

APPENDIX B

HANDBOOK FOR APPEALS COMMITTEES

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I. INTRODUCTION

• This handbook is created to educate our members about Appeals Committees. The process begins with the Tournament Director, who enforces the Laws of Duplicate Contract Bridge. The Tournament Director can adjust scores (Law 12) and give procedural penalties (Law 90). Each player then has a right to appeal a ruling made at his or her table (Law 92). An Appeals Committee will usually hear that appeal (Law 93).

- The Laws of Duplicate Contract Bridge allow contestants to appeal any ruling made at their table by the Director (Law 92). Even if an Appeals Committee is available, the Chief Director still hears an appeal if it is based solely on Law or Regulation. Other appeals go directly to committee. In cases dealing solely with Law or Regulation, the contestant may appeal the Chief Director's ruling. However, no committee is permitted by law to overrule the Tournament Director on a point of Law or Regulation. It can only recommend that the Tournament Director reconsider his or her decision (Law 93).

- The Appeals Committee deals mostly with bridge judgment and fact. If the Committee believes discipline is warranted, it should decide the bridge appeal and refer the remainder to the Tournament Director for charging to the appropriate disciplinary committee. This committee is not a court of law, but in some ways is similar. It uses principles of equity so no player may gain an advantage by unethical conduct or violation of bridge law. Committee members should hear the whole story and make a fair and reasonable adjudication. They should not accept a procedural argument that prevents either side from fully expressing its views. The purpose of this Handbook is to help those who serve on an Appeals Committee and those who appoint committee members. When a Committee follows these guidelines, it will hold a fair hearing and should reach a fair and reasonable decision. Every participant is entitled to a fair and impartial hearing, no matter the final decision.

- Note: The Committee Chairperson must be particularly careful in implementing part III. Procedures, A. Introductions below with respect to advising committee members and parties to the appeal to air concerns of possible bias.**

II. APPEALS COMMITTEE COMPOSITION

•A. Two Types of Committees

- The Appeals Committee deals with questions of bridge judgment and facts arising from bidding, play or defense. For example, its members might have to decide whether a particular action could be based on unauthorized information. Members may need to analyze a player's bidding system and skill level plus whatever else the committee may feel is relevant.

- The other type of committee is the Disciplinary Committee. A sponsoring organization appoints this committee as its disciplinary body. It focuses on player conduct. Members decide whether to discipline a player for conduct ranging from simple rudeness to deliberate cheating. Bridge judgment is usually a side issue during its hearings and deliberations.

- The differences between these committees are important. An Appeals Committee lets the actual result stand or adjusts it as permitted by the Laws of Duplicate Contract Bridge. Sometimes it assesses a procedural penalty against some or all of the parties (in IMPs, matchpoints, or some other non-score sanction). A Disciplinary Committee decides if it should discipline a player for his or her conduct. Its options include anything from imposing a reprimand to expulsion from ACBL. Regulations permit a scoring adjustment in the interest of equity, but this is a secondary consideration. A Tournament Disciplinary Committee has limited powers, as detailed in the *Code of Disciplinary Regulations* (CDR).

•B. Appointment

- The Unit or District Board of Directors appoints an Appeals Committee for its sectional or regional tournament. It may delegate this authority to the tournament chairperson or another specified individual.

•C. Skill as a Selection Criteria

- An Appeals Committee must often make bridge judgments about other players of different skill levels. Consequently, every Unit or District should make an effort to appoint knowledgeable players to serve on their Appeals Committees.
- Selecting committee chairpersons is an important duty. A good chairperson can help ensure that the committee considers all of the evidence and conducts an impartial hearing. Players who serve on Committees at North American Bridge Championships are good choices for this role.

•D. Geography as a Selection Criteria

- Committee members should come from different geographical areas when possible. This will give the committee a broader base of experience, making a fair and impartial hearing more likely. No party should leave an Appeals Committee hearing feeling disadvantaged merely because they live in a different locale. All parties should believe they had a fair hearing with a full opportunity to express their views.

•E. Committee Member Bias

- Every committee member must be unbiased. Common sense should prevent most incorrect appointments. Of course, 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 should reveal that fact immediately and excuse himself or herself from service. Committee members should conduct themselves appropriately, and avoid social contact with any party either before or immediately after the hearing.

•F. Tournament Director's Role

- The Tournament Director performs different functions at an Appeals Committee hearing. As the first witness, he or she presents a complete statement of the facts, issues, applicable laws and available sanctions.
 - A Tournament Director is no party's adversary. As a professional arbiter, the Tournament Director is expected to make each ruling after a careful effort to discover every relevant fact and understand the bridge judgments involved.
 - The Appeals Committee should support the Tournament Director as a neutral person. During the hearing, this means treating the Tournament Director with respect. It also means announcing its decision without reference to the Tournament Director. Avoid phrases such as "We uphold the director's ruling" or "We overrule the director" because these imply that a Tournament Director is not neutral.
 - In the interest of efficiency the Tournament Director normally testifies first. He or she should give a summary of the facts and issues, recite the pertinent law and regulations, and describe the available sanctions. An Appeals Committee may not overrule a Tournament Director on a point of law. In such a case, the Tournament Director may be asked to reconsider his or her ruling.
 - The Tournament Director should inform the committee when bridge judgment is not relevant by showing a copy of the applicable law or regulation.
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•G. Standing Committees and Lists

- Each tournament should have a list of qualified persons who agree to serve on Appeals Committees. The person responsible for appointing the committee should consult with his or her Board of Directors. The opinions of some of the respected players in the area may also be helpful.
 - The Tournament Committee can avoid having a less-than-qualified Appeals Committee by enlisting available, qualified players in advance.
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•H. Size

- A committee should have an odd number of members, usually three or five. This should prevent a committee from becoming deadlocked.

•III. PROCEDURES

•Bridge players are as argumentative as other high level competitors. We need procedures that ensure an orderly and efficient hearing. Committees should follow the procedures described beginning here.

•A. Introductions

1. Introductions are the first order of business. The committee chairperson should:
 - a. Give his or her full name and home city;
 - b. State that the chair will function as the presiding officer;
 - c. Request that all questions and comments be directed to the chair;
 - d. Have the other committee members introduce themselves;
 - e. Have the parties, including their advocates, introduce themselves.
 2. 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."
 3. The committee chairperson 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.F. below.)
 4. The committee chairperson introduces The Tournament Director and gives his or her name and role (e.g., table or floor director, chief director, appeals director);
 5. The committee chairperson introduces any witness, stating if that witness is associated with any party to the appeal.
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•B. Disabilities and Interpreters

•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 disability will not be a disadvantage. In appropriate cases the committee should postpone the hearing.
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•C. Control

- The chairperson should inform those present of the following:
 1. They will have enough time to present their side;
 2. The committee will call upon each party at the appropriate time;
 3. There should be no interactions between the parties involved;
 4. All testimony is directed to the chairperson;
 5. For team events, the committee should not hear anything about what happened at the other table (NOTE: If the committee decides to award an artificial adjusted score pursuant to Law 12C1, they should then be told of the score at the other table.);
 6. No interruptions will be tolerated;
 7. When a witness is finished, opposing parties and committee members will have an opportunity to ask questions (always directed to the chair);
 8. Each party will have an opportunity to present rebuttal testimony, and make whatever final argument they feel is appropriate;
 9. When everyone is finished testifying, the committee will deliberate privately;
 10. The parties will be called back to the committee room to hear the committee's decision. Once the committee announces its decision there is no further argument or discussion.
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•D. Documentation

- The chairperson may ask a member to prepare the required report or keep notes so that the chair can prepare the report
 - No other record of the hearing is kept, except as directed by the committee.
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•E. Evidence

- The committee determines all rulings on the suitability of a question and admissibility of evidence. The chairperson speaks for the committee. If any member disagrees, the committee deliberates the issue privately and decides the point by majority vote.
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•F. Challenges

•Each committee's first duty is to ensure not only actual fairness but also the appearance of fairness. Mere knowledge of a party's past appearances before appeal or disciplinary committees is not a basis for disqualification. Parties should have the chance to challenge a committee member for cause. If a party challenges a member who will not withdraw, the remaining committee members may consider evidence pertaining to the challenge and vote on the issue. Before the substantive phase of the hearing begins, the sponsoring organization should fill any resulting vacancy to maintain an odd number of committee members.

• Standing

•After the committee resolves any and all challenges, it decides if the appealing party has standing to make the appeal. An individual may appeal a ruling only if the Tournament Director made it at his or her table. 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 committee must dismiss the appeal. The hearing does not end, as the committee may impose a procedural penalty upon the appellant although the Committee should assume that the appealing party's standing was determined by the Tournament Director, they may make an independent decision on that issue.

•H. Explaining the Burden of Proof

•The chairperson should explain to those present that the standard of proof to accept one version of the facts over another version is a preponderance of the evidence. This means that the committee accepts the version more likely to be true.

•For example:

If the appeal involves a mistaken bid versus mistaken explanation situation, the chairperson should say that this pair has a burden to present clear and convincing evidence. To accept as true that there was a mistaken bid, a majority of the committee members must possess a firm belief or conviction that there was a mistaken bid rather than a mistaken explanation. This is not so rigorous a standard as proof beyond a reasonable doubt, as used in criminal cases. For a fuller explanation, see Section IV B.

•I. Presentations

- The Tournament Director is first, summarizing the relevant facts and issues along with the pertinent law. Next, he or she presents a list of available rulings and sanctions and informs the Appeals Committee of the full range of its authority. After responding to any questions from committee members and parties, the Tournament Director may withdraw. The chairperson may and should recall the Tournament Director especially when more information regarding law or regulation is needed.
 - Each appellant (the contestant lodging the appeal) or their advocate (not both) gives his or her version of the facts plus their reasons why the Appeals Committee should decide matters in their favor. After each appellant is finished, the appellee (the opponent of the appellant) and any committee members may ask any pertinent questions. If an advocate represents the appellant, the appellant speaks only as a witness.
 - Each appellee, or their advocate (not both), gives his or her version of the facts plus their reasons why the Appeals Committee should decide matters in their favor. After each appellee is finished, the appellant and any committee members may ask any pertinent questions. If an advocate represents the appellee, the appellee speaks only as a witness.
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•J. Rebuttal and Closing Arguments

- Each party, starting with the appellant, has a chance to address what the opposing parties said. Rebuttal is not the time to say something a party forgot to say at his or her first opportunity. After rebuttal is finished, each party may make a final argument why the committee should support his or her position. Following this, the chairperson should emphasize that once the committee announces a decision there can be no further testimony or argument.
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•K. Deliberations

- After final arguments are finished, the committee deliberates privately. All other persons must remain out of earshot. It keeps no record of its deliberations. If the committee discovers facts not known by the Tournament Director or believes he or she applied the wrong law, it should recall the Tournament Director. After discussion with him or her, the Appeals Committee decides the matter by majority vote.

- The Laws of Duplicate Contract Bridge (specifically Law 84E) state that if an irregularity has occurred for which no penalty is provided by law, the Tournament Director awards an adjusted score if there is even a reasonable possibility that the non-offending side was damaged. An Appeals Committee is subject to the same Laws. In gray areas both a Tournament Director and an Appeals Committee should rule for the non-offending side. Members are completely free to find facts and make bridge judgements that are completely at odds with the facts and bridge judgements found by the Tournament Director.
 - An Appeals Committee is bound by the Tournament Director's statement of applicable law and regulation. If a committee finds the same facts as the Tournament Director and makes the same bridge judgments, then it must make the same ruling. A committee cannot overrule a Tournament Director on a point of law or regulation. A Committee may decide that a different Law applies and inform the Tournament Director of the facts that led to this conclusion. The Committee may not apply a different law if the Tournament Director disagrees.
 - When announcing a decision that is identical to the Tournament Director's ruling, the Appeals Committee should emphasize that it found the facts and applied its collective bridge judgment independently. It should refrain from describing that decision as "upholding the director's ruling." This will help preserve everyone's image of the Tournament Director as a neutral person, rather than as an advocate.
 - A committee should recognize the Tournament Director is impartial. That alone may be enough to convince the committee of a particular set of facts. A party disagreeing with the facts as set forth by the Tournament Director is most likely speaking out of self-interest. An appellant or appellee may truly believe what he or she is saying, but remember each party had time to consider what they were going to say. This is a matter of credibility, discussed more fully in section IV.
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•L. Announcing and Reporting the Decision

- The committee should recall all parties and the Tournament Director to hear its decision. The chairperson should try to ensure that both sides are aware of why the decision was reached. All of the parties are subject to a disciplinary penalty if objections to the committee's decision are considered disrespectful of either the process or the committee. The Committee delivers its report on the official ACBL form to the Tournament Director.

IV. PRINCIPLES OF EVIDENCE

•A. Evidence That May Be Considered by a Committee

•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.

•Usually, a committee should permit hearsay evidence but not hearsay on hearsay. We may roughly define hearsay evidence as a statement made by another person offered for the truth of the statement. An example is testimony by one person that another person said he or she heard South bid 3 spades. This is hearsay evidence if offered for the proposition that South bid 3 spades. A person who testifies that he or she heard a rumor that another person said he or she heard South bid 3 spades gives hearsay on hearsay, if offered for the same proposition.

•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.

•Hearsay on hearsay testimony is so unreliable that the possibility of prejudice far outweighs its probative value. We are all familiar with the elementary school game of story telling. The teacher whispers a short story to the first child. The child repeats the story to the next child, and so on until the last child tells the story to the class. The end story is usually substantially different.

•The committee should consider 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.

•What is relevant is primarily a matter of common sense and experience. ACBL expects committees to use their collective discretion rather than a rigid set of rules. The committee should be prepared to deal with self-serving testimony. The testimony usually is relevant and should be admitted, but in such cases the committee should not give it any significant weight. The reason is the potential bias by players having a direct interest in the committee deciding matters in a particular way.

•B. Burden of Proof

•As to a particular issue, the party with the Burden of Proof has the responsibility to prove that issue. A party satisfies the burden if he or she introduces evidence that, if accepted, could be a basis for deciding the matter in their favor. As an aside, the party still satisfies the burden of proof if the committee does not believe the evidence. In such a case the committee is simply resolving evidentiary or credibility issues against that party.

•Cases before a committee should be heard as if for the first time, regardless of any previous determination by the Director. A committee must review the evidence independently, and make its own determination of fact or bridge judgment. Consequently, a Tournament Director has no burden of proof in an Appeals Committee hearing. Remember, however, that, if the committee finds the same facts and bridge judgment as the Tournament Director, it must make the same ruling. NOTE: Committee should discuss the point of how much, if any, weight be given to the director's decision.

•C. Types of Evidence

•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. The dealer opens 1 diamond and second chair overcalls 2NT. Fourth chair explains the bid shows the "two lower unbid". This is direct evidence that the bid shows the two lower unbid suits. However, if fourth chair later bids clubs holding five hearts and only three clubs, that is circumstantial evidence that the bid does not show the two lower unbid suits.

•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.

•Demonstrative evidence is an object or tangible item. Its probative value depends on its connection to the other evidence produced in the hearing. For example, a convention card and partnership notes are demonstrative evidence. Their importance and effect in a mistaken bid versus mistaken explanation case could depend on their completeness and when the players filled in the relevant sections.

•D. Credibility and Weight

•Credibility is the extent to which a witness is believable. A witness who testifies that the light was green when the automobile entered the intersection, but who later admits being miles away should be found not credible.

- 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. This sometimes happens when a witness so strongly wants a particular fact to be true that he or she becomes convinced of it. Committee members need not think a witness is lying to disbelieve him or her.
 - Weight is the degree to which credible evidence controls the ultimate decision of the committee. Weight is the importance assigned to the particular evidence. If a witness testifies that the playing area was very noisy, the testimony could be very credible. However, in a mistaken explanation versus mistaken bid case the testimony would not have much weight.
 - Sometimes evidence will be irrelevant due to legal constraints. In a hesitation case, the subjective opinions and judgments of the partner of the player who hesitated are irrelevant. The only relevant issues in a hesitation case are whether the hesitation demonstrably suggested the action taken and whether there was a logical alternative to the action take.
 - A Tournament Director often bases his or her ruling on Management guidelines and precedents that suggest a particular ruling. The committee makes independent credibility decisions, and may depart from established Management guidelines and precedent only when there is overwhelming evidence to the contrary. Accordingly, the committee should not consider itself bound by the facts or bridge judgments found by the Tournament Director.
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•E. Organization

- A committee's main task is to decide the facts, apply its collective judgment to the effect the facts have on the matter before it, apply the law as stated by the Tournament Director, to the facts, and make its decision. Its members should work together to reach a consensus. No member should stubbornly hold to a position without seriously considering the contrary positions held by other members, or change his or her position solely to avoid dissension.
- A committee should not compromise on the facts. Only one set of facts can exist. Determining the effect of the facts is necessarily a subjective judgment. Compromise on the effect of those facts, therefore, is often appropriate and always possible.
- Committee members should avoid endless and futile deliberations. A vote resolves an issue, but a committee may revisit that issue if a member raises some new point. However, once the committee announces its decision, the matter is at an end.

