

## **HSC POLICIES AND PROCEDURES REGARDING PROTESTS AND APPEALS**

HSC Bylaw 2:06:01 identifies the subjects to be considered by the Protest and Appeals Committee as follows: (1) alleged violations of the HSC bylaws; (2) alleged violations of HSC Rules and Regulations; and (3) alleged violations of HSC Policies and Procedures.

Although HSC bylaw 2:02:02(D) identifies the Protest and Appeals Committee as a standing committee, the HSC bylaws do not address the procedures or review process to be used by the Protest and Appeals Committee in performing its responsibility.

To clarify the process and procedures by which the Protest and Appeals Committee will address claims brought before it, the policies and procedures set forth below shall apply.

Note: Except as set forth in Section II.B below with respect to protests and appeals using the Investigation, Report and Recommendation Procedure when emergency circumstances make the hearing procedure described in Section II.A below impractical, the decisions, findings, statements and recommendations of the Protest and Appeals Committee are final and binding only after review by the Board of Directors as described in Section III below.

### **I. Initiation of Protest or Appeal**

#### **A. Filing Procedure**

##### **1. Time Period for Filing; Content of Protest or Appeal.**

(a) Any protest or appeal must, pursuant to HSC bylaw 2:06:01, be delivered in writing (which may include email) to the Chairman of the Protest and Appeals Committee (i) within 2 days of the action being protested or appealed if the appeal or protest which requires a decision or resolution within 7 days from the occurrence of the action being protested or appealed, or (ii) within 7 days after the person filing such protest or appeal (referred to herein sometimes as the "claimant") knew or, in the exercise of reasonable care should have known, of the action being protested or appealed. If the email address of the Chairman of the Protest and Appeals Committee is at any time not listed on the "Who's Who" page of HSC's web site ([www.haverfordsoccer.org](http://www.haverfordsoccer.org)), a protest or appeal may instead be delivered in writing to the President of HSC.

(b) The notice of protest or appeal shall contain: (a) the name, address, phone number and email address of the claimant; (b) facts supporting the claimant's standing to file the appeal (see, e.g., Section II.A.1 below); (c) the bylaw provision, rule or regulation, or policy or procedure that the claimant believes has been violated; (d) a brief statement of the alleged facts and circumstances giving rise to the appeal; the names, addresses, phone numbers and email addresses (if available) of all witnesses to such alleged facts and circumstances.

2. Emergency circumstances

(a) An appeal or protest which requires a decision or resolution within 7 days from the occurrence of the action being protested or appealed from shall be considered an emergency circumstance.

(b) In the event a protest or appeal involves emergency circumstances, in addition to the written filing required by the HSC bylaw 2:06:01, the person asserting an emergency circumstance must also call the Board President or the relevant Vice President for Travel or Intramurals and convey the nature of the appeal or protest to that HSC official.

(c) If the HSC official contacted agrees that the protest or appeal involves an emergency circumstance the HSC official will initiate the HSC protest and appeals procedure set forth in §IIB.

(d) If the HSC official does not agree that the action being appealed from or protested involves an emergency circumstance, the HSC official shall indicate to the person that the matter will be pursued subject to the regular appeals and protest procedures.

**B. Fees**

1. For regularly filed appeals and protests, a fee in the amount of \$25.00 must accompany the written protest or appeal.

2. For appeals or protests involving an emergency circumstance, a fee in the amount of \$50.00 must accompany the written protest or appeal.

## **II. Procedures for Addressing Protests and Appeals**

### **A. Hearings**

A person who has properly filed a protest or appeal and who has paid the required fee shall be entitled to present his or her claim to the Protest and Appeals Committee at a time and place to be determined by the Chairman of the Protest and Appeals Committee provided that the person meets the qualifications for standing to bring a claim.

As soon as reasonably practicable after determining the date, time and place of the hearing, the Protest and Appeals Committee (or someone acting on its behalf) will give notice of same to the claimant and any witnesses that the Protest and Appeals Committee desires to address the committee with respect to claimant's protest or appeal. In addition, at any time before or after the hearing (but prior to making any determination or recommendation), the Committee also may request that the claimant submit to the Committee a written memorandum expanding upon any matters set forth in the claimant's notice of protest or appeal.

Hearings shall be conducted pursuant to the procedures set forth below regarding the nature of the matter being protested or appealed from.

#### **1. Alleged Bylaws Violations**

**(a) Standing to bring a claim** – In order for the Protest and Appeals Committee to consider a claim of a bylaw violation, persons alleging a violation of the HSC bylaws must be: (a) an HSC member as defined in bylaw 1:07; (b) an HSC board member; or (c) individuals who can demonstrate that the alleged bylaw violation has an adverse effect on them personally or upon their child.

#### **(b) Procedure for presenting a claim**

(1) The claimant alleging a bylaw violation shall have 15 minutes to present his or her assertions, which time limit may be extended by the Protest and Appeals Committee in its sole and absolute discretion. If there are facts in dispute, it shall be within the discretion of the Protest and Appeals Committee whether to allow or require the claimant to present witnesses to address the Committee. Any witness shall be subjected to questions from the

Committee but shall not be subject to cross-examination by any one else.

(2) An individual appointed by the Board President shall present the position of the Board to the Committee and shall have 15 minutes to do so. If there are facts in dispute, it shall be within the discretion of the Committee to allow or require the Board representative to present witnesses to address the Committee. No witness called by the Board representative shall be subject to cross-examination by the claimant.

(a) In the event that the Board President is either the subject of the claim or is bringing the claim, the appointment of a Board representative shall be made by the Vice President in charge of Travel.

(b) If the Vice President of Travel is also involved in the claim, the Board representative shall be appointed by the Vice President of Intramurals.

(3) The time that fact witnesses spend before the Committee shall not be counted against the 15 minutes that the claimant or the Board representative has to present his or her position regarding an alleged bylaw violation.

(4) The burden of establishing a violation of a bylaw shall be upon the claimant to prove by clear and convincing evidence.

**(c) Committee decision-making process**

(1) The Committee shall decide what the relevant facts are. If there are facts in dispute, the Committee shall decide the facts by a majority vote of the Committee.

(2) The Committee shall identify the relevant bylaws at issues.

(3) The Committee shall discuss whether there is a clear bylaw violation or whether the issue involves a subject not specifically covered by a bylaw provision.

(4) If, by a majority vote, there is no clearly applicable bylaw the Committee shall issue a statement indicating that.

(5) If, by clear and convincing evidence, a majority of the committee finds there to be a bylaw violation, the Committee shall issue a statement indicating the bylaw violation and;

(a) If the violation is technical in nature or the result of an unintentional oversight, the Committee shall state as much and shall recommend how to correct the violation.

(b) If the violation was purposefully and intentionally committed, the Committee shall state as much, shall recommend to the Board appropriate measures to correct the violation, and shall make its findings known to the Board for its consideration of appropriate action regarding the purposeful and intentional violation of the bylaws.

(6) If, by majority vote, there is no bylaw violation, the Committee shall issue a statement indicating that.

(7) If the Committee determines that (A) the issue involves a subject not covered by a bylaw provision, or (B) there is no bylaw violation, the Committee shall consider whether the alleged facts constitute a violation of HSC's Rules or Regulations in accordance with the procedures described below at Section 2(d).

## **2. Alleged HSC Rule or Regulation Violation**

**(a) Standing to bring a claim** – In order for the Protest and Appeals Committee to consider a claim of a Rules or Regulations violation, persons alleging a violation of the HSC Rule or Regulation must be:

(1) An HSC member as defined in Rules or Regulations 1:07;

(2) An HSC board member; or

(3) Individuals who can demonstrate that the alleged Rules and Regulations violation has an adverse effect on them personally or upon their child.

**(b)** Only written Rules or Regulations formally adopted and published by the HSC Board or those Rules and Regulations applicable to HSC as a result of its affiliation with EPYSA, U.S. Club Soccer or other applicable governing body shall be the subject of a claim of an alleged Rules or Regulations violation.

**(c) Procedure for presenting a claim**

(1) The claimant alleging a Rules and Regulations violation shall have 15 minutes to present his or her assertions, which time limit may be extended by the Protest and Appeals Committee in its sole and absolute discretion. If there are facts in dispute, it shall be within the discretion of the Protest and Appeals Committee whether to allow or require the claimant to present witnesses to address the Committee. Any witness shall be subjected to questions from the Committee but shall not be subject to cross-examination by any one else.

(2) An individual appointed by the Board President shall present the position of the Board to the Committee and shall have 15 minutes to do so. If there are facts in dispute, it shall be within the discretion of the Committee to allow or require the Board representative to present witnesses to address the Committee. No witness called by the Board representative shall be subject to cross-examination by the claimant.

(a) In the event that the Board President is either the subject of the claim or is bringing the claim, the appointment of a Board representative shall be made by the Vice President in charge of Travel.

(b) If the Vice President of Travel is also involved in the claim, the Board representative

shall be appointed by the Vice President of Intramurals.

(3) The time that fact witnesses spend before the committee shall not be counted against the 15 minutes that the claimant or the Board representative has to present his or her position regarding an alleged Rules or Regulations violation.

(4) The burden of establishing a violation of a Rule or Regulation shall be upon the claimant to prove by clear and convincing evidence.

**(d) Committee decision making process**

(1) The Committee shall decide what the relevant facts are. If there are facts in dispute, the Committee shall decide the facts by a majority vote of the Committee.

(2) The Committee shall identify the relevant Rules and Regulations at issue.

(3) The Committee shall discuss whether there is a clear Rule or Regulation violation or whether the issue involves a subject not specifically covered by a Rule or Regulation provision.

(4) If, by a majority vote, there is no clearly applicable Rule or Regulation, the Committee shall issue a statement indicating that. In such event, it shall review the claimant's allegations to determine whether the issue involves a subject covered by a Policy or Procedure. (See Section 3 below).

(5) If, by clear and convincing evidence, a majority of the Committee finds there to be a Rule or Regulation violation, the Committee shall issue a statement indicating the Rule or Regulation violation and;

(a) If the violation is technical in nature or the result of an unintentional oversight, the Committee shall state as much and shall make a recommendation to the Board for how to correct the violation.

(b) If the violation was purposefully and intentionally committed, the Committee shall state as much, shall recommend to the Board appropriate measures to correct the violation, and shall make its findings known to the Board for its consideration of appropriate action regarding the purposeful and intentional violation of the Rules or Regulations.

(6) If, by majority vote, there is no Rule or Regulation violation, the Committee shall issue a statement indicating that.

(vii) If the Committee determines that (A) the issue involves a subject not covered by a Rule or Regulation, or (B) there is no violation of a Rule or Regulation, the Committee shall consider whether the alleged facts constitute a violation of HSC's Policies and Procedures in accordance with the procedures described below at Section 3(d).

### **3. Alleged HSC Policy and Procedure Violation**

**(a) Standing to bring a claim** – In order for the Protest and Appeals Committee to consider a claim of a Policy and Procedure violation, persons alleging a violation of the HSC Policy or Procedure must be:

(1) An HSC member as defined in Policy and Procedure 1:07;

(2) An HSC board member; or

(3) Individuals who can demonstrate that the alleged Policy and Procedure violation has an adverse effect on them personally or upon their child.

**(b)** HSC Policies and Procedures may, but need not, be written to be the proper subject of a claim before the Protest and Appeals Committee.

**(c) Procedure for presenting a claim**

(1) The claimant alleging a Policy or Procedure violation shall have 15 minutes to present his or her

assertions. If there are facts in dispute, it shall be within the discretion of the Protest and Appeals Committee whether to allow or require the claimant to present witnesses to address the Committee. Any witness shall be subjected to questions from the Committee but shall not be subject to cross-examination by any one else.

(2) An individual appointed by the Board President shall present the position of the Board to the Committee and shall have 15 minutes to do so, which time limit may be extended by the Protest and Appeals Committee in its sole and absolute discretion. If there are facts in dispute, it shall be within the discretion of the Committee to allow or require the Board representative to present witnesses to address the Committee. No witness called by the Board representative shall be subject to cross-examination by the claimant.

(a) In the event that the Board President is either the subject of the claim or is bringing the claim, the appointment of a Board representative shall be made by the Vice President in charge of Travel.

(b) If the Vice President of Travel is also involved in the claim, the Board representative shall be appointed by the Vice President of Intramurals.

(3) The time that fact witnesses spend before the Committee shall not be counted against the 15 minutes that the claimant or the Board representative has to present his or her position regarding an alleged Policy or Procedure violation.

(4) The burden of establishing a violation of a Policy or Procedure shall be upon the claimant to prove by clear and convincing evidence.

(5) It shall be the responsibility of the Board representative to articulate the applicable HSC Policy or Procedure and to explain to the Committee the purpose of the Policy or Procedure and, to the extent possible, to explain the history of the Policy or

Procedure and its application in the past regarding similar situations.

**(d) Committee Decision Making Process**

(1) The Committee shall decide what the relevant facts are. If there are facts in dispute, the Committee shall decide the facts by a majority vote of the Committee.

(2) The Committee shall identify the HSC Policy or Procedure at issue.

(3) The Committee shall discuss whether the HSC Policy or Procedure was clearly violated or whether the issue involves a subject not specifically covered by a Policy or Procedure.

(4) If the Policy or Procedure at issue involves a personnel matter or the exercise of discretion by a coach, commissioner, trainer, vice president or board member in whom discretion is provided by virtue of their position, the Committee shall not substitute its view for that of the coach, trainer, commissioner, vice president or board member. Instead, the Committee shall determine whether the coach, trainer, commissioner, vice president or board member abused his or her discretion.

(a) An abuse of discretion occurs when the coach, commissioner, trainer, vice president or board member makes a personnel decision or exercises his or her discretion as a result of:

(1) Bias based on race, religion, ethnicity, or similar criteria;

(2) Ill-will or personal malice towards an individual;

(3) A total disregard for applicable HSC bylaws, Rules, Regulations, Policies or Procedures or the HSC Code of Conduct; or

(4) A familial or personal relationship with an individual involved in or effected by the decision.

(b) If, by a majority vote, the Committee finds by clear and convincing evidence that the coach, commissioner, trainer, vice president or board member committed an abuse of discretion in making a personnel decision, the Committee shall issue a statement to that effect and shall make a recommendation to the Board for how to correct that abuse of discretion.

(c) If, by a majority vote, the committee finds that an abuse of discretion has not been established, it shall issue a statement to that effect.

(v) If the Policy or Procedure involved does not involve a personnel matter but does involve a matter of discretion, the Committee shall not substitute its view for that of the individual involved but shall determine whether there was an abuse of discretion.

(vi) If the Policy or Procedure involved does not involve a personnel matter or a matter involving an exercise of discretion, the Committee shall review the matter in the same way that it would review an alleged Bylaw violation or an alleged Rule or Regulation violation.

[Section 5 (Board review) moved to a new Section III below]

## **B. Investigation, Report, Recommendations**

A person who has properly filed a protest or appeal and who has paid the required fee shall be entitled to pursue a resolution of his or her claim using the Investigation, Report and Recommendation Procedure when emergency circumstances require the use of this process due to time constraints which would make the hearing procedure impractical.

### **1. Investigation**

(a) The Board President, or in his or her absence, the relevant Vice President of Travel or Intramurals shall appoint

an HSC Board member to conduct an investigation of the action or matter which is the subject of the appeal or protest.

(b) The Board President, or in his or her absence, the Vice President of Travel or Intramurals shall set the timeframe within which the investigation must be completed and shall inform the investigator and the person bringing the appeal or protest of the timeframe.

(c) Following appointment, the investigator shall:

(i) Initially inquire of the person bringing the protest or appeal to determine if that person has standing to even pursue such a protest or appeal.

(a) The requirements concerning standing to bring a protest or appeal are set forth in the previous section regarding Hearings.

(b) If the investigator is satisfied that the person bringing the protest or appeal has standing to do so, the investigator shall continue his or her investigation.

(c) If the investigator determines that the person bringing the protest or appeal lacks standing to do so, the investigator shall report this to the HSC official who appointed him or her and shall not conduct any further investigation.

(ii) Attempt to contact all of the individuals involved in the occurrence, action, dispute or matter and the relevant witnesses to the occurrence, action, dispute or matter and shall hear the views of each of these individuals.

(iii) Research the applicable bylaws, policies, rules, customs and practices and consult with whomever he or she deems appropriate to assist him or her in gaining an understanding of the applicable authority, custom or practice.

(iv) Make written findings of fact in which he or she sets forth what he believes to have happened in the occurrence, action, dispute or matter. The investigator's decisions regarding the credibility of

witnesses and the relative importance or weight of the evidence that he or she considers shall be left to his or her discretion and his or her determinations of fact shall be final.

(v) Make a suggested recommendation regarding a resolution of the appeal or protest.

## **2. Report**

(a) The investigator shall report his or her written factual findings to the HSC official who appointed the investigator and to the Chairman of the Protest and Appeals Committee.

(b) The investigator shall also report his or her suggested recommendations for resolving the appeal or protest to the HSC official who appointed him or her and to the Chairman of the Protest and Appeals Committee.

(c) In the event the Protest and Appeals Chairman is unavailable, a Board member from the Protest and Appeals Committee, selected by the Board President, may be substituted for the Chairman.

## **3. Recommendations**

(a) The investigator, the HSC official who appointed the investigator and the Chairman of the Protest and Appeals Committee shall discuss the factual findings and recommendations made by the investigator and shall resolve the appeal or protest.

(b) The factual findings of the investigator shall be final and are not subject to challenge or further debate, however, the recommendation regarding resolution of the protest or appeal shall be discussed by the HSC official who appointed the investigator, the investigator and the Chairman of the Protest and Appeals Committee in an effort to reach a consensus.

(i) In attempting to resolve the protest or appeal, the investigator, the HSC official who appointed the investigator and the Chairman of the Protest and Appeals Committee shall, to the extent possible, employ the same criteria for decision-making set forth in the previous sections concerning Hearings for

claims involving bylaws, Rules and Regulations, or Policies and Procedures.

(c) In the event there is a disagreement amongst the investigator, HSC official who appointed the investigator and the Chairman of the Protest and Appeals Committee, the majority view shall prevail.

#### **4. Decisions**

The Chairman of the Protest and Appeals Committee and the HSC official who appointed the investigator shall convey the decision regarding the appeal or protest to the individuals involved and to the Board President if he or she has not participated in the process. This decision shall be considered final and binding, subject to review and possible modification only by the full Board of Directors.

[Section III below has been moved from Section II.A.5 above. ]

### **III. Review by the Full Board of Directors**

#### **A. After Hearing.**

The bylaws provide that a decision of the Protest and Appeals Committee may be reviewed by the full Board of Directors. See: HSC bylaw 2:06:01. However, the review by the full Board shall not initially be an opportunity for the losing party in the Protest and Appeals hearing to relitigate the merits of his or her claim.

The findings, decisions, statement and recommendations (collectively, "decisions") of the Protest and Appeals Committee in each case shall be considered by the Board of Directors at its next regularly scheduled meeting after the conclusion of the hearing and issuance of all decisions by the Committee (or the following regularly scheduled meeting if decisions by the Committee are issued less than 5 days before the next regularly scheduled meeting).

If, after the Committee issues its decisions, the claimant believes that the Committee did not follow HSC bylaws, policies and procedures regarding the claimant's protest or appeal, the claimant may notify the President of HSC not later than three (3) days prior to the next regularly scheduled meeting of the Board. If the President receives such a notice from the claimant *or* any member of the Board so requests, the full Board shall review the process employed by the Protest and Appeals Committee. In the absence of such notice from the claimant or request by any Board

member to review the process employed by the Protest and Appeals Committee, the full Board shall, by a majority vote, affirm and adopt the decisions of the Protest and Appeals Committee.

If the full Board shall review the process employed by the Protest and Appeals Committee and determines that the Protest and Appeals Committee conducted its review of the protest or appeal in accordance with the HSC bylaws, policies and procedures, regarding the Protest and Appeals process, the full Board shall, by a majority vote, affirm and adopt the decisions of the Protest and Appeals Committee. If, by a 2/3rds majority vote of the Board (11 members), the Board concludes that the Protest and Appeals Committee did not follow HSC bylaws, policies and procedures regarding the protest or appeal, the full Board will consider the merits of claim involved and shall apply the same procedures and policies applicable to the Protest and Appeals Committee in conducting a second hearing on the matter.

The decision of the full Board shall be final and binding on (i) HSC, (ii) the claimant, and (iii) all others over whom HSC has authority and who are affected by the decision, subject only to whatever further appeal process that may be provided for by USYSA.

## **B. Investigation, Report and Recommendation Procedure**

A review by the full Board shall not initially be available to those who pursue the Investigation, Report and Recommendation procedure to address appeals or protests which involve emergency circumstances. This is so because the time constraints inherent in an emergency circumstance do not permit such review by the full Board to address the specific matter being appealed or protested.

In the event that the person bringing the emergency circumstance appeal or protest is unsatisfied with the outcome and wishes the full Board to review the matter, such a review will be conducted at a regular Board meeting, however, it will not change the decision reached using the Investigation, Report and Recommendation Procedure. Instead, such a review will be conducted by the full Board as a matter of policy review in an effort to, in the future, avoid or correct the circumstances which led to the problem and the appeal or protest in the present case.