

APPENDIX A

GUIDELINES FOR DISCIPLINARY PROCEEDINGS
(Handbook for Disciplinary Committees)

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INTRODUCTION

The purpose of these guidelines is to help the appropriate body provide fair hearings for all ACBL members charged with wrongdoing under the *CDR*. Disciplinary proceedings are not criminal trials and do not involve personal liberty or property rights. Rather, they involve the privilege of playing bridge at an ACBL-sanctioned event. These guidelines are suggested procedures, except for those in which it is specifically stated that they are mandatory, as required by the *CDR*.

Tournament disciplinary committees hear complaints of conduct and ethics (C&E) arising at that tournament. Unit and district disciplinary committees usually hear initial complaints of conduct and ethics while district appellate committees hear appeals from C&E decisions of lower jurisdictional bodies. Jurisdiction is outlined in the *ACBL Code of Disciplinary Regulations (CDR)*.

I. ACTIONS, ADVOCATE AND PRESENTER

A. COMPLAINT

A complaint is a written document in which an ACBL member alleges that another member or competitor has violated ACBL rules. It must be submitted to the appropriate unit, district or, for tournaments, the tournament director. The complaint must then be given to the charging party.

B. CHARGES

The charging party for tournaments is the Director-in-Charge or his or her designee. A charging party which receives complaints outside a tournament is selected by the Unit or District Board of Directors. If one is not selected, the president is deemed to be the charging party. When the charging party has a conflict, he or she should designate another member of the Board to act as charging party. The charges must be written and submitted by the charging party to the chair of the appropriate disciplinary committee. The person delegated to bring charges must not be the Disciplinary Committee Chair, other member of the disciplinary committee or the organization's recorder.

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.

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.

II. PERIOD OF LIMITATIONS

A complaint concerning a single incident must be filed within 30 days of that incident. A complaint concerning a pattern of actions must be filed within five years of the earliest action referenced in the complaint. A complaint involving the conveying of information by unauthorized means, pursuant to Law 73.B.2, is not subject to any period of limitations. *See CDR 5.2*

III. THE COMMITTEE

A. SELECTION

Each unit and district should have a committee whose purpose is to hear disciplinary matters. Where such a standing committee does not exist, it must be formed on a case by case basis. All members of the committee should be well-respected members of the bridge-playing community. The committee as a whole should represent the diverse makeup of the district or unit. The Unit or District Board of Directors selects a disciplinary committee chairperson and committee or establishes rules for selection of a disciplinary committee when necessary.

EXHIBIT H

A tournament disciplinary committee is selected by Units (for sectionals) and Districts (for regionals) in addition to the Unit or District Disciplinary Committee.

For NABCs, the National Appeals Committee Chairperson will select a tournament disciplinary committee when required. Usually, the entire disciplinary committee will not hear the case, but rather an *ad hoc* committee selected from the disciplinary committee as a whole. Serving on a disciplinary committee is a most difficult (and important) responsibility. For most cases, committee members need not be expert players. However, it is important that each member of the committee have a reputation for integrity, honesty and unimpeachable ethics to avoid any claim of a prejudiced decision. Generally, the chairperson should have considerable experience in disciplinary matters and be sensitive to the fairness considerations affecting the disciplinary process. An odd number (usually 5) is best to avoid the possibility of deadlock on any single issue.

Committee members should come from different geographical areas when possible and be representative of the diversity of the membership of the unit or district. This will give the committee a broader base of experience, making a fair and impartial hearing more likely. No party should leave a hearing feeling disadvantaged because of the makeup of the committee. All parties should believe they had a fair hearing with a full opportunity to present their side of the issue.

B. BIAS

Every member of a committee selected to hear a particular matter must be completely unbiased as to the personalities and issues involved. Common sense should prevent most incorrect appointments. No committee member should be a regular partner, close friend, spouse, significant other or known enemy of any party, or have a business or financial association. Any committee member who has dealings with a party that might give even the appearance of impropriety should excuse him or herself from further service. However, membership in, employment by or ownership of a particular organization or business or being part of an ethnic group, race or culture shall never constitute a bias *per se*. Committee members should conduct themselves appropriately and should never discuss the matter before the hearing outside of the hearing .

If a Disciplinary Committee member feels unable to act impartially at a hearing, he or she should ask to be excused. If there is an appearance of possible partiality (See I.B), the committee should either excuse the member from the hearing or discuss the matter with the parties involved to determine if they object to the presence of that person on the committee. The committee as a whole is the sole determiner of the eligibility of committee members.

C. COMMENTS BY COMMITTEE MEMBERS

1. Prior to the Hearing

Committee members must not discuss any substantive matter pertaining to the case with anyone. This prohibition includes other members of the committee and parties to the case as well as "third" parties.

2. During the Hearing and Deliberations

At this time committee members may discuss the issue only with other committee members, staff to the committee and parties to the matter.

3. Post Hearing

Once the committee has made a decision which has been communicated to the parties and other notifications have been distributed, the committee members may relate the findings and discipline imposed. A committee member may not discuss the committee's deliberations.

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 furnished with written charges, and are advised of their right to be represented by counsel (who need not be an attorney), to produce evidence on their behalf and to be present during the entire hearing. Suggested forms are available at the ACBL web page at www.acbl.org. The chairperson of the committee hearing the matter must verify that appropriate notices have been sent.

B. DOCUMENTATION

Since discussions and considerations at hearings of appeals of disciplinary sanctions are based primarily on the facts determined by the committee imposing the sanction(s), it is extremely important that detailed records be kept of all proceedings and testimony given at disciplinary hearings. A recorded record is mandatory. A court reporter may be used. *See CDR 5.1.3*. The chairperson should attempt to provide for the best record keeping permitted by circumstances. At the very least, one or more members of the committee should be charged with the task of keeping good written records. The Chairperson should ensure that any such records are sent to ACBL Headquarters, along with a typed report of the hearing, for safekeeping in the event of future need. As stated above the final hearing report should be typed in order that it is legible in the event the decision is appealed.

C. PRE HEARING CONFERENCE

The committee or the committee chairperson may hold a pre-hearing conference to narrow or frame procedural questions that relate to the matter before it. At this conference the committee or the committee chairperson also may direct the disclosure of evidence, and permit the presentation of affidavits for use at the hearing. In cases in which numerous witnesses and affidavits are involved, disciplinary committees are encouraged to require an exchange of witness lists affidavits prior to the hearing. This disclosure or exchange does not require the party to present the witnesses at the hearing. In addition, when more than one party is charged in the same situation, or when one party is charged in several situations, the proceedings may be consolidated.

D. INTERPRETERS AND DISABILITIES

The committee should consider whether any person is at a disadvantage because he or she does not understand English. The chair should make a good faith effort to ensure that this person fully understands what others say and that everyone understands what this person says. If there was no opportunity to arrange for an interpreter, then in appropriate cases the committee should postpone the hearing to provide that opportunity. The committee should also undertake a good faith effort to ensure that any physical or mental disability will not be a disadvantage. In appropriate cases the committee should postpone the hearing.

V. HEARING PROCEDURES

A. PRESENCE AT HEARING

The complainants and the people charged and/or their counsels are entitled to be present while all evidence is given. Other individuals may remain at the hearing only at the discretion of the chairperson.

B. CHAIRPERSON IN CHARGE

After calling the hearing to order, the chairperson should clarify to all parties that the chairperson is in charge and that no one is to speak unless recognized by the chair. After introducing all individuals present to each other, the chairperson then explains how the hearing will proceed.

C. INTRODUCTIONS

Introductions are the first order of business. The committee chairperson should:

1. Give his or her full name and home city;
2. State that the chair will function as the presiding officer;
3. Request that all questions and comments be directed to the chair;
4. Have the other committee members introduce themselves;
5. Have the parties, including their advocates, introduce them.

D. CHAIRPERSON STATEMENTS TO COMMITTEE

The committee chairperson addresses the committee members as follows: "If there is any reason why you feel you should not serve on this committee, please recuse yourselves now." "If you believe you can serve and make an unbiased decision, but you know of conditions or circumstances that may be perceived as creating potential bias or perceived as such, please disclose those issues now."

The committee chairperson then addresses the parties to the appeal and the committee as follows: "If any member of this committee or party to the appeal has cause to believe that a committee member should not serve, you must raise the issue or issues now." (If there is any objection, see section III.B. below.)

E. PRESENTATION OF CASE

The chairperson should read the complaint. At a tournament, a tournament director who might also be a witness in the case presents most cases to the committee. At a Unit or District hearing, the case will have been referred to the committee by the charging party (the President or a designee who may not be the recorder).

In the absence of a presenter, the chair will provide an opportunity for each side to present its case. The committee should hear the evidence, first in support of the complaint and then on behalf of those charged, followed by rebuttal by either side, as necessary. (See discussions on evidence in the Appeals Committee Handbook.)

F. WITNESSES

Next, witnesses may be questioned by the party (or counsel) who calls them, by the other party (or counsel), the presenter, and by the committee members. At his or her discretion, the chair may sequester one or more witnesses; that is, allow them to attend the hearing only while giving testimony and caution them against discussing the case until the hearing is completed.

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 evidence must be clear and convincing (See VII). A simple majority decision prevails.

H. DISCIPLINE

If the committee arrives at a decision of guilt, the committee shall then determine what discipline to impose. The CDR should be consulted, along with the list of ACBL Sanction Guidelines (See CDR Appendix B). The committee should examine the previous record of the guilty party before determining discipline. This information may be obtained by having the guilty person fill out the provided form listing previous disciplines and/or consulting with ACBL Headquarters prior to or after the determination of guilt.

I. REFERRAL TO TOURNAMENT COMMITTEE

Before a disciplinary committee at a tournament can refer a matter to a higher disciplinary body for further discipline (when it feels such additional discipline is warranted), the referring committee must impose a maximum discipline permitted by a tournament disciplinary committee (90 days suspension or 90 days probation or both).

VI. POST-HEARING PROCEDURES

A. NOTIFICATION OF DISCIPLINE

When the disciplinary body imposes sanctions, it is mandatory that such disciplinary body furnish the person(s) against whom the sanctions were imposed with written notice of the sanction, stating its effective date. The disciplined party or parties and the complainant if any are to be notified of the right to appeal the ruling to the District Appellate Committee (providing the name and address of the Chairman) if the disciplinary body is a unit, district or tournament disciplinary committee. (Note: Other disciplinary bodies should check the CDR to properly advise the disciplined party or parties.)

B. REPORT TO ACBL

It is also mandatory that the disciplinary body send a full typed report of the hearing (See Hearing Report Form at www.acbl.org) along with a copy of the letter sent to the disciplined party or parties to ACBL Headquarters at the same time.

VII. EVIDENCE

To find a person guilty requires a simple majority of the committee. Each committee member, in deciding which way to vote, shall use as a standard that the evidence be clear and convincing. It is not necessary that the evidence be beyond a reasonable doubt. If a reasonable person has a firm conviction that the evidence favoring guilt is more likely to be true than the evidence favoring innocence, then that committee member should find the charged person guilty as this meets the standard of clear and convincing.

VIII. PRINCIPLES OF EVIDENCE AT HEARINGS

A. EVIDENCE WHICH MAY BE USED AT A HEARING

1. ACBL is a membership organization whose governing body sets its own rules. Committees are not courts of law, so the rules of evidence applicable to courts of law and other legal tribunals do not apply to committees.
2. Any relevant evidence, including hearsay, shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. We may roughly define hearsay evidence as a statement made by another person offered for the truth of the statement.
3. While a committee should permit hearsay evidence, the weight given the hearsay evidence should be less than the weight given direct testimony. The reason is that it is not as reliable as direct testimony and there is no effective way to question it. This often means we have no way to be certain it is really true.
4. The committee should consider relevant any evidence that bears on an issue before it. If particular testimony makes any contested fact or factual inference more or less likely, then that particular testimony is relevant and the committee should hear it. A committee should not allow testimony that fails this test because hearing it is a waste of time and may be prejudicial

B. BURDEN OF PROOF

The complainant has the responsibility to prove the issue by presenting clear and convincing evidence. *See definition of "clear and convincing proof" in the CDR definitions section.*

C. TYPES OF EVIDENCE

1. When used to prove a proposition, direct evidence means that we require no inference to prove the proposition. Circumstantial evidence requires an inference to prove the same proposition. Neither type of evidence is necessarily more

convincing. A committee member can discount direct evidence about an automobile going through the intersection while the light is green if the witness proves to have an uncertain memory. Committee members should evaluate all direct and circumstantial evidence to decide which evidence is more credible and entitled to more weight under the circumstances of that particular hearing.

2. Demonstrative evidence is an object or tangible item. Its probative value depends on its connection to the other evidence produced in the hearing.

D. CREDIBILITY AND WEIGHT

1. Credibility is the extent to which a witness is believable.

2. Witnesses usually testify to the truth, as they perceive it. If two people testify to the opposite, such as whether a traffic light was green or red, one must be wrong. However, both could firmly believe they are correct and the other wrong.

3. Weight is the degree to which credible evidence controls the ultimate decision of the committee. Weight is the importance assigned to the particular evidence.

4. Sometimes a party may present evidence that is irrelevant. At his or her discretion, the chairperson may limit irrelevant testimony.

IX. APPELLATE PROCEDURES (DO NOT APPLY TO HEARINGS)

A. BASIS FOR HEARING

The hearing shall be based upon the record of the original hearing body. New evidence may not be admitted. Therefore, the committee should be especially careful when receiving arguments to ensure that "new" material, if submitted, is not considered.

B. PARTIES TO AN APPEAL

1. Complainant.
2. Person Disciplined.
3. Previous Hearing Bodies.

C. AUTHORITY

An appellate body may:

1. Affirm or reverse the previous decision.
2. Modify, reduce or increase the previous discipline.
3. Remand the matter to any committee that previously heard the matter.

An appellate body may not hear a case *de novo*. To have a case reheard it must be remanded.

APPENDIX B

ACBL DISCIPLINARY SANCTION GUIDELINES

The following range of discipline for conduct and ethics violations is provided as a guide to a disciplinary committee not a mandate. This is not intended to be an exhaustive list of all possible infractions but rather to set forth examples. The committee is free to impose on a guilty defendant whatever punishment it deems is appropriate from options described in the CDR. However, a disciplinary committee, which imposes a sanction which is outside the range recommended by these guidelines, must explain why it chose the sanction imposed. **Part A** of these guidelines is intended to apply to the typical case involving a single incident and a defendant who has no previous disciplinary record. If this is not the case, the committee must read **Part B** of these guidelines before deciding on an appropriate discipline.

Part A

CONDUCT	
OFFENSE	RECOMMENDED DISCIPLINE
C1 Poor personal hygiene or dress (CDR 3.7)	Reprimand to 30 days Probation
C2 Rudeness in conversation, gesture, or general behavior (CDR 3.7)	Reprimand to 30 days Probation
C3 Publicly belittle partner or opponent on bid or play (CDR 3.7)	Reprimand to 30 days Probation
C4 Influence or attempt to influence an entrant to withdraw from an event to improve one's likelihood of winning more masterpoints CDR 3.12)	Reprimand to 90 days Probation
C5 Harass a tournament director or tournament official (CDR 3.11)	Reprimand to 90 days Probation to 30 days Suspension
C6 Deliberately fail to follow instructions given by a tournament director or official including leaving a session without permission of the tournament director or game director. (CDR 3.1 & 3.2)	90 days Probation to 30 days Suspension
C7 Fail to report a known incorrect score (CDR 3.2)	90 days Probation to 30 days Suspension
C8 Publicly made obscene comments (CDR 3.7)	Reprimand to 120 days Probation

Part A (continued)

CONDUCT (continued)	
OFFENSE	RECOMMENDED DISCIPLINE
C9 Intimidate or harass another player or ACBL official (CDR 3.11)	90 days Probation to 30 days Suspension
C10 Publicly accuse another player of unethical behavior (CDR 3.4)	90 days Probation to 180 days Suspension
C11 Threat of abusive or violent contact with another person (CDR 3.7)	90 days Probation to 180 days Suspension
C12 Abusive or violent contact with another person (CDR 3.7)	90 days Suspension to 1 year Suspension
C13 Knowingly submit false information or deliberately distort facts to an ACBL official or committee (CDR 3.13)	90 days Probation to 1 year Suspension
C14 Failure of Complainant to appear at hearing (CDR 3.14)	30 days Suspension
C15 Appeal a decision from a disciplinary body with no reasonable basis (CDR 3.15)	Reprimand 90 days Probation to 90 days Suspension
C16 Initiate disciplinary action against another player with no reasonable basis (CDR 3.15)	30 days Suspension to 90 days Suspension
C17 Initiate and maintain legal action against the ACBL (including a District or Unit) without first exhausting administrative remedies (CDR 3.10)	1 year Suspension
C18 Misappropriate ACBL, Unit or District Funds (CDR 3.9)	Indefinite Suspension pending return of funds

Part A (continued)

ETHICS		RECOMMENDED DISCIPLINE
OFFENSE		
E1	Deliberately ask for or give information about a board in play after both parties played it (CDR 3.2)	Reprimand
E2	Deliberately ask for or give information about a board in play prior to one or both parties playing the board (CDR 3.2)	30 days Suspension to 1 year Suspension *
E3	Unsportsmanlike and frivolous psyching (CDR 3.2)	Reprimand to 30 days Suspension
E4	Play a convention, system, or treatment knowing it is illegal; Purposefully fail to disclose partnership agreements with intent to deceive. (CDR 3.2)	Reprimand to 30 days Suspension *
E5	Bid or play with the specific intent to achieve a poor result on that hand (CDR 3.2)	90 days Probation to 90 days Suspension *
E6	Intentionally change a score or any information that could result in awarding incorrect masterpoints (CDR 3.1)	180 days Suspension to 1 year Suspension *
E7	Accidentally gain access to information and then act on it (CDR 3.1 & 3.2)	90 days Probation to 180 days Suspension *
E8	Hesitate with an intent to deceive; use intonations and mannerisms that may deceive opponents or help partner (CDR 3.1 & 3.2)	1 year Probation to 180 days Suspension *
E9	Deliberately try to see from where an opponent plays his cards (CDR 3.1 & 3.2)	90 days Probation to 90 days Suspension *
E10	Actively and deliberately try to see an opponent's cards (CDR 3.1 & 3.2)	90 days Suspension to 1 year Suspension *
E11	Actively seek advance information about a board in play	2-year Suspension to Expulsion *
E12	Prearrange a deal or part thereof including one card (CDR 3.1 & 3.2)	2-year Suspension to Expulsion *
E13	Intentionally gain access to hand records (CDR 3.1 & 3.2)	2-year Suspension to Expulsion *
E14	Prearranged partnership collusion by means of signaling to exchange information (CDR 3.1 & 3.2)	Expulsion *

Part B

* If a committee imposes a suspension, then it should also disqualify the pair or team from the event. This will mean the pair or team will lose its place in the event, any masterpoints earned in the event and any other benefits it may have earned from playing in the event. Should this disqualification take place after the correction period for the event has expired, other pairs and teams do not move up - the place formerly held by the disqualified contestant (pair or team) remains vacant.

EXHIBIT H

There are three major reasons why the suggested guidelines in Part A might not be appropriate. First, the single violation might be either so slight or severe as to make the suggested sanction inappropriate. Second, the defendant might be convicted for several violations (such as a pattern of behavior). Third, the defendant might have a previous record.

1. When the defendant's single violation is either extremely slight or severe, the committee should apply its sound, unemotional judgment. For example, either the experience or mental intentions of the defendant might be a consideration. Please explain on the Hearing Report Form why the violation was considered atypical.
2. When the defendant is convicted of several violations, such as a pattern of behavior, the committee should impose a sanction as if each violation was a separate offense. The Committee should note the separate violations and/or explain the pattern.
3. When the defendant has a prior record, the nature of the previous offense is not particularly important. The number of prior convictions is important. The reason is that the defendant was already sanctioned for the specific prior violation(s). The committee should pay close attention to how the prior conviction(s) reflects on the defendant's ability to behave according to ACBL standards and explain on the Hearing Report Form the reasons for its decision.