

Resolution

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That Rule 11 and Rule 12 of the constitution of New South Wales Ice Hockey Association Inc. comprising the Model Rules for Incorporated Associations and By-Laws be deleted and in their stead the following be inserted:

Rule 11: Discipline of Members and Rights of Appeal

1. Matters which may be referred to Judiciary Committee

The committee in its sole discretion may refer any of the following matters for investigation or determination by a Judiciary Tribunal:

- (a) an allegation (which in the opinion of the committee is not vexatious, trifling or frivolous) by a complainant that a member ("defendant") has:
 - (i) breached, failed, refused or neglected to comply with a provision of these rules, the by-laws or any other resolution or determination of the association or the committee or any authorised sub-committee; or
 - (ii) acted in a manner unbecoming of a member or prejudicial to the objects and interests of the association and/or the sport of ice hockey; or
 - (iii) brought the association or the sport of ice hockey into disrepute;
- (b) any other matter which the committee considers requires investigation or determination ("allegation").

2. Submission to Jurisdiction

All members will be subject to, and submit unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the association set out in this rule 11. All members agree that they will not become a party to any suit, at law or equity, against the association, the committee, coach, umpire, team manager, team administrator, scorer/statistician or any other person who has a position as an official in the sport of ice hockey in New South Wales, or any other person the subject of these rules, until all remedies allowed by these rules have been exhausted.

3. Ongoing participation

During investigatory or disciplinary proceedings under this rule 11 ("proceedings"), a defendant may not participate in any ice hockey activity, pending the determination of the proceedings (including any available appeal) unless the committee decides such participation is appropriate having regard to the matter at hand.

4. Referral to Judiciary Tribunal

- (a) The committee may commence or cause to be commenced any proceedings against a defendant by referring the matter to a Judiciary Tribunal to hear a matter or matters under this rule 11 ("referral").
- (b) A Judiciary Tribunal shall comprise 3 or more persons selected by the committee, one of whom shall be appointed Chairman. No member of the committee is eligible to sit on a Judiciary Tribunal.
- (c) Any such referral to a Judiciary Tribunal shall be in writing and accompanied by any documentary or other evidence that is available to the committee. The referral shall be clear and unambiguous, stating precisely the matter to be determined. The referral shall be served on the defendant in accordance with rule 41.
- (d) No person who is an interested party (as determined by the secretary) shall participate in the determination of the proceedings in any way.

- (e) On receipt of a referral, the chairman of a Judiciary Tribunal shall, in consultation with the remaining members of the Judiciary Tribunal, determine an appropriate date, time and place for a hearing by the Judiciary Tribunal. Such hearing shall be no less than 14 days and no more than 28 days from receipt of the referral, unless the matter is deemed to require urgent attention, in which case the defendant and Judiciary Tribunal may agree on a variation of the time frame set out in this rule 11, having regard to the availability of key witnesses, amongst other things.
- (f) The Chairman of the Judiciary Tribunal shall notify the remaining members of the Judiciary Tribunal, the defendant and any complainant of the date, time and place of the hearing, and in addition, shall advise that each party to the proceedings has the right:
 - (i) to make written submissions to be served on the secretary or the Executive Officer not less than 7 days prior to the date of the hearing; and/or
 - (ii) to appear at the hearing; and/or
 - (iii) upon written advice to the Judiciary Tribunal, not less than 7 days prior to the date of the hearing, to be represented by a legally qualified person at the hearing; and/or
 - (iv) to legal representation at the hearing in accordance with Rule N5.
- (g) The Judiciary Committee may invite a legally qualified person to be present at the hearing to render advice or assistance concerning any legal issue raised in the hearing, provided that such person shall not participate in any deliberations or vote of the Judiciary Tribunal in relation to its findings or its decision.
- (h) Subject to this rule, the Judiciary Tribunal shall conduct the hearing as it sees fit, and in particular shall not be bound by rules of evidence, or unnecessary formality. The defendant must be advised of the hearing procedure determined by the Judiciary Tribunal at or before the commencement of the proceedings.
- (i) The Judiciary Tribunal shall be entitled to call such evidence as it thinks fit. All members of the association called as witnesses shall provide such evidence as they are able. The Judiciary Tribunal may adjourn the hearing.
- (j) If the Judiciary Tribunal, having taken into account the written and verbal submissions and other evidence of the parties, considers the allegation sustained, the Judiciary Tribunal may impose such penalty as it considers appropriate in accordance with rule 11(5). In all other cases, the proceedings shall be dismissed.
- (k) If a decision cannot be given immediately after the proceedings, the relevant party or parties must be advised of the time and place at which the decision will be given.
- (l) The decision, any penalty, the reasons for the decision and notice of the person's appeal rights shall be given in writing and signed by the Judiciary Tribunal chairman.
- (m) A defendant who has been the subject of an adverse finding by a Judiciary Tribunal under rule 11(4)(j) may appeal to an Appeal Panel in accordance with rule 11(7).

5. Penalties

Penalties which may be imposed include:

- (a) a reprimand;
- (b) suspension, from such activities, on such terms and for such period as is seen fit;
- (c) exclusion from a particular activity, event or events;
- (d) expulsion from the association;
- (e) fines, imposed in such manner and in such amount as is reasonable in all the circumstances of the matter; or
- (f) such combination of any of the above penalties as is seen fit.

6. Effect of Penalty

- (a) Where a member is suspended under this rule, membership and representation rights and privileges in the association shall be forfeited during the period of such suspension.
- (b) Where a member is expelled under these rules membership and representation rights and privileges in the association shall be forfeited immediately and membership shall cease. Rule 4 of these rules shall apply.

7. Appeal Panel

- (a) Subject to these rules an Appeal Panel will act as arbiter on all disciplinary matters referred to it.
- (b) A member who has been the subject of an adverse finding by a Judiciary Tribunal may appeal by lodging a written notice with the Secretary, within 14 days of the determination of a Judiciary Tribunal and specifying the grounds of appeal. If the committee in its sole discretion consider the appeal has merit the committee will refer the appeal to an Appeals Panel for consideration and determination. The committee may reject or accept (and thus refer) any appeal under this Rule in its sole discretion.
- (c) The decision of the committee in rejecting an appeal by a member under this rule 11(7)(b) shall be final and not subject to further appeal except as provided under the Constitution of Australian Ice Hockey Federation Inc.
- (d) The appointment of, referral to, and proceedings of an Appeal Panel in convening, hearing and determining an appeal shall be similar to or the same as those in respect of a Judiciary Tribunal set out in rule 11(4) above, with such incidental variation as are appropriate or necessary. Any dispute as to the application of this rule shall be determined by the committee in its sole discretion.
- (e) In the matter of an appeal under rule 11(7), an Appeal Panel may in its sole discretion confirm the penalty or adverse finding of the Judiciary Tribunal, or may decide not to confirm such penalty but instead impose an alternate penalty available under rule 11(5), or may revoke the penalty or adverse finding of the Judiciary Tribunal.
- (f) The effect of any penalty imposed by an Appeal Panel shall be the same as set down in rule 11(6) above. The decision of an Appeal Panel under this rule 11(7) shall be final and not subject to further appeal except as provided under the Constitution of Australian Ice Hockey Federation Inc.

Rule 12: Legal Representation

The following rules apply in disciplinary proceedings under rule 11:

- (1) A defendant may have legal representation. However, the association discourages this practice. In the event that a defendant exercises his or her right to be legally represented, the defendant must bear all ensuing legal costs, including those reasonably incurred by the association in retaining legal advisers or representatives.
- (2) A defendant maybe represented by an advocate who is not a legally qualified person.
- (3) A defendant who is under 18 years of age must be represented by a parent or guardian. In the event that such a parent or guardian is a legally qualified person, the parent will notify the association of that fact not less than 7 days prior to the date of the disciplinary hearing.