

DUE PROCESS

The following was adopted by the Southwest Officials Association Board of Directors (now, the Texas Association of Sports Officials) on April 14, 1985 and ratified by the membership of all member divisions by adopting the necessary Bylaws changes to give the TASO Board of Directors authority for final decisions regarding violations of an ethical nature:

All matters concerning member ethics and conduct shall be processed in accordance with the following guidelines.

SECTION 1. CHAPTER LEVEL

ARTICLE 1 Complaints involving chapter members shall be resolved by one of the following methods:

- a) By any reasonable manner set forth in the Chapter Bylaws if the matter is reconciled with no sanctions to an individual;
- b) By a due process hearing which includes timely notice, an opportunity to appear before the decision making authority, to present witnesses in their behalf, to controvert information adverse to their interests, and to cross examine witnesses providing information against them, if there is a possibility of chapter sanctions against any individual.

ARTICLE 2 The initial decision making body may be one of the following:

- a) The Chapter Board of Directors;
- b) A subcommittee of board members;
- c) A committee of chapter members.

ARTICLE 3 Chapter Bylaws must contain procedures for selecting a subcommittee of board members, or a committee of chapter members (each hereinafter called committee), and for determining the number of persons to sit on same.

SECTION 2. AUTHORITY

ARTICLE 1 Chapter options:

- a) The Chapter may reserve all disciplinary or ethics matters for determination by the full Board of Directors.
- b) Committee powers may be limited to investigation with a report to the full Board of Directors.
- c) The Chapter may delegate decision making authority to a committee.

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- d) The Chapter may require the first level of appeal of a committee decisions be to the full Chapter Board of Directors or directly to the Division level.
- e) The Chapter Board may choose to make the decision of the committee final as to disposition within the Chapter, or the Chapter may make the committee decision appealable to the full Chapter Board of Directors.
- f) There shall be no more than one committee within any one Chapter with ethics responsibility.

SECTION 3. NOTICE

ARTICLE 1 Notice means written notice, mailed "Certified Mail Return Receipt Requested" to the respondent at the most recent address furnished to the Chapter Secretary or hand delivered to the respondent that shall contain the following:

- a) Date or dates of alleged infraction(s);
- b) Description of alleged infractions);
- c) Name of person initiating action unless determined to be confidential in accordance with following rules governing same;
- d) Identification of provision of constitution, bylaws, or rules involved;
- e) The day, time and location of the hearing;
- f) The range of action that may be taken as a result of the proceedings;
- g) In the absence of good cause shown, that failure to attend the hearing will terminate the respondent's rights to appeal any discretionary decision of the committee.

ARTICLE 2 A respondent shall be given not less than 5 days notice of any chapter hearing which might result in action adversely affecting the respondent.

ARTICLE 3 A respondent shall be given not less than 15 days notice of any Division hearing which might result in action adversely affecting the respondent.

ARTICLE 4 A respondent shall be given not less than 15 days notice of any TASO hearing which might result in action adversely affecting the respondent.

ARTICLE 5 Notice by "Certified Mail Return Receipt Requested" shall be presumed to be received by a respondent 5 days after deposit in the U. S. Mail, postage prepaid and addressed to the respondent's address contained in the official roster book of the chapter or Division.

SECTION 4. HEARING

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ARTICLE 1 At any stage during which new testimony or evidence is to be presented to a decision making body, the respondent shall be afforded a reasonable opportunity to be present during all proceedings involving evidence or testimony, the right to have another person represent them or to be represented by legal counsel, the right to a full disclosure of all evidence presented to the decision making body, or to a member of the decision making body, the opportunity to controvert all evidence against them, the opportunity to present witnesses in their behalf, and the right to cross examine all adverse witnesses, subject to limitations necessary to protect the confidentiality of a complainant or witness to be set out below.

ARTICLE 2 Persons who initiate an ethics inquiry shall be afforded a reasonable opportunity to be present during all proceedings involving evidence or testimony, the right to have another person represent them or to be represented by legal counsel, the right to a full disclosure of all evidence presented to the decision making body, or to a member of the decision making body, the opportunity to present witnesses in their behalf and the right to cross examine all respondent's witnesses, subject to limitations necessary to protect the confidentiality of a complainant or witness to be set out below.

ARTICLE 3 The hearing should be conducted generally in accordance with Robert's Rules of Order, Newly Revised. However, bearing in mind the requirement of a basic sense of fairness, the chair may conduct the meeting in any way that results in a fair and orderly proceeding.

ARTICLE 4 Rules of Civil or Criminal Courts do not apply and hearsay evidence, affidavits, parole, and other forms of evidence not normally admissible in courtrooms may be admissible, provided disclosure is made to the respondent who shall have a reasonable opportunity to controvert such evidence.

ARTICLE 5 The presiding officer is responsible for insuring an accurate record is made of all hearings and that such record be available to all parties so long as an appeal is permissible under these guidelines. Failure to make and maintain an adequate record may be grounds for dismissal of a matter and/or the initiation of a separate ethics procedure against the person who failed to maintain accurate records.

ARTICLE 6 Any person displaying disruptive conduct, including legal counsel, may be barred from the proceeding.

SECTION 5. CONFIDENTIALITY OF CERTAIN COMPLAINANTS OR WITNESSES

ARTICLE 1 The TASO, as well as each Division and/or Chapter shall determine and set out in its Bylaws the person or persons (President/Committee Chair/specific vote of board or committee) necessary to determine that in the best interest of the sport (not chapter or individual members), the identity of a complainant or witness should not be disclosed to a respondent or other persons provided the respondent shall be furnished with the full statement of such undisclosed person as used by the decision making body and the respondent shall be provided the opportunity to submit written questions to the decision making body for submission to the undisclosed person or persons.

ARTICLE 2 The hearings person(s) responsible for making the decision as to confidentiality may alter or modify the questions submitted to clarify or to eliminate duplicate, argumentative, or irrelevant questions, as well as questions designed primarily to determine the identity of the undisclosed person

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before submission to the undisclosed person. The respondent shall be provided with copies of the questions as submitted and an opportunity to supplement. Questions that go to the heart of the respondent's defense may be reworded but not omitted. Questions may be added provided both questions and answers are made available to the respondent in a timely manner.

ARTICLE 3 The hearing body shall not consider the testimony or evidence of an undisclosed person who did not provide written responses to questions propounded to them under this section.

SECTION 6. TIME LIMITS

ARTICLE 1 In the absence of a specific request from the Division board, the TASO or the University Interscholastic League, a chapter may not discipline a respondent for an event that occurred more than one year to the initiation of the request.

ARTICLE 2 The Division Board may not initiate a request for an investigation or chapter action that might result in disciplinary action to a respondent more than one year after the occurrence of the event charged or within 90 days after the Division Board of Directors discovers the occurrence, whichever is later.

ARTICLE 3 The TASO may not initiate a request for an investigation or Division or Chapter action that might result in disciplinary action to a respondent more than one year after the occurrence of the event charged or within 90 days after the TASO Board of Directors discovers the occurrence, whichever is later.

ARTICLE 4 In the absence of good cause shown, a Division or Chapter should complete its investigation and hearing process within 180 days of the occurrence of the event or within 90 days of the disclosure of the event on which the charge was made, whichever is later. Good cause shown would include delays requested by the respondent or necessitated by verified illness sufficient to prohibit participation by necessary persons.

ARTICLE 5 At the chapter level, a respondent shall have not less than 30 days within which to perfect an appeal to the next highest level, of a decision resulting in action detrimental to the respondent.

ARTICLE 6 The respondent's District director shall review all appeals to the Division for compliance with these procedures and to insure basic fairness to all parties and within 10 days shall either return the appeal to the Chapter with a written explanation of the procedures the Chapter failed to follow or forward the appeal to the appropriate Division Board.

ARTICLE 7 The Chapter should take such curative action as recommended by the District Director within 30 days or the matter shall be terminated in favor of the respondent.

ARTICLE 8 The appropriate Division body shall set the matter for hearing not less than 15 nor more than 190 days after receiving the matter from the District Director.

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ARTICLE 9 The respondent or the Chapter may appeal the decision of the Division to the TASO provided the appeal is filed in writing directed to the Executive Director of TASO not more than 30 days after notification in writing by the Division of its decision.

ARTICLE 10 The appropriate TASO body shall set the matter for hearing not less than 30 days nor more than 90 days after receiving notice of the appeal from the respondent.

SECTION 7. COSTS

ARTICLE 1 The respondent shall provide either a cash bond or a cost bond of \$750.00 for a matter appealed to his Division.

ARTICLE 2 The Division ethics body may charge the costs of the appeal to either the individual or the chapter, whichever is the non-prevailing party, or apportion the costs according to basic equity and fairness founded upon the evidence and testimony.

ARTICLE 3 The respondent or the chapter, whichever appeals to the TASO, shall provide either a cash bond or a cost bond of \$1,500.00 for a matter appealed to the TASO.

ARTICLE 4 The TASO ethics body may charge the costs of the appeal to the non-prevailing party or may apportion the costs according to basic equity and fairness founded upon the evidence and testimony.

ARTICLE 5 Costs include all expenses necessarily incurred as a result of the appeal, to include, long distance telephone expense, copies, postage, travel, meals and lodging for hearing committee members, costs of transcripts, video or sound recordings, court reporters and any other expense to the Division or TASO made necessary by the appeal.

SECTION 8. DIVISION

ARTICLE 1 Each Division may set out in its Bylaws the specific method for selecting a hearings committee, establishing its authority, and determining whether a committee decision is final or shall be reviewed by the Division Board.

ARTICLE 2 The Division Bylaws should specify whether a Division Board hearing is a review of the record or an evidentiary hearing.

ARTICLE 3 In the absence of specific provisions in the Division Bylaws, the appeal shall be heard by a three member hearings panel appointed by the Division president who shall also designate the chairperson.

ARTICLE 4 The Division president shall also have authority to appoint a hearings officer to investigate the allegations, present all findings to the hearings panel, to be present at the hearing and to ask questions of any person or witness whose testimony is before the panel, including submitting written questions to confidential complainants or witnesses.

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ARTICLE 5 The hearings panel shall have full authority to dispose of the matter for which it was convened, subject only to procedural review by the full Division board.

SECTION 9. OFFICERS, DIRECTORS AND CHAPTERS

ARTICLE 1 Complaints or charges involving chapters, officers or directors of a chapter, shall be filed with the District Director of that district subject to the following exceptions:

ARTICLE 2 If a complaint or charge involves a chapter officer, director, board of directors, or the District Director, the complaint or charge shall be presented to the Executive Director of TASO. The Executive Director shall appoint a district director from a district other than the district in which the complaint originated to serve as a hearings officer and two members of the TASO not members of the chapter to serve as a hearings committee. The hearings officer shall present the findings of the committee to the Division ethics body. The hearings committee may serve as the Division's ethics body.

SECTION 10: PROCEDURE

ARTICLE 1 A hearings committee may, by unanimous vote, or the Division or TASO Board of Directors may, by a two-thirds vote, choose to hear an appeal from the beginning, as if no action had been taken by a lower disciplinary body, provided the body taking the vote is the actual body conducting the hearing. In the absence of a such vote of the hearings committee, the Division or TASO Board of Directors, appeals under these guidelines shall be based upon the record and shall be overturned only if there is no substantial evidence to support the decision of the previous body. Failure of a disciplinary body to make and keep adequate records shall be cause for reversal of the decision of the disciplinary body.

ARTICLE 2 No person may serve as a committee member at more than one level in the same disciplinary matter.

ARTICLE 3 Committee members should have no prior knowledge of specific events involved in a complaint and shall not conduct independent investigations into the allegations to be heard by the committee.

ARTICLE 4 If all parties agree to the facts in any matter, in the absence of a specific request by a person at risk, the appropriate hearings body may make its decision without need for a formal evidentiary hearing.

ARTICLE 5 In the event a witness cannot reasonably be present at a hearing, the provisions of Section V. above relating to disclosure of statements and opportunity to present written questions shall apply, including the provisions relating to failure to provide written responses. This provision is intended to provide a member with knowledge of the charges and testimony against the member and shall not be construed in such a manner as to defeat the member's rights.

ARTICLE 6 Failure to follow the terms and provisions of these rules and guidelines may result in dismissal, reversal or rehearing of any or all of an individual matter and may also serve as grounds for initiation of separate or additional proceedings.

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SECTION 11. INVESTIGATION

ARTICLE 1 The Chapter, District Director, Division Board of Directors, TASO Board of Directors, or Executive Director, as appropriate, may appoint one or more disinterested persons to investigate the allegations of a complaint and present the results to the appropriate hearings body. This person may, at the discretion of the appropriate person, committee, or board, serve in such capacity before any group convened to hear a matter under these guidelines.

SECTION 12. MISCELLANEOUS

ARTICLE 1 In the event a Chapter or Division fails to set out in its constitution or bylaws any of the options delineated herein for the chapters or Divisions, the provisions set out for the TASO shall be binding on all parties.

ARTICLE 2 In the event a situation arises which is not covered in these procedures or guidelines, the Executive Director shall determine the proper procedure or procedures in such case and recommend inclusion of appropriate language in these guidelines to the next meeting of the TASO Board of Directors. Any modification of the decision by the Executive Director shall not be applied retroactively.

ARTICLE 3 In any situation not addressed by these guidelines or which in the opinion of the Executive Director and the President of the affected Division that the best interests of all parties would best be served, the Executive Director may make any determination of a matter otherwise authorized in these guidelines, provided the determination is agreed to by the effected party. An appeal of a matter decided in accordance with this paragraph shall be to the TASO Ethics Committee.

SECTION 13. PENALTIES

ARTICLE 1 Penalties may range from private reprimand to expulsion, and may include fine, probation, suspension, reduction of any classification, or any combination of the above deemed appropriate by the decision making body.

SECTION 14. ADMINISTRATIVE

ARTICLE 1 Each Chapter shall set up a procedure for handling questions of ethics.

ARTICLE 2 Sample letters are attached to be used as guidelines in ethical matters and due process.

ARTICLE 3 Questions regarding matters of ethics and due process should be directed, as appropriate, to the Chapter President, District Director, Division President, TASO Executive Director, and TASO Attorney.

4 encl: (Sample letters)

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Ethics Hearing

Results of Hearing

Appeal of action taken by Ethics Committee.

Review of Division Decision

Amended April 9, 1987

Amended April 23, 1989

Amended April 21, 1991

Amended April 26, 1992

Amended April 25, 1993

Amended May 1, 1994

Amended April 15, 2000

NOTE: The Memorandum "TASO Ethics and Due Process," dated April 25, 1993 was divided in to two documents "TASO Ethics" and "TASO Due Process," by a vote of the TASO Directors, May 7, 1999.