

United States Soccer Federation

Hearings and Appeals Handbook

WINTER 2007

Introduction

This handbook has been produced by the United States Soccer Federation, through its Appeals Committee and its legal department, for the benefit of its Organization Members. It is intended to provide guidance to those members who wish to implement, improve, or reorganize disciplinary processes, and also to provide answers to some of the most common questions about these processes.

Two sets of rules create a requirement that USSF Organization Members provide certain minimum procedural rights to its athletes, coaches, and administrators. First, the Ted Stevens Olympic and Amateur Sports Act ("the ASA"), a federal law, states that a national governing body (such as USSF) is only eligible for recognition if it "provides an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate . . . with fair notice and opportunity for a hearing . . . before declaring the individual ineligible to participate." Second, USSF has incorporated this requirement into its Bylaws in several ways:

(1) Bylaw 212 requires every USSF Organization Member to "comply with the [ASA], to the extent applicable;"

(2) Bylaw 213 requires Organization Members to provide "procedures for fair notice and opportunity for a hearing with respect to any Athlete, coach, trainer, manager administrator or official . . . concerning a proposed declaration that any such individual is ineligible to participate . . ." (emphasis added).

(3) Bylaw 241 states that suspensions and other disciplinary actions taken by Organization Members shall be recognized by the Federation and all other Organization Members upon "determination by the Federation that the party subject to the action received hearing and procedural rights substantially similar to those set forth in the bylaws." (emphasis added).

(4) Bylaw 701 requires that parties to all hearings conducted under USSF Bylaws be afforded a list of eleven specific rights, including notice, time to prepare a defense, an impartial panel, etc.

(5) Bylaw 704 provides the USSF Appeals Committee with jurisdiction over final decisions by Organization Members.

Copies of each of these Bylaws are contained in this handbook at **Tab A.**

These various provisions, in combination, support one general premise: USSF, its Organization Members, and the clubs and teams within those Organization Members need to provide due process to players, coaches, and administrators if they wish to discipline them. This handbook describes this obligation in more detail by explaining: (1) How to hold a hearing; and (2) How the USSF appeals process works.

In addition to this handbook, USSF has information on its website, www.ussoccer.com, relating to hearings and appeals. To access this information, click on the "Federation Services" button on the left side of the main page. Click on the "Resource Center" button that appears on the left side underneath "Federation Services." A Table of Contents appears on the page – the bottom selection is "Legal." Once you click on the "Legal" section, there is link to "Grievances and Appeals." Under this section, information is available that includes:

- How to hold a hearing
- How to file an appeal
- Powerpoint presentations prepared by the Appeals Committee
- Summaries of past appeals decisions

You should also feel free to contact the Greg Fike, the Appeals Committee Liaison in the USSF Legal Department with any further questions. He can be reached by email at gfike@ussoccer.org or by phone at 312-528-1278.

How To Properly Run a Disciplinary Hearing

♦ **Step 1: The Notice Letter**

Bylaw 701, section 1 requires that parties to a hearing must be provided "notice of the specific charges or alleged violations in writing and possible consequences if the charges are found to be true." This is achieved by sending out a notice letter. A sample notice letter is contained in this handbook at **Tab B**.

The notice letter should include answers to the following questions:

- *Who is being charged/accused?*

This is usually simple – it is the person to whom the letter is addressed. Even in that circumstance, however, make sure to be clear that "you" are being charged. The Federation Appeals Committee has been faced with situations where the letter simply says "charges are being brought" or "a hearing will be held." This requirement becomes even more important when more than one person is being charged at once – make it very clear who is being charged, and which charges apply to each person.

- *What are the charges?*

The letter should include a reference to the incident or behavior that forms the basis for the charges, as well as a specific citation to the rule, bylaw, or policy that is alleged to have been violated. The letter should contain specific facts (date, place, etc.) so that the accused party can clearly identify the incident in question.

- *If the charges are found to be true, what are the possible consequences?*

The letter should inform the accused as to the possible penalties. Can the accused be suspended, fined, warned? How broadly can this penalty be applied? For instance, it may be helpful to include language indicating that if the accused is suspended, the suspending organization may ask that the suspension be recognized by other USSF organizations as well. The letter should also list any minimum or maximum punishment.

- *When and where will the hearing take place?*

Bylaw 701 requires that there be a "reasonable time" between the receipt of notice and the time of the hearing. There is no specific amount of time that is automatically "reasonable" or "not reasonable" in every case – it depends on the circumstances. As a general rule, it is considered sufficient advance notice if it is received at least one full week before the hearing. It should also be noted that some rules do provide a limit to

how far out a hearing can be scheduled. For instance, under the USSF referee assault policy (531-9), an accused must have a hearing within thirty days of "verification" (typically this means 30 days from the time of their automatic suspension).

Bylaw 701 also requires that the hearing be "conducted at a time and place so as to make it practicable for the person charged to attend." Whether the time and place for a hearing is "practicable" will depend on the specific circumstances: the distance from the party's home to the place of hearing, the party's work schedule, etc. Generally, if a party asks for a hearing to be rescheduled due to a scheduling conflict or difficulty in appearing at the hearing, it is probably most appropriate to grant the request – at least if it is the first such request – to ensure that it is practicable for the person to attend the hearing.

- *What procedural rules will apply at the hearing?*

If there are any rules set forth in relevant bylaws or policies that will control at the hearing, a general reference should be made to such rules. Sometimes, organizations may decide (but are not required) to specifically reference and cite one or two rules that they deem especially important – for instance, that a minor may not testify if no parent or guardian is present, or that there is a specific limit on the number of witnesses.

Some organizations actually attach to the notice letter a copy of the actual rule or bylaw that the accused has been charged with, or the set of procedural rules, or a list of due process rights to which the accused is entitled (such as USSF Bylaw 701). This is clearly helpful to the accused, and is encouraged because it makes the process more transparent, but it is not required by USSF bylaws.

The notice letter should also notify the parties that they have the opportunity to learn the identity of witnesses in advance of the hearing and either lists those witnesses expected to attend or invites an exchange of witness lists. This helps the accused to prepare for the hearing and makes it less likely the accused will be surprised by certain testimony or issues arising at the hearing.

It is recommended that the notice letter be sent in a way that provides a written receipt to the sender (such as FedEx, certified mail, or even facsimile), to avoid any

questions about whether the letter was received. This can eliminate any concerns about notice arising on appeal.

- **Step 2: The Hearing**

The hearing should typically take place in a room that is set aside at that time for that purpose only. The hearing panel should be able to eliminate distractions and to control who is in the hearing room (so that they may, if they wish, exclude witnesses when other witnesses are testifying, or conduct portions of the hearing without having the public admitted).

The most important goal of the hearing is to allow the accused an opportunity to present his or her case to the hearing panel – to refute allegations made by others, to explain his or her version of the facts, and to offer any relevant evidence that the hearing panel may not already have seen.

It is also important that all evidence and testimony that will be used to make the decision is formally introduced and disclosed to the accused. A decision by the hearing panel must rely solely on the "evidence of record" – the evidence admitted during the hearing.

USSF Bylaw 701 (see **Tab A**) sets forth a number of requirements for hearings. These are:

- *The hearing panel must be "disinterested and impartial" (section 4)*

A hearing is run by a hearing panel. Typically, hearing panels consist of either three or five members (an odd number to avoid tie votes in split decisions). Sometimes, the disciplinary rule in question dictates the size of the panel (for referee abuse/assault under USSF Policy 531-9, the panel must consist of "at least three neutral members"; for referee misconduct under USSF Policy 531-10, the panel has "at least five members"). One panel member is designated as chairperson. The chairperson runs the meeting, indicates whose turn it is to speak, and otherwise facilitates the hearing.

The hearing panel should be chosen in a way that excludes not only those clearly interested in the outcome, but anyone who would appear interested, partial, or biased. If an objective outsider would consider a panel member to be biased, they should not be on the panel, even if they are in reality quite fair and unbiased.

There is no specific list of people who are to be excluded from a hearing panel, but the following are some examples of people who are less likely to qualify as "disinterested":

-- Family members or close friends of any of the parties
-- The individual who filed the complaint or report that led to the charges
-- Anyone who is a witness at the hearing

Section 11 of the Bylaw also requires that there can be no "ex parte" communication. This means that the members of the hearing panel should not communicate with either party about anything to do with the case outside of the hearing unless it is to provide procedural explanations.

- *The accused may be "assisted" in presenting his or her case (section 5)*

A person giving assistance may be, but does not have to be, an attorney. The person assisting must be allowed to attend the hearing. However, there is no requirement that the person assisting be allowed to speak during the hearing. (If the "assistance" being provided is translation for an accused who does not speak English well, it may make more sense to allow that person to speak).

USSF Policy 701-1 (see **Tab A**) sets forth the "minimum" rights to be afforded an accused at a hearing with respect to the right to assistance. That policy indicates that if the complaining party (or charging association) is permitted to have a representative speak, ask questions, etc., then the representative of the accused must also be allowed to speak or ask questions. It also states that the accused must have the ability to "confer briefly" with his or her assistant during the hearing, and to request a recess to confer with the assistant, so long as the frequency and duration of these conferences is not unreasonable. An Organization Member's hearing rules may also provide for broader rights to assistance.

- *The accused may "call witnesses and present oral and written evidence" (section 6)*

Generally, an accused should be permitted to present evidence that supports his or her case and testimony from relevant witnesses. The more opportunity that an accused has to present his or her case, the harder it is for the accused to contend that they did not receive due process.

Of course, the hearing panel is also permitted to attach limits to the introduction of witnesses or documents, especially where evidence becomes repetitive, irrelevant, or

excessively time-consuming. In exercising its discretion in this area, the hearing panel must ensure that the accused was provided a *reasonable* opportunity to present his or her case. Obviously, this will depend in part on the circumstances. For instance, if a party brings twelve character witnesses to a hearing, the hearing panel may limit their testimony by number of witnesses or time. However, if the party brings three eyewitnesses who can testify as to what actually occurred during an incident, it may be appropriate to allow all three to testify. The best strategy is often to simply provide a time limit to each side. For instance, allow them half an hour to present their case and allow them to choose how they will use that time – they can use this time to offer oral argument, present one witness, or present several brief witnesses.

If in doubt as to whether to accept certain evidence, the hearing panel should probably err on the side of accepting it, especially where it is not excessively time-consuming or unmanageable. For instance, if a hearing rule states that no witness statements will be accepted unless they are notarized, and the accused presents unnotarized witness statements that otherwise appear to be genuine, it may make sense for the hearing panel to accept the statements and perhaps give them less weight than they would have otherwise. Not only does this ensure that the hearing panel considered all of the evidence, it can often persuade the accused that the process was fair.

- *The accused may "confront witnesses" and "be provided with the identity of witnesses in advance of the hearing" (section 7)*

It is important to remember that hearing panels do not have subpoena power – they cannot force a witness to attend a hearing. Generally, a reasonable effort should be made to have witnesses appear. If an accused specifically requests that a certain witness be present, that witness should be encouraged to attend. Where reasonable, the hearing should be scheduled so as to allow this witness to attend. However, if a witness cannot attend, or refuses, the witness's mere absence does not mean that the accused did not receive due process. If a witness sends a letter but refuses to appear, the panel may consider the letter even though the witness was not "confronted." (Of course, the accused should be given a copy of the letter and an opportunity to answer any allegations in it).

If a witness does testify for one party, the other party should in most cases be afforded the opportunity to cross-examine the witness. However hearing rules may require that any questions be directed to witnesses through the hearing panel, and the hearing panel may refuse to ask witnesses questions that are irrelevant, harassing, or repetitive.

- *The accused has a "right to have a record made if desired" (section 8)*

While it is advisable for organizations to record all hearings, this is not practicable for many organizations. At a minimum, therefore, organizations must provide the opportunity for a recording if requested, at the requesting party's expense. If a party requests a transcript of a hearing, they may be required to pay for the cost of transcription.

In hearings for which no transcript will be prepared, many organizations have someone take notes and prepare minutes or a synopsis report. While not required, these hearing reports are incredibly helpful when an appeal is filed. The USSF Appeals Committee strongly encourages organizations to prepare minutes or a synopsis report for all hearings.

- **Step 3: The Decision**

The hearing panel should deliberate in private after the hearing, so as to allow each panel member the ability to voice his or her opinion without creating conflict with either of the parties. Once the panel has reached its decision, it must put this decision into writing. Bylaw 701, section 9 requires a "written decision." A sample decision letter is contained in this handbook at **Tab C**.

The decision must rely solely on the "evidence of record" – the evidence and testimony introduced at the hearing. The hearing panel must not rely on their dealings with either party outside of the hearing or rumors or other information they learned outside the hearing.

Section 9 also requires that the decision include "reasons for the decision." This means that it should include the specific findings of the panel: a description of the charges for which the accused was found guilty (which must be charges referenced in the notice letter); the factual conclusions made by the panel that led to its decision; and the discipline imposed.

Generally, it is not enough to say "the committee finds you guilty and suspends you for ten years." It should be much more specific. For instance: "The committee finds that you punched a referee on the nose, causing him physical injury. This constitutes 'referee assault' under USSF Policy 531-9. The committee hereby imposes a one year

suspension in accordance with section 5(A) of that Policy. This suspension will begin on January 3, 2004 and end on January 3, 2004."

The decision should also clearly explain the scope of any discipline. For instance, if the decision includes a "suspension," it should clearly indicate what this means: the types of activities it covers, the organizations that it covers, etc.

Finally, the decision should, whenever possible, inform the accused as to the next procedural option. If there is any right to appeal, it is advisable to inform the accused about where an appeal should be filed, how long they have to file the appeal, any appeal fee required, and where to locate any necessary appeals forms. Many organizations even attach a notice of appeal form to their decisions. Including information about the right to appeal is quite important. If the accused is not notified of his or her appeal rights and the time limits for filing, they may argue that they should not be bound by those time limits. The USSF Appeals Committee has, in some cases, accepted appeals filed outside the 10-day window where the accused was not properly notified of his or her appeal rights in the decision letter.

The USSF Appeals Process

Jurisdiction

USSF Bylaw 705 (see **Tab A**) provides a process for filing appeals from "final decisions rendered by Organization Members." This means that an appeal may not be filed with USSF until the issue has been ruled upon by the Organization Member. This "final" decision happens in different ways for each Organization Member. In some Organization Members, clubs hold the original hearing, and the club's decision is appealable to the Organization Member – the "final" decision is the Organization Member's decision on appeal. In other organizations, the Organization Member holds the hearing, but sets up an appeals committee that hears appeals – the appeals committee's decision issues the "final" decision. In a few organizations, the Organization Member holds the hearing and offers no right to appeal other than to USSF. Generally, if the Organization Member provides a process for further consideration of a decision – such as through an appeal – the decision is not yet final.

For a decision to be appealable to USSF, it must not only be "final," but must also have "consequence." Generally, for a decision to have "consequence," it must involve some sort of denial of the right to participate, play, or otherwise engage in activities sponsored by USSF or USSF and the Organization Member. Where a decision relates to the result of a particular match (for instance, a game protest) or imposes discipline that does not interfere with the right to participate (for instance, a letter of reprimand), the USSF Appeals Committee has no jurisdiction to consider the appeal. Additionally, the consequence must be substantial enough that the Appeals Committee's decision is not moot. If a player is simply suspended for three games and misses those three games

before an appeal is even filed, the Appeals Committee will usually not accept the appeal because there are no consequences that it will have the ability to remedy.

The consequence must also be "beyond the competition." The term "competition" is defined to include games, tournaments, league play, or a regular season. In practice, what this means is that a suspension is not appealable to USSF unless it applies to something beyond league play or a specific tournament.

The Filing Process

An appellant initiates the appeals procedure by filing a USSF Notice of Appeal. A copy of the Notice of Appeal form is contained in this handbook at **Tab D**. The appellant must include an appeals fee (currently $300) and a copy of the decision from which he or she is appealing. USSF Bylaw 705 requires that the Notice of Appeal be submitted within 10 days of receipt of the decision by the appellant.

Upon receipt of the notice of appeal, the Appeals Committee reviews the decision to determine whether it has jurisdiction. If the Appeals Committee determines that it does not have jurisdiction to consider the issue, the appeals fee is returned to the appellant. Otherwise, if the Appeals Committee considers an appeal, the appeals fee is non-refundable, regardless of whether the appeal is granted or denied.

Submission of Documents

If the appeal is accepted, a scheduling letter is sent out to both the appellant and the Organization Member. That scheduling letter will inform the parties that the appeal will proceed according the following timetable:

- -- The Organization Member must submit the record within 10 business days (two weeks)
- -- The appellant must submit any argument he or she wishes to make within 10 business days (two weeks) of the due date for the record

-- The Organization Member must submit any argument in opposition to the appeal within 10 business days (two weeks) of the due date for appellant's argument.

Neither side needs to submit materials until the scheduling letter is received.

The Record

USSF Policy 705-2 (see **Tab A**) sets forth the documents that shall be included in the record submitted on appeal. These include "all documents, exhibits, and other evidence in the case," "copies of all rules, procedures, and bylaws used," the "notice of charges," and the "decision of the hearing body and any appeals decisions." If there are any receipts showing proof of mailing or delivery, those should also be included.

A few tips that Organization Members should keep in mind when preparing the record:

- A table of contents and some sort of numbering system for the pages is helpful, especially for larger records.

- The documents are usually most easily understood when arranged chronologically.

- If the accused submitted documents at the hearing, even if the hearing panel decided that these documents were inadmissible, it is probably best to include them in the record unless doing so creates some sort of hardship. Generally, if an accused complains that certain evidence was excluded, the appeals panel will want to at least see the document(s) in question, if for no other reason than to confirm that it was properly excluded.

- All relevant bylaws, policies, and rules should be included. This is the most common omission from records submitted to USSF.

- If a recording was created for the hearing, it is only required for inclusion in the record if the appellant or the Organization Member feels it is relevant. In that instance, four copies must be submitted to USSF and one copy must be provided to the appellant.

- A copy of the full record must be sent to the appellant.

The Arguments

Once the record is submitted, each party may submit written argument for consideration by the Appeals Committee panel appointed to hear the case. There is no specific format for this written argument – it can be a letter, a legal brief, or even a collection of documents with some sort of introductory statement as to their relevance. However, it is important to remember that this is the only opportunity to address the appeals panel – the parties are generally not invited to take part in the appeals panel's telephone conference – and thus the argument should set forth and explain each point the party wishes to raise.

Appeals Committee Consideration

The USSF Appeals Committee is made up of approximately 40 volunteer members. When a new appeal is ready for consideration, a three-person panel is appointed to the panel using the following guidelines:

- No panel members can reside in the state involved or have any specific knowledge or relationship with the parties that would prevent them from being disinterested and impartial.
- In all appeals by players, at least one of the three panel members must be an Athlete member of the Appeals Committee.
- No two panel members can come from the same Organization Member.

Other than these specific guidelines, panels are selected so as to spread out the work – generally an Appeals Committee member will not be placed on a panel more than once every few months.

The panel, once appointed, is given a copy of everything that has been submitted: the original notice of appeal (including any attachments), the record, and the arguments from each party. The panel is generally given about one week to review and consider these materials, and then meets by telephone conference to discuss the appeal.

In most cases, the panel is able to reach a decision in its first telephone conference. On a few occasions, the panel has determined that it requires additional information from one or both parties. In such a case, the panel sends out a letter asking for more information and schedules a second telephone conference date.

The panel makes its decision based on majority vote – at least two of the three panel members must support the decision. The panel has only three options: (1) deny the appeal and uphold the decision that is being appealed; (2) grant the appeal and reverse the decision that is being appealed; or (3) remand the case to the Organization Member for a new hearing or further consideration based on the decision of the Appeals Committee.

The Appeals Committee Decision

The Appeals Committee decision is issued in writing to both parties. USSF Policy 705-1 provides that the appeals panel must issue its final written decision within ten days of its determination of the appeal, and not more than twenty days after initial consideration (except for just cause). Generally, most appeals panels issue the decision in less than one week. Policy 705-1 also provides that the decision of the appeals panel is "final and may not be further appealed."

TAB A

USSF BYLAWS AND POLICIES
RELATING TO HEARINGS AND APPEALS

Bylaw 212. GENERAL RESPONSIBILITIES

Section 1. Each Organization Member shall satisfy all of the following requirements:

* * *

(6) comply with the Amateur Sports Act, to the extent applicable.

Bylaw 213. ORGANIZATION MEMBER RESPONSIBILITIES

Section 1.

(a) Except as otherwise specifically provided in this Section 1, the organizational documents and governing documents of each Organization Member shall include the following:

* * *

(7) The Organization Member shall provide prompt and equitable procedures for resolution of complaints of its members and procedures for fair notice and an opportunity for a hearing with respect to any complaint of any Athlete, coach, trainer, manager, administrator or official who is a member of the Organization Member, or a member organization thereof, concerning a proposed declaration that any such individual is ineligible to participate in the programs or other activities of such Organization Member or a member organization thereof and such procedures shall conform, as applicable, to the provisions of Part VII of these Bylaws.

* * *

Bylaw 241. SUSPENSIONS, FINES, AND TERMINATIONS

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Section 4. A suspension or other disciplinary action imposed by the Federation, in accordance with these bylaws, shall be recognized by all Members of the Federation upon notification by the Federation. Suspensions and other disciplinary actions taken by Members of the Federation shall be recognized by the Federation and all other Federation Members upon proper notification to the Federation and determination by the Federation

that the party subject to the action received hearing and procedural rights substantially similar to those set forth in these bylaws.

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.

* * *

Bylaw 705. APPEALS PROCEDURES

Section 1.

(a) The Appeals Committee shall consider and determine appeals from final decisions rendered by Organization Members (except Professional League Members) relating to activities sponsored by the Federation or the Organization Member (except a Professional League Member) or its members. The decision of the Appeals Committee is final. The Appeals Committee has the power to call for the production of any documents and evidence the Appeals Committee may require.

(b) (1) In this subsection, "competition" may include games, tournaments, league play, or a regular season.

(2) No decision of an Organization Member that arises out of the application of the rules of competition which is made in the course of the competition, and has no consequence beyond the competition, is appealable. Nothing in this subsection shall be construed to limit the rights of appeal available under the Amateur Sports Act or the Constitution or Bylaws of the USOC relating to the opportunity of Athletes to participate in "protected competition", as defined in the USOC Constitution.

Section 2. An appeal shall be made in accordance with procedures established by the Board of Directors and is begun by submitting a notice of appeal within 10 days from the date of the official receipt of the decision by the party making the appeal. Copies of the notice of appeal shall be sent to all opposing parties and to the appeals committee or other body whose decision is being appealed.

Section 3. The notice of appeal shall be accompanied by the appeal fee in the form of money order or cashier's check in an amount determined by the Board of Directors. The appeal fee shall be retained by the Federation.

Section 4. The appeals committee or other body whose decision is being appealed shall, within 10 business days of the date of acceptance of jurisdiction by the Appeals Committee of the notice of appeal, forward to the Secretary General and to all parties the official record utilized by it in making its decision. Parties should not resubmit documents contained in the official record.

Section 5. Within 20 business days of the date of acceptance of jurisdiction by the Appeals Committee of the notice of appeal, the appealing party shall submit to the Secretary General any argument it wishes to make in support of the appeal and shall furnish copies of the argument to all opposing parties and to the appeals committee or other body whose decision is being appealed.

Section 6. Within 30 business days of the date of acceptance of jurisdiction by the Appeals Committee of the notice of appeal, all opposing parties shall submit to the Secretary General any argument they wish to make in opposition to the appeal.

Section 7. A decision rendered by an Organization Member (except a Professional League Member) from which an appeal is taken is not suspended pending the final decision of the Appeals Committee unless the Committee otherwise orders. That decision may be upheld, reversed, or reversed and remanded.

See ***Policy 705-1 — Appeals Committee***
Policy 705-2 — Appeals Record

Policy 431-1 -- Federation Standing Committees

Section 1. Appeals Committee

See Policy 705-1. In addition, where a request has been made to enforce a suspension under USSF Bylaw 241, the Appeals Committee shall determine whether a suspended party received hearing and procedural rights sufficient to enforce that party's suspension under USSF Bylaw 241, Section 4.

* * *

Policy 701 -1 Hearing Procedures

This policy provides the minimum rights that each party would have at a hearing with respect to the right to assistance in presenting one's case at a hearing, as must be allowed under Federation Bylaw 701(5). These minimum rights apply to hearings conducted by Organization Members and their members or other hearing body. A copy of these minimum rights should be delivered to the parties with the notice of the hearing.

(A) Each party at a hearing shall have the right to have an individual present at the hearing to assist the party in presenting the party's case. Such individual may, but shall not be required to be, an attorney.

(B) If the Organization Member or member of the Organization Member ("Complainant") is represented by another individual at any hearing and the hearing panel allows that individual to speak, question the parties and/or witnesses, or grants that individual any other rights, then it shall afford all other parties, or the individual representing the party, including an attorney, the same rights during the course of the hearing as is allowed to the individual representing the Complainant.

(C) If an attorney is present at a hearing to assist a party in presenting the party's case, it shall be made clear at the commencement of any such hearing that the hearing shall proceed in
accordance with the Organization Member's hearing rules and procedures. All Federal, State or local Rules of Evidence or Civil Procedure shall not be applicable.

(D) An Organization Member may provide, as part of its hearing rules and procedures, that an individual assisting a party may be allowed to speak on behalf of the party, make requests or ask questions at the hearing.

(E) Regardless of whether the Organization Member allows the individual assisting the party the rights to speak, make requests or ask questions, as noted in Paragraph D above, an individual assisting the party in presenting the party's case shall have the right to be physically present in the hearing room, and so as not to interfere with the hearing procedure, it is also recommended that the individual be

seated close to the party (either behind or next to the party) so that the party may seek assistance when desired during the course of the hearing.

(F) During the course of the hearing, the party may confer briefly with the individual who is assisting before making a statement or request or prior to responding to a question. The panel conducting the hearing may limit the frequency and duration of the conferences so as not to unduly interfere with the proceeding.

(G) If there is confusion or concern, the party may request a recess to confer with the individual assisting the party. Such a request should be granted unless the number of requests by a party becomes unreasonable or the length of a requested recess is deemed by the hearing panel to be unreasonable.

(H) An individual assisting a party may prepare written materials for the party and collect documents for the party. However, the party must submit or present the materials and documents as materials and documents of the party, and not of the individual assisting. The party has complete responsibility for those materials and documents and is subject to questioning about them.

(I) Nothing contained in this policy shall prevent an Organization Member from allowing greater rights to assistance than those set forth in Paragraphs A-H above. For example, an Organization Member may, but shall not be obligated to, allow more than one individual to assist a party at any given time.

(J) The rights, either mandatory or permissible under this policy, shall be consistently applied, and the Organization Member should not arbitrarily allow or disallow the rights set forth above to those individuals assisting a party in the presentation or defense of the party's case.

Policy 705-1 -- Appeals Committee

Section 1. The Chair of the Appeals Committee (AC) and its members shall be appointed by the President, subject to the approval of the Board of Directors. The AC shall consist of at least twenty (20) members, at least 20% of whom shall be Athletes.

Section 2. Three (3) members of the AC shall constitute an Appeals Panel (AP) for the purposes of considering and determining any appeal brought pursuant to Bylaw 705. In any appeal involving an Athlete, at least one (1) member of the AP shall be an Athlete member of the AC. In order to maximize the expertise of the AP and avoid conflicts of interest, the Chair of the AC shall select the AP as the need arises. The Chair shall also designate one member of the AP to act as the AP's Chairperson, who shall, among other things, be the member of the AP responsible for ensuring that the appeal is considered and determined within the time periods prescribed by the Bylaws. No member of the AP may be from the Organization Member of the parties.

Section 3. Appeals shall be considered and determined by the AP in person or by telephone conference call at the Chair's direction; consideration and determination of an appeal shall be closed to the public and the parties. The AP may decide to allow oral argument either in person or by telephone, with all parties having the opportunity to participate, before its consideration and determination. If allowed, the AP may set time limits for the oral argument and may hold the oral argument on a day prior to the date the AP will consider and determine the appeal. If the AP decides that oral argument is not necessary, then the AP shall decide the matter based upon the record and the parties' written arguments.

Section 4. The appellant shall bear the burden of showing that the decision being appealed from is clearly erroneous.

Section 5. No new evidence may be presented to the AP unless circumstances have materially changed, or new facts are discovered that were unavailable at the time of the hearing from which appeal is being taken. In such cases, the AP may allow that such new evidence be presented to it provided all parties to the appeal have been given notice and are given an opportunity to respond to the materially changed circumstances or previously unavailable or undiscovered, unavailable facts.

Section 6. If an appellant fails to submit arguments by the deadline for submitting appellant's arguments, and no continuance has been granted by the AP, the appeal shall be considered abandoned. If oral argument is allowed and the appellant fails to participate in oral argument without excuse, the appeal shall be considered abandoned.

Section 7. The AP shall issue a final written decision within ten (10) days after it has considered and determined the appeal, however, not more than 20 days after initial consideration except for just cause.

Section 8. The decision rendered by an Organization Member from which an appeal is taken may be suspended by the AP only upon written application by the appellant which accompanies the Notice of Appeal and the finding by the AP of good cause shown. Good cause shown may only be made upon a unanimous vote of the AP and a written decision which specifically states that there is a strong likelihood of success upon the appeal and that circumstances are present which clearly show that the appellant will suffer irreparable harm unless the decision from which the appeal is taken is suspended pending the determination of the appeal. The decision of the AP regarding suspension of the decision pending determination of the appeal shall be final and may not be further appealed.

Policy 705 -2 Appeals Record

The appeals record shall be submitted by the Organization Member using the format attached hereto. The appeals record shall contain, at a minimum, the following:

1. All documents, exhibits and other evidence in the case.

2. Copies of all rules, procedures, and bylaws used to support the charges and to conduct the hearing.
3. The notice of charges and/or hearing provided the defendant/appellant.
4. The decision of the hearing body and any appeals decisions.

The record shall:

1. be numbered in chronological order
2. be indexed
3. contain only one copy of each document.

If audio or videotapes are made part of the record, there must be four (4) copies of any such tape delivered to the Federation.

If a written transcript has been prepared, it shall be included as part of the record.

The record must be in English. If Associations accept documents in other languages, then the Association shall be responsible for providing English translations of the documents prepared by a neutral translator agreed to by the parties.

If the record is not submitted in accordance with this policy, the appeal timetable may be put on hold pending the completion of the record or the appeal may be dismissed. If the appeals timetable is put on hold, the appealing party may apply to the Federation to have their penalty suspended until the case is decided.

Index of Documents Contained in the Certified Appeal Record

Case:_____ Date:_____ Index Page:_____

Record #_____ Date:_____ Description of Document:_____

(attach additional sheets as required)

Certificate:

I certify that each party to this appeal was given the opportunity to present documentation before the record was closed and that the above documentation is the entire record considered in connection with this matter.

Dated:_____ _____

Appeals Committee Chairperson

TAB B

SAMPLE NOTICE LETTER

Sample Organization Member
1801 S. Prairie Ave.
Chicago, IL 60616

January 5, 2006

BY OVERNIGHT DELIVERY

Joe Smith
123 Maple Lane
Chicago, Illinois, 60655

Dear Mr. Smith,

Sample Organization Member ("SOM") has received an allegation that you have engaged in behavior that, if the allegations are true, would be a violation of SOM Rule 5.1 (Referee Abuse) and would also qualify as referee abuse under USSF Policy 531-9 (Misconduct Toward Game Officials). You are hereby charged with violation of both rules.

The alleged behavior took place at a Boys U-13 match on December 19, 2003 between Lakeside Bulldogs and Gold Coast Rampage. The referee report for the match indicates that you repeatedly disputed calls during the game, and then at the end of the game you approached the referee and told him you would "kick his butt."

SOM will hold a hearing to consider these charges on **Saturday, January 31, 2006 at 10:00 a.m.** The hearing will take place here at SOM headquarters, located at 1801 S. Prairie Avenue, Chicago, Illinois. If you need directions, you may call the office at 312-555-1200.

SOM has requested that Robert Official, the referee from the match in question, appear at the hearing. SOM has also requested that Bill Sideline, the assistant referee, appear at the hearing.

You are directed to appear at the hearing to answer the charges against you. If you do not appear at the scheduled hearing, the hearing will proceed without you and a decision will be made without your testimony.

You may present evidence and testimony from witnesses at this hearing. Any written evidence must include five (5) copies for the use of the hearing panel members.

A parent or legal guardian must accompany any witnesses who are minors – there are no exceptions. You will have a time limit of thirty minutes to present evidence or testimony. Should you have any further questions about the hearing procedures, you should consult SOM Policy 6, which lays out all relevant procedural rules and which will govern this hearing. All SOM Bylaws and Policies are available on SOM's website, www.SOM.com.

Enclosed are a copy of the referee report, copies of SOM Rule 5.1 and USSF Policy 531-9, and USSF Bylaw 701 (which sets forth due process rights). Please note that SOM Rule 5.1 and USSF Policy 531-9 provide that anyone found to have committed referee abuse shall receive a minimum suspension of three scheduled matches, but both rules allow for a longer period of suspension. Please note that SOM Rule 5.1 also provides that anyone found to have committed referee abuse may be subject to additional discipline, including probation, fines, or enrollment in a referee course or anger management course.

If you have any further questions about procedural issues, you can contact me at (312)555-1204. Please note that I cannot discuss the details of your case.

Sincerely,

Kathy Soccer
SOM Disciplinary Committee Chairperson

Enclosures

TAB C

SAMPLE DECISION LETTER

Sample Organization Member
1801 S. Prairie Ave.
Chicago, IL 60616

February 3, 2006

BY OVERNIGHT DELIVERY

Joe Smith
123 Maple Lane
Chicago, Illinois, 60655

Dear Mr. Smith,

On Saturday, January 31, 2004, Sample Organization Member ("SOM") held a hearing to consider charges that you violated SOM Rule 5.1 (Referee Abuse) and committed referee abuse under USSF Policy 531-9 (Misconduct Toward Game Officials).

The hearing was convened at 10:00 a.m. The hearing panel heard testimony from Robert Official, the referee for a Boys U-13 match that took place on December 19, 2003. The hearing panel also heard testimony from Bill Sideline, the assistant referee for the match.

At the hearing, you appeared and testified on your own behalf. You also presented testimony from Laura Parent, a parent from your team who was present at the match in question and Kyle Assistant, who served as your assistant coach on the day of the match.

The hearing lasted approximately 45 minutes. After considering all the evidence presented, the hearing panel makes the following findings:

1. You, Joe Smith, served as coach for the Gold Coast Rampage during a Boys U-13 match that took place on December 19, 2003 ("the Match").

2. Robert Official served as the center referee for the Match. Bill Sideline served as the assistant referee for the Match.

3. During the Match, you repeatedly yelled at Mr. Official that he was making the wrong call, that he didn't know what he was doing, and that he had lost control of the match. Several times you yelled obscenities. Mr. Official cautioned you

during the second half that you needed to stop yelling and warned you to refrain from using obscenities.

4. At the conclusion of the Match, while Mr. Official was still on the field, you walked onto the field and approached Mr. Official. You yelled at him that he was a "terrible official" and when you were approximately 5 feet away from him you told him that you were going to "kick his butt." Your assistant coach, Mr. Assistant, placed his hand on your shoulder and pulled you away from the referee.

Based on these findings, it is the conclusion of the hearing panel that:

1. You have violated SOM Rule 5.1 (Referee Abuse) because you improperly addressed the referee "in a threatening manner."

2. You have committed "referee abuse" under USSF Policy 531-9 because you made a "verbal statement . . . not resulting in bodily contact which implies or threatens physical harm to a referee."

3. You must serve a period of suspension for each rule violation of six months. All suspensions will be served concurrently (together). Your suspension will run from today, **February 3, 2006 through and including August 3, 2006.**

The term "suspension" means a complete cessation of any and all SOM and USSF-affiliated activities. While under suspension, a member may not play or practice for any team, may not coach or in any way assist in the instruction, training, or management of a team, and may not hold any official position of responsibility within any affiliated organization. If you have any questions as to whether you are permitted to engage in certain activities, you should contact SOM first. Please note that failure to abide by the terms of your suspension may subject you to additional discipline, including an extension of your suspension.

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 USSF 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 SOM. Please also note that an appeal does not "stay" the decision of SOM.

Sincerely,

Kathy Soccer
SOM Disciplinary Committee Chairperson

TAB D

NOTICE OF APPEAL

PLEASE ATTACH APPEAL FEE: $ 300 (Cashier's Check or Money Order Only)

_____Cashier's Check **_____ Money Order**

A. Individual/ Organization Filing Appeal (the Appellant):

Name: _____

Address: _____

_____

_____

Home Telephone No.: _____

Home Fax No.: _____

Work Telephone No.: _____

Work Fax No.: _____

Email address: _____

B. Opposing Party/Organization Member Rendering Decision (the Appellee):

Name: _____

Address: _____

_____

_____

Organization Member Telephone No.: _____

Organization Member Fax No.: _____

Name of Organization Member President: _____

C. Date of Decision* being Appealed: _____

APPELLANT: PLEASE BE SURE TO ATTACH A COPY OF THE DECISION TO THIS NOTICE OF APPEAL.

D. Please State Briefly the Reasons Why You Are Appealing the Decision:

_____

_____

_____

_____

_____

E. Date Decision was received* by Appellant: _____

APPELLANT HAS TEN (10) DAYS FROM DATE OF RECEIPT OF THE DECISION WITHIN WHICH TO FILE THIS NOTICE OF APPEAL WITH THE UNITED STATES SOCCER FEDERATION, INC. NATIONAL APPEALS COMMITTEE, TO THE ATTENTION OF THE PERSON AND AT THE ADDRESS SET FORTH BELOW:

I hereby certify that a true and correct copy of this Notice of Appeal, together with appropriate appeals fee in the amount of $300 (in the form of a cashier's check or money order), made payable to: The United States Soccer Federation, Inc. , has been sent to:

The United States Soccer Federation, Inc. National Appeals Committee
c/o Daniel T. Flynn, Secretary General
1801-1811 South Prairie Avenue, Chicago, IL 60616.

I further certify that a true and correct copy of this Notice of Appeal has been sent to the Organization Member and/or the Organization Member President listed in Section B above.

Dated: _____ _____

Signature of Appellant