

5.3 - Hearing Procedures

The procedure as set out in this Part 3 shall be followed upon receipt by the NCYSA State Office of a complaint alleging violation of NCYSA/USYSA/USSF Constitution, By-laws, Rules and Regulations, Procedures, Code of Conduct or referee abuse by an individual or entity over which NCYSA has jurisdiction:

1. NCYSA State Office staff shall fax or electronically mail the Complaint to the D & A Committee Chairperson
2. The D & A Committee Chairperson or his/her designee shall review the Complaint and determine whether it appears to adequately state an allegation of actionable misconduct on the part of a person or entity over whom NCYSA has jurisdiction.
3. If the D & A Committee Chairperson or his/her designee finds the allegations inadequate, a written statement informing the complainant of the decision not to proceed with the Complaint shall be prepared and sent to the Complainant by the NCYSA State Office (State Office) along with a Statement that the decision not to proceed may be appealed to the NCYSA Executive Board for Review of the determination not to proceed.
4. If the D & A Committee Chairperson or his/her designee finds the allegations adequate to demonstrate, if verified, an actionable violation of any NCYSA/USYSA/USSF Constitution, By-laws, Rules and Regulations, Procedures, Code of Conduct or referee abuse then a hearing will be scheduled to address the complaint. The State Office shall issue a notice to the accused party stating that a complaint has been received. The notice shall indicate:
 - a) the alleged facts of the violation;
 - b) the provision, if applicable, of the Constitution, By-law, Rule, Regulation, Procedure or Code of Conduct allegedly violated;
 - c) the potential sanctions, if such violation is found at the hearing;
 - d) a statement that a hearing will be set before a Hearing Panel (Panel) of the D&A Committee and the accused and complainant will be notified of the date, time, and place of the hearing, by email (if available), by telephone, regular mail and certified mail.
 - e) In the initial notification the accused shall be provided with a copy of the hearing procedures, rights, duties, responsibilities and requirements of the D & A Committee Hearing Process.
5. The notification to an accused party of the hearing procedures of the D & A Committee shall specify at a minimum the following information:
 - a) the fact that the accused is entitled to a hearing before neutral and unbiased members of the Panel of the D&A Committee.
 - b) a notification that the accused shall be advised at least five (5) days before the scheduled hearing date of the identities of the members of the Panel.
 - c) a notification that any claim of bias against any of the designated members of the Panel must be received in the State Office at least seventy two (72) hours prior to the scheduled date and time of the hearing or any such claim is waived.
 - d) a notification that the accused is entitled to assistance at the hearing, including the assistance of legal counsel, to advise and consult with the accused, if desired.
 - e) a statement that any hearing shall be scheduled at least ten (10) days after notice of the hearing has been provided to the accused and an indication that a request for the hearing to be rescheduled for any reasonable conflict may be made if requested no later than five (5) days before the scheduled hearing date. A request to reschedule the hearing made within five (5) days of the hearing date will be granted only upon a showing of extraordinary circumstances.
 - f) a notification that at the hearing the accused may call witnesses to offer relevant evidence in his behalf, may submit sworn written statements on his behalf, and may submit other written documentation.
 - g) a notification that the name and a brief summary of the expected testimony of each witness must be provided in writing at least forty eight (48) hours in advance of the hearing to the State Office and the opposing party. Any such witness testimony offered at the hearing and whose information has not been provided in compliance with this section may be disallowed by the Panel in its discretion.
 - h) a notification that all parties have the right to confront and cross-examine any witness offering evidence on behalf of the opposing party.

- i) a notification that the Panel may, upon the stated objection of the opposing party, refuse to admit any evidence, including sworn statements or written documentation for which there is no accompanying witness testimony, on the grounds that the opposing party has been denied an opportunity to confront and cross-examine the witnesses purporting to create such evidence.
- j) a notification that any sworn statements or other written materials that either party wishes to be considered by the Panel must be provided to the opposing party at least forty eight (48) hours prior to the hearing date and time.
- k) a notification that any written material found to be objectionable by the opposing party must be objected to in writing and such written statement of objections provided to all parties and the Panel prior to the taking of evidence at the hearing. The Panel shall not consider any material that has been properly objected to that does not allow the opposing party to confront and cross-examine such evidence unless the Panel specifically finds that the proffered evidence is reliable and is unavailable in any other form. For a witness to be unavailable the Panel must be provided documentation that the presence of the witness was requested by the party seeking to use the statement and a statement from the witness that they were requested to attend the hearing and that they refuse to do so, either in person or telephonically. If the Panel allows the introduction of any such material, previously objected to by the opposing party, then the proponent of such evidence, at the request of the opposing party, must answer any and all reasonable questions of the opposing party as to the circumstances surrounding the taking of the statement and the relationship of the person making the statement to the party offering the statement. All such information so elicited may be considered by the Panel in determining what weight, if any, the Panel should give to the substance and credibility of the proffered evidence.
- l) a notification that witnesses may testify at the hearing telephonically and that any party wishing to have a witness testify telephonically must provide to the State Office at least forty eight (48) hours in advance of the hearing the name and contact telephone number of the witness and indicate that the witness has been advised to be available at that contact number on the date of the hearing.
- m) a notification that if requested at least forty eight (48) hours in advance by any party, the proceedings shall be recorded in their entirety and a copy provided to any party.
- n) a notification that any decision of the Panel shall be made in writing and rendered within fifteen (15) days of the hearing, with a copy provided to all parties and with instructions as to any appeal rights that a party may have if the decision is adverse to the party.

6. At any Hearing conducted by the D & A Committee, the following minimum procedural rules shall be followed as well as any rules and procedures of the D & A Committee that may be published from time to time.

- a) When the case is called, the Hearing Panel members (Panel) shall first determine the admissibility of any witnesses and evidence that have been previously objected to by any party and shall make a determination for purposes of the hearing as to its admissibility.
- b) For any witness who is to appear telephonically, an agent of the D & A Committee shall telephone the contact number of the listed witness half an hour prior to the scheduled commencement of the hearing, shall confirm the witness' availability, and shall ask the witness to remain near the telephone so they may give evidence if called during the next two (2) hours.
- c) The Panel shall determine that the Hearing is prepared to be recorded in its entirety if either party has requested it.
- d) The Panel shall determine that arrangements for any witness to testify telephonically, if such has been requested, are in place such that all parties and the Panel will be able to hear any such testimony, interactively question any such witness, and have such witness' testimony adequately recorded if recording has been requested.
- e) The Panel shall inform the parties of the Hearing procedures. Each party shall have forty five (45) minutes to present their evidence. Additionally, the complainant shall have ten (10) minutes allotted for rebuttal to the accused's evidence, and five (5) minutes of surrebuttal to the accused's surrebuttal. The accused shall have fifteen (15) minutes of surrebuttal to the complainant's rebuttal. Furthermore, each party shall have fifteen (15) minutes of total argument time to the Panel. The complainant shall open and close the argument and may allot his time as he wishes, including waiving his initial Closing Argument. The complainant bears the burden of proof and

must convince the Panel by a preponderance of the evidence to prevail. After the conclusion of all evidence and argument, the Panel shall declare the Hearing concluded, dismiss all parties, and shall retire to deliberate. A decision of the Panel shall be issued in writing to all parties within fifteen (15) days of the hearing.

f) At the Hearing, the Panel may be advised as to procedural questions by Legal Counsel to the D & A Committee. The Panel shall determine all facts of the case and their determination of any such facts, if supported by competent evidence in the record, shall be binding upon any appellate reviewing body.