

Changes to Code of Disciplinary Regulations
Approved March 2008

The CDR is amended as follows:

Section A of this resolution:

- 2.1.7 Except for CDR 2.1.1 (d) and 2.1.6, units, districts and ACBL have no original jurisdiction over *behavior at club* sponsored games. If the unit, district or ACBL is the sanction holder, club manager or club board of directors, the unit, district or ACBL has the same jurisdiction and authority *over behavior* as any other sanction holder, club manager or club board of directors.
- 5.3.2 A disciplinary complaint involving events at a tournament must be brought by a participant in the tournament, by the sponsoring organization recorder or by the Director in Charge ("DIC") or his or her designee, which designation may be written or oral (See CDR 5.3.4 when the subject of a complaint or a charged person is no longer at the tournament.).....
- 5.3.4 Persons charged are not required to appear and their failure to appear shall not be grounds for further discipline.
(a) A complaint about a participant who is no longer at the jurisdiction of the tournament will be reviewed by the DIC in accordance with CDR 5.3.2 above to determine whether to make charges to the appropriate disciplinary body as noted in CDR 5.3.4 (b) below.
(b) A complaint and consequent charge against a person who is no longer at the jurisdiction of the TDC shall be sent to the appropriate disciplinary body for a hearing as follows:
i. From a sectional tournament or sectional-level event to the unit disciplinary committee in which the sectional was held.
ii. From a regional tournament or regional-level event to the district disciplinary committee in which the regional was held.
iii. From a North American Bridge Championship (NABC) or an NABC-level event sponsored by ACBL to the ACBL Disciplinary Committee.
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Section B of this resolution:

DEFINITIONS

Attorney A person who is licensed or has been licensed to practice law in any jurisdiction.

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

- (a) In matters before TDCs, the DIC may appoint a representative to be an advocate of the complainant or **may appoint a representative to be** a neutral presenter of facts.
 - (b) In matters before Unit or District Disciplinary Committees, the Unit or District President may appoint a representative to be an advocate of the complainant or **may appoint a representative to be** a neutral presenter of facts.
 - (c) In matters before the Ethical Oversight Committee, ACBL Management may appoint a representative to be an advocate of the complainant or **may appoint a representative to be** a neutral presenter of facts.
 - (d) In matters before District Appeals, the District President may appoint a representative to be an advocate of the complainant or **may appoint a representative to be** a neutral presenter of the matters on appeal.
 - (e) In matters before Appeals and Charges Committee, ACBL Management may appoint a representative to be an advocate of the complainant or **may appoint a representative to be** a neutral presenter of facts.
- 5.2.3 (c) 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.
- 5.3.6 (c) 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.

APPENDIX A

I.

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. The advocate selected to appear at the hearing shall not be an attorney or 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. The presenter selected to appear at the hearing shall not be an attorney or a member of the ACBL Board of Directors.

V. HEARING PROCEDURES

A. PRESENCE AT HEARING

The complainants and the people charged and/or their counsels (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.

Section C of this resolution:

DEFINITIONS

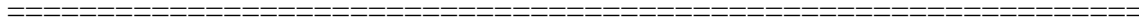
- "Clear and Convincing Proof"** Proof which is more than a probability but less than the certainty required in a criminal case.
- "Preponderance of the Evidence"** Evidence that is more convincing than the evidence opposed to it.

5.1.4 The Committee shall not be bound by legal rules, whether of substantive law, evidence or procedure, and shall be liberal in receiving evidence. The receipt of evidence is not necessarily indicative of the weight or the credit which the Committee may give it in their ultimate determination; thus, hearsay evidence and written statements may be admitted and given such weight as the Committee deems appropriate. ~~"clear and convincing proof~~

APPENDIX A

VII. EVIDENCE AND BURDEN OF PROOF

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, ~~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. ~~of clear and convincing~~



Section D of this resolution:

9. Disciplines ~~Involving Units or Districts~~ and Procedures

9.4 A member who resigns his/her membership in the ACBL to avoid possible disciplinary action for unethical conduct may not thereafter participate in any National, District, Unit, sanctioned game or other ACBL activity, including but not limited to:

- (i) *acting as non-playing captain,*
- (ii) *kibitzing any game or event,*
- (iii) *being physically present at the site of a tournament,*
- (iv) *participating in the corporate or business affairs of any ACBL affiliated organization.*

9.5 Readmission of members who have resigned or who have been expelled.

9.5.1 A member who resigns to avoid possible disciplinary action for unethical conduct may be readmitted to membership only by the ACBL Board of Directors. Further, no application for readmission may be considered before *five* years from the date of resignation and thereafter only once every three years. The Board of Directors may impose such conditions upon readmission as it deems appropriate.

9.5.2 The ACBL Board of Directors will not hear and ACBL Management is instructed not to forward to the Board any request for readmission before five years from the date of expulsion or resignation to avoid possible disciplinary actions for unethical conduct provided that under no circumstances will the ACBL Board of Directors hear a request for readmission in regards to a second expulsion or resignation to avoid possible disciplinary actions or combination thereof.

(a) When a request is heard and denied, the person making the request will be told when and if the Board will hear a subsequent request for readmission.

(b) Should the Board decide to hear a request, the following guidelines shall be used in considering the possible readmission to ACBL membership of former members who have been expelled or who have resigned to avoid possible disciplinary action:

(1) Admission of guilt.

(2) Appropriate written apology.

(3) Support for readmission from the player's local bridge organization(s).

(c) Additional provisions for readmission shall be at the discretion of the ACBL Board of Directors. Requests for relief from the provisions for readmission shall be made no more frequently than every three years.

9.6 Publication of Names of Suspended or Expelled Members.

9.6.1 When a player is suspended or expelled by the Ethical Oversight Committee and after the appeals process is complete their full name and player number shall be published in the ACBL Bulletin. This will not apply if on appeal the action is reversed.

9.6.2 In cases where a player or players are expelled (1) through actions of the National Appeals and Charges Committee or (2) through actions of the Ethical Oversight Committee that are not appealed, an article may be published in the ACBL Bulletin

explaining what occurred. The purpose of this article is to educate the readership on what is and is not actionable behavior. The chair of the applicable committee will oversee the writing of the article. Publication is at the discretion of the Bulletin Editor.

9.6.3 Upon request for information regarding publication of the facts of a disciplinary case, management will advise the requestor of ACBL policy. [NOTE: Current ACBL policy is to publish an individual's name and ACBL player number, and a brief description of their offense after any appeals are exhausted or the time period for an appeal has expired.]

9.7 Any communication that occurs during the meeting of an ACBL Body (as defined below), which relates to matters that have been, are or might reasonably become subjects of business for that particular body, is privileged.

(a) "Privileged" shall mean communication that may not be used as the basis for any complaint under ACBL disciplinary or other regulations.

(b) "ACBL Body" includes the Board of Directors, any ACBL Foundation Board and any ACBL committee or sub-committee appointed by the ACBL President, by the ACBL Board or by any ACBL Board member. It shall also include the Board of Governors, any District or Unit Board within ACBL and any duly appointed or elected District or Unit committee or sub-committee.

9.8 The refusal of a player, pair or team to play in an ACBL sanctioned Sectional, Regional, National or Grand National event against another player, pair or team duly entered in the event shall require the disqualification of the player, pair or team so refusing to play from further participation in the event and the forfeiture of any Master Points earned by the player, pair or team in the event.

Such refusal, *without a medical excuse*, shall constitute conduct unbecoming a member of the ACBL and shall be referred to the disciplinary body having jurisdiction for appropriate disciplinary action.

9.9 Expenses in connection with District Judiciary Committees shall not be borne by the ACBL unless specifically authorized by the ACBL.

Discussion:

The changes noted in Section A of the resolution are effective April 1, 2008.

- 2.1.7: This is a clarification as the intent of this sentence and section was that it only applied to original jurisdiction.
- 5.3.2 and 5.3.4: These sections were amended to make it clear that upon receipt of a complaint about a person no longer at the tournament, the DIC acts as the charging party and sends the complaint and charge to the appropriate disciplinary body to have a hearing. No further charge (by the unit charging party) is required.

The changes noted in Section B of the resolution are effective April 1, 2008. However, it only applies to a matter for which a charge has been made on or after April 1, 2008 – i.e. for any ongoing issue for which a charge has been brought prior to April 1, 2008, these sections do not apply, and a person may have a representative who is an attorney in the hearing.

- This does not restrict a person from having an attorney represent them or even advise them outside the hearing room.
- This restriction only applies to the hearing such that the attorney cannot be present in the hearing to interject legal procedures, motions, etc. during the hearing.
- This change will reduce the possibility of consuming a committee's time on frivolous evidentiary matters and legal technicalities instead of the issues at hand.
- There are many times when a complainant (even a committee) is overwhelmed by an attorney during the hearing. This modification would place all parties on a relatively equal footing as the complainant and the committee, especially at the unit and district level, rarely has a counsel who is an attorney.
- This restriction is common in other types of administrative hearings outside the sports world.

The changes in Section C of the resolution are effective April 1, 2008 for any hearing held on or after that date.

- Presently the standard of proof for ACBL disciplinary committees is “clear and convincing.”
- This standard as defined in Appendix A is more difficult to meet than the standards used in most administrative hearings and civil cases in the United States.
- The amended standard of proof is “preponderance of proof” – defined as “evidence that is more convincing than the evidence opposed to it.”

The changes in Section D of the resolution are by and large not changes. They are effective immediately.

- Chapter One, Section F of the ACBL Codification contains some disciplinary regulations that have not been incorporated into the ACBL Code of Disciplinary Regulations (CDR). Section 9 of the CDR has been amended to include those regulations that should be communicated to ACBL members so that there is one document, the CDR, that contains ACBL disciplinary information relevant to an ACBL member.
- Rather than have the motions in two places, all the underlying motions are rescinded in another motion.
- Only two of the underlying motions have been modified:
- In what is now 9.5.1 of the CDR “once a year” was changed to “once every three years to be the same as the now 9.5.2 of the CDR, which was modified in San Francisco in 2007.
- In what is now 9.8 of the CDR, “without a medical excuse” was added to exempt a person from disciplinary action when, for example, the person could not play against another person because that person was wearing distinctive cologne to which the person refusing to play was sensitive. Note that the tournament director may deal with the situation as he or she deems appropriate. This change simply removes the automatic disciplinary hearing.