

USA HOCKEY BYLAW 10

PROCEDURE FOR SUSPENSION AND DISCIPLINE OF MEMBERS

This Memorandum provides guidance to those within USA Hockey that have the occasion to impose suspensions or other discipline. **The provisions by which discipline may be imposed against any USA Hockey Member are set forth in Bylaw 10 of the USA Hockey Annual Guide. The information in this memorandum is not new and does not change the existing Bylaw provisions, but merely clarifies and reiterates their application. When in doubt, you should refer to the provisions of Bylaw 10. USA Hockey, and any Affiliate, local league or organization, Council, Committee or Section must follow Bylaw 10 in imposing discipline.** Bylaw 10 may be amended only through the Bylaws amendment procedure, not through amendment to Rules or Policies. Courts will generally not interfere in disciplinary proceedings when USA Hockey has followed the provisions of its Bylaws. However, when a party is suspended without being afforded the rights accorded to them in the Bylaws, courts may intervene and overturn the suspension for failure to follow the Bylaws. Attached to this memorandum are certain sample documents that may be useful for preparing notices to parties that are or may be disciplined.

MAIN PRINCIPLES OF USA HOCKEY DISCIPLINARY PROCEDURES

A. HEARINGS.

- In nearly all cases a suspension should not be imposed until *after* a party has been afforded a right to a hearing pursuant to Bylaw 10.C.
- Hearings under Bylaw 10.C. have certain requirements:
 - Hearing Committee: The hearing committee must be at least 3 reasonably disinterested and impartial persons;
 - Offer of Hearing: The hearing committee must offer to hold a hearing within 30 days of (i) the demand for a hearing or (ii) notification of completion of an appropriate investigation into the facts giving rise to the suspension (but should not be longer than 60 days after receipt of demand for a hearing);
 - Notice of Hearing: The hearing committee must provide at least 7 days notice of the hearing;
 - Suspension Remains in Effect: Any existing suspension remains in effect until the decision of the hearing committee is rendered;
 - Location: The hearing must be in a location that is accessible to the suspended party and the parties proposing the suspension;
 - Hearing Requirements: A fair hearing is required, including:
 - Reasonable notice of the grounds for the proposed suspension, but any grounds supported by the evidence presented may be considered in reaching a decision;
 - Notice of the possible consequences of an adverse finding;
 - A reasonable opportunity to present their case and argument;
 - The ability to have counsel present (provided that, the hearing committee may set the rules for such participation); and
 - The appeal procedure when a decision is rendered;

- Hearing Rules: The hearing committee may decide the level of formality for the hearing, may hear any evidence it believes is relevant, may place limits on time, evidence and documentation, may have witnesses and/or written statements and may establish other hearing rules so long as each party is treated substantially equal.
- Burden of Proof: The party proposing the suspension must establish the facts and the violation of rules or bylaws by a preponderance of evidence (*i.e.*, more likely true than not true).
- Decision Deadlines: The hearing committee must use reasonable efforts to render a decision within 5 business days of the hearing, and prepare and deliver a written decision within 15 business days of the hearing.
- Decision Contents: The written decision must contain (i) findings of material facts (*i.e.*, the committee finds that the following occurred), (ii) conclusions (*i.e.*, based upon the facts above, the committee concludes that the person violated Bylaw **), and (iii) the order of the committee (based upon the conclusions above, the committee hereby orders the following suspension . . .).
- Scope of Suspension: Any suspension imposed is only valid with respect to the jurisdiction of the suspending authority (*e.g.*, a local program may only suspend within its program and an affiliate may only suspend a party from participation within their affiliate) provided that a local association may request that the affiliate honor the suspension throughout the affiliate, and an affiliate may request that USA Hockey honor the suspension throughout USA Hockey's jurisdiction.

B. SUSPENSIONS PRIOR TO A HEARING.

- There are *very few situations* that allow USA Hockey, or any Affiliate, local league or organization, Council, Committee or Section, to suspend a Member without providing a hearing *prior* to the suspension.
- The *limited circumstances* where a suspension may be imposed prior to a hearing are:
 - Playing Rules Suspensions (suspensions where a playing rule expressly permits the suspension – if the suspension is a result of a Match Penalty, a playing rule hearing is required pursuant to Bylaw 10.D);
 - Officiating Suspensions (a state association or USA Hockey league or local supervisor may suspend a referee for up to 10 days, and a state association or Affiliate may suspend a referee pursuant to the summary suspension procedures below);
 - Assault of a Game Official (an immediate suspension occurs if a match penalty is assessed under Rule 601(g)1 or 601(j)1, with a playing rule hearing under Bylaw 10.D); and
 - Summary Suspensions (are permitted “. . . 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 . . .”).
 - Although the language allowing Summary Suspensions for “violations of USA Hockey policies as set out in the Annual Guide, or the affiliates' comparable policies”, may be interpreted broadly, it is intended that situations calling for suspension prior to a hearing are the exception rather than the rule and hence they should not be overused.

- An Affiliate or local league or organization may not issue a Summary Suspension unless the Affiliate's bylaws, rules or regulations provide for such a suspension.
- USA Hockey Bylaw 10.C(2)(d) requires only 7 days notice prior to a hearing. Only extreme cases should rise to the level where a suspension cannot wait for 7 days to conduct a hearing. Although a party may try to delay a hearing, a suspending party would be within their authority to impose a suspension if the notified party did not appear at a properly called hearing (they would then have a right to appeal).
- If a Summary Suspension is imposed, the suspended party must be provided a written notice of their right to request a hearing. If the party requests a hearing in writing within 7 days of the notice, they must be provided a hearing pursuant to the provisions of Bylaw 10.C.

C. APPEALS.

- Any person suspended may appeal that suspension after the hearing or failure to have a hearing.
- The Appeal Authority for Playing Rules Suspensions and suspensions for violations of Bylaws or rules of local, league, affiliate or district organizations is either (a) the entire Board of a state association, (b) the entire Board of an Affiliate, or (c) a designated committee of a state association or Affiliate.
- The Appeal Authority for suspensions of referees by a state association or local supervisor is the Affiliate, and the Appeal Authority for suspensions of a referee by an Affiliate is a committee comprised of the District RIC, the Affiliate President and a third person named by those two people.
- The Appeal Authority for Council decisions is the USA Hockey Executive Committee.
- The Appeal Authority for suspensions involving Juniors is the Junior Council.
- The Executive Committee of USA Hockey may allow an appeal of a suspension if there is shown to be a gross abuse of discretion.
- Any suspension shall be in force and effect until it expires or the Appeal Authority modifies it.
- Appeals must be handled pursuant to certain procedures:
 - The Appealing Party must provide a written Notice of Appeal to the Suspending Authority and Appeal Authority within 10 days from receipt of the decision from the hearing body or the date of the failure to have a hearing, and if the Notice of Appeal is not delivered within the ten (10) day period, the suspension is final;
 - The Appealing Party must submit a Statement of Appeal, describing why the suspension should be overruled or reversed, within 30 days of the date of the decision appealed from. The Suspending Authority shall have 20 days from receipt of the Statement of Appeal to respond;
 - The Appeal Authority may hold a hearing or may choose to consider the appeal on the written submissions of the parties. The Appeal Authority may establish other hearing rules so long as each party is treated substantially equal;
 - Only the evidence and theories explicitly presented to the Suspending Authority may be presented or considered in appeal;
 - The Appeal Authority must use every reasonable effort to decide the appeal within 10 days from the submissions to it, but not to exceed 15 days; and
 - The Appeal Authority may affirm, reverse or modify (including increase or decrease) any decision as it deems proper under the circumstances.

APPLICATION OF THE ABOVE PRINCIPLES

Each local league, association and organization; each Affiliate; and each Council, Committee and Section of USA Hockey *must* abide by the procedures set forth in Bylaw 10 when imposing suspensions or other discipline.

Each local league, association and organization; each Affiliate; and each Council, Committee and Section of USA Hockey should have a committee, or persons that could be named to serve on a committee, in order to ensure that there are at least 3 reasonably disinterested and impartial persons hearing each matter.

Each Affiliate and each Council should be prepared to determine an appeal (either by holding a hearing or through written submissions) within 10 days of the date the parties have submitted their statements (this could be anywhere from 10 to 60 days in total);

Affiliates and Councils should consider appointing an appeals committee to hear appeals in order to meet the required timelines.

ATTACHMENTS:

1. **Sample Notice of Hearing** (letter to Party advising that a hearing will be conducted);
2. **Sample Notice of Summary Suspension** (letter to Party advising of suspension and right to a hearing);
3. **Sample Hearing Committee Decision;**
4. **Sample Appeal Authority Decision.**

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Submitted and Approved By: USA Hockey Executive Committee, June 9, 2007. 5 of 11

SAMPLE NOTICE OF HEARING

, 201

[Name and Address of Party]

Re: Notice of Hearing Under USA Hockey Bylaw 10.C.

Dear :

This letter serves as your Notice of Hearing from the Hearing Committee under USA Hockey Bylaw 10.C. to determine whether you will be suspended or otherwise disciplined as a result of violations of [identify the USA Hockey or Affiliate Bylaw, Rule or Regulation]. The suspension/discipline is proposed by [name of party proposing suspension]. The hearing will be held on , 201 , at [a.m./p.m.], at [hearing location].

[Name of party proposing suspension] alleges that you have [generally describe facts/allegations that are alleged to have occurred]. If the Hearing Committee finds that the above events have occurred, you may be suspended or disciplined at the discretion of the Hearing Committee. [If an investigation has occurred add the following: A copy of the investigation report by [name of party proposing suspension] is attached to this letter and will be considered by the Hearing Committee.

Any issues raised during the hearing will also be addressed to the extent possible. You should also know then, that any evidence that is presented at the hearing may subject you and any other person implicated by that evidence to potential disciplinary action, up to and including suspension.

EACH PERSON RECEIVING THIS NOTICE IS REQUIRED TO ATTEND THIS HEARING. Failure to attend this hearing may result in disciplinary action being taken at that hearing, up to and including suspension. The hearing will proceed with or without your presence.

The Hearing Committee may request the presence at this hearing of witnesses or documents. If you have any witnesses that you wish attend the hearing that are not listed at the bottom of this letter, please let me know in writing well before the hearing so that the Hearing Committee can request their attendance.

The following procedures will be applicable to the hearing:

[Describe procedures, e.g., time limits for each party to present their arguments, deadline by which written submissions should be delivered, maximum length (number of pages) for written submissions, number of witnesses allowed for each party, etc.]

[Identify any documents that the Hearing Committee will require any party to provide]

The Hearing Committee will deliberate in closed session following the hearing, and a decision will be rendered in a timely manner.

You may request that a written record of the hearing be made, which may consist of a recording, audio or video at the discretion of the Hearing Committee. The cost for providing for a court reporter's transcript shall be paid by the party who desires the record.

[*Name of party proposing suspension*] will have the burden of proving that the facts giving rise to the discipline are more likely to have occurred than to have not occurred, and that the establishment of such facts constitutes a violation of [*identify the USA Hockey or Affiliate Bylaw, Rule or Regulation*].

Following this hearing and the delivery of any decision to you, you will have a right to appeal any determination to the [*identify the appeal authority*] pursuant to USA Hockey Bylaw 10.G.

Please feel free to contact me if you have questions regarding any of the foregoing.

Best regards,

, Hearing Committee Chair

Enclosures: [*list any enclosures*]

cc: [*name of party proposing suspension*]

SAMPLE NOTICE OF SUMMARY SUSPENSION

, 200

[Name and Address of Party]

Re: Notice of Summary Suspension Under USA Hockey Bylaw 10.B(2)(d)

Dear :

This letter serves as notice that you have been suspended from all participation in any USA Hockey sanctioned activity within the jurisdiction of [name of party imposing suspension]. The suspension is imposed pursuant to the Summary Suspension provisions of USA Hockey Bylaw 10.B(2)(d) as a result of allegations that you have violated [identify the USA Hockey or Affiliate Policies e.g., physical or sexual abuse] as set forth in the Annual Guide of USA Hockey. You are alleged to have [describe facts that are alleged to have occurred]. At this point, you are suspended indefinitely pending further notice [or, a time period or other scope of suspension descriptions may be included]. You have a right to request a hearing to contest this suspension. To request a hearing, you must provide written notice to the undersigned within seven (7) days of your receipt of this notice. Your failure to request a hearing within seven (7) days of this notice will waive your right to a hearing and the suspension imposed hereby shall stand. If a hearing is requested, the hearing will be held pursuant to the provisions of USA Hockey Bylaw 10.C., a Hearing Committee will be appointed, and the Hearing Committee will notify you of the time, place and other details regarding the hearing. If a hearing is held, you will have a right to appeal any determination pursuant to USA Hockey Bylaw 10.G.

Please feel free to contact me if you have questions regarding any of the foregoing.

Best regards,

[Organization Imposing Suspension]

, [Title of Officer] 8 of 11

SAMPLE HEARING COMMITTEE DECISION
Hearing Committee Decision
Disciplinary Proceedings Under USA Hockey Bylaw 10.C.
Hearing Held on [Date of Hearing] at [Hearing Location]

To: [Names of Parties to the Hearing]

Fr: [Names of Hearing Committee Members], USA Hockey Hearing Committee Members

Re: Proposed Suspension of [Party Subject to Suspension]

On [Date of Hearing] at [Hearing Location], the above-named Hearing Committee held a hearing to determine whether [Party Subject to Suspension] should be suspended or otherwise disciplined as a result of violations of [identify the USA Hockey or Affiliate Bylaw, Rule or Regulation]. The suspension/discipline was proposed by [name of party proposing suspension]. Notice of the allegations a Notice of Hearing were provided to [Names] on [date(s)]. This correspondence serves as the written decision of the Hearing Committee. The Hearing Committee confirms that its Members are reasonably disinterested and impartial and have no interest in the outcome of the hearing. [Hearing Committee may identify the members of the committee and their title/role in hockey] [Describe the length of the hearing, number and identity of witnesses that were called by each side, submissions by the parties, etc.] All persons present were given an opportunity to present their views and to provide information, ask questions and submit evidence.

FINDINGS OF FACT

Based on the testimony, information and exhibits presented at the hearing, and the written submissions from [parties submitting documents], the Hearing Committee finds the following facts to be established by a preponderance of the evidence:

1. [Describe the determinations of the hearing committee as to any facts that must be established in order to support the conclusions below];
2. Etc.

CONCLUSIONS

Based on the above Findings of Fact, the Hearing Committee concludes:

A. That the occurrence of the facts described above constitute a violation of [describe USA Hockey or Affiliate Bylaw, Rule or Regulation that was violated];

B. Etc.

ORDER

Based upon the Findings of Fact above determined by the Hearing Committee to be more likely true than not true, and the Conclusions set forth above drawn from such Findings of Fact, the Hearing Committee hereby orders:

I. [Describe the suspension or other discipline ordered by the hearing committee];

II. Etc.

This Hearing Committee Decision may be appealed by any party disciplined hereunder to [*name of appeal authority pursuant to Bylaw 10.G.*] pursuant to USA Hockey Bylaw 10.G. Any party wishing to appeal this decision must submit a written Notice of Appeal to this Hearing Committee and to the [*name of party proposing suspension*] within ten (10) days from receipt of this decision. If the Notice of Appeal is not delivered to this Hearing Committee and the [*name of party proposing suspension*] within the ten (10) day period, the decision set forth herein shall be final. Additional information regarding the appeal rights of any disciplined party may be found in USA Hockey Bylaw 10.G. as set forth in the USA Hockey Annual Guide.

This USA Hockey Hearing Committee Decision is issued on this day of , 201 .

SAMPLE APPEAL AUTHORITY DECISION.

Appeal Authority Decision on Appeal of Suspension/Discipline

Issued Against *[Name of Party Suspended]*

Appeal Proceedings Under USA Hockey Bylaw 10.G.

To: *[Names of Parties to the Appeal]*

Fr: *[Names of Appeal Committee Members]*, USA Hockey Appeal Committee Members

Re: Appeal by *[Name of Appealing Party]* regarding *[suspension or discipline being appealed]*

This decision is being transmitted by electronic mail and will serve as the official decision in this matter. A hard copy will follow by surface mail.

This matter is the appeal of *[Name of Appealing Party]* from *[describe discipline and decision that is being appealed]* imposed by the *[describe hearing committee and organization the hearing committee represents]* (the "Hearing Committee"). The Hearing Committee's decision was issued on *[date of decision]*.

[If the Notice of Appeal was timely submitted, then the following is appropriate] *[Name of Appealing Party]* timely submitted a Notice of Appeal on *[date of Notice of Appeal]* and timely submitted a Statement of Appeal on *[date of Statement of Appeal]*, which included the written record *[if there was one]* issued by the Hearing Committee. The *[either the Hearing Committee or organization]* timely submitted a response to the Statement of Appeal on *[date of response]*. *[If any of the above were not submitted, or were not submitted timely, that should be noted]*

[If the Notice of Appeal was not timely delivered, then the following is appropriate] While *[Name of Appealing Party]* asserts various bases for disagreeing and overturning the suspension that was imposed, we do not have the authority to determine the merits of this matter as it is not a timely appeal. The USA Hockey Board of Directors has adopted a very explicit rule regarding submission of a Notice of Appeal. See Bylaw 10.G.(2). This appeal is accordingly dismissed in all respects.

[Describe any other reports, documents, etc. that were submitted].

[Depending on whether a hearing was held, include one of the following] Following submission of the documents described above, the Appeal Committee determined to decide this appeal based on the written submissions of the parties./An Appeal Hearing was held on _____. *[Describe the length of the hearing, number and identity of witnesses that were called by each side, submissions by the parties, etc.]*

[Describe facts that are relevant to the determination of the Appeal/Facts not relevant to the determination should not be included]

[If a violation is found to have occurred, use the following] Based upon our review of the facts above, we find that _____ violated *[describe USA Hockey or Affiliate Bylaw, Rule or Regulation that was violated]*. Pursuant to USA Hockey Bylaw 10.G(8), this Appeal Committee has the authority to “affirm, reverse or modify (including increase or decrease) any decision as it deems proper under the circumstances before it.” Based upon review of the above, this Appeals Committee hereby orders:
[Describe order of the Appeal Committee – e.g., affirming the Hearing Committee decision, modifying the decision, remanding the matter back to the hearing Committee to properly follow the Bylaws, etc.]
This Appeal Committee Decision is issued on this day of , 201 .