the Appeal Authority. A copy of the Statement of Appeal shall be delivered to the appropriate disciplinary authority or party taking the Administrative Action who shall have twenty (20) days from receipt of the Statement of Appeal, to respond to the Statement of Appeal by delivering a written copy of its response to the Appeal Authority and the Appealing Party.

**(c) Suspension or Discipline Remains in Force and Effect**

Any suspension, discipline or Administrative Action shall be in force and effect until it expires or the Appeal Authority modifies it.

**(d) Conduct of Appeal Hearing**

The Appeal Authority may hold a hearing, at its option, or consider the appeal on the written submissions of the parties to the appeal and establish other hearing rules so long as each party is treated substantially equal. Notice of a hearing, if any, shall be given to all parties.

**(e) Evidence/Theories Limited to Original Hearing**

Only the evidence and theories explicitly presented to the disciplinary authority or party taking the Administrative Action for its consideration prior to the rendering of any decision by that body shall be presented or considered in appeal.

**(f) Appeal Decision Timing**

The Appeal Authority must use every reasonable effort to decide the appeal within ten (10) days from the submissions to it, but not to exceed fifteen (15) days. The appeal authority's decision shall be in writing and shall state findings of facts and its conclusions of the reasons for its decision.

**(g) Appeal Authority**

The Appeal Authority may affirm, reverse or modify (including increase or decrease the term of a suspension) any decision as it deems proper under the circumstances before it.

**(3) No Further Appeals**

Except for suspensions of Affiliate Associations and expulsions of any person or organization from USA Hockey, there shall be no further appeals, and all administrative remedies shall be deemed exhausted.