

## **FAIR HEARING AND DISCIPLINARY PROCESS AND PROCEDURES**

**Approved 12/4/2017**

The Board of Directors of North Country Region USA Volleyball (“NCR”), through its Executive Director, is responsible for the enforcement of the Junior Coach Responsibilities, USA Volleyball Code of Conduct, USA Volleyball Guidelines and similar rules and regulations governing appropriate conduct and behavior by coaches, team representatives, chaperones of athletes and other participants in NCR’s events, meetings and functions. Any person who believes that someone has violated such codes, rules or regulations has the right to file a complaint with the Executive Director. In addition, the Executive Director has the discretion to initiate the filing of a complaint and the procedures described in this policy whenever she or he believes it is appropriate to do so, regardless of whether any other person has filed a complaint.

All matters within the authority of the U.S. Center for Safesport (“USCSS”) are expressly excluded from the NCR Fair Hearing and Disciplinary Process and Procedures. The USCSS has exclusive authority to investigate and resolve conduct involving sexual misconduct or other conduct reasonably related to the underlying allegation of misconduct. The USCSS has discretionary authority over other conduct prohibited by the Safesport Code for the U.S. Olympic and Paralympic Movement. For these prohibitions, as well as the procedures and practices for investigating and resolving complaints, see the current edition of the Safesport Code for the U.S. Olympic and Paralympic Movement and its appendices. NCR shall have no authority to investigate or resolve misconduct within the authority of USCSS. NCR’s Fair Hearing and Disciplinary Process and Procedures apply to any complaint, investigation, or resolution arising from such conduct. The Executive Director shall refer to USCSS any complaint within USCSS’s authority.

In exigent circumstances the Executive Director may impose a disciplinary sanction before the completion of an investigation when the Executive Director has a reasonable basis to believe a sanction is necessary to protect the safety of a complainant or members of NCR or to preserve evidence. The intent and spirit of these policies and procedures is that the imposition of discipline before the completion of a complaint investigation would occur rarely. One non-limiting example justifying pre-investigation discipline would be credible allegations of sexual misconduct, harassment or serious criminal misconduct.

Every member, coach, team representative, chaperone of athletes or anyone else participating in an NCR activity or event of NCR is entitled to due process and a fair hearing whenever complaints are filed by or against them. Both the person who files a complaint (“Complainant”) and the person accused of a violation or other inappropriate behavior (“Respondent”) are entitled to and obligated to comply with the procedures described in this policy. Whenever the Executive Director receives or initiates a complaint not within the authority of the USCSS, she or he shall take the following actions without undue delay:

1. notify the Respondent in writing of the alleged violations or inappropriate conduct;
2. the written notice shall describe, at a minimum, a summary of the allegations including, when applicable, the specific conduct or violation in question, the date and place it allegedly occurred;
3. the written notice shall inform the Respondent that he or she has the right to

respond to the allegations by the deadline on which the Respondent's **written** response must be delivered to the Executive Director;

4. the written notice shall inform the Respondent of the possible disciplinary actions or other measures that could be taken if the allegations are found to be accurate or if the Respondent fails to submit a written response by the specified deadline;
5. the Executive Director has the authority to try to resolve the matter initiated by the complaint through mediation or other informal means so long as both the Respondent and the Complainant and/or Executive Director agree to do so; and
6. the written notice shall specify any initial disciplinary actions (e.g., suspension or revocation of membership or participation) imposed by the Executive Director whenever the Executive Director concludes that the allegations are so serious and credible that immediate disciplinary action is justified prior to the completion of the procedures set forth in this policy in exigent circumstances, as described in the second paragraph of this document.
7. in most circumstances, the identity of the Complainant(s) shall be disclosed in the written notice of the complaint sent to the Respondent. If the identity of the Complainant is determined by the Executive Director to be either irrelevant to the allegations or inappropriate for disclosure to the Respondent because of the need to protect the Complainant's privacy, confidentiality or personal safety, the Executive Director has the discretion in such unusual cases not to inform Respondent of the identity of the Complainant.

Written notice of the allegations shall be delivered by certified mail to the Respondent at his or her most recent mailing address. In addition, the Executive Director may provide oral notice of the allegations to the Respondent initially, if the Executive Director deems it necessary and appropriate to do so because of unusual circumstances or to ensure a more prompt notice and resolution of the complaint. If the Executive Director does inform the Respondent orally of the complaint, he or she must also promptly send written notice to the Respondent as described herein.

#### I. Response to Complaint

Respondent has the right to submit his or her response to the allegations no later than ten (10) business days from the date of the written notice of the complaint. Failure to submit a written response to the Executive Director within the ten (10) day period shall be deemed by the Executive Director and the Board of Directors ("Board") to be an admission of the veracity of the complaint. In addition to submitting his or her written response to the complaint, Respondent is permitted to submit (by the ten (10) day deadline) other papers or materials relevant and appropriate to the response.

#### II. Investigation

Following receipt of Respondent's written response, the Executive Director has the discretion to interview persons deemed to have information relevant to the allegations, to request and review documents from all involved parties, and to otherwise conduct an appropriate

investigation. The Executive Director's discretion also allows for the commencement of the investigation prior to receipt of Respondent's response, if the Executive Director decides it is appropriate to do so.

### III. Executive Director's Decision

After reviewing the complaint allegations, Respondent's response and any other relevant materials or sources of information, the Executive Director shall fairly evaluate all of the information before reaching a decision. The Executive Director has the authority to decide whether any inappropriate behavior occurred or whether any code or rules and regulations were violated and, if so, to impose an appropriate sanction or penalty. The Executive Director shall promptly issue a written decision summarizing the findings and conclusions and, when justified, the specific sanction or penalty imposed. This written notice shall be sent by regular mail to both the Respondent(s) and Complainant(s).

### IV. Appeal of Executive Director's Decision

If the Executive Director's decision is to impose a disciplinary penalty or sanction against Respondent, Respondent may appeal that decision in accordance with NCR's policies and procedures described herein. A Respondent desiring to appeal the Executive Director's written decision must do so by submitting a written notice of appeal to the President of the Board within 10 business days of the date Respondent receives notice of the Executive Director's decision. The notice of appeal shall state succinctly: (1) that the Respondent desires to appeal the Executive Director's decision and (2) a summary of the reasons for the appeal. The President shall then refer the appeal and all related materials to the Review Committee, as described herein in sections V and VI.

### V. Review Committee

The Board shall establish a Review Committee to review and handle all appeals herein. The Review Committee shall be comprised of a Chairperson appointed by the Board President, and two other members of the Board, appointed by the Chairperson of the Review Committee. The President of the Board and Chairperson of the Review Committee shall ensure that no member of the Review Committee has a conflict of interest that, in their opinion, would call into question the ability of a Review Committee member to carry out his or her appeal responsibilities fairly and objectively. If any member of the Review Committee is deemed to have a conflict of interest in a particular matter, the Chairperson of the Review Committee shall appoint another Board member as a replacement. If the President of the Board of Directors determines that the Chairperson of the Review Committee has a conflict of interest, the President of the Board shall appoint a new Review Committee Chairperson.

### VI. Review Committee Appeal Hearing

Appeal hearings conducted by the Review Committee shall be informal and conducted pursuant to Guidelines for Review Committee Hearings, as described in Addendum A hereto. As noted in those Guidelines, the Review Committee has the discretion to accept and consider evidence and testimony without following formal legal rules of evidence and procedures.

The Review Committee Chairperson shall mail written notice to the Respondent, Complainant (if any) and the Executive Director stating the names of all Review Committee members. This notice shall be mailed promptly.

After a hearing the Review Committee shall issue a written decision, specifying the reasons therefor and, if appropriate, the sanction or penalty to be imposed. The Review Committee also has the discretion to dismiss the complaint or modify the discipline or sanction previously imposed by the Executive Director. The Review Committee's decision shall be in writing and mailed to both the Respondent and the Complainant, if any, no later than fifteen (15) business days after the conclusion of the hearing. The three-person Review Committee's decision shall be determined by a majority vote. The written decision shall be sent to Respondent and Complainant, if any, by certified mail.

#### VII. Appeal from Review Committee's Decision

Upon receipt of the Review Committee's decision, the Respondent has the right to appeal the decision to the Board. The appeal shall be in writing, summarizing the reasons for the appeal, and shall be delivered or sent by regular mail to the Executive Director within seven (7) business days of the date of the Review Committee's written decision. The notice of appeal shall be accompanied by a filing fee of \$100 payable to NCR. The Executive Director shall then forward the notice of appeal to the NCR Board of Directors.

The Board shall not review or consider any additional evidence or materials that were not previously presented to the Review Committee. The Board shall invite Respondent and any Complainant or the Executive Director to appear personally before the Board to explain orally why the Board should or should not adopt or modify the decision of the Review Committee. The Board also has the discretion to permit Respondent, the Complainant or the Executive Director to submit their written arguments instead of or in addition to presenting personal oral arguments to the Board. The Board shall convene to consider the appeal as soon as practicable after receipt of the Review Committee's written decision. The Board shall carefully consider the findings and conclusions of the Review Committee but shall not be bound by such determinations.

The Board may reverse, affirm or modify the decision of the Review Committee by a majority vote of the Board members present at a meeting to consider the appeal so long as the number of Board members present constitutes a quorum. The Board's decision shall be final and not appealable to any other entity, organization or court of law. Its decision shall be in writing and sent by registered mail to Respondent, Complainant and Executive Director no later than seven (7) business days after the Board's meeting to consider and deliberate upon the appeal. A copy of the Board's final decision shall be sent in writing to USA Volleyball, Assembly Chair of the Regional Volleyball Association or Assembly Chair of the Junior Assembly, as appropriate in each case.

#### VIII. Miscellaneous

In carrying out their responsibilities herein, the Executive Director, the Review Committee and the Board have broad discretion in determining the type of sanction or discipline to be imposed in any matter. Such forms of discipline could include, but are not limited to, expulsion from NCR, suspension of membership in NCR, exclusion from any NCR premises or events, and reprimands. This disciplinary discretion is intended to be consistent with and in

promotion of the goals, policies, rules, regulations and values of NCR to carry out its functions and responsibilities in a manner the Board considers in the best interests of NCR.

At all times during the investigation, consideration and appeal of any complaint or decision by the Review Committee or the Board, the Executive Director may take discretionary appropriate steps to protect the Complainant or any other persons from unwanted contact by the Respondent. These steps may include, but are not limited to, prohibiting Respondent from entering or being on NCR's premises or to represent NCR in any activities pending the outcome of the investigation and decision-making processes concerning the complaint. The Board, acting through its Executive Director, also has the right to reasonably delay the investigation and completion of any complaint or possible disciplinary proceedings pending the outcome of ongoing civil or criminal proceedings in courts of law.

## **ADDENDUM**

### **A**

#### **GUIDELINES FOR REVIEW COMMITTEE HEARINGS**

This Addendum A is intended to serve as a guide for the conduct of appeal hearings held and administered by the NCR Review Committee concerning complaints of violation of rules, regulations, policies or inappropriate behavior. The goal is to conduct as fair a hearing as possible for all concerned parties. The hearings, however, need not comply with rules, procedures or laws governing civil or criminal court proceedings. The Review Committee at all times has full discretion to conduct a hearing in a manner which it deems to be appropriate, fair and expeditious and which reduces the threatening or intimidating nature of a hearing. The following are intended to serve as guidelines for the conduct of hearings before the Review Committee.

1. Each party (usually Complainant and Respondent) shall have the right to participate personally in the hearing so long as that party complies with the rules and procedures herein and does not act in a disruptive or intimidating manner. If a party chooses not to participate personally in a hearing, the Review Committee may consider and rule upon an appeal based upon the documents and submissions previously filed. Each party has the right to be assisted in the presentation of his or her case with or without legal counsel or one other representative. Each party shall bear his or her own respective costs for the assistance of legal counsel or other representative. Each party also has the right to have a record (by audio recording or stenographer) made of the hearing so long as the requesting party pays the cost of such record.

2. If either party intends to be represented by legal counsel or to have some other designated representative assist them in the appeal hearing, that party must mail to the opposing party and Executive director written notice of this intention and the identity of the legal counsel or designated representative no later than one week prior to the commencement of the hearing. If a party is assisted by a designated representative other than legal counsel, that representative may consult with the party being advised but does not have the right to present evidence or question witnesses.

3. The Respondent and Complainant has the right to object to the appointment of a member of the Review Committee, if he or she believes a Review Committee member has a conflict of interest or otherwise would be incapable of evaluating the evidence and reaching a decision fairly and objectively. Such objection shall be made directly to the Review Committee Chairperson in writing and shall state the rationale for the objection no later than one week after receiving the names of the members of the Review Committee.

4. The Review Committee has the discretion on a case-by-case basis for establishing and implementing all rules and procedures governing the conduct of a hearing as it determines is most appropriate. This discretion permits the Review Committee to deviate from

the guidelines described in this Addendum A whenever it believes the interests of fairness and justice call for such deviation.

5. One calendar week prior to the commencement of the hearing, all parties (including the Executive Director, if applicable) shall file with the Review Committee in writing the names and addresses of those expected to appear as part of their presentations and all documents and other materials they expect to introduce as evidence. The parties also shall provide copies of the same written submission to each other and the Executive Director at the same time.

6. Upon request by the Complainant or the Respondent or upon its own discretion, the Review Committee may also permit the submission of additional witnesses or documentary evidence during the course of the hearing, when the Review Committee determines that such additional evidence or witnesses are both appropriate and unanticipated prior to the hearing. If such additional evidence or witnesses are permitted without prior disclosure before the hearing, the Review Committee may grant the opposing party or parties reasonable additional time to respond.

7. Except for extraordinary circumstances authorized by the Review Committee, all witnesses must appear personally during the hearing.

8. The appeal hearing shall commence with a brief statement by the Review Committee President or other designated representative summarizing the complaint and the response and the Executive Director's decision being appealed.

9. The party appealing the Executive Director's decision next has the right to make an opening statement summarizing why he or she believes the Executive Director's decision should be reversed or modified. The opposing party or Executive Director has the right to make a brief opening statement in support of the Executive Director's decision immediately following the appealing party's opening statement or at the beginning of his or her presentation of evidence and arguments permitted under paragraph 10. Following the opening statement by the appealing party or the opposing party's opening statement, if one is given at that time, the appealing party shall present his or her case through personal accounts, witness testimony and documentary evidence at the discretion of the appealing party. The Review Committee has the authority to exclude any evidence or testimony that it believes is irrelevant, inflammatory or otherwise inappropriate. Each party, personally or through an attorney, has the right to question his or her own witnesses and those of the opposing party.

10. At the conclusion of the testimony and evidence from the appealing party, the opposing party or Executive Director has the right to:

- a. make an opening statement, **if** he or she did not previously make an opening statement under paragraph 9; and
- b. present any witnesses or evidence in a fashion similar to that permitted by the Review Committee for the appealing party.

11. The Review Committee members also have the right to ask their own questions of witnesses and the parties.

12. At the conclusion of the evidence and witnesses presented by the party opposing the appeal, the appealing party shall have an opportunity to offer rebuttal testimony or evidence. As part of its discretionary authority, the Review Committee may limit or exclude certain evidence that it believes is redundant or unfair. Throughout the hearing, the Review Committee has the right to establish reasonable time limitations on the presentation of evidence and witnesses by either or both parties.

13. The hearing is not open to the public, and attendance shall be limited only to those who are parties to the appeal hearing or as otherwise permitted by the Review Committee. Witnesses shall be present in the hearing room only for their own testimony, unless otherwise permitted by the President of the Review Committee or upon agreement of both parties.

14. The Review Committee itself also has the discretion to call witnesses or request documents or other evidence not offered by the parties to the appeal, if the Review Committee believes that additional witnesses or evidence would be necessary and appropriate to a fair consideration of the appeal.

15. Following the conclusion of all presentations, arguments and submissions of evidence and testimony by the parties, the Review Committee shall deliberate in a private session not open to the parties or any member of the public to reach a decision as to whether to adopt, reverse or modify the Executive Director's decision being appealed. The Committee's decision shall be determined by majority vote. The findings and conclusions of the Review Committee shall be submitted in writing promptly to the Board of Directors, the Respondent, the Complainant (if any) and the Executive Director.