SECTION 9 – DUE PROCESS ON CHAPTER LEVEL COMPLAINTS

Section 9.1 Resolution Methods

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

1. By any reasonable manner set forth in the Chapter Bylaws if the matter is reconciled with no sanctions to an individual.
2. By a due process hearing which includes:
    a. Timely notice
    b. An opportunity to appear before the decision-making authority.
    c. Presentation of witnesses in their behalf to give information, and
    d. To cross examine witnesses providing information against them in the event there could be chapter sanctions pending taking in consideration of Confidentiality of Certain Complainants or Witnesses (See Section 11.6)

Section 9.2 Decision Making Body

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

1. Chapter Board of Directors.
2. A subcommittee of board members.
3. A subcommittee of Chapter members

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 it.

Options:

1. The Chapter may reserve all disciplinary or ethics matters for determination by the full Board of Directors.
2. Committee powers may be limited to investigation only with a report to the full Board of Directors.
3. Committee powers may be limited to investigation and a recommendation with a report to the full Board of Directors.
4 The Chapter may delegate decision-making authority to a committee.
5. The Chapter may require the first level of appeal of a committee's decision be to the full Chapter Board of Directors or directly to the Division level.
6. 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.
7. There shall be no more than one committee within any one Chapter with ethics responsibility

Section 9.3 Notification

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

1. Date or dates of alleged infraction(s);
2. Description of alleged infraction(s);
3. Name of person initiating action unless determined to be confidential in accordance with following rules governing same;
4. Identification of provision of bylaws, policy, or rules involved;
5. The day, time, and location of the hearing;
6. The range of action that may be taken as a result of the proceedings;
7. 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

Due Process continued

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

Notice shall be presumed to be received by respondent by:

1. "Certified Mail Return Receipt Requested" five (5) days after deposit in the U.S. Mail, provided postage is prepaid and notice is addressed to the respondent's address contained in the official roster book of the chapter.
2. Email after two (2) days send and addressed to the respondent's email address contained in the official roster book of the chapter.

It is the member's responsibility to ensure all contact information is correct and up to date in the official roster book of the chapter.

Section 9.4 Hearings

Hearings may be in a face to face meeting, videoconference, or teleconference.

Section 9.4.1 Respondent

At any stage during which new testimony or evidence is to be presented to a decision making body, the respondent shall be afforded:

1. A reasonable opportunity to be present during all proceedings involving evidence or testimony;
2. The right to have another person represent them;
3. The right to be represented by legal counsel;
4. The right to a full disclosure of all evidence presented to the decision making body or to a member of the decision making body;
5. The opportunity to controvert all evidence against them;
6. The opportunity to present witnesses in their behalf; and
7. The right to cross examine all adverse witnesses, subject to limitations necessary to protect the confidentiality of a complainant or witness

Section 9.4.2 Initiator

Persons who initiate an ethics inquiry shall be afforded:

1. A reasonable opportunity to be present during all proceedings involving evidence or testimony;
2. The right to have another person represent them;
3. The right to be represented by legal counsel;
4. The right to a full disclosure of all evidence presented to the decision making body or to a member of the decision making body;
5. The opportunity to present witnesses in their behalf;
6. The right to cross examine all respondent's witnesses, subject to limitations necessary to protect the confidentiality of a complainant or witness.

Section 9.5 Authority

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.

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.

The presiding officer is responsible for ensuring an accurate record is made of all Hearings and that such record is 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.

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

Section 9.6 Confidentiality of Certain Complainants or Witnesses

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

The Hearing's Chairperson is responsible for making the decision as to confidentiality and may alter or modify the questions submitted:

1. To clarify;
2. To eliminate duplicate, argumentative, or irrelevant questions; or,
3. Eliminate questions designed primarily to determine the identity of the undisclosed person prior to submission to said person.

Section 9.6.1 Procedure for Confidentiality

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 within 7 days of the notification.

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

Section 9.7 Time Limits

In the absence of a specific request from the Division Board, the TASO, The University Interscholastic League (UIL), or the Texas Association of Private and Parochial Schools (TAPPS), a chapter may not discipline a respondent for an event that occurred more than one year to the initiation of the request.

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. However, due to the fat that TASO uses volunteer members as investigators and hearing committees, exceeding this time limit shall not be used to terminate the process.

At the chapter level, a respondent shall have 30 days within which to present an appeal, to the next highest level, of a decision resulting in action detrimental to the respondent.

Section 9.8 Appeals

A respondent shall have the opportunity to appeal any decision resulting in action detrimental to the respondent to the next level until a satisfactory resolution can be made where all parties are in agreement or the highest level, TASO Board, where the decision is final and there is no further appeal.

Section 9.8.1 Chapter Appeals

If a Chapter subcommittee is the decision making authority for an appeal case, the respondent may appeal any action detrimental to them to the Chapter Full Board.

Final Chapter level action may be appealed to the Division. The respondent shall have 30 days to make the appeal. This appeal shall be made in writing to the District Director and the Division President.

The respondent's District Director shall review all appeals to the Division for compliance with these procedures and to ensure 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.

If the District Director finds errors in the Chapter process, the Chapter should take such corrective action, as recommended by the District Director, within 30 days or the matter shall be terminated in favor of the respondent.

The appropriate TASO body shall set the matter for hearing noy less than 30 days nor more than 90 days after receiving notice of the appeal from the respondent.

The Chapter shall provide copies of all records including proposed disciplinary action to the District Director within 10 days of being notified of the appeal.

Section 9.8.2 Division Board Appeals

The Division President will schedule the hearing either at the next meeting of the Board, or may conduct the hearing via conference call.

The Executive Director will provide the Division Board a copy of chapter records and the proposed disciplinary action recommended by the chapter.

The respondent and complainant will have the opportunity to address the Division Board regardless if the meeting is held in person or via some other communication method. If either party is not available at the hearing scheduled time, they may send a statement to the Executive Director who will distribute it to the Board.

The respondent may reject the proposed disciplinary action and have the case determined by the TASO Board.

Section 9.8.3 TASO Board of Appeals

The TASO Board Chairman will schedule the Hearing either at the next meeting of the Board , or may conduct the hearing via conference call.

The Executive Director and/or a designee will provide the TASO Board a copy of the investigators report and the proposed disciplinary action recommended by the Division Board.

The respondent and complainant will have the opportunity to address the TASO Board regardless if the meeting is held in person or conference call. If either party is not available at the Hearing scheduled time, they may send a statement to the Executive Director who will distribute it to the TASO Board.

The TASO Board may accept the action recommended by the Executive Director and Division President or may revise the action in any manner they deem necessary.

The Executive Director will notify both the respondent and complainant of the Board's decision to be delivered at the last known address9es) by regular mail and other verifiable delivery service, return receipt requested.

The decision of the TASO Board is final and there is no further appeal.