**YOUTH SOCCER CLUB**

**DISCIPLINE & APPEALS MANUAL**

*Adopted June [DATE]*

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# General

## Purpose of the Manual

The purpose of the Discipline & Appeals Manual is to provide an overview of the Discipline & Appeals Committee and its procedures. It is a guide and is not intended to confer any rights.

## Policy of [INSERT CLUB NAME]

It is the policy of [INSERT CLUB NAME] to guarantee due process to all members of the club. Individuals involved in any process of the Discipline & Appeals Committee or any process of [INSERT CLUB NAME] member organizations, programs, and activities are entitled to receive copies of all materials relevant to the case in question, to be afforded due process, and to have the matter adjudicated within established or reasonable timeframes, usually within 30 days. Failure of any member to comply with [INSERT CLUB NAME]’ requirements may result in disciplinary action being taken against that member.

Per the [INSERT CLUB NAME] Bylaws:

“The [INSERT CLUB NAME] shall conduct its business with due respect for the spirit of the game and for the benefit of the players.

A. A request for disciplinary action or an appeal referred to [INSERT CLUB NAME] shall be handled by the Appeals and Discipline Committee.

B. A request for disciplinary action involving the abuse or assault of a referee shall be handled by the Appeals and Discipline Committee.

C. Discipline of elected Board Members for administrative issues shall be handled by the Board of Directors. Appeals of decisions by the Board of Directors shall be referred to New Jersey Youth Soccer”

## Objective of the Adjudication Process

The objective of the [INSERT CLUB NAME] Discipline & Appeals process is to provide fair consideration of matters in dispute within the family of [INSERT CLUB NAME]. Embodied in this objective is the notion that every member of [INSERT CLUB NAME] will receive a fair, impartial, objective, and timely hearing of any complaint or appeal which has standing before any adjudication body, and access to any and all materials relevant to the matter in dispute. [INSERT CLUB NAME] strives to achieve both objective and subjective procedural justice. Objective procedural justice concerns the capacity of a process to provide a balanced opportunity to the contestants to be informed and to be heard; subjective procedural justice concerns the capacity of the process to ensure objective and even-handed judgments measured against known or rationally discernible rules.

It is also a goal of [INSERT CLUB NAME] to maintain a system of dispute resolution that comports with its character as a volunteer organization that emphasizes sportsmanship. To that end, [INSERT CLUB NAME] strives to avoid overly formalistic, complex, or litigious procedures. US Soccer requires its member organizations to minimize the number of steps an appellant must complete in order to receive a final ruling. [INSERT CLUB NAME] expects decisions to be made by the lowest possible administrative level followed by no more than one appeal below the level of the Discipline & Appeals Committee. The final appeal in [INSERT CLUB NAME] is to the Discipline & Appeals Committee.

# Discipline & Appeals Committee

## Purpose of the Discipline & Appeals Committee

The purpose of this Committee shall be:

1. To guarantee the rights of individuals to participate and compete.
2. To conduct discipline hearings of club level actions of players, coaches, administrators, teams and clubs.

## Objective of the Discipline & Appeals Committee

The objective of the [INSERT CLUB NAME] discipline & appeals process is to provide fair consideration of matters in dispute within the family of [INSERT CLUB NAME]. Embodied in this objective is the notion that every member of [INSERT CLUB NAME] will receive a fair, impartial, objective, and timely hearing of any complaint or appeal which has standing before any adjudication body, and access to any and all materials relevant to the matter in dispute.

## Composition, Diversity, and Involvement of the Discipline & Appeals Committee

The [INSERT CLUB NAME] President appoints volunteer members of the Discipline & Appeals Committee. It is in the interest of the [INSERT CLUB NAME] and the membership that members of the Committee:

* Are experienced in a variety of soccer-related activities (e.g., recreational, travel, ODP);
* Are familiar with a variety of aspects of the sport (such as coaching, refereeing, and playing);
* Can devote the time to travel and meet when needed at different locations;
* Can bring this knowledge and experience to bear in resolving often difficult situations and arriving at sometimes precedent-setting decisions; and
* Will maintain and protect the welfare of youth players and the integrity of [INSERT CLUB NAME]-sponsored programs and activities.

## Quorum of Discipline & Appeals Committee Members

[INSERT CLUB NAME] requires at least three members of the Discipline & Appeals Committee to be present for any hearing. While the Committee is comprised of more than three members from [INSERT CLUB NAME], it is not always possible for all members to participate in all hearings. Therefore, because hearings must be held within prescribed or reasonable timeframes, a quorum of three Committee members is practical.

## Voting by Discipline & Appeals Committee Members

Discipline & Appeals Committee decisions are by majority vote. In the event of a tie, the Committee Chair’s vote breaks the tie. Individual votes and deliberations are confidential except to the extent disclosed in Committee decisions.

## Conflicts of Interest

Occasionally, members of the Discipline & Appeals Committee must excuse themselves from participating in a case because of their relationship to a particular individual or activity, which is a party to the case before the Committee.

An example of a conflict might be when a Discipline & Appeals Committee member is loosely affiliated with a team whose actions or members are involved in a matter before the Committee. Another example might be a Discipline & Appeals Committee member who could influence the outcome of an appeal to the Committee and might appear to, or may actually, enjoy some personal gain.

Possible conflicts are raised by Committee members and chairman, on their own motion, and are considered whenever raised by the motion of any party to a pending matter.

#  Jurisdiction

## Primary Jurisdiction

The Discipline & Appeals Committee has primary jurisdiction for all matters concerning discipline related to the clubs members. The Discipline & Appeals Committee cannot hear matters for referee abuse or assault.

## Other Jurisdiction

The Discipline & Appeals Committee has jurisdiction on any other issue assigned to them by the [INSERT CLUB NAME] Board of Directors.

The Discipline & Appeals Committee also has jurisdiction for matters concerning [INSERT CLUB NAME]’ Zero Tolerance Policy.

## Appellate Jurisdiction

Except where it is defined by the [INSERT CLUB NAME] Bylaws or determined by the [INSERT CLUB NAME] Board of Directors, the Discipline & Appeals Committee has appellate jurisdiction.

Provided that all protests and appeals must be exhausted before a matter will be considered by the Discipline & Appeals Committee.

# Grievances

## Grievance Process Overview

When a Grievance Complaint Form is received from a member (e.g., team, coach, player, etc.), it is first reviewed through a process called the *Initial Screening Review* to determine the merit of the case. To pass the *Initial Screening Review*, a Grievance must meet the following criteria:

1. The Grievance Complaint Form is entirely completed,
2. The Filing Fee, set forth by the Board of Directors, has been received,
3. The Written Statement, signed by the complainant, is included with the following detail:
	1. The precise Club, NJ Youth Soccer, US Youth Soccer, and/or US Soccer policy document, policy section name, policy number, and policy text that the complainant asserts was violated, and by whom; and
	2. The specific event(s) and circumstances, that establish the violation(s), including names, dates, locations, conduct, etc.,
4. The Complainant and Accused are both [INSERT CLUB NAME] members that fall under the D&A jurisdiction.

During the Grievance Process, [INSERT CLUB NAME] may choose to suspend the accused individual(s) or organization(s) pending a hearing if circumstances warrant it (e.g., extenuating risk to the safety of members).

Assuming the case has merit, the parties will be issued a *Scheduling Letter* that sets the dates for submissions by the parties:

* List of Witnesses (if any) and the subject matter for their testimony, to both [INSERT CLUB NAME] and the accused,
* Written Witness Statements (if any), and
* Supplemental Documents (if any).

[INSERT CLUB NAME] will distribute copies of any submissions approved by the chair to the Committee, Complainant, and Accused.

If at any point, the Complainant fails to respond by the dates set forth in the Scheduling Letter, the Chair may consider the grievance abandoned and dismiss the matter. Matters that are abandoned may not be re-filed.

The hearing provides the opportunity for the Complainant and Accused to present and defend the entirety of their case. This is typically conducted through opening statements, questioning of witnesses, cross examination questioning directed to the Chair by both parties, questioning from the Discipline & Appeals Committee members, and closing statements. The chair may elect to modify the process as circumstances warrant (e.g., an involved party is not in attendance), preserving the due process afforded to members.

At the conclusion of the hearing, the Discipline & Appeals Committee members shall deliberate privately and consider all the relevant facts, written testimony, oral testimony, and supplemental information.

[INSERT CLUB NAME] sends the **Notice of Decision** within 30 days of deliberation completion with instructions regarding the NJYS appeals process.

## Objective of the Discipline & Appeals Committee in Determining Grievances

The Discipline & Appeals Committee’s review of facts is confined to the facts presented in the record by the Complainant, the Accused, and [INSERT CLUB NAME] as requested.

## Decision

The Committee shall ensure that each decision issued because of a Grievance Hearing meets the following 5-prong test:

1. Is there some substantial (credible) evidence, not necessarily the weight or majority of evidence, in the record to support the decision?
2. Is the decision made in accordance with established rules and procedures?
3. Was each party afforded due process?
4. Is the decision or punishment non-arbitrary or non-capricious?
5. Does the decision correctly interpret and apply the regulations and laws of [INSERT CLUB NAME], NJYS, US Youth Soccer, USSF, or Federal or State laws?

If all 5 standards are met, the decision is considered ‘viable’ and may be formally rendered through a Notice of Decision to the Complainant and Accused within 30 days of the deliberation. Such outcome may include, but shall not be limited toany combination of the following:

1. Suspensions,
2. Fines,
3. and/or mandatory training programs.

## Return of Grievance Filing Fees

Grievance Filing Fees paid to [INSERT CLUB NAME] may be returned if the complainant prevails, and [INSERT CLUB NAME] will make that determination in its sole discretion.

# Appeals

## Appeals Process Overview

When an Appeals Form is received from a member (e.g., team, coach, player, etc.), it is first reviewed through a process called the *Initial Screening Review* to determine the appealability of the case. To pass the *Initial Screening Review*, an Appeal must meet the following criteria:

* + 1. The Appeal Form is entirely completed,
		2. The Filing Fee, set forth by the Executive Committee, has been received
		3. The original Decision is included,
		4. All Supporting Document from the original Decision is included,
		5. The Written Argument is included,
		6. Criteria 1-5 were all submitted within 14 days from the receipt of the decision being appealed, and
		7. The Appellee and Appellant are both [INSERT CLUB NAME] members that fall under the D&A jurisdiction.

During the Appeals Process, the decision being appealed is not stayed or suspended pending the final decision of the Discipline & Appeals Committee, unless otherwise ordered by the Chair.

Assuming the case is appealable, the parties will be issued a *Scheduling Letter* that sets the dates for submissions by the parties:

* Official decision being appealed (no more than 14 days later) to both [INSERT CLUB NAME] and the appellant,
* Written Arguments from the appellant (no more than 14 days later than delivery of the official decision to the appellant), and
* Written Arguments from the organization rendering the official decision (no more than 14 days after the arguments from the appellant are due)

After the final written argument submission, the [INSERT CLUB NAME] Discipline and Appeals Committee shall convene, either by virtual or in person meeting, within 10 business days to deliberate the Appeal. Such deliberation will occur without the appellant and/or organization rendering the decision present. Questions regarding the arguments may be asked by the Committee via writing, or via a scheduled hearing, where the committee can consider oral arguments if deemed necessary. Members who were participants in the original decision may not participate in the appeals process.

If at any point, the Appellant fails to respond by the dates set forth in the Scheduling Letter, the Chair may consider the appeal abandoned and dismiss the matter. Matters that are abandoned may not be re-appealed.

[INSERT CLUB NAME] sends the **Notice of Decision** within 30 days of deliberation completion with instructions regarding the NJYS appeals process.

## Objective of the Discipline & Appeals Committee in Determining Appeals

The Discipline & Appeals Committee’s review of facts is confined to the facts presented in the record of the earlier decision; the Committee does not accept new factual submissions and may overturn a prior factual finding only if it concludes that the finding was not supported by substantial evidence.

In other words, the Committee does not review cases to determine how Committee members might have voted on the evidence if they had been members of the original hearing panel, nor does it make any attempt to balance evidence or to re-try a case. Furthermore, US Soccer has held that appellate bodies should not substitute their judgments for those of the finders of fact. Responsibility for determining the weight and credibility of evidence is assigned to the original finder of fact.

On appeal, the Discipline & Appeals Committee reviews a case based only on documents relied on by the original decision-making authority. Additional written arguments are permissible about the facts and law in the record from the lower body, but no new evidence is permitted.

## Five Standards of Appeal

The Committee seeks to determine that at least one of the following five standards are met:

1. Is there some substantial (credible) evidence, not necessarily the weight or majority of evidence, in the record to support the original decision?
2. Was the original decision made in accordance with established rules and procedures, especially those of the deciding body?
3. Was the appealing party afforded due process?
4. Was the original decision or punishment arbitrary or capricious?
5. Does the original decision correctly interpret and apply the regulations and laws of [INSERT CLUB NAME], US Youth Soccer, USSF, or Federal or State laws?

## Decision

A Decision Notice shall be distributed to all parties detailing the outcome within 30 days of the deliberation. Such outcome may include, but shall not be limited to:

* + 1. Upholding the decision,
		2. Remanding the case back for re-hearing,
		3. Upholding specific areas of the decision, while reversing other specific areas,
		4. Reversing the entire decision.

## Return of Appeal Fees

Appeal fees paid to [INSERT CLUB NAME] may be returned if the appellant prevails, and [INSERT CLUB NAME] will make that determination in its sole discretion.

# Appealing the Decision of the [INSERT CLUB NAME] Discipline & Appeals Committee

## Final Decision of [INSERT CLUB NAME]

A decision of the Discipline & Appeals Committee is the final decision of [INSERT CLUB NAME]. The decision may only be appealed to the NJYS Appeals Committee that shall have jurisdiction to approve, modify or reverse the decision.

Any penalties assessed because of an adverse decision are in full force and effect on appeal unless expressly overturned on appeal. Accordingly, a party is bound by ruling or order of the Discipline & Appeals Committee notwithstanding that an appeal has been taken and the party continues to be obligated to comply with its terms until overturned by a proper higher authority.

## US Soccer Appeals Committee

US Soccer Federation Bylaw 704 details the consideration for Appeal by a US Soccer Appeals Panel. Further, an appeal must be submitted within the timeline dictated by US Soccer.

Section 1 of Bylaw 704 provides that the Appeals Committee shall consider decisions rendered by Organization Members (NJ Youth Soccer) denying the right to participate in competition.

Section 2 provides that a decision is not appealable if it has "no consequence beyond the competition." "Competition" can mean a game, a tournament, league play, or a regular season. The best way to understand this rule is through some examples:

Example 1: A coach is suspended from all state-affiliated activities for one year for punching another coach in the Snickers Cup. This is appealable - even though the Snickers Cup is not USSF-sponsored, the consequences of the suspension extend beyond the competition.

Example 2: A coach punches another coach in the Snickers Cup, and is suspended for the remainder of the tournament. This is not appealable - the consequences do not extend beyond the competition. (Note - it may be appealable to USYSA or some other committee).

As a general rule, decisions about what team a player plays on, or what league a team plays in, are also not appealable to US Soccer, as they do not have consequences beyond the competition.

While the above examples provide some guidance as to what is "appealable," in general the answer to the question will depend, in many cases, on the exact circumstances.

As a result, appellants usually cannot be advised as to whether a certain decision is appealable until they first submit their notice of appeal and a description of the circumstances. If the appeals committee then determines that the decision is not appealable, the appellant will receive a letter so stating.

# Hearing Procedures

## US Soccer Hearing Procedures

The Discipline & Appeals Committee will conduct hearings consistent with the procedures contained in the United States Soccer Federation Bylaw 701 and Policy, 701-1. The specific [INSERT CLUB NAME] Discipline & Appeals Hearing Procedures, derived from the USSF Bylaws and Policy can be found in the appendicies.

## Burden of Proof

When the Discipline & Appeals Committee holds an initial fact-finding hearing, decisions are made based upon the preponderance of evidence.

When the Discipline & Appeals Committee holds an appeal proceeding, its review is based on previously submitted evidence.

## Legal Representation Before the Adjudication Committee

The Discipline & Appeals Committee does not permit legal counsel for individuals to participate in any hearing or appeal proceeding. However, counsel may be used as an advisor before, during and after a hearing, but may not actually speak on behalf of an individual

## Audio Recordings, Video Recordings, and Transcripts

Hearings conducted by the [INSERT CLUB NAME] Discipline & Appeals Committee shall be recorded by means of audio, video, and/or written transcript based on the technology available at the time of the hearing. Such recordings are preserved for the purpose of the record. Recording of the Committee deliberation is prohibited without the expressed consent of the Chair.

**APPENDIX I**

*USSF Policy 701-1 – Hearing Procedures*

This policy provides the minimum rights that each party would have at a hearing with respect to the right to assistance in presenting one’s case at a hearing, as must be allowed under Federation Bylaw 701(5). These minimum rights apply to hearings conducted by Organization Members and their members or other hearing body. A copy of these minimum rights should be delivered to the parties with the notice of the hearing.

* + 1. Each party at a hearing shall have the right to have an individual present at the hearing to assist the party in presenting the party’s case. Such individual may, but shall not be required to be, an attorney.
		2. If the Organization Member or member of the Organization Member (“Complainant”) is represented by another individual at any hearing and the hearing panel allows that individual to speak, question the parties and/or witnesses, or grants that individual any other rights, then it shall afford all other parties, or the individual representing the party, including an attorney, the same rights during the course of the hearing as is allowed to the individual representing the Complainant.
		3. If an attorney is present at a hearing to assist a party in presenting the party’s case, it shall be made clear at the commencement of any such hearing that the hearing shall proceed in accordance with the Organization Member’s hearing rules and procedures. All Federal, State or local Rules of Evidence or Civil Procedure shall not be applicable.
		4. An Organization Member may provide, as part of its hearing rules and procedures, that an individual assisting a party may be allowed to speak on behalf of the party, make requests or ask questions at the hearing.
		5. Regardless of whether the Organization Member allows the individual assisting the party the rights to speak, make requests or ask questions, as noted in Paragraph D above, an individual assisting the party in presenting the party’s case shall have the right to be physically present in the hearing room, and so as not to interfere with the hearing procedure, it is also recommended that the individual be seated close to the party (either behind or next to the party) so that the party may seek assistance when desired during the course of the hearing.
		6. During the course of the hearing, the party may confer briefly with the individual who is assisting before making a statement or request or prior to responding to a question. The panel conducting the hearing may limit the frequency and duration of the conferences so as not to unduly interfere with the proceeding.
		7. If there is confusion or concern, the party may request a recess to confer with the individual assisting the party. Such a request should be granted unless the number of requests by a party becomes unreasonable or the length of a requested recess is deemed by the hearing panel to be unreasonable.
		8. An individual assisting a party may prepare written materials for the party and collect documents for the party. However, the party must submit or present the materials and documents as materials and documents of the party, and not of the individual assisting. The party has complete responsibility for those materials and documents and is subject to questioning about them.
		9. Nothing contained in this policy shall prevent an Organization Member from allowing greater rights to assistance than those set forth in Paragraphs A-H above. For example, an Organization Member may, but shall not be obligated to, allow more than one individual to assist a party at any given time.
		10. The rights, either mandatory or permissible under this policy, shall be consistently applied, and the Organization Member should not arbitrarily allow or disallow the rights set forth above to those individuals assisting a party in the presentation or defense of the party’s case.

**APPENDIX II**

*[INSERT CLUB NAME] Discipline & Appeals Hearing Procedures*

**Order of Hearing**

1. The Chair will introduce committee, identify the case and outline procedures that will be followed.
2. Reporting/Appealing Party will present case.
3. Witnesses for Reporting/Appealing Party will be called individually.
4. Responding Party will present case.
5. Witnesses for Responding Party will be called individually.
6. Reporting/Appealing Party and Responding Party may ask questions through the Committee Chair.
7. Committee will excuse everyone for a short period of time to determine if the Committee wishes to ask any additional questions.
8. Any witnesses will be recalled as necessary.
9. Responding Party will make a closing statement.
10. Reporting/Appealing Party will make a closing statement.
11. Open hearing is adjourned, and all parties and their witnesses are excused.
12. Committee will deliberate and decisions will be made. Notifications will be only by mail or email to both parties in a timely manner.

**Rules Concerning Testimony and Evidence**

1. Since this is an administrative hearing and not a court of law, no attorney shall represent a club, team or individual at a hearing. The Reporting/Appealing Party and Responding Party have the right to be assisted by an attorney or another person in the presentation of their case at the hearing. The attorney or person assisting the Reporting/Appealing Party or Responding Party may consult with them during the hearing but may not speak for Reporting/Appealing Party or Responding Party.
2. The number of witnesses appearing for the Reporting/Appealing Party and the Responding Party shall be limited to three (3). The number of witnesses may be increased for both sides if the Committee deems it necessary.
3. Each party should identify their witnesses and state what the witnesses’ testimony will include.
4. All testimony shall be limited to the principal parties and eyewitnesses.
5. Character witnesses and other third-party witnesses shall not be allowed.
6. If a witness cannot appear in person, written testimony shall be accepted. Copies of any written testimony shall be provided to [INSERT CLUB NAME] at least 7 business days prior to the scheduled hearing. Documents submitted less than 7 business days prior to the hearing may not be permissible. A determination will be made by the Committee on acceptance of written evidence as proper testimony. Criteria includes, but is not limited to, pertinence as to eyewitness accounts.
7. Referees may testify by phone for referee abuse and assault cases if necessary.
8. All evidence, such as identification cards, team rosters, referee’s game reports, proof of age documents and other sources of written or printed information, should be original or official.
9. In the pursuit of fairness to all, testimony will be restricted, but equal with respect to time.
10. The Reporting/Appealing Party or Responding Party(s) should submit any related documents to [INSERT CLUB NAME] at least 7 business days prior to the scheduled hearing. Documents submitted less than 7 business days prior to the hearing may not be permissible.
11. All minors under the age of 18 years that are to provide testimony at a hearing must be accompanied by a parent or guardian in order to testify.