

ACBL CDR DISCIPLINARY PROCESS FREQUENTLY ASKED QUESTIONS

LOCAL RECORDER

Can a Recorder send a matter directly to the disciplinary committee chair? No. A Charging Party should send the matter to the disciplinary committee chair. However, as a courtesy the local Recorder may forward it to such chair under the direction of the Charging Party. *CDR 5.2.2, 5.3.2 and Appendix A.I.B.*

Should the Recorder consult with the disciplinary committee chair about a reported Incident? No. The disciplinary committee chair should not be involved in the process prior to his/her receipt of a Charge Letter.

Does the Unit Recorder have jurisdiction to investigate behavior at club games? No, except when (i) the Incident involves cheating or serious ethical violations, (ii) the Incident occurred at a Unit Sponsored Club, or (iii) the Incident occurred at a Unit, District or ACBL sponsored game (for example GNT, NAP, STaC, or ACBL-wide game). *CDR 2.1.1(d), 2.1.5(c), and Appendix A.I.B.*

Is it the Recorder's responsibility to determine the specific grounds for discipline under CDR 3 before submitting to the Charging Party a recommendation regarding a Complaint in their report of investigation? For a Direct Complaint, no, it is the Charging Party's responsibility to determine if and when a ground for discipline affects the Charged Party. If requested, the Recorder merely investigates and, optionally, gives the Charging Party his opinion regarding whether the Incident violates the CDR. For a player memo submitted to him, the Recorder after his investigation must have a reason to believe there has been a violation of the norms of proper or acceptable conduct in order to send it to a Charging Party as a Recorder Complaint. *CDR Appendix A.I.B and Recorder Regulations IX.F.*

Should a Recorder review the previous disciplinary record of a player about whom a player memo has been submitted? A Recorder should review all player memos or other reported complaints on file that could potentially establish a pattern of conduct. He should not use prior discipline in an investigation report. *CDR 5.2.1 and Recorder Regulations IV.C.*

Does the Recorder review previous player memos on file about a player about whom a player memo has been submitted? Yes. The Recorder should look for a possible pattern of conduct. A Recorder should look back five years because the statute of limitations is five years. *CDR 5.2.1 and Recorder Regulations IV.C.*

Why should the Recorder request a search of previous player memos from the Office of National Recorder pertaining the subject of a report? Previous player memos should be searched for indications of a pattern of conduct. *Recorder Regulations IV.*

Is the Recorder required to investigate all matters reported to him or her? Yes. The Recorder must investigate to determine whether to submit a Recorder Complaint, record the matter, or just file it. Generally, a Charging Party who receives a Direct Complaint from a player should assign it to their local Recorder to at least cursorily investigate the matter by, at a minimum, talking to the subject and the Complainant. *Recorder Regulations IV and IX.*

If the Recorder receives a report that is over 120 days past the Incident, what does he or she do with it? The Recorder investigates all reports regardless of the date it was received. Unless the report involves cheating or is part of a pattern of conduct, the Recorder cannot act on that report through a Recorder Complaint if the report was sent to the Recorder over 120 days past the Incident. However, the report may be recorded. If the matter results from a Direct Complaint that was sent directly to a Charging Party, it must have been submitted to that Charging Party within 180 days of the Incident. Note that a reporter cannot convert a player memo or other report (submitted to a local Recorder over 120 days following the Incident) into a Direct Complaint merely by taking it back from the Recorder and submitting it directly to the Charging Party. *CDR 5.2.1.*

If the Recorder receives a report that is over 180 days past the Incident, what does he or she do with it? The Recorder investigates all reports regardless of the date it was received. Unless the report involves cheating or is part of a pattern of conduct, the report may not be acted upon. However, the report may be recorded. *CDR 5.2.1.*

Should the Recorder interview the accused party regarding an Incident reported about that accused party?

Yes, if such action will not compromise the confidentiality requested by the reporter and if doing so won't compromise the investigation. *Recorder Regulations IX.*

Can the Recorder warn a subject that 'the next time' an Incident happens that they will be disciplined? The Recorder does not have the power to impose discipline. If the Recorder chooses to counsel the subject instead of sending the matter to a Charging Party, the subject should be warned that a repeated offense could be cause for a pattern of conduct Complaint and that this particular player memo will be recorded. The Recorder must make the Charging Party aware of his or her actions in this regard. *Recorder Regulations VI.A.*

Are there standard forms for Recorder Complaints? Yes, they may be found at <http://www.acbl.org/conduct-and-ethics/forms-and-documents/#rec>.

Does the Recorder use the Recorder Regulations or the CDR to perform his or her duties as Recorder? Both, but the CDR is the guide to jurisdiction and Charges.

Why does ACBL need all the correspondence related to a player memo investigation? Any investigation should go in our records in case of future appeals if a Charge is brought and/or future CDR violations occur in order to establish a pattern of conduct. *Recorder Regulations X and XI and CDR 5.2.1.*

Can I hold the role of Recorder and President (Charging Party)? Technically, yes, but it isn't desirable – it is best to keep the Recorder as a separate function. *Recorder Regulations VII.*

A Recorder is investigating a player memo from a recent tournament. The subject is not a member of his Unit/District. How does the Recorder obtain contact information? The Recorder may email his request for contact information to recorder@acbl.org. *Recorder Regulations XI.*

CHARGING PARTY

What is the role of Charging Party? The Charging Party is an objective party who can evaluate a Direct Complaint or Recorder Complaint and determine whether Charges should be brought against the accused person. Their responsibility is to consult CDR 5.2.2 at the Unit and District level (5.3.2 at the tournament level). If Charges are brought, the Charging Party will be required to (i) appear at the hearing to support the Charges brought against the individual and/or (ii) appoint an Advocate to represent the Charging Party at the hearing and support the Charges brought. *CDR 5.1.11, 5.2.1, 5.2.2, 5.2.5, 5.3.2, 5.3.3, Appendix A. I.*

Who is the Charging Party in your organization? The Charging Party is usually the Unit President or the District President but he or she could be an appointed person in the organization. The Charging Party at a tournament is the Director-in-Charge or a person he or she has formally delegated the role to. *CDR 5.2.2, 5.3.2 and, Appendix A.I.B.*

Does the Charging Party have a choice regarding whether or not to bring Charges? The Charging Party must consult CDR 5.2.2 at the Unit and District level (5.3.2 at the tournament level) to make a good faith determination whether to bring Charges to a disciplinary committee. If the answer to all three questions is 'yes' then the Charging Party must bring Charges to the disciplinary committee.

However, 5.2.2(a) and (c) (or 5.3.2(a) and (c) at a tournament) are questions that only the Charging Party can decide based on the information provided in the Direct Complaint or the Recorder Complaint and the Recorder's investigation report. It is highly recommended that the Charging Party ask their local Recorder to conduct at least a cursory investigation by talking to the Complainant and the accused person to get both sides of the story before the decision whether to bring Charges is made. *CDR 5.2.2 and 5.3.2.*

How does the Charging Party decide whether to bring Charges? Review CDR 2 to determine whether the organization you represent (tournament, Unit or District) has jurisdiction over the matter and CDR 5.2.1 to determine whether the Complaint was received within the proper time period. Then, consult CDR 5.2.2 (or 5.3.2 at a tournament) to determine whether to bring Charges. *Appendix A.I.B.*

What paperwork is required of the Charging Party if he or she decides to bring Charges? A Charging Party must provide the disciplinary committee chair with a Charge Letter with the Complaint attached. The Charge Letter form can be found on the ACBL website under Disciplinary Forms and Flowcharts at <http://www.acbl.org/cdr>. *CDR 5.2.2, 5.2.3, and 5.3.2.*

Is the Charging Party required to attend the hearing? The Charging Party is required to (i) appear at the hearing to support the Charges brought against the Charged Party and/or (ii) appoint an Advocate to appear as the Charging Party's representative to support the Charges brought against the Charged Party at the hearing. An Advocate at the tournament, Unit, or District level cannot be an attorney or a member of the ACBL Board of Directors. *CDR 5.2.5 and 5.3.3.*

What if the Charging Party or the Charged Party is an attorney? If the hearing is at the Unit/District level and either (i) the Unit/District President Charging Party or (ii) the Charged Party by profession is an attorney, then it is recommended that he or she appoint an Advocate who is not an attorney to speak at the hearing so that the playing field is not stacked in their favor.

Should the Charging Party consult with the Complainant before deciding to bring Charges? No. The Complainant will be contacted because it is highly recommended that the local Recorder conduct at least a cursory investigation and provide the Charging Party with the results to help with decision-making. Remember that the Complainant does not make the decision to bring Charges. This is the Charging Party's decision alone based on reviewing the Direct Complaint or Recorder Complaint, the Recorder's investigation report, and consulting CDR 5.2.2 for Unit and District matters (5.3.2 for tournament matters).

How does the Charging Party determine what section of the CDR 3 Grounds of Discipline under which to Charge an individual? Review CDR Section 3 and, using your commonsense judgment, determine which section the accused party violated based on the facts in the Direct Complaint or Recorder Complaint and the investigation report. *CDR Appendix A.I.B.*

How much time does the Charging Party have to submit Charges once he or she receives a Direct Complaint or Recorder Complaint? Charges must be brought expeditiously. You should be committed to making a decision whether or not to bring Charges in a timely manner. Remember that the longest possible period of time between the occurrence of an Incident and reporting an Incident is 180 days. *CDR 5.2.1, 5.2.2, and 5.3.1.*

What if the Charging Party is the Complainant? The Charging Party should make a reasonable judgment unclouded by emotion regarding whether Charges should be brought against the accused party.

Can the Charging Party continue to collect additional evidence after Charges have been sent to the disciplinary committee? Yes. However, the disciplinary committee chair may establish a timeline to submit this evidence before the hearing. *CDR Appendix A, IV, C and VI.*

Must the Charging Party notify the accused party that they have been charged? No. The disciplinary committee chair is responsible for notifying all the appropriate parties of Charges. *CDR 5.2.3, 5.3.6, Appendix A.IV.A.*

Can the Charging Party appoint an Advocate to prosecute the case on his or her behalf? Yes, but at the tournament, Unit, and District level, this person may not be an attorney or a member of the Board of Directors. Note that the Charging Party has the option of using a Presenter who neutrally presents the evidence. *CDR 5.1.11, Appendix A.I.C and D.*

What if the Complaint suggests sexual harassment? Immediately send the Complaint to ACBL Management at recorder@acbl.org before taking any action if the Incident involves sexual harassment of a full-time or part-time ACBL employee/independent contractor or a Unit or District tournament employee/independent contractor. Otherwise, handle it as you would any other disciplinary matter. *CDR 5.1.12.*

Can the Charging Party try to resolve the matter with the reporter and the accused party without filing Charges? Charges must be brought in accordance with CDR 5.2.2 if you answer 'yes' to all the questions. If you cannot answer 'yes' to all the questions, you should nevertheless forward the Complaint to your organization's Recorder with a recommendation to counsel the member.

Who do I contact if the Charging Party has questions regarding interpretation or procedures of the CDR? The Office of National Recorder is available to help at recorder@acbl.org. You can also contact Robb Gordon at 662-253-3167 or Sabrina Goley at 662-253-3146.

DISCIPLINARY COMMITTEE CHAIR

Is the chair required to tell the Charged Party and Charging Party the names of the members of the committee chosen to hear the case? We recommend providing this information upon request (because of considerations of possible bias). Remind both parties that the members of the committee are not to be contacted by them under any circumstances regarding the matter. All questions should be directed to the disciplinary committee chair. *CDR 5.1.9 and Appendix A.III.B.*

Can the chair choose committee members outside of his or her Unit or District? Yes, but it is not recommended unless, in the opinion of the chair, this is the only way (i) for the parties to receive a fair hearing or (ii) to get the hearing scheduled in a timely manner. It is highly recommended that the committee as a whole represent the diverse makeup of the Unit or District. *CDR Appendix A.III.A.*

Does the chair choose the committee members if his or her organization does not have an established committee? Yes, the chair is responsible for choosing committee members to hear the matter. *CDR Appendix A.III. A.*

Who does the chair choose to serve as a committee member? Consult CDR Appendix A, Part III for recommended selection guidelines.

How many committee members should the chair ask to serve? If the chair plans to be a voting member of the committee, he or she should appoint a minimum of two other members to serve. It is recommended that there be five voting members although three will suffice. An odd number of voting members is recommended so there is no chance of a deadlock. *CDR Appendix A.III.A.*

What paperwork/notices is the chair required to send to the parties? The chair must send the Charged Party and Charging Party a Notice of Hearing. The Charge Letter (that includes the Complaint) should be attached to the Notice. This form can be found on the ACBL website under Disciplinary Forms and Flowcharts at <http://www.acbl.org/cdr>. *CDR 5.2.3 and 5.3.6.*

What paperwork is the chair required to submit to the Office of National Recorder? It is recommended to copy recorder@acbl.org on all correspondence regarding this matter. A Hearing Report must be submitted to the Office of National Recorder within 30 days from the conclusion of the presentation of evidence. *CDR 5.1.13, 5.2.10 and 5.3.10*

Does the chair notify the Charged Party of the committee's decision? We recommend that the chair allow the Compliance Coordinator to notify the member of the committee's decision after a Hearing Report has been received at ACBL headquarters. However, the chair may verbally notify the Charged Party of the decision. If the discipline is effective immediately, the chair MUST immediately notify the Charged Party in writing in accordance with *CDR 5.1.15.*

What if the Charged Party and/or the Charging Party requests a change of the hearing date? The chair should seriously consider the party's request and make an effort to accommodate the request if practically possible. If this is not practical, the hearing can still take place on the scheduled date. The Charged Party is not required to attend the hearing in person or via a representative, but the Charging Party must attend or appoint an Advocate to represent him or her at the hearing and support the Charges brought. *CDR 5.1.2.*