

## ACBL LAWS COMMISSION

### OUTLINE OF APPELLATE JURISDICTION AND PROCEDURES

Adopted March 23, 2019 in Memphis, TN

#### I. The Appellate Jurisdiction of the Laws Commission

##### Law 93, 2017 Laws of Duplicate Contract Bridge

###### C. Further Possibilities of Appeal

1. Regulating Authorities may establish procedures for further appeals after the foregoing procedures have been exhausted. Any such further appeal, if deemed to lack merit, may be the subject of a sanction imposed by regulation.

The ACBL Board of Directors, as “Regulating Authority”, has made the following elections:

7. Law 93C1: A further appeal to the Regulating Authority (ACBL) may be allowed only as follows:

- a. On a point of law to and at the discretion of the ACBL Laws Commission.
- b. On an allegation of bias of a committee member or members to and at the discretion of the ACBL Appeals and Charges Committee. The appellant is required to present evidence that the bias was not known at the time of the hearing.
- c. The appeal must be filed within thirty (30) days of the decision of the Bridge Appeals Committee that heard the issue.

8. Law 93C3(a): Except as noted in 7 above, the responsibility of dealing finally with any appeal of a Director’s decision is that of the tournament’s specified tournament body. (Source: [https://www.acbl.org/tournaments\\_page/charts-rules-and-regulations/acbl-options-under-the-laws-of-duplicate-bridge/](https://www.acbl.org/tournaments_page/charts-rules-and-regulations/acbl-options-under-the-laws-of-duplicate-bridge/))

An appeal is deemed “filed” if written notice of intent to appeal is provided to the ACBL Recorder within 30 days of the decision of the Appeals Committee; the Recorder will forward the appeal to the Laws Commission. The Commission will then schedule a deadline for submission of the initial request for review under IIB1e(i) below.

#### II. Procedures for Appeals to the ACBL Laws Commission Under Election 7a

Adapted from the *ACBL Handbook, Appendix B*

##### A. LAWS COMMISSION MEMBER BIAS

Every Laws Commission member must be unbiased. No participating member should be a regular partner or teammate, close friend, spouse, significant other or known enemy of, or have a business or financial relationship with, any party to an appeal,. Any member who has any such dealings with a party should reveal that fact immediately and recuse himself or herself from service. Members should conduct themselves appropriately, and avoid social contact with any

party either before or immediately after the hearing. Members should avoid engaging on social media with respect to the subject of the hearing.

## B. PROCEDURES

Bridge players are at least as argumentative as other high-level competitors. We need procedures that ensure an orderly and efficient process. The Laws Commission will generally follow the procedures described below.

1. “Hearings” will be conducted based on written submissions.

a. Ordinarily, the Laws Commission will not conduct a “live” or “in person” hearing. Instead, the Laws Commission will receive written submissions and base its action thereon. In the rare situations where a “live” hearing is deemed necessary, the Commission will follow, with appropriate adaptations, the procedures for Appeals Committees as specified in Appendix B to the *ACBL Handbook*.

b. Laws Commission consideration of written submissions and ensuing deliberations may be conducted by e-mail, conference telephone (or video), as a group during and at an NABC, or by a combination of these methods (*i.e.*, as a group during and at an NABC, with some members participating by telephone).

c. The Chairman of the Laws Commission will act as Presiding Officer; if the Chairman has recused, the Vice-Chairman will preside. If both the Chairman and Vice-Chairman have recused, the participating members will choose a Presiding Officer.

d. The process of discussion and deliberation should be collegial at the outset, in search of consensus, to then be formalized using parliamentary procedures of motions, seconds, further discussion, and submission to a vote. However, the Laws Commission may, whenever a majority of those participating are so inclined before rendition of a final decision, revisit an issue or any interim determination without adherence to strict parliamentary formality.

e. Because acceptance of any appeal is expressly committed to the Laws Commission’s discretion, a two-stage process, each with substages, will generally be followed:

(i). Within the time specified by the ACBL Board of Directors in Election 7, the player, pair, or team (see Law 92D) wishing to challenge an Appeals Committee’s decision shall submit a written submission containing the following:

- A statement of facts, supported by a copy of the Appeals Committee’s written report (including any attachments appended by the Appeals Committee), a copy of the hand record, the bidding, and the play if relevant, with such additional facts—fairly presented, and acknowledging and accurately reporting evidence or witness statements pro and con—as are necessary to a proper understanding of the dispute in its proper context (excluding any material that was not presented to the Appeals Committee);
- A statement of the issue or issues of [bridge] law the challenger(s) wish to present for the Laws Commission’s review;

- A brief outline of the applicable provisions of the Laws of Duplicate Contract Bridge that govern each such issue;
- A short analysis of the reasons the challenger(s) contend that the Appeals Committee made an error of bridge law, and an explanation of how or why that error of bridge law was essential in determining the outcome of the Appeals Committee’s ruling, and why it would be materially unjust or precedentially problematic for that ruling to stand uncorrected.

(ii). The Presiding Officer, in consultation with the participating members, may fix a page or word limit for such initial written submission, which shall apply equally to both challengers and opposing parties, and may likewise set a deadline for the filing of written submissions. Each contestant<sup>1</sup> shall be allowed only a single written submission for each appeal stage.

f. After filing of the challengers’ initial written submission and distribution to the participating members, preliminary consideration and deliberation will focus on whether an issue of bridge law warranting Laws Commission review has been presented, guided by the general principle that Laws Commission review is an extraordinary remedy to be reserved for only substantive violations of bridge law.

g. Unless a majority of the Commission concludes that review is warranted, the appeal terminates. Notice will then be provided to the challengers and their opponents, with courtesy copies to the DIC, table director, and Appeals Committee chairman.

h. If the Commission concludes that one or more issues may warrant formal review, it notifies the challengers and their opponents, frames the relevant issues, and offers the opponents an opportunity to respond to the appeal with a written submission paralleling the format detailed in e.(i) above.

(i) After receipt of the opponents’ initial written submission and distribution to the participating members, consideration and deliberation will focus on whether an issue of bridge law warranting Laws Commission review has been presented.

(ii) Unless a majority of the Commission concludes that review is warranted, the appeal terminates and notification is provided to the challengers and their opponents, with courtesy copies to the DIC, table director, and Appeals Committee chairman.

(iii) If the Commission concludes that one or more issues warrant formal review, it notifies the challengers and their opponents, frames or reframes the relevant issues, and offers the challengers an opportunity to submit a more detailed and lengthy written submission along the lines of e.(i) above, which shall be served upon both the Presiding Officer for distribution to the Commission and upon the opponents, to be followed by a responsive written submission by the opponents which shall be served upon both the Presiding Officer for distribution to the Commission and upon the challengers.

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<sup>1</sup> See the definition of “contestant” on p. 1 of the 2017 ACBL *Laws of Duplicate Bridge* (2017 Revised Authorized Edition).

i. Although in the vast majority of cases the table director, Appeals Committee (both the majority and any minority), and the Director in Charge will have had full and fair opportunity to express their views, the Commission may request a clarifying or explanatory statement from the Appeals Committee or the DIC prior to making a ruling.

j. After receipt of all written submissions, or expiration of the time for doing so, the Commission considers and deliberates the issues and, after reaching a majority decision, notifies the challengers and their opponents, with courtesy copies to the DIC, table director, Appeals Committee chairman, and Management.

k. In deciding an appeal at the formal review stage, the Commission may leave the decision of the Appeals Committee undisturbed (with or without comment or criticism of an interpretation or application of law), reverse that decision, or remand the case to the Appeals Committee with directions to reconsider the matter by applying a different understanding of one or more Laws, possibly including a direction to make an additional or clarifying finding of fact.

l. Issuance of the Commission's decision after formal review terminates the appeal to the Commission, unless the Commission expressly retains jurisdiction to review the Appeals Committee's decision on remand.

## 2. Documentation

The Presiding Officer may ask a member to prepare both summary minutes recording any interim decisions and any final report, or alternatively to keep notes so that the Presiding Officer can prepare the report for the Commission's approval. No other record of the hearing shall be kept officially, except as directed by the Commission.

## 3. Evidence

Appeals to the Laws Commission should normally be based on the record created by the Appeals Committee. The Laws Commission is not an investigative body. Hence, all requests for review will be judged based on the facts and reasoning presented on the appeal form and in the official write-up.

The Commission may, however, in its discretion make inquiries of the Appeals Committee or the DIC or both, and in doing so will generally follow the principles found in the *ACBL Handbook*, Appendix B Part IIIC and Part IV.

## 4. Challenges

The Commission, desiring to ensure not only actual fairness but also the appearance of fairness, may consider a party's challenge to a member's participation for cause. If a party challenges a member who will not voluntarily recuse, the remaining members may consider evidence pertaining to the challenge and vote on the issue. Generally, and without restricting the authority of the Commission to judge the qualifications of its members to sit in review, the Commission will accept at face value a statement by a challenged member that he or she has not reached a fixed conclusion as to the merits of the appeal and retains an open mind, and that any

exposure to information not in the record will not sway the member’s decision as to the merits of the appeal.

### 5. Standing

Challengers must have proper standing to file and pursue an appeal to the Laws Commission—see Law 92A. A challenger may appeal a ruling only if the matter arose at his or her table. Per Law 92D, both members of a partnership, and in a team game the captain, must concur in the appeal. If the appealing party does not have standing, the Commission will dismiss the appeal. As standing is a point of law, the Commission may independently evaluate standing.

### 6. Deliberations

The Commission’s deliberations are private and confidential, and should not be shared with others, even after the appellate process terminates, except as the Commission elects to disseminate its decision or to discuss issues of procedure or Law as a Committee of the Whole for the purpose of self-criticism with an eye to improving its handling and disposition of appeals.

## III. Identifying Issues Of Law Subject To The Commission’s Jurisdiction

### A. “POINT OF LAW”

The ACBL Board of Directors, as “Regulating Authority” under Law 80A1(c), has elected to limit the appellate jurisdiction of the Laws Commission to “a point of law”. As a subordinate body established by the Board of Directors, entrusted with only a limited power of review, the Commission will strive to comply strictly with such restrictions on its authority, and will concomitantly reject efforts to induce it to exceed its powers or to usurp the powers of other ACBL bodies.

#### 1. Regulations distinguished from Laws

The Laws themselves distinguish “law” from “regulation” and empower Regulating Authorities to issue regulations supplementary to the Laws (Law 80B2(f)). Many issues that might be considered by an Appeals Committee are matters of regulation over which the Laws Commission has no review authority. For example, in unauthorized information cases, directors frequently poll players to gain insight into the effect of the UI and whether there were any “logical alternatives”. Polling, however, is nowhere mentioned in the Laws; it is the *ACBL Handbook*, Appendix B, Part IIIK, that addresses the weight to be given poll results by an Appeals Committee. Thus, the selection of pollees, the framing of poll questions, the accuracy of information provided to pollees, and similar issues go to the weight to be accorded the poll results, which is for the Appeals Committee to judge and wholly outside the scope of the Laws Commission’s jurisdiction.

#### 2. Regulations incorporated within Laws

Occasionally, a Law (*e.g.*, Law 20F1 and F5(a)) expressly refers to regulations and incorporates them into the Law. In that situation, an issue of regulation may also be an issue of law within the Laws Commission’s review authority.

### 3. Conditions of Contest are authorized by the Laws but are not Laws

Similarly, Conditions of Contest may be promulgated by Tournament Organizers (which may also be Regulating Authorities) under Law 80B1 and 2(e) and (i). Interpretation, application, and enforcement of such Conditions do not involve “points of law”.

### 4. Issues of bridge judgment

An Appeals Committee is designed to bring to bear independent collective bridge judgment, in regard to which the Appeals Committee is the final arbiter and does not defer to the director or any witness, however exalted—see *ACBL Handbook*, Appendix B Part IIIK. The Laws Commission has no bridge judgment function and also has no authority to second-guess the Appeals Committee’s bridge judgment.

### 5. Factual uncertainties

Tournament directors and Appeals Committees each have authority to find facts—see *ACBL Handbook*, Appendix B Part IIIK. The Laws Commission has no such authority, and where evidence is conflicting, must accept the findings of the Appeals Committee.

### 6. Appeals Committee procedural fairness

The procedures for the conduct of Appeals Committee hearings are prescribed in the *ACBL Handbook*, Appendix B. The Laws themselves, while assuring (Law 92A) a right of appeal of any director ruling (other than one involving a procedural or disciplinary penalty), do not specify any procedures, notwithstanding that Law 93 is entitled “Procedures of Appeal”. Thus, the Laws Commission has no jurisdiction to consider issues claiming unfair procedures.

### 7. Appeals Committee member bias

Claims that an Appeals Committee member was biased may possibly be presented to the Appeals and Charges Committee under another ACBL Board of Directors’ election.

### 8. NABC Appeals Committees consisting of DIC-appointed tournament directors

At present, Appeals Committees at NABCs consist of experienced tournament directors, assigned by the DIC. Although the issue is not entirely resolved with finality, the Laws Commission is inclined to regard such an Appeals Committee as a surrogate for the DIC, and thus as not limited by Law 93B3 in deciding an initial appeal<sup>2</sup>. Thus, such an Appeals Committee’s rejection of a table director’s legal ruling might be right or wrong (an issue on which the Laws Commission has final authority), but the fact of deviation would not itself be a “point of law” subject to the Commission’s review authority.

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<sup>2</sup> Currently this is an open question; this draft picks a side, but the full LC properly will consider the issue and reach a collegial decision.

## B. THE GOAL OF LAWS COMMISSION REVIEW

The Laws Commission's primary responsibility as a reviewing authority is to the Laws themselves. The goal is to have the Laws applied correctly, consistently, and according to their terms. That an Appeals Committee decision may be unjust, permeated by procedural unfairness, predicated on an incorrect determination of facts, or reflective of deplorable bridge judgment is not the Laws Commission's concern. The Commission can only correct misapplication or misinterpretation of law.