



Hearings and Appeals Handbook

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FYSA is affiliated with



Introduction

This handbook is intended to provide guidance to Florida Youth Soccer Association (FYSA) Affiliates and members on the 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, spectators and administrators. First, the Ted Stevens Olympic and Amateur Sports Act (Sports Act), 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 Sports Act" and to provide "procedures for fair notice and opportunity for a hearing with respect to any complaint of any Athlete, coach, trainer, manager administrator or official . . .concerning a proposed declaration that any such individual is ineligible to participate ...".
- (2) Bylaw 241 states that the Federation will recognize, honor, and enforce disciplinary action taken by an Organization Member upon confirmation that the subject of the disciplinary action received a hearing and was afforded procedural rights substantially similar to those in the Federation's Bylaws and policies.
- (3) Bylaw 701 and Policy 701-1 require that parties to all hearings conducted under USSF Bylaws be afforded a list of specific rights including notice, time to prepare a defense, an impartial panel, etc.
- (4) Bylaw 704 provides the USSF Appeals Committee with jurisdiction over final decisions made by Organization Members.

Copies of each of these Bylaws and Policy are contained in this handbook under **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:

How to hold a hearing; and how the appeals process works.

In addition to this handbook, FYSA and USSF have additional information on their websites (USSF - www.ussoccer.com and FYSA - www.fysa.com) relating to hearings and appeals. For USSF, to access this information, click on "Governance" at the bottom of the main page. Click on "Legal" on the left side underneath Executive Staff. This section has information available in regards to:

- How to properly run a disciplinary hearing
- How to file an appeal
- Summaries of past appeals decisions

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 A**.

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 USSF 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 being brought? What incident/behavior forms the basis for these charges? What rule(s), bylaw(s), or policies are alleged to have been violated?

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 have 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? What penalties are available? What is the maximum penalty possible?

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 receipt of the notice of charges and the hearings within which to prepare a defense. There is no specific amount of time that must be provided between notice and the actual hearing - it must simply be "reasonable." This will depend on the method of notice, the nature of the charges, etc., but generally one week will be considered "reasonable." If a party asks for an extension of time, it is probably most appropriate to grant it - at least if it is the first such request - in order to ensure that there is sufficient time to prepare a defense. The time of notice is generally deemed to be whenever it is deposited in the mail, or otherwise sent out (by FedEx, facsimile, etc.).

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 (30) 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 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 list those witnesses expected to attend or invite 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 written notice be sent in a way that provides a written receipt to the sender to avoid having the issue of notice become an issue 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 and USSF Bylaw 701-1 (see **Tab A**) sets forth a number of requirements for hearings.

These are:

The hearing panel must be a "disinterested and impartial body of fact-finders" (section 1(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". 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 actually filed the complaint or report that led to the charges.
- In an appeal, an individual who had any role in making the decision that is on appeal.
- Anyone who is a witness at the hearing.

Section 2 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 (including by counsel) in the presentation of one's case at the hearing (section 1(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 to the 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 1(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, when possible, inform the accused as to the next procedural step. 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. Information about the right to appeal is quite important. If the accused is not notified of his/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 IO- day window where the accused was not properly notified of his/her appeal rights in the decision letter.

Appeal 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 and 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 a "consequence." Generally, for a decision to have a "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 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 FYSA Appeal Process (FYSA Rules 602 and 605)

An appellant initiates the appeals procedure within FYSA by filing a Notice of

Appeal. The appellant must include an appeals fee (currently \$400) and a copy of the decision from which he or she is appealing. USSF Bylaw 704 requires that the Notice of Appeal to be submitted within 14 days of receipt of the decision by the appellant.

Upon receipt of the notice of appeal, the FYSA Protest and Appeals Committee (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.

The Appeals Committee will notify all parties to the action of the pending appeal and timelines for submission of arguments and rebuttals.

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 (10) ten days of its determination of the appeal and not more than (20) twenty days after initial consideration (except for just cause).

TAB A

USSF AND FYSA BYLAWS AND POLICIES RELATING TO HEARINGS AND APPEALS

Bylaw 212. GENERAL RESPONSIBILITIES

Section 1. As a condition for obtaining and maintaining membership in the Federation, each Organization Member shall satisfy all of the following requirements:

(1) except as otherwise required by applicable law, comply with all Bylaws, policies and requirements of the Federation, and all statutes, regulations, directives and decisions of FIFA and Concacaf, each as they may be amended or modified from time-to-time, to the extent applicable to that classification of Organization Member.

(2) make available to the Federation any amendment to its organizational documents or its governing documents.

(3) submit to the Federation its most current annual financial statements within ninety (90) days after the end of its fiscal year.

(4) except Associates and as provided by Section 1 of Bylaw 601

(A) require that every player, coach, trainer, manager, administrator and official that is sponsored, financed, coached, organized or administered by an Organization Member or a member organization of an Organization Member be registered with the appropriate Organization Member; and

(B) register with the Federation each seasonal year the names and addresses of those players, coaches, trainers, managers, administrators, and officials registered with such Organization Member.

(5) pay fees and other amounts due to the Federation by deadlines set by the Federation.

(6) comply with the Sports Act.

(7) if the Organization Member is responsible for recruiting, training, fielding or funding soccer players, establish a risk management program to promote the safety and protect the welfare of participants.

Section 2. Except as specifically provided otherwise in these Bylaws, each Organization Member has exclusive jurisdiction over its own programs and activities; provided, however, that any Organization Member or other person or entity subject to the jurisdiction of the Federation which desires to conduct an international competition to be held in the United States, or to sponsor an international competition to be held outside the United States, must first obtain a sanction from the Federation, which may be granted or denied at the Federation's discretion.

Section 3.

(a) Except as otherwise specifically provided in this Section 3, the organizational

documents and governing documents of each Organization Member shall include the following:

(1) Except with respect to a Professional League, the membership of the Organization Member and its member organizations shall be open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in the sport of soccer who is not subject to suspension under Section 4 of Bylaw 241 or pursuant to the disciplinary or risk management action of any amateur soccer organization in its territory; and except for a National Association, the membership of the Organization Member and its member organizations shall be open to any amateur soccer organization in its territory.

(2) The Articles of Incorporation of the Federation, its rules and policies, and these Bylaws, including Bylaw 603 governing interplay, shall take precedence over and supersede the organizational and governing documents of the Organization Member and its member organizations except to the extent applicable law otherwise requires and the Organization Member and its member organizations shall abide by the Articles of Incorporation of the Federation, its duly approved binding rules and policies, and these Bylaws.

(3) The Organization Member shall not become a member of any organization that imposes any requirement that conflicts with the Articles of Incorporation of the Federation, its rules and policies, or these Bylaws.

(4) Except with respect to a Professional League and for-profit Organization Members, the Organization Member shall have a Board of Directors (or similar body) selected through an open and democratic election process.

(5) Except with respect to a Professional League, the actions and policies adopted by the board of directors (or similar body), executive committee of the board (or similar body), or officers of the Organization Member shall be reported to its membership, or their authorized representatives, at least once each year at a meeting of the Organization Member's membership, with notice of the meeting and its purposes given to such membership at least fifteen (15) days in advance of the meeting.

(6) 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.

(7) The Organization Member shall adopt policies prohibiting sexual and physical abuse.

(b) The Federation may audit or review an Organization Member to determine compliance with the provisions of Section 3. The Federation's review shall be performed

by a task force or committee designated by the Board.

Section 4. If an Organization Member intends or is being compelled by law to dissolve or otherwise terminate its existence for any reason, it shall immediately notify the Federation.

Bylaw 241. SUSPENSIONS, FINES, AND TERMINATIONS

Section 3. An Organization Member may notify the Federation of a disciplinary action taken against any of its members to suspend or terminate participation by providing the Federation with a copy of the decision and, upon request from the Federation, with the record of the disciplinary action. The Federation will recognize, honor, and enforce disciplinary action taken by an Organization Member upon confirmation that the subject of the disciplinary action received a hearing and was afforded procedural rights substantially similar to those set forth in the Federation's Bylaws and policies. This due process review does not constitute an appeal and shall not cast judgment on the factual record or merits of the disciplinary action.

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Bylaw 701. HEARING PROCEDURES

Section 1. In all hearings conducted by the Federation and its Organization Members under these Bylaws, the parties shall be accorded:

- (1) notice of the specific charges, claims, or alleged violations in writing and possible consequences if the charges, claims, or allegations 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 respondent to attend;
- (4) a hearing before a disinterested and impartial panel;
- (5) the right to be assisted (including by counsel) 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 timely written decision containing findings of fact and with reasons for the decision, based solely on the evidence of record; and
- (10) notice of any substantive and material action of the hearing panel in the course of the proceedings.

Section 2. 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 3. Hearing rules and procedures shall be set forth by policy.

See Policy 701-1—Hearing Procedures

Bylaw 704. APPEALS OF DISCIPLINARY DECISIONS BY ORGANIZATION MEMBERS

Section 1. The Appeals Committee shall consider and decide appeals from final decisions rendered by Organization Members (except Professional Leagues) denying the right to participate in competition. The decision of the Appeals Committee shall be final, binding, and not subject to further challenge or appeal. The Appeals Committee may compel the production of any documents and evidence the Appeals Committee may require.

Section 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 which has no consequence beyond the competition, is appealable. Nothing in this Bylaw shall be construed to limit the rights of appeal available under the Sports Act or USOC bylaws relating to the opportunity of Athletes to participate in “protected competition,” as defined in the USOC bylaws.

Section 3. An appeal shall be made in accordance with procedures established by the Board and is commenced by submitting notice of appeal within fourteen (14) days after receipt of the decision that is subject of the appeal. Notice of appeal shall be served on all parties and to the appeals committee or other body whose decision is being appealed via hand-delivery, courier, certified mail, facsimile, or electronic mail.

Section 4. The notice of appeal to the Federation shall be simultaneously served on the Secretary General and accompanied by the appeal fee in the amount and manner proscribed by policy adopted by the Board. The appeal fee shall be retained by the Federation.

Section 5. The body whose decision is being appealed shall, within fourteen (14) 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.

Section 6. Within twenty-eight (28) 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 serve copies of its argument to all opposing parties and to the body whose decision is being appealed.

Section 7. Within forty-two (42) 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 and shall serve a copy to the appealing party.

Section 8. A decision rendered by an Organization Member from which an appeal is taken is not stayed or suspended pending the final decision of the Appeals Committee unless the Appeals Committee otherwise orders. The Appeals Committee may uphold, reverse, or remand a decision challenged on appeal.

Bylaw 705. FEDERATION'S SUBMISSION OF JURISDICTION TO ARBITRATION

The Federation shall submit the following to binding arbitration conducted under the auspices of the American Arbitration Association in accordance with its commercial rules in effect:

- (1) any controversy involving its recognition as a national governing body for the sport of soccer, as provided in the Sports Act and USOPC bylaws; and
- (2) any controversy involving the opportunity of any Athlete, coach, trainer, manager, administrator, or official to participate in any amateur athletic competition or the Olympic Games, Pan American Games, World Cup, or any other "protected competition" as defined by the Sports Act and USOPC bylaws.

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.

FYSA RULES

605. APPEALS

605.1 Filing an appeal guarantees any Affiliate or its members the right to appeal any decision impacting their ability to participate in soccer or deemed to be contrary to FYSA Rules or the rules of the Affiliate organization. (NOTE: No decision of a lower hearing authority that arises out of the application of the rules of the competition that is made in the course of the competition and has no consequence beyond the competition may be appealed.)

605.2 Levels of Appeals are:

1. To the Protest and Appeals Committee of a decision reached at a lower authority.
2. As defined under FYSA Rule 606.

605.3 Procedures for filing an Appeal:

1. Level of appeal as listed previously has been followed.
2. Documentation and all pertinent information is submitted in writing including, but not limited to, the original decision of the lower authority.
3. The appellant shall furnish to all previous parties to the decision, by certified mail or other means where delivery can be verified, a copy of the appeal and all attachments referenced in the appeal.
4. Upon receipt of an appeal, the hearing body shall notify all parties to the action of the pending appeal and timelines for submission of arguments and rebuttals. This notice shall be by means where notification can be verified.
5. Time requirements are met following the protest decision.
6. Fees, as set by FYSA, shall be included. (See Fee Structure - Rule 303)

605.4 Criteria for filing an Appeal are:

1. Basis for the appeal is clear evidence that the lower authority failed to follow established procedures during original review.
2. Excessive disciplines and/or sanctions were imposed by the lower authority than is customarily required for the offense.

3. Authority not within the Rules of FYSA for the alleged offense.
4. Time requirements were not met by the lower level authority.

605.5 Denial of an Appeal shall be based on:

1. Basis of the appeal is not the failure of the lower level of authority to meet the rules.
2. Member filing appeal is not the person(s) or body that originally filed the protest.
3. The status of the person(s) filing the appeal is NGS.
4. Different basis or intent, in part or wholly, of the original appeal.
5. Established rules have not been followed.

605.6 Tracking of an Appeal (These are guidelines and reasonable variations for legitimate reasons will not invalidate the appeal.):

- | | |
|-------------------------------------|---------|
| 1. Individual/Team/affiliate/league | 7 days |
| Back to Appellant | 10 days |
| 2. Protest and Appeals Committee | 10 days |
| Back to Appellant | 21 days |

When a decision is made about an appeal, the lower authority that initially made the allegations against any FYSA member, player and/or coach, shall be notified within the timelines as specified above.

605.7 Access to pertinent information in order for a party to file an appeal cannot be denied. Neither an Affiliate nor FYSA shall deny access to any information that could apply to the appeal.

606. APPEAL BEYOND FYSA

1. If jurisdiction does not vest with USSF, a decision rendered by FYSA's Protest and Appeals Committee may be appealed to FYSA's BOD. All conditions as contained under FYSA Rule 605.3 must be followed for an appeal to the BOD. A fee for this appeal may be set by FYSA's BOD.
2. Appeal of a conviction of referee assault shall vest immediately with the USSF Appeal Committee.
3. As otherwise described in USSF Bylaws 702 and/or 705.

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