

**USA HOCKEY BYLAW 10 GUIDELINE ON
PROCEDURE FOR SUSPENSION AND DISCIPLINE OF MEMBERS**

(updated version as of 6/6/23)

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

Note: any allegation or suspicion of alleged sexual misconduct or child abuse (as defined in the USA Hockey Safe Sport program Handbook) must be immediately reported to law enforcement and the U.S. Center for Safe Sport and shall not be investigated or resolved by USA Hockey or any person associated with any Affiliate Association or local league, association or program until/unless the U.S. Center for SafeSport declines jurisdiction of the allegation.

A. Definitions

The following terms have the same meaning as defined in Bylaw 10 of the USA Hockey Annual Guide:

“Administrative Action” is any action or decision by USA Hockey, an Affiliate Association or a local league, association or program (other than Discipline, as defined below) that affects any Parties’ eligibility to participate in domestic competition and/or their membership in any organization within the jurisdiction of these Bylaws.

“Appeal Authority” is the body or organization having jurisdiction to decide any applicable appeal according to the relevant governing documents and structures.

“Discipline” is any suspension, probation, censure, or other discipline of a Party.

“Disciplinary Authority” is USA Hockey, including each operating council of USA Hockey (Youth, Girls, Junior, Adult and International), any certified Junior league, any Affiliate Association, or a local league, association or program having jurisdiction to issue discipline to any Party within the jurisdiction of USA Hockey.

“Party” is any persons or organizations within the jurisdiction of USA Hockey, USA Hockey itself or its Affiliate Associations, including, but not limited to, each parent, guardian, agent or other person, and each league, club, sponsor, facility or other group or organization, that is engaged in domestic competition or participating in a USA Hockey sanctioned event of any kind, or any person or organization seeking to be a member of USA Hockey or its Affiliate

Associations, or seeking to engage in domestic competition or to participate in USA Hockey sanctioned events.

Main Principles of USA Hockey Disciplinary Procedures

USA Hockey Bylaw 10.C(1): “Except as may be permitted in Bylaw 10.D and 10.F below, no Party may be suspended from participation or otherwise disciplined for any alleged violation of these Bylaws, USA Hockey Rules and Regulations, Policies, Codes of Conduct and Ethics or any such Bylaw, Rules and Regulations, Policies, Codes of Conduct and Ethics of an Affiliate Association, league, club, sponsor, facility or other group or organization” without a hearing pursuant to Bylaw 10.

B. Hearings.

- Except in limited circumstances, a suspension or other Discipline should not be imposed until *after* a party has been afforded a right to a hearing under the procedures set forth in Bylaw 10.C.
- Hearings under Bylaw 10.C. have certain requirements:
 - Hearing Committee: The applicable Disciplinary Authority may appoint a hearing committee, however the committee must be at least three reasonably disinterested and impartial persons;
 - Offer of Hearing: The hearing committee must hold a hearing within 30 days after its appointment unless a later date is agreed upon by the parties and approved by the hearing committee;
 - Notice of Hearing: The hearing committee must provide at least seven days’ notice of the hearing, which shall include time and place of the hearing, the manner in which the hearing will be conducted, the grounds for any proposed suspension or discipline, the possible consequences of an adverse finding, and the issues to be resolved by the committee;
 - Suspension Remains in Effect: Any existing suspension remains in effect until the decision of the hearing committee is rendered;
 - Location: The hearing must be in a location that is accessible to the party facing Discipline and the parties proposing the Discipline;
 - Hearing Requirements: A fair hearing is required, including:
 - Reasonable notice of the grounds for the proposed suspension or other Discipline, but any grounds supported by the evidence presented may be considered in reaching a decision;
 - Notice of the possible consequences of an adverse finding;
 - A reasonable opportunity for the Parties to present their case and argument;

- The ability to have counsel present (provided that, the hearing committee may set the rules for such participation); and
- An explanation of the appeal procedure when a decision is rendered;
- Hearing Rules: The hearing committee may decide the level of formality for the hearing, may hear any evidence it believes is relevant, may place limits on time, evidence and documentation, may have witnesses and/or written statements and may establish other hearing rules so long as each Party is treated substantially equal. The cross examination of witnesses is not required under Bylaw 10, but the Parties should be made aware of the extent each Party will be able to question witnesses during the hearing.
- Burden of Proof: The party proposing the suspension must establish the facts and the violation of rules or bylaws by a preponderance of evidence (*i.e.*, more likely true than not true).
- Decision Deadlines: The hearing committee must use reasonable efforts to render a decision within five business days of the hearing and prepare and deliver a written decision within 15 business days of the hearing.
- Decision Contents: The written decision must contain (i) findings of material facts (e.g., “the committee finds that the following occurred...”), (ii) conclusions (e.g., “based upon the facts above, the committee concludes that the person violated Bylaw...”), and (iii) the order of the committee (e.g., “based upon the conclusions above, the committee hereby orders the following suspension . . .”).
- Scope of Suspension: Except a suspension one year or more in length or any discipline for a violation of the USA Hockey’s sexual misconduct policies, any suspension or other discipline imposed is only valid with respect to the jurisdiction of the suspending authority (e.g., a local program may only suspend within its program and an Affiliate may only suspend a party from participation within their Affiliate) provided that a local association may request that the Affiliate honor the suspension throughout the Affiliate, and an Affiliate may request that USA Hockey honor the suspension throughout USA Hockey’s jurisdiction. *Suspensions of one year or more or for violation of sexual misconduct policies are automatically national in scope.*

C. Suspensions Prior to a Hearing.

- There are *very few situations* that allow USA Hockey, or any Affiliate, local league or organization, Council, Committee or Section, to suspend or otherwise Discipline a Member without providing a hearing *prior* to the suspension.
- The *limited circumstances* where a suspension may be imposed prior to a hearing are:
 - Playing Rules Suspensions (suspensions where a playing rule expressly permits the suspension – if the suspension is a result of a Match Penalty, a playing rule hearing is required pursuant to Bylaw 10.C);

- Officiating Suspensions (a state association or USA Hockey league or local supervisor may suspend a referee for up to 10 days, and a state association or Affiliate may suspend a referee pursuant to the summary suspension procedures below);
- Assault of a Game Official (an immediate suspension occurs if a match penalty is assessed for assault on a game official, with a subsequent hearing under Bylaw 10.C); and
- Summary Suspensions (are permitted “. . . only in those cases where a person has been arrested for a crime alleged to have been committed, a person has assaulted another or violated the USA Hockey Safe Sport Policy, including such abuse between adults, or other violations of USA Hockey Policies set forth in the Annual Guide or comparable Policies of Affiliate Associations that are in writing and have been approved by USA Hockey. . . .”).
 - Although the language allowing Summary Suspensions for “violations of USA Hockey policies as set out in the Annual Guide, or comparable Policies of Affiliate Associations”, may be interpreted broadly, it is intended that situations calling for suspension prior to a hearing are the exception rather than the rule and hence they should not be overused.
 - An Affiliate or local league or organization may not issue a Summary Suspension unless the Affiliate’s bylaws, rules or regulations provide for such a suspension.
 - USA Hockey Bylaw 10.C(3)(c) requires at least seven days notice prior to a hearing. In most cases. The issuance of a suspension or other Discipline can wait seven days to conduct the hearing process. Although a party may try to delay a hearing, a suspending party would be within their authority to impose a suspension or other Discipline if the notified party did not appear at a properly called hearing (they would then have a right to appeal).
 - If a Summary Suspension is imposed, the suspended party must be provided a written notice of their right to request a hearing. If the party requests a hearing in writing within seven days of the notice, they must be provided a hearing pursuant to the provisions of Bylaw 10.C. In situation where legal proceedings are pending or ongoing, it may be appropriate to allow the suspended party to delay their hearing while legal proceedings are ongoing, in which case the disciplinary authority may permit the suspended party to request their hearing within seven days of the conclusion of the legal proceedings. A suspended Party may request an expedited hearing.
 - For Summary Suspensions related to any allegations of sexual abuse or misconduct, the investigation and resolution of the matter will be forwarded to the US Center for SafeSport. The letter of Summary Suspension should clarify that the suspension is subject to the US Center for SafeSport taking jurisdiction over the matter and issuing any contrary ruling.

D. Appeals.

- Any person suspended or otherwise disciplined may appeal that suspension or other Discipline after the hearing or a failure to have a hearing pursuant to Bylaw 10.
- The Appeal Authority for Playing Rules Suspensions and suspensions or other Discipline for violations of Bylaws or rules of local, league, affiliate or district organizations may vary depending on the respective Affiliate's rules or procedure but is generally either (a) the entire Board of a state association, (b) the entire Board of an Affiliate, or (c) a designated committee of a state association or Affiliate. There are no appeals beyond the Affiliate for discipline not involving suspensions.
- The Appeal Authority for suspensions of referees by an officials association or local supervisor is the Affiliate, and the Appeal Authority for suspensions of a referee by an Affiliate is a committee comprised of the National RIC, a District Director from the District to which the Affiliate belongs, and a third person named by those two people.
- The Appeal Authority for Council decisions is the USA Hockey National Appeal Committee.
- The Appeal Authority for suspensions involving Juniors is the Junior Council.
- The final Appeal Authority for "Administrative Actions" is the Affiliate Board of Directors, except for Administrative Actions taken by a USA Hockey Council, Committee, or Section, which may be appealable to the USA Hockey National Appeal Committee.
- The USA Hockey National Appeal Committee may allow an appeal of any Discipline that includes a suspension, however there is no appeal to the National Appeal Committee for any discipline or Administrative Action that does not include a suspension.
- Any suspension or other discipline shall be in force and effect until it expires or the Appeal Authority modifies it.
- Appeals must be handled pursuant to certain procedures:
 - The Appealing Party must provide a written Statement of Appeal to the Disciplinary Authority and Appeal Authority within 14 days from receipt of the decision from the hearing body or the date of the failure to have a hearing, and if the Statement of Appeal is not delivered within the ten (14) day period, the suspension is final;
 - The Statement of Appeal must describe why the suspension should be reversed or modified, and should include the record of the hearing committee (if any) and a copy of the decision(s) being appealed. The Disciplinary Authority shall have 14 days from receipt of the Statement of Appeal to provide a written response to the Appeal Authority;
 - The Appeal Authority may hold a hearing or may choose to consider the appeal on the written submissions of the parties. If an appeal hearing is held, it shall be

held within 30 days of the Appeal Authority's receipt of all of the appeal submissions (unless agreed by all parties or circumstances exist beyond the control of the Appeal Authority). The Appeal Authority may establish other hearing rules so long as each party is treated substantially equal;

- Only the evidence and theories explicitly presented to the Disciplinary Authority may be presented or considered in appeal;
- The burden of proof on appeal is on the appealing Party to prove that the Disciplinary Authority:
 1. acted in an arbitrary or capricious manner without reasonable grounds or adequate consideration of the circumstances; or
 2. made a finding of material fact that is clearly erroneous, in other words, the Appeal Authority must have a definite and firm conviction that a mistake has been made; or
 3. misinterpreted or misapplied any controlling bylaw, rule, procedure or policy that made a difference in its decision.
- The Appeal Authority must make every reasonable effort to issue a written decision (to include statement finding of the facts that were proven at the hearing and the conclusions of the Appeal Authority) within *the later of* (i) thirty (30) days of the receipt of a reply or expiration of the period for a reply, or (ii) fourteen (14) days of the hearing; and
- The Appeal Authority may affirm, reverse or modify (including increase or decrease) any decision as it deems proper under the circumstances.

Application of the Above Principles

- Each local league, association and organization; each Affiliate; and each Council, Committee and Section of USA Hockey *must* abide by the procedures set forth in Bylaw 10 when imposing suspensions or other discipline.
- Each local league, association and organization; each Affiliate; and each Council, Committee and Section of USA Hockey should have a committee, or persons that could be named to serve on a committee, in order to ensure that there are at least three reasonably disinterested and impartial persons hearing each matter.
- Each Affiliate and each Council should be prepared to determine an appeal (either by holding a hearing or through written submissions) within 14 days of the date the parties have submitted their statements;
- Affiliates and Councils are strongly recommended to appoint an appeals committee to hear appeals in order to meet the required timelines.

Attachments:

- Sample Notice of Hearing (letter to Party advising that a hearing will be conducted);

- Sample Notice of Summary Suspension (letter to Party advising of suspension and right to a hearing);
- Sample Hearing Committee Decision;
- Sample Appeal Authority Decision.

Submitted and Approved By: USA Hockey Legal Council, June 2023.

