

STYLE OF CASE:

Doe v. SA

APPEAL NO.

2010 Mock Appeal

APPELLANT'S

ARGUMENT

Dear Mr. Fike,

I'm enclosing documents in support of my appeal. They include:

1. Only letter or communication from Jim Doe (my son) with the board that I personally presented at the hearing on June 23rd. This is totally contrary to what is stated on the SA letter dated May 29th that "SRC has communication from my son". I requested for a copy of this and any other documents from OSA in the June 23rd hearing; however, none was presented.
2. Copy of the document of letter from the attorney in this matter.
3. Copy of supporting reference document from Joe regarding my character.

I'm very remorseful and have apologized many times for this incident. I neither curse nor strike at anyone, just questioned the referees motives for not being ready for this game and doing it for the money instead of love of the game and protection of the players (my son who was injured in that game) only as a parent. I respectfully pray and request for your kind consideration and overturn of this unjust suspension. I've been deeply depressed and unable to communicate with anyone since the release of this suspension letter to the soccer community. I've had many requests from my daughter's school mates, neighbors, relatives and friends regarding the referee classes, instructional materials, and support calls (since I hold both instructor and assessor licenses); however, not only I've been completely banned from any soccer activity, but the suspension time is extended such that it will force me to leave this sport forever. This same board failed to review a case of an arrested drunken referee in 2007 regional youth program.

For the Love of the game and thank you,

John Doe
USSF State 2 Referee
USSF Instructor, USSF Assessor

Dear Jane Administrator,

I am sorry for not being there to testify on behalf of my father, due to my obligation with the soccer program. I was a player on the day of the incident. Both teams are rivals and play hard as they can against each other. Even though this is a recreational game, the challenges are just as well as a competitive one. On this specific game, when we started to play, I noticed that we had a club lines man, and a young assistant referee. I knew the center referee, Robert Referee, from previous referee assignments together. I had advised Robert on other games being able to read the game, call the fouls and, pay close attention to game management. Contrary to my expectations, Robert was too relaxed on this game, players on both team were cursing and yelling without his control. Fouls were occurring with no calls. I was very worried until I was seriously tackled from behind with no ball in play. I was hurt and on the ground. It appeared that Robert took his time to call the foul, and this was after I was on the ground crying from my excruciating pain. I couldn't tell if it was his assistant referee(s) that had to help him with the call or not. I don't know how long it took to get the game restarted; however, when I was ready to take the kick, I requested for a 10 yard distance from the ball by the opponent from Robert. He refused and just as I kicked the ball, out of no where he blew his whistle came toward me and cautioned me for USB(Unsporting Behavior). My coach was very upset and no one could understand why he'd done this. I was so much in pain and upset that requested Ed for a substitution. I left the field and the game continued with other incidents. When the game was finished, I noticed that my father was speaking with my coach and he was very frustrated knowing that I was hurt and how the game was handled. We got into the car and he was to take me to the emergency room, but he decided to find out why Robert behaved as such and he stopped at the referee shack. I insisted to leave the area but I know he was very unhappy how this game was scheduled and handled. I waited in the car for a few minutes and all of a sudden I noticed my father being pushed and shoved out of the referee shack by Parris. Parris was yelling "Get the Hell out of here, you" so loud that I could hear him clear in the parking lot. My father returned to the car and drove me to the emergency room and after a visit; we were relieved that no serious injury but some swelling had occurred. I'd wished this would've never happened had SC made a better decision on postponing the game to another time where a more suitable officiating team was available, like our next game that was re-scheduled since the club couldn't find appropriate officials.

Sincerely,

Jim Doe

Dear Secretary Flynn:

I am writing on behalf of John Doe regarding his appeal to your office in connection with a disciplinary decision authored by Jane Administrator, SA Vice Chairman. Although Mr. Doe has already submitted his Notice of Appeal with the attending fees, I would like to summarize the bases for his appeal, as given to me by Mr. Doe. They are as follows:

1. Mr. Doe was reprimanded at the hearing as a registered USSF referee and not in the context of a parent, in civilian clothing, attending a game in which his son had been injured.
2. According to Mr. Doe, Ms. Administrator was inflammatory and overly interruptive during Mr. Doe's attempt to give his side of the story, accusing him, inter alia, of being a "disservice to the community" and that the April 6 incident "is considered the *most shocking display of contempt of a fellow referee seen in the history of soccer in the State.*" (*Emphasis Added*).
3. Ms. Administrator stated as fact that the committee "was presented evidence of similar actions by Mr. Doe on previous occasions ... " Indeed no substantive evidence was presented against Mr. Doe at the hearing, no names or dates mentioned and no concrete evidence in the form of live, non-hearsay testimony.
4. The hearing was cut short after a City Police Officer advised the participants of a triggered intruder alarm. Ms. Administrator called the meeting off, and Mr. Doe was not given an opportunity to present his witnesses or a closing statement.
5. Mitigating factors: Mr. Doe is very remorseful for the incident. He articulated to the committee his love for soccer and his involvement with the sport; copies of some of his Certificates of Excellence are enclosed as reference. None of this was considered by the committee.
6. Mitigating factor: Mr. Doe had already sincerely apologized to Robert Referee and had since been suspended by the Soccer Club.
7. Mitigating factor: Mr. Doe did not curse at Mr. Referee or strike him, rather (regrettably) questioned Mr. Referee's motives for being a referee, doing it for the money instead of love for the game and protection of the players (Mr. Doe's son had just been injured). Fifteen months suspension from refereeing is grossly disproportionate to the alleged incident, especially since Mr. Doe was there as a parent upset over his son's injury.

With these premises considered, I would respectfully request that the USSF overturn Mr. Doe's suspension and allow him to continue refereeing the sport he loves. Thank you in advance for your consideration.

Sincerely,

Tim Lawyer

To Whom It May Concern:

I have known John Doe for over 10 years. I have refereed games with him, assessed games he was officiating and assigned him games in my duties as a conference and league assignor. He has always shown up at the game sites in a timely manner and completed assignments efficiently. John has also gone above and beyond the normal responsibly and assisted with delivering league team rosters both to the game site and from the game site and also delivered referee game fee checks in my absence.

As an official I have mentored John in soccer and have watched him overcome issues and grow as an official. This has been at the youth, the high school level and now, as he has become a state level referee, the adult level. Although all referees make mistakes, John has been willing to learn, to discuss/debate the game and adapt his officiating techniques over the years to improve his performance. In the past when he has been asked to make corrections to his officiating he has responded and maintained a good attitude.

I have also watched him as he encouraged both his son and daughter to become soccer officials. They are also growing into solid officials with a bright future in soccer. Please do not hesitate to contact me if I can be of additional assistance.

Joe Instructor
Soccer Official Schedulers
Referee Assignor, Instructor and Assessor

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APPELLEE'S

RESPONSE

Dear Mr. Fike:

Below are comments I wish to present to the Committee regarding the seven comments submitted by the attorney who is apparently representing Mr. Doe in this matter.

1. Mr. Doe was dressed as a referee at the time of the incident, he gained entry to the referee room to verbally attack Mr. Referee while dressed as a referee, he exploited his referee relationship with Mr. Referee as his referee instructor to aggressively confront Mr. Referee and apparently attempt to humiliate him in front of a room full of referees.

2. Mr. Referee had a full and fair opportunity to present his side of the story. His behavior which resulted in this complaint was, in fact, the most shocking display of contempt of a fellow referee seen in the history of soccer in the state. Ms. Administrator did tell Mr. Doe he seemed to have anger issues. His inflammatory, uncontrolled behavior is a disservice to the soccer community.

3. It is common knowledge that Mr. Doe has engaged in other aggressive verbal assaults of referees. The fact that he denies these other incidents causes the committee great concern because he may be unaware of his outrageous, unchecked verbal aggression.

4. The alarm incident occurred at the beginning of the hearing, and the hearing continued after this interruption until all present had agreed that each had presented all they wished to present to the committee.

5. Mr. Doe claims to feel offended by the sanction imposed by the Soccer Club, and by the fact the discipline committee addressed the instant complaint. Mr. Doe did not show remorse, and his lack of remorse was considered by the committee in unanimously reaching a decision as to the correct sanction in this case.

6. Mr. Doe's testimony to the committee indicated an utter lack of remorse, and arrogance, and a complete misunderstanding of correct behavior by a referee in our soccer community. During most of his testimony, Mr. Doe attempted to justify his angry behavior.

7. Mr. Doe did not witness the part of the match in which he claims his son was injured; he walked from the field to the referee room, he entered the referee room, he yelled at the referee, he was physically removed from the referee room, he reentered the referee room, all the while yelling at Mr. Referee. Anyone who behaved that way in the state would lose their public sector employment, if this kind of behavior occurred on the job. Mr. Doe consistently represented himself to the disciplinary committee as a federal employee. Mr. Doe's behavior is not justifiable as simply that of a "concerned parent". Most of the disciplinary committee members have children who have been injured playing soccer, and the committee unanimously found Mr. Doe's behavior intolerable. Mr. Doe was dressed as a referee during this incident, he came into reserved referee space to attack Mr. Referee, he attacked Mr. Referee as a referee. The disciplinary committee has imposed sanctions appropriate to Mr. Doe's aggressive and intolerable behavior. Soccer Association respectfully requests USSF to uphold the decision of the disciplinary committee. The Committee urged Mr. Doe to address whatever issues may be underlying his anger and lack of self control. SA will gladly welcome Mr. Doe back into the fold after he has served his suspension, and SA sincerely hopes Mr. Doe addresses his behavioral issues so that he can serve with the dignity and respect we expect of him.

Sincerely,

Jane Administrator, Vice Chairman
Appeals and Disciplinary Committee

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RECORD

Dear Mr. Doe,

This letter serves as the final opinion of the disciplinary committee convened June 23, 2008 at 6:00 p.m. to consider the allegations presented by the State Referee Committee of a breach of ethical conduct by Referee John Doe in the incident involving Robert Referee, a registered USSF referee. Members of the committee were Dave, Sherrel, Paul, Dixie, and Jane, Chair. Also attending: John Doe, the SRA, and the coach of Jim Doe's team. It is the opinion of the disciplinary committee that Mr. Doe committed misconduct against a game official as defined by USSF Policy 531-10, Section 2, (a)(b). Mr. Doe's act of confronting Robert Referee, and using language that was angry, aggressive, and insulting is considered the most shocking display of contempt of a fellow referee seen in the history of soccer in the state. Also, the committee was presented evidence of similar actions by Mr. Doe on previous occasions and these incidents precipitated the action of the State Referee Committee to request a hearing on Mr. Doe's misconduct toward game officials.

The committee decided unanimously that a suspension from all soccer related activities from the date of notice of the complaint - April 6, 2008, until the completion of the Soccer Association state tournaments are completed (June 1, 2009) is warranted. In addition, the hearing committee felt the repetition of misconduct toward game officials by Mr. Doe requires attendance at an anger management course.

You have the right to appeal this decision to the United States Soccer Federation Appeals Committee within ten (10) days of receipt of this letter. A copy of US SF Bylaw 705 and a Notice of Appeal form are enclosed with this letter. If you wish to appeal, you should complete the Notice of Appeal and send it with the \$300 appeal fee (in the form of a cashier's check or money order payable to USSF) to: The United States Soccer Federation National Appeals Committee, *c/o* Daniel T. Flynn, Secretary General, 1801- 1811 South Prairie Avenue, Chicago, IL 60616. Please note that if you submit an appeal, you must send a copy of your Notice of Appeal form to SA. Please also note that an appeal does not "stay" the decision of SA.

For the Good of the Game,

Jane Administrator
Appeals and Disciplinary Committee

Dear Mr. Doe,

The State Referee Committee wishes to inform you that they have investigated an incident that occurred following a match at the Soccer Club involving you and Robert Referee. Several witnesses relayed the incident to the SRC and the SRC has gathered information regarding the incident. At the present time the SRC has communications from you and your son, Jim Doe, as well as witnesses to the incident. The SRC has met and determined that a hearing under the auspices of the Appeals and Disciplinary Committee of the Soccer Association is required. The complaint is being filed under United States Soccer Federation Policy 531-10 and 531-11, Part III-Standards of Conduct. The complete text of the policy is in your Referee Administrative Handbook pages 8-13. A hearing has been scheduled for June 23rd at the SRC offices at 6pm. You are entitled to present witnesses of the incident on your behalf, and as well present your account of the event as transpired. The SRC may present witnesses at the hearing as well. At the conclusion of the hearing, the Hearing Panel will render an appropriate decision and notify you in writing. Please be assured that the Appeals and Disciplinary Panel has formed no opinion concerning the merits of this matter, and is committed to a full, fair and impartial hearing of this matter.

Yours for the good of the game

Jane Administrator, Vice Chairperson
Appeals & Disciplinary Panel

Statement from John Doe:

Mike,

When I finished my game on field ESC2, I had a few minutes to watch Jim's game, so I walked over and watched the last few minutes of the game from the concession area since it was providing some shades, I didn't know Jim was hurt I did observe Robert's lack of positioning, He missed a few fouls, When the game ended and I found out about Jim, and after speaking to his coach, I was very upset, on the way to the hospital, I stopped at the ref shack, Tom was outside waiting for his ride, and he mentioned about Kevin questioning about Robert's calls and foul recognition specially one on Jim when they were walking back to the ref shack, I stepped inside and noticed Kevin and Robert were discussing the situation and they immediately stopped talking, I asked Robert about the game, and Jim's foul and being carded, He replied "I really didn't see him get hit but when he fell to the ground I called it, and he got carded for his dissent", Robert also stated that " he had very bad day of referring", Robert wouldn't elaborate any further. Parris was present along with a few other referees, when his phone rang and Brandon was on the other end asking him about the game since I had already talked to Brandon, I was so upset that I told Robert that if you had a bad day you should've not been in the middle of this very competitive game, This has cost Jim to go to the hospital, now. At this moment, Parris start yelling out loud and pushing me out around "HEY, HEY, HEY, GET THE HELL OUT OF HERE", As I was being thrown out, I told Parris, how would he feel if this has happened to his kid, I then tried to get back and talk to Parris, when he showed the door again and pushed my foot back, I then drove Jim to the hospital, taking X-rays and MRI finding out that he had a very bad bruise on the back of his leg, thanking the Lord with no other major injuries, Robert has done many games, and I had given him many instructions in the past for his betterment There are some refs that like to do this for the financial gain only at players cost

Thank you,

John

Dear Mr. Doe,

The Club Referee Committee has informed us that your behavior at the complex in the afternoon of Sunday, April 6th, violated the Code of Ethics for Referees, which states: "I will be loyal to my fellow officials and never knowingly promote criticism of them." For openly criticizing a fellow referee in the presence of other referees, the Club Referee Committee in conjunction with the Club Executive Committee, hereby, suspends you from officiating youth or adult games at the Soccer Club for a period of 8 playing weekends. Hereafter, any new occurrences where you are proven to have openly, directly, or indirectly criticized a fellow referee will result in further suspensions. ESC does not condone any coach, player, spectator, or referee openly criticizing the performance of any other person. You have the right to protest this suspension to the ESC board. If you wish to protest, please reply to this letter within 5 days of its receipt.

Sincerely,

Club Administrator

Policy 531-10 -- Misconduct of Game Officials

Section 1. Terms and References

(A) "Game Officials" includes the following:

- (1) all currently registered USSF referees, assistant referees, 4th officials or others appointed to assist in officiating in a match.
- (2) any non-licensed, non-registered person serving in an emergency capacity as a referee (under Rule 3040).
- (3) any club assistant referee.
- (4) any referee development program person performing any official function at a match.

(B) "Referee Development Program Person" includes any referee, referee administrator, referee assessor, referee instructor, referee assignor, or other person serving in such capacity in a line or supervisory position, including members of any referee committee appointed by the Federation, its Divisions, Affiliates or Associates, a State Association, or a competition, tournament or other appropriate authority.

(C) "Hearing" means a meeting of at least five members, one of which is designated or elected to serve as Chairman. The Chairman of a hearing shall not vote except to break a tie vote. Such members, including the Chairman, shall not be the State Referee Administrator, the State Director of Referee Instruction, the State Director of Referee Assessment, a Federation National or FIFA Referee, or any other member of the State Referee Administration.

(D) "State Association" shall be that State Association through which the game official is registered or referee development is appointed. Where a state has both Amateur and Youth National State Associations, the reference shall mean that State Association which has legal authority within its state to administer the registration of the referee or the appointment of the referee development program person charged.

Section 2. Procedures

(A) Misconduct at a Match

When any game official is accused of having committed misconduct toward another game official, participant, or spectator at a match, or of having a conflict of interest, the original jurisdiction to adjudicate the matter shall vest immediately in the State Association or Organization Member through which the accused game official is registered. In the situation where Amateur and Youth State Associations exist in a state, and the incident of alleged misconduct occurred at a match sanctioned by one State Association, jurisdiction shall vest with the State Association sanctioning the match in question.

(B) Misconduct Away From a Match

When any game official, referee, referee assistant or referee development program person is accused of unethical conduct, misuse or abuse of authority or conflict of interest in any matter in the pursuit of or may affect the individual's official dealings within and as authorized by the Federation, its Divisions, Affiliates or Associates, a State Association or Organization Member, or a competition, tournament or other appropriate authority, the matter shall vest immediately in the State Association through which the accused game official is registered or through which the referee development program person is appointed.

(C) Any allegation of misconduct or of conflict of interest by a game official as described by subsection (A) of this section, or of unethical conduct, misuse or abuse of authority or conflict of interest as described by subsection (B) of this section, shall be made in writing to the State Referee Administrator or to the State Association(s) or Organization Member that shall report all such allegations including any allegations against the State Referee Administrator, to the State Association(s) or Organization Members through which the accused game official is registered or through which the accused referee development program person is appointed.

(D) Upon receipt by the appropriate Organization Member of a verified written complaint, a hearing shall be conducted within 30 days from verification pursuant to guidelines established by the Organization Member having jurisdiction as provided by subsection (A) or (B) of this section. The guidelines may include referring the complaint to the State Referee Committee for the hearing. The hearings and appeal process shall provide for adequate due process for the accused person including proper notice of charges, the right to bring witnesses in defense, and the right to confront and to cross-examine the accusers.

(E) The Chairman of the hearing committee shall transmit the findings of the committee in writing to all parties concerned including the accused and the accusers and to the State Association(s) or Organization Member within seven days of the hearing.

(F) Any party subject to penalties shall receive, at the time of notification of the decision, a notice of the rights of appeal and a copy of the procedures and deadline dates required for such an appeal to be properly considered. Time for filing an appeal shall start with the date official receipt of the decision by the party making the appeal.

Section 3. Penalties

(A) The severity of the penalty imposed upon an individual shall be determined by the decision-making body having jurisdiction.

(B) Penalties may be among the following:

- (1) letter of reprimand;
- (2) a fine;
- (3) suspension from all active participation as a Federation-sanctioned referee

for a fixed period of time;

- (4) suspension from all active participation in the Federation for a fixed period of time;
- (5) any combination of clauses (1), (2), (3) or (4) of this subsection; and
- (6) dismissal from the Federation.

(C) Any individual while under suspension from all Federation activity may not take part in any activity sponsored by the Federation or its members.

Section 4. Appeals

(A) Any game official who is found guilty of misconduct as defined in this rule may appeal the decision of the hearing committee as follows:

- (1) to a Referee Disciplinary Committee jointly appointed by the Amateur and Youth State Associations.
- (2) to the Federation Appeals Committee as provided under Federation Bylaw 705.

(B) The party appealing the decision of a committee shall have ten (10) days to file the notice of appeal of a decision. Time for filing an appeal shall start with the date of official receipt of the decision by the party making the appeal.

Policy 531-11 -- National Referee Development Program

Part I – Referee Program Vision

By the year 2005, the United States Soccer Federation's National Referee Development Program is to become the preeminent worldwide model for referee excellence in officiating, administration, instruction and development at all levels of the game.

Part II – Referee Program Mission

The National Referee Development Program is to be a service organization of integrity dedicated to all referees, whose purpose is to ensure the development of the United States Soccer Referee in terms of quality and quantity through achieving excellence in governance, education and administration. The program shall work in the interests of all its members and to service the game at every level of competition.

Part III – Standards of Conduct

Subpart A - Purpose

To define general guidelines to determine whether members of the National Referee Development Program act within acceptable limits so far as ethical conduct or conflict of interest are reflected in their conduct as soccer officials and members of the United States Soccer Federation.

Subpart B - Policy

Membership as a privilege offered and granted to individuals who perform capably as State Referee Administrators, referees, referee assignors, referee instructors and referee assessors during United States Soccer Federation sanctioned activities. It carries with it an obligation for each individual member to uphold and promote the stated goals and objectives of the Federation and do nothing to bring the Federation into disrepute or work against its goals and objectives. Any conduct which is considered unethical or as a conflict of interest shall be subject to possible disciplinary actions.

Subpart C - Code of Ethics for Referees

- (1) I will always maintain the utmost respect for the game of soccer.
- (2) I will conduct myself honorably at all times and maintain the dignity of my position.
- (3) I will always honor an assignment or any other contractual obligation.
- (4) I will attend training meetings and clinics so as to know the Laws of the Game, their proper interpretation and their application.
- (5) I will always strive to achieve maximum teamwork with my fellow officials.
- (6) I will be loyal to my fellow officials and never knowingly promote criticism of them.
- (7) I will be in good physical condition.
- (8) I will control the players effectively by being courteous and considerate without sacrificing fairness.
- (9) I will do my utmost to assist my fellow officials to better themselves and their work.
- (10) I will not make statements about any games except to clarify an interpretation of the Laws of the Game.
- (11) I will not discriminate against nor take undue advantage of any individual group on the basis of race, color, religion, sex or national origin.
- (12) I consider it a privilege to be a part of the United States Soccer Federation and my actions will reflect credit upon that organization and its affiliates.

Subpart D - Code of Ethics for Assignors

- (1) I will maintain the utmost respect for referees and other officials of the game and I will conduct myself honorably at all times.
- (2) I will make the assignments based on what is good for the game and what is good for the referee.
- (3) As a member of the United States Soccer Federation, my actions will reflect credit upon the organization.
- (4) I will contribute to the continuous development of referees in the National Referee Development Program.
- (5) I will conduct myself ethically and professionally in the assignment process.
- (6) I will respect the rights and dignity of all the referees and I will not criticize them unless it is in private, constructive, and for their benefit.
- (7) I will offer equal opportunity to all qualify referees and I will not discriminate against or take undue advantage of any individual or group on the basis of race, color, religion, sex or national origin.
- (8) I will cooperate fully in the timely resolution of any grievance hearing or complaint.
- (9) I consider it a privilege to be a part of the United States Soccer Federation and my actions will reflect credit upon that organization or its affiliates.
- (10) I will safeguard USSF confidentiality of the Referee List.
- (11) I will give priority to USSF affiliated matches when assigning games.
- (12) The use of USSF affiliated game assignments shall not be used to persuade USSF registered referees to accept game assignments for non-members of U.S. Soccer.

Bylaw 701. HEARING PROCEDURES

Section 1.

- (a) In all hearings conducted under these bylaws, the parties shall be accorded:
- (1) notice of the specific charges or alleged violations in writing and possible consequences if the charges are found to be true;
 - (2) reasonable time between receipt of the notice of charges and the hearing within which to prepare a defense;
 - (3) the right to have the hearing conducted at a time and place so as to make it practicable for the person charged to attend;
 - (4) a hearing before a disinterested and impartial body of fact-finders;
 - (5) the right to be assisted in the presentation of one's case at the hearing;
 - (6) the right to call witnesses and present oral and written evidence and argument;
 - (7) the right to confront witnesses, including the right to be provided the identity of witnesses in advance of the hearing;
 - (8) the right to have a record made of the hearing if desired;
 - (9) a written decision, with reasons for the decision, based solely on the evidence of record, issued in a timely fashion, with all Federation grievance decisions posted on the Federation website, and sent to the Board of Directors and all Organization Members;
 - (10) notice of any substantive and material action of the hearing panel in the course of the proceedings; and
 - (11) quality concerning communications, and no ex parte communication is permitted between a party and any person involved in making its decision or procedural determination except to provide explanations involving procedures to be followed.

Section 2. For the purposes of hearing grievances filed pursuant to Bylaw 704, the President shall appoint a Hearing Panel, consisting of individuals who are certified by the American Arbitration Association (AAA) to conduct arbitration hearings. The Panel shall be appointed on the same schedule as committee appointments, but may be supplemented at any time. Appointments are subject to the approval of the Board of Directors.

Section 3. Federation staff shall assist in the hearing process by communicating with the parties, assembling documents, coordinating hearing dates, and performing other administrative tasks to minimize the time and expense of the hearing.

Section 4. Hearing rules and procedures shall be set forth in the Policies.