

AMENDED AND RESTATED CODE OF DISCIPLINARY REGULATIONS (AUGUST 2017)

Frequently Asked Questions

- 1. Does the Complainant still have rights under the new CDR?** Yes, the person filing a Complaint has the right to file a formal complaint and participate in the disciplinary hearing as a witness if called. However, the Complainant no longer has the right to request an appeal if they do not agree with the disciplinary committee's decision and/or do not agree with the way the hearing was conducted. The Charging Party makes that determination. The person who has been disciplined may also appeal.
- 2. How long does a Complainant have to file a Complaint?** It depends upon whether the Complaint involves a single incident or a pattern of conduct. For a single incident, a Complainant may file a Direct Complaint directly with a Charging Party within 180 days of the incident. That Charging Party should investigate (or have the Complaint investigated) in making his determination whether to bring Charges. Alternatively, a recorder may submit a Recorder Complaint directly to a Charging Party within 60 days of receipt of the Complaint (if the Complainant delivered the Complaint to the recorder within 120 days of the incident). This will allow the recorder ample time to investigate the Complaint and determine whether to move it forward to a Charging Party. A Complaint involving the "conveying of information by unauthorized means" (i.e., cheating) has no statute of limitations and may be brought at any time after evidence is uncovered.

If a Complaint involves a pattern of conduct, it must be brought to the Charging Party within five years of the earliest incident referenced in the Complaint. As above, the Charging Party should investigate (or have the Complaint investigated) in making his determination whether to bring Charges.

- 3. Does the CDR cover incidents that occur at a club?** No, the ACBL does not have jurisdiction over incidents that occur at a club other than those related to cheating. Matters that arise at a club should be handled by the club manager or owner.
- 4. How is this considered a fair process for all ACBL members if Complainants do not have the right to request an appeal?** The CDR provides hearings through which the ACBL determines the status of its members. It is not like the civil courts, where a person can file a lawsuit and is in charge of its progress. In CDR proceedings, the Complainant brings the alleged violation to the attention of the organization. The organization determines whether or not Charges are brought and, if they are, is solely responsible for the handling of the case.
- 5. Does the Complainant have the right to participate in an appeal or an automatic review of a disciplinary committee's hearing decision?** No, the Complainant, who may be a witness in the original disciplinary hearing, does not participate in an appellate hearing. The Charging Party pursues the appeal if (s)he believes on is warranted, making sure that the rights of the Complainant have not been abridged.

- 6. Is an appeal automatic?** No, the only automatic appeal is a person appealing their barring from a club. That appeal will be granted if the steps laid out in CDR 7.0.1 and 7.0.2 have been followed. If an appeal is requested for any other reason, the appellate body chairperson will review that request and decide whether that request lays out a reasonable basis for an appeal under the CDR.
- 7. If a formal complaint regarding an incident that happened while a prior version of the CDR was in effect but the hearing will take place after the new version of the CDR is in place, which version is used for the Charge and which version is used for the discipline?** Apply the CDR in effect at the time of the alleged incident regarding the violation charged. That same version is used to determine the appropriate discipline to be imposed. However, for procedural issues, apply the CDR in effect at the time of the hearing.
- 8. What are considered “procedural issues” when deciding which version of the CDR to use?** Procedural issues are administrative-type questions about the hearing process such as (i) how long after an incident may Charges properly be brought; (ii) when must a hearing be held; (iii) can a Charged Party ask for a postponement of the hearing; and/or (iv) when and how to challenge a committee member for Cause.
- 9. What is a negotiated resolution?** A negotiated resolution is similar to a plea agreement in the criminal courts or a settlement in the civil courts. The Charged Party(ies) must admit their guilt and give up all appeal rights (the ACBL also agrees not to appeal). In return for this, the Charged Party(ies) may receive a lesser discipline. The agreement does not become final unless and until it is approved by the appropriate tribunal.
- 10. Are there standardized forms to use for a negotiated resolution?** There are no standardized forms prepared as of this writing but forms are in the process of being prepared for use by disciplinary committees. They will be distributed as they become available. In the meantime, contact the Compliance Coordinator who will assist you through the process.
- 11. How does a Disciplinary Body record the acceptance or denial of a negotiated resolution?** The committee would merely record a summary of their deliberative process and their decision in a report that would be submitted to ACBL Management. ACBL Management will distribute the results as it does other disciplinary notices.
- 12. Does a denied negotiated resolution get filed and recorded as part of the original record with ACBL?** If a negotiated resolution is not reached, the original hearing proceeds as if a negotiated resolution had never been attempted. It is not recorded and it will not be considered by the Disciplinary Body hearing the Charges.