

# Changes to the Code of Disciplinary Regulations

Approved March 2016

## **EFFECTIVE IMMEDIATELY**

Section 4.3 of the ACBL Code of Disciplinary Regulations is modified as follows:

### 4.3 Suspension by ACBL Management.

4.3.1 ACBL Management may impose an administrative suspension on a person who:

- (a) Has not paid dishonored checks to ACBL, its Districts, Units or Conferences.
- (b) Has failed to pay a valid hotel bill to a hotel supporting an ACBL tournament without notifying ACBL and the hotel that he or she disputes such obligation in good faith.
- (c) Has failed to pay a debt to ACBL, its Districts, Units or Conferences without notifying ACBL that he or she disputes such obligation in good faith.
- (d) Has failed to submit club masterpoint reports in a timely manner (the person may be either the sanctioned owner and/or club manager).
- (e) ~~Has failed to return a traveling trophy upon demand.~~ Has violated an ACBL Confidentiality Agreement or other contract with ACBL.
- (f) Has caused damage to any facility associated with an ACBL tournament during the conduct of such tournament without adequate reason or justification and failed to make reasonable compensation therefor.

## **EFFECTIVE: APRIL 1, 2016**

The ACBL Code of Disciplinary Regulations (CDR) is amended as follows:

CDR 5.1.11 Representation on behalf of ACBL Disciplinary Bodies of Original and Appellate Jurisdiction may be provided at cost to the disciplinary body, as follows with the only requirement being that the representative at the hearing shall not be an ~~an attorney or~~ a member of the ACBL Board of Directors:

### CDR 5.2.3

(c) For hearings at the Unit or District level or any Tournament Disciplinary Committee, be represented at the hearing by another person who shall not be an attorney or a member of the ACBL Board of Directors. The person charged may be represented by an attorney outside the hearing room.

(d) For hearings at the ACBL Ethical Oversight, Disciplinary and Appeals and Charges Committees, be represented at the hearing by another person who shall not be a member of the ACBL Board of Directors.

~~(d)~~ (e) Produce evidence and make statements on his/her own behalf.

~~(e)~~ (f) Be present during the entire hearing, except during procedural determinations and deliberation on verdicts and sentencing.

~~(f)~~ (g) Question persons testifying through the Chair at the Chair's discretion.

CDR 7.7 Each party to an appeal or review under this CDR 7 shall be entitled to:

7.7.1 Receive written notice of date, time and place of the appeals hearing.

7.7.2 For hearings at the Unit or District level or any Tournament Disciplinary Committee, be represented at the hearing by another person who shall not be an attorney or a member of the ACBL Board of Directors. The person charged may be represented by an attorney outside the hearing room.

7.7.3 For hearings at the ACBL Ethical Oversight, Disciplinary and Appeals and Charges Committees, be represented at the hearing by another person who shall not be a member of the ACBL Board of Directors.

~~7.7.3~~ 7.7.4 Make statements on his or her behalf.

~~7.7.4.~~ 7.7.5 Be present during the entire hearing, except during procedural determinations and deliberation on verdicts and sentencing.

~~7.7.5~~ 7.7.6 Question persons testifying through the Chair, at the Chair's discretion.

~~7.7.6~~ 7.7.7 All appeals heard under this section shall be heard by a committee of at least three persons.

## Appendix A: Guidelines for Disciplinary Committees

### INTRODUCTION

#### I. ACTIONS, ADVOCATE AND PRESENTER

##### C. ADVOCATE

While the complainant is usually responsible for prosecuting or supporting his or her complaint, an advocate may be selected by the complainant, the Unit, the District or

ACBL Management to prosecute the complaint. An advocate is the representative of the Complainant. As such, the advocate is not neutral or unbiased. The advocate is free to aggressively prosecute a complaint.

- (1) For hearings at the Unit or District level or any Tournament Disciplinary Committee, the advocate selected to appear at the hearing shall not be an attorney or a member of the ACBL Board of Directors.
- (2) For hearings at the ACBL Ethical Oversight, Disciplinary and Appeals and Charges Committees, the advocate selected to appear at the hearing may be an attorney, but may not be a member of the ACBL Board of Directors.

#### D. PRESENTER

A presenter is an individual who makes or assists with an impartial presentation of evidence to a disciplinary committee upon the appointment by the committee chair. A presenter may be the recorder, tournament director or other party. The presenter may act as an aide to the disciplinary committee to ensure a fair and complete presentation of the evidence for the committee to consider. It is suggested that consideration be given to selection of a presenter when a case is complex and neither party is represented by counsel.

- (1) For hearings at the Unit or District level or any Tournament Disciplinary Committee, the presenter selected to appear at the hearing shall not be an attorney or a member of the ACBL Board of Directors.
- (2) For hearings at the ACBL Ethical Oversight, Disciplinary and Appeals and Charges Committees, the presenter selected to appear at the hearing may be an attorney, but may not be a member of the ACBL Board of Directors.

#### IV. PREHEARING PROCEDURES

##### A. NOTIFICATION

The parties involved, including the complainant and charged member, must receive timely written notice of the date, time and place of the hearing, are be furnished with written charges, and are be advised of their right to be represented by counsel (~~who shall not be an attorney or a member of the ACBL Board of Directors~~), to produce evidence on their behalf and to be present during the entire hearing. ~~The person charged may be represented by an attorney outside of the hearing room.~~

- (1) For hearings at the Unit or District level or any Tournament Disciplinary Committee, the counsel selected to appear at the hearing shall not be an attorney or a member of the ACBL Board of Directors. The person charged may be represented by an attorney outside of the hearing room.

- (2) For hearings at the ACBL Ethical Oversight, Disciplinary and Appeals and Charges committees, the counsel selected to appear at the hearing may be an attorney, but may not be a member of the ACBL Board of Directors.

Suggested forms are available at the ACBL web page at [www.acbl.org](http://www.acbl.org). The chairperson of the committee hearing the matter must verify that appropriate notices have been sent. Notice sent by email shall include a request to confirm receipt of the notice by return email. If no confirmation is received within seven days of the notice, a written notice shall be sent via the U.S. Postal Service.

## V. HEARING PROCEDURES

### A. PRESENCE AT HEARING

The complainants and the people charged and/or their counsels, subject to the restrictions of IV. A., above (~~who may not be attorneys or members of the ACBL Board of Directors~~) are entitled to be present while all evidence is given. Other individuals may remain at the hearing only at the discretion of the chairperson.

### **EFFECTIVE DATE: APRIL 1, 2016**

The ACBL Code of Disciplinary Regulations is modified as follows:

Definitions:

**Comfortable Satisfaction:** A burden of proof that is met when after a careful weighing of the evidence and facts proved by direct and/or circumstantial evidence, the trier of fact has a comfortable satisfaction that it has reached a correct and just conclusion. It is higher than a preponderance of the evidence, but not as high as beyond a reasonable doubt. Direct, circumstantial, hearsay, witness statements, mathematical analysis, and any other relevant evidence can be used to establish Comfortable Satisfaction.

## Appendix A: GUIDELINES FOR DISCIPLINARY PROCEEDINGS

### V. HEARING PROCEDURES

#### G. DELIBERATIONS

After hearing all testimony the committee considers the case in a closed session; these deliberations are privileged. The standard for determining guilt is that the complainant's case be supported by a preponderance of the evidence. Any allegation that the Charged Party has committed an ethical violation must be proved by Comfortable Satisfaction (see VII). A simple majority decision prevails.

### VII. EVIDENCE

To find a person guilty requires a simple majority of the committee. It shall be the burden of the complainant to prove by a preponderance of the evidence that the charged party has committed the CDR violation(s) upon which that party is charged. It is not necessary that the evidence be proved beyond a reasonable doubt. If a committee member finds that the evidence of guilt is more convincing than the evidence opposed

to it then that committee member should find the charged person guilty. However, any allegation that the Charged Party has committed an ethical violation must be proved by Comfortable Satisfaction.

## VIII. PRINCIPLES OF EVIDENCE AT HEARINGS

### B. BURDEN OF PROOF

The complainant has the responsibility to prove the issue by presenting a preponderance of the evidence. *See definition of "preponderance of the evidence" in the CDR definitions section.* However, any allegation that the Charged Party has committed an ethical violation must be proved by Comfortable Satisfaction. See definition of "Comfortable Satisfaction" in the CDR definitions section.