

Disciplined Response

By Donald C. Collins

Officials who are facing disciplinary action from their association must resist the urge to do a number of things most people want to do. They must not immediately lash out or fight back. They must not immediately attempt to tell someone their defense. They must resist the urge to explain themselves and seek some form of absolution.

The official should begin by being silent. This is hard for some to do. It may be difficult to appreciate why silence is important since the charged official is not under arrest and is not being silent while invoking the right to counsel. In this case, silence is a means to an end.

An official begins by being silent until knowing the basics, including what one is actually being charged with. Then finding out what acts are at issue, and what part of the association's rules, contracts or bylaws the official is accused of violating. Next, the official

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must determine whether he or she is merely facing charges or whether some penalty has already been imposed, and he or she is in the position of rebutting or mitigating the damage already done.

Next, the official should look at the association's procedural rules. Usually, an association's bylaws will tell you things such as how charges are filed, who can file them, the time frame for bringing them, the notice required, etc. The official should review the bylaws to make sure the charges can be brought.

For example, some associations allow a member to bring a grievance against another member. However, the bylaws may place a time frame for such a grievance. If outside the specified time frame, the member facing discipline has a procedural defense. Sometimes, a procedural defense gives one a win; other times it simply leads to a refile of the charges.

Once an official knows the basics,

and has looked at the association's procedural rules, the time for silence is over, and the official will need to begin preparing for the hearing.

The official will need to know the evidence against him or her, and he or she may need to ask for it. Then, the official will want to know the witnesses against him or her, and whether he or she will be able to speak to and address those witnesses at the hearing. The official will also wish to line up his or her own witnesses, and will need to know whether he or she can present written statements to the association prior to the hearing or whether the association relies solely on the hearing as the official's opportunity to present information.

The official should also note if he or she is defending against a rule articulated in the bylaws. That's a bit different than trying to beat the opposing witnesses. One can beat the opposing witnesses and still lose. For example, showing a witness erred in saying one used a profanity in an on-court dispute with a fellow official still doesn't alter the breach of standards in having an on-court dispute with one's partner in the first place.

Also, the official must know the hearing rules. One must know timing rules and presentation formats in order to make the best case.

Next, the official should make sure to not only defend himself or herself against the charges, but to also remind the association of mitigating factors that should lead to a reduction of the penalty should the official lose. The official does not need to belabor these points, but certainly can briefly note things such as the harm being limited in scope, having a perfect track record, and even facts that make the conduct at issue understandable if not excusable.

Finally, remember losing at the hearing is not always the end. An official should read up on the appeal procedures. Sometimes, it's worth getting a second bite at the apple.

Donald C. Collins is a longtime basketball official and lawyer. This article is for informational purposes and is not legal advice. □

Right Reports

Sports officials play a critical role in ensuring games are conducted fairly and rules and regulations are followed. Actions by officials can trigger a series of administrative and legal ramifications, which is why administrators rely on the information provided in game reports.

After games end, officials remain key players as they provide crucial information to league administrators. The most common incidents that require reporting include ejections and fights.

To provide accurate information, officials need to stick to the facts and avoid providing opinions or characterizations. For instance, if a player utters a profanity, officials must quote it in the report. Additionally, officials need to provide administrative details, such as whether they issued a technical foul or ejected players for fighting, and record-keeping information, such as whether the game was suspended or forfeited.

Ultimately, officials need to ensure they provide detailed game reports to help league administrators make informed decisions and maintain the integrity of the game.

Five Bylaws Basics

Here are five basic things that should be included in association bylaws:

1. Define your purpose. What's the organization's mission, such as educating members or assigning games?
2. Describe the members. This includes any qualifications and addressing matters like who can vote.
3. Make it clear what is expected of members. Are there meetings to attend to stay in good standing? Testing requirements? Dues to pay? Etc.
4. Help when trouble arises. Issues can arise. Bylaws should address situations such as disciplining or removing members.
5. Outline board member duties. Bylaws should clearly describe the governing body, how and when those positions are elected, how individuals may be removed, etc. The authority given to the board, such as for managing the finances and entering contracts, should be spelled out.

SOURCE: ATTORNEY PATRICK ROSENOW COLUMN IN NASO ADVISOR NEWSLETTER

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