

****GATEWAY REGION USAV DUE PROCESS****

PURPOSE

If an individual is suspected of wrongdoing within a Regional volleyball context where a sanction or penalty may be necessary, due process involves the right of the individual to present his/her side of the story, to receive fair consideration and to have the opportunity to have the Region's decision reconsidered by a higher authority. Gateway's due process guidelines were developed to:

1. Ensure that Region members are treated fairly;
2. Render consistent treatment of members within the Region;
3. Increase the probability that Region decisions will be upheld on appeal within USA Volleyball; and
4. Form a foundation of comprehensive factual information that would be necessary in the event of any legal action.

GRIEVANCE PROCEDURE PROCESS

Gateway members have an obligation to be familiar with the rules, guidelines and ethics codes of the Gateway Region and USA Volleyball. Neither lack of awareness, nor misunderstanding of a rule or standard is a defense to a charge of wrongdoing. When a member is uncertain whether a particular situation or course of action would violate policy or ethics, he or she must consult with knowledgeable authorities.

When a member believes that there may have been a violation of policy or ethics by another member, he or she should attempt to resolve the issue by bringing it to the attention of the other member if an informal resolution appears appropriate and when intervention does not violate any member rights.

If you feel a violation is not appropriate for informal resolution or if informal resolution did not resolve the violation properly, you may file an official grievance. The steps for this process are:

1. Contact the Gateway Region Office or the appropriate Executive Board Member.
2. Submit a written complaint summarizing the violation to the Gateway Region Office or an Executive Board member, which complaint should include the following information:
 - a. Your name, phone number and email address;
 - b. Identity of the club and club representative in violation;
 - c. Description of the violation; and
 - d. Contact information for any witnesses to the violation and any supporting documentation from witnesses, if available.

Members of the Gateway Region must cooperate in investigations, proceedings and resulting sanctions and other requirements. Failure to cooperate is itself an ethics violation.

Members of the Gateway Region should not file complaints that are frivolous and are intended to harm the respondent rather than to protect the public.

DUE PROCESS GUIDELINES

The Executive Board is charged with the primary responsibility of judicial consideration relating to:

1. Violations of the USAV Participant Code of Conduct set forth on the Gateway Region Individual Membership Form;

2. All club, team and individual eligibility matters; and
3. Any other matter of ethics pertaining to participation in Gateway Region events or activities.

PROCESS OF ADJUDICATION

I. VIOLATIONS

All violations, general and specific, committed by registered members will be categorized according to the following schedule:

A. Category I Violations

Minor incidents for which an automatic penalty, fine or sanction may be imposed under applicable Region policies. Examples include, but are not limited to, failure to complete officiating duties at a tournament, failure to have certified officials by specified dates, and failure to wear proper uniforms at a tournament.

B. Category II Violations

Incidents involving misconduct. Examples include, but are not limited to, improper recruiting (undue pressure, false promises, post-commitment recruiting, undermining another club, team or coach), eligibility and/or registration violations, or failure to fulfill the terms of a previous sanction.

C. Category III Violations

Incidents involving serious misconduct, which may, or may not, require immediate action, before and without hearing. Examples include, but are not limited to, possession and/or use of alcohol by a junior member, intentional damage to property (including facilities, equipment and/or vehicles), or theft of property.

D. Category IV Violations

Incidents involving behavior which jeopardizes the safety of any individual, requiring immediate action, before and without hearing. Examples include, but are not limited to, sexual misconduct or other inappropriate conduct with a junior, violence or threatening behavior, or actions which seriously undermine or threaten a player (including oneself), club, team, coach, official or the Gateway Region.

II. DISCIPLINARY ACTIONS

Individuals, groups of individuals or organizations which commit a violation are subject to one or more of the following disciplinary actions, consistent with the USA Volleyball Participant Code of Conduct:

1. Financial penalty - assessment of a specific monetary penalty.
2. Probation - a warning that further violation of the rules may result in suspension.
3. Suspension - removal of eligibility for participation in some or all sanctioned events and activities for a period not to exceed 12 months.
4. Expulsion - removal of eligibility for participation in some or all sanctioned events and activities for a period of more than 12 months.

III. RECEIPT OF A COMPLAINT

Any club, team or individual which is a member of the Gateway Region or which is eligible for membership in the Gateway Region may seek a redress of any volleyball-related grievance that directly affects it, him or her, by filing a written complaint as defined in the Grievance Procedure Process. In cases of serious misconduct (Category III) or when the safety of an individual is at risk (Category IV), notification may initially be given verbally to the Commissioner, an Executive Board member, or an authorized representative of the Gateway Region. In addition, the Commissioner, any member of the Region Board and any member of the Gateway Region Office staff may submit a complaint on behalf of the Region.

IV. FIRST LEVEL OF ADJUDICATION

Upon receipt of a complaint, the Gateway Region Commissioner, after reviewing the complaint, shall make an initial determination as to the Category of Violation. The Commissioner shall advise the Executive Board of the complaint and shall review the facts and take one or more of the following actions:

1. In the case of a Category I Violation, imposing a sanction appropriate for such violation as provided by applicable Region policies; by way of clarification, applicable Region policies may authorize the Commissioner, the Gateway Region Office, a tournament director or other person to impose a sanction in the case of a Category I Violation;
2. In the case of a Category II, III or IV Violation, imposing any temporary sanction as the Commissioner may determine is appropriate, such sanction to remain in force until the complaint and such sanction may be considered at a hearing of a Review Panel, which the Commissioner shall schedule as described below;
3. Taking no action after determining that the complaint is without merit or that the Region is not the proper authority for addressing the complaint;
4. Taking such action as the Commissioner may determine is appropriate to attempt to resolve the matter informally; and/or
5. Scheduling a hearing of a Review Panel to consider the complaint, as follows:
On or before the 15th day after the later of the receipt of a complaint or the conclusion of a failed attempt at informal resolution, if any, the Gateway Region Office shall send written notice of the hearing by USPS certified mail or by a nationally recognized overnight delivery service. The notice will include:
 - a. A list of the alleged violations to be considered at the hearing;
 - b. A description of any temporary sanction imposed;
 - c. A statement that the alleged offender has a right to respond in writing, including the required timeframe;
 - d. The date, time and location for a hearing before the Review Panel, which will not be sooner than the 10th day following the date of mailing of the notice unless the Commissioner makes a specific determination that an earlier hearing is appropriate under the circumstances;
 - e. The names of the individuals who will constitute the Review Panel;
 - f. A description of possible sanctions; and
 - g. Complete disclosure of the right to appeal (inclusion of a copy of these Gateway Region USAV Due Process guidelines with the notice of the hearing is sufficient for this purpose).

Notification of the scheduling of a hearing may be done verbally or via electronic media, however the oral, fax or email notice must be promptly followed by a written notice sent by USPS certified mail or by a nationally recognized overnight delivery service.

In the case of a Category I Violation for which the Commissioner, the Gateway Region Office, a tournament director or other person has imposed a sanction authorized by applicable Region policies, the offender may appeal the sanction to the Commissioner by filing a written request for appeal, reciting the reasons for the appeal, with the Gateway Region Office on or before the 15th day following the date of the violation. If the offender fails to file a timely and proper request for appeal, then the offender shall have forfeited his or her right to appeal. If the offender files a timely and proper request for appeal, the Commissioner shall consider the appeal promptly and the Commissioner's decision shall be final. There shall be no further appeals with respect to a Category I Violation.

Initial Review Panel Hearing Process

The hearing will be structured so that the Review Panel has an opportunity to be presented with

all sides of the controversy. The Review Panel has full authority to conduct the hearing as it may determine in its discretion, and has full authority over decisions concerning procedural matters; the Review Panel is not required to apply any formal rules of evidence to the hearing. The hearing may include testimony by those directly involved, whether in person or in writing. The hearing may be conducted in person or via electronic media. The hearing may be open or closed to other parties. An official recorder of minutes will be provided by the Gateway Region.

1. Review Panel

The Review Panel will be comprised of three Executive Board members selected by the Commissioner (one member will be identified as Chair).

2. Rights of the Alleged Offender

The alleged offender will be afforded the opportunity, prior to and/or during the hearing, to review any written complaints or other materials provided to the Review Panel at or prior to the hearing. The alleged offender will also be given the opportunity to respond to his or her accuser(s) through direct inquiry. In specific instances, however, the right to a hostile cross examination may be determined to be inappropriate (i.e. sexual abuse of a minor). In such cases, confrontation shall mean the right of the Chair of the Review Panel to ask questions of a witness on behalf of the alleged offender. This review and confrontation may be conducted in person or via electronic media.

3. Determination of Outcome

The Review Panel will make its decision based upon a preponderance of the evidence, i.e., whether it is more likely than not (51%) that a violation occurred, and the decision of a majority of the individuals serving on the Review Panel shall constitute the decision of the Review Panel. The Review Panel will make its decision promptly following the conclusion of the hearing, but no later than 60 days following the conclusion of the hearing unless the Commissioner determines to extend such time period. The Gateway Region Office shall notify the alleged offender of the outcome of the Review Panel hearing, in writing, by USPS certified mail or by a nationally recognized overnight delivery service, promptly following the Review Panel reaching a decision. Where disciplinary action is imposed, the notice of sanction shall include:

1. A summary of the violations;
2. The facts found by a preponderance of the evidence supporting the decision;
3. A description of the sanction(s) imposed, including the term(s) of effect;
4. A statement of the authority for the sanction(s); and
5. Complete disclosure of the right to appeal (inclusion of a copy of these Gateway Region USAV Due Process guidelines with the notice of the hearing is sufficient for this purpose).

Initial notification to the offender may be given verbally or via electronic media, however the oral, fax or email notice must be promptly followed by a written notice sent by USPS certified mail or by a nationally recognized overnight delivery service. The Review Panel's findings and decision must also be filed with the Gateway Region Office.

The sanction(s) imposed, the Review Panel's finding and decision, and/or any of the testimony, materials or other information presented at the hearing or made available to the Review Panel or the offender may be made publicly available at the discretion of the Commissioner.

Any sanction imposed by the Review Panel shall take effect immediately upon the issuance of the Review Panel's decision and shall remain in effect during the pendency of any appeal, unless the Commissioner determines otherwise at his or her discretion.

V. APPEAL PROCESS

An individual receiving a sanction from a Review Panel may appeal the sanction by notifying the Commissioner, or his or her designate, in writing of his or her request for an Appeal Hearing, which request must recite the reasons for the appeal, on or before the 15th day following the date of the offender's receipt of the notice of outcome of the Review Panel hearing. The appeal request must be sent by USPS certified mail or by a nationally recognized overnight delivery service. Failure to file the request in the prescribed manner will result in forfeiture of the right to appeal. Upon receipt of a timely and proper appeal request, the Gateway Region Office will schedule an Appeal Hearing in the same manner as the Review Panel hearing.

Appeal Hearing

The Appeal Hearing is not required to be a *de novo* proceeding. The Appeal Panel will restrict its review to the reasons for the appeal and may call such witnesses as it deems necessary to make a ruling. The Appeal Panel has full authority to conduct the hearing as it may determine in its discretion, and has full authority over decisions concerning procedural matters; the Appeal Panel is not required to apply any formal rules of evidence to the hearing. The Appeal Panel has full authority to amend (eliminate, add, reduce or increase) any sanctions imposed by the Review Panel as the Appeal Panel may determine in its discretion. The hearing may be conducted in person or via electronic media. The hearing may be open or closed to other parties. An official recorder of minutes will be provided by the Gateway Region.

1. Notification of Hearing

On or before the 15th day after the receipt of a timely and proper appeal request, the Gateway Region Office shall send written notice of the hearing by USPS certified mail or by a nationally recognized overnight delivery service. The notice shall include:

1. A list of the violations/sanctions being appealed;
2. The date, time and location for hearing before an Appeal Panel, which shall not be sooner than the 10th day following the date of mailing of the notice unless the Commissioner makes a specific determination that an earlier hearing is appropriate under the circumstances;
3. The names of the individuals who will constitute the Appeal Panel; and
4. A statement that the decision of the Appeal Panel shall be final and not subject to further review, except as an Exceptional Appeal (section VI below).

2. Appeal Panel

The Appeal Panel shall be comprised of three At-Large Board members selected by the Commissioner (one member will be identified as Chair), and shall not include any member who served on the Review Panel.

3. Rights of the Appellant

The appellant will be afforded the opportunity to address the Appeal Panel and, prior to and/or during the hearing, to review any written documentation that will be provided to the Appeal Panel at or prior to the hearing.

4. Notice of the Outcome

The Appeal Panel will make its decision based upon a preponderance of the evidence, i.e., whether it is more likely than not (51%) that a violation occurred, and the decision of a majority of the individuals serving on the Appeal Panel shall constitute the decision of the Appeal Panel. The Appeal Panel will make its decision promptly following the conclusion of the hearing, but no later than 60 days following the conclusion of the hearing unless the Commissioner determines to extend such time period. The Gateway Region Office shall notify the appellant of the outcome of the Appeal Panel hearing, in writing, by USPS certified mail or by a nationally recognized overnight delivery service, promptly following the Appeal Panel reaching a decision. The notice of outcome shall include:

1. A summary of the violations;

2. The facts found by a preponderance of the evidence supporting the decision;
3. A description the sanction(s) imposed/upheld, as amended, including the term(s) of effect;
4. A statement of the authority for the sanction(s); and
5. A statement that the decision of the Appeal Panel shall be final and not subject to further review, except as an Exceptional Appeal (section VI below).

Initial notification to the appellant may be given verbally or via electronic media, however the oral, fax or email notice must be promptly followed by a written notice sent by USPS certified mail or by a nationally recognized overnight delivery service. The Appeal Panel's findings and decision must also be filed with the Gateway Region Office.

The sanction(s) imposed, the Appeal Panel's finding and decision, and/or any of the testimony, materials or other information presented at the hearing or made available to the Appeal Panel or the appellant may be made publicly available at the discretion of the Commissioner.

VI. EXCEPTIONAL APPEAL

Teams or individuals registered with a USVBA Regional Volleyball Association, who have been disciplined by such Regional Volleyball Association, may appeal in writing to the USA Volleyball National Ethics and Eligibility Committee, but such appeal shall be limited only to determining whether the appealing party received due process. Information regarding USA Volleyball Corporate Ethics and Eligibility appeal processes can be found in Article XI of the Official USA Volleyball Operating Code or By-laws.