



2017 Incident Review Policy

RMR INCIDENT REVIEW POLICY

- I. **Purpose.** The purpose of the Incident Review Policy (Policy) is to provide a process for adjudicating complaints regarding, but not limited to, violations of ethics, criminal law, the United States Volleyball Association (USAV) Participant Code of Conduct, Spectator/Parent Code of Conduct and the USAV Substance Abuse Policy under the RMR's jurisdiction, Rocky Mountain Region - USAV (RMR) rules, policies and procedures, and actions that are contrary to the fundamental objectives, integrity and best interests of the USAV or the RMR regarding fairness and rights accorded to any and all individuals, teams or organizations involved, and to determine appropriate disciplinary actions, if necessary.

- II. **Knowledge of All Governing Rules, Policies & Procedures.** Every individual affiliated with a USAV/RMR sanctioned program is required to have knowledge of all policies and procedures in which they are subject to and governed by at all times. It shall be no defense, excuse or bar to any adjudicative proceeding, investigation or hearing that any individual or organization did not have actual knowledge of the rule, policy or procedure in which they are alleged to have violated.

- III. **Process.** Unless special circumstances apply¹, the process shall be as follows:
 1. **INITIAL COMPLAINT:** Upon any receipt or knowledge of an initial complaint from any individual or organization, the Commissioner of the Region will designate one or more individuals to serve as the "investigator" at the Commissioner's sole discretion. The investigator shall commence an initial investigation into the veracity and validity of the initial complaint and facts alleged.
 - a. The initial complaint can be in any form, either written or verbal;
 - b. The initial complaint may be brought by any individual or organization;
 - c. The initial complaint may be brought under condition of anonymity.
 2. **INITIAL INVESTIGATION:** Upon any receipt or knowledge of an initial complaint from any individual or organization, the Commissioner of the Region will designate one or more individuals to serve as the "investigator" at the Commissioner's sole discretion. The investigator shall commence an initial investigation into the veracity and validity of the initial complaint and facts alleged to ensure that frivolous initial complaints or initial complaints made purely to further self-interest do not move forward. The investigator, at his or her sole discretion, may engage in all legal means necessary to properly complete an initial investigation. Further, the investigator may, in his or her sole discretion, grant any witness full anonymity, confidentiality or privilege pursuant to either the separate "Whistleblower Policy" or the "Anonymous Complaining Party or Witness" policy below.
 3. **FORMAL COMPLAINT:** If, at any point during the initial investigation, the investigator, in his or her sole discretion, determines that the initial complaint has merit, the investigator will file a Formal Complaint, to be adjudicated by the Incident Review Committee, against the individual/s and/or organization/s. This procedure is as follows:
 - a. The investigator compiles a written statement, in any form, that includes:
 - i. A reference or citation to the governing rule, law, policy or procedure the aggrieved party is alleged to have violated, if applicable;
 - ii. A statement of all information obtained that the investigator believes supports a meritorious initial complaint and violation, if confidential or privileged;
 - iii. Copies of all information or evidence obtained that the investigator believes supports a meritorious initial complaint and violation, if available and not subject to remaining confidential or privileged.
 - iv. A recommendation that the issue be forwarded to the Incident Review Committee for further investigation or adjudication, if necessary.
 - v. If, at any point after the Formal Complaint is referred to an Independent Review Committee, additional information becomes available to the investigator that he or she intends to present as evidence of the aggrieved party's violation, the investigator shall supplement the initial written statement by forwarding copies of the evidence (if not privileged and confidential), or summarizing the new information obtained (if subject to confidentiality) to the aggrieved party and the Incident Review Committee. All information or evidence turned over to the aggrieved

¹ See: IV. SPECIAL CIRCUMSTANCES

- party by the Region within THREE (3) days prior to the IRC Hearing shall be properly considered as evidence and not subject to exclusion for any reason.
- b. The Formal Complaint and referral to the Incident Review Committee for further investigation and adjudication is forwarded to the Commissioner.
4. **ONCE REFERRED TO THE INCIDENT REVIEW COMMITTEE:** Once referred to an Incident Review Committee ("IRC"), the Region shall then begin the following process:
 - a. The IRC is selected. The IRC shall consist of THREE (3) committee members specifically appointed by the Region's Commissioner to adjudicate these particular set of facts, plus the Region's Commissioner who shall act as the "Chair." The "Chair" shall preside over all IRC adjudication proceedings but shall have no vote in the adjudication process. In the event the Commissioner is unable to preside as the Chair, he or she shall appoint an individual to preside as the Chair, in his or her absolute and sole discretion. Once appointed, IRC members shall refrain from one-on-one discussions with the parties or any witnesses prior to the adjudication, unless directed to do so by the Chair.
 - b. Notice is given to aggrieved parties. Once an IRC is selected, any agent of the Region shall notify the aggrieved individuals or organizations of the Region's intent to proceed with the IRC adjudicating the alleged violation within TEN (10) business days of scheduling the IRC hearing. Included with this Notice shall be a copy of the formal complaint and all associated documentation and the date the IRC is scheduled to adjudicate the issue (collectively: "Notice"). This Notice may be sent to the aggrieved party or organization via e-mail, fax or U.S. postal service.
 - c. An IRC Hearing is scheduled. Unless subject to special circumstances (see Footnote 1), upon receipt of the Notice, the aggrieved party must contact the Region within 48 business hours to schedule an IRC Hearing. If the aggrieved party fails to timely contact the Region, an IRC Hearing may be set at the Region's sole discretion. The IRC Hearing shall be set at least TEN (10) business days from receipt of the aggrieved party's Notice.
 - d. Appointing an Advocate. The Commissioner shall appoint the Region's Advocate ("Advocate") at his or her sole and absolute discretion. Depending on the issues in the case, the Advocate will be responsible for submitting any argument on behalf of the Region or Complaining Party (if not confidential or privileged) to the IRC.
 5. **OBLIGATIONS OF ANY AGGRIEVED PARTY PRIOR TO IRC HEARING:** The following obligations and duties shall apply to any aggrieved party prior to the IRC Hearing:
 - a. The aggrieved party shall submit a position statement to the Commissioner within FIVE (5) business days prior to the IRC Hearing. This position statement must include all of the aggrieved party's defenses to the alleged violations. Failure to provide this statement or to disclose all applicable defenses may result in the aggrieved party's inability to present any or all defenses to the IRC. Exclusion of any defense based on failure to comply with this requirement shall be determined at the sole and absolute discretion of the Chair.
 - b. All evidence the aggrieved party intends to rely upon in defending the allegations must be submitted to the Region within FIVE (5) days prior to the IRC Hearing. Failure to comply and provide any or all evidence pursuant to this requirement may result in the aggrieved party's inability to present that evidence at the Hearing. Exclusion of any evidence based on the failure to comply with this requirement shall be determined at the sole and absolute discretion of the Chair.
 - c. A list of all witnesses, if any, the aggrieved party intends to call for the hearing within THREE (3) days prior to the IRC Hearing. Failure to provide this information or disclose a particular witness may result in the aggrieved party's inability to have that witness testify to the IRC. Exclusion of any witness based on failure to comply with this requirement shall be determined at the sole and absolute discretion of the Chair.
 6. **IRC HEARING:** The following rules or procedures shall apply to the IRC Hearing:
 - a. IRC Hearings shall take place in front of the full IRC.
 - i. If a member's personal attendance is not practical, the IRC may proceed to hearing without that member so long as that member is able to participate via any means of communication by which all IRC members may hear each other during the hearing.
 - b. All IRC hearings are closed to all non-interested or necessary individuals. Any party in which the aggrieved party intends to have attend the Hearing must be submitted in writing to the Region at least 48 business hours prior to the Hearing, including attorneys. Any failure to comply with this provision may result in the exclusion of that individual, at the Chair's sole and absolute discretion.

- c. The IRC shall be entitled to ask any relevant question to any party appearing on behalf of the aggrieved individual or the Advocate. The party is required to give an answer, unless legally exempted, or the IRC may take the party's refusal to answer the question as an adverse inference.
 - d. The aggrieved party shall be allowed to present any relevant argument, defense, or evidence (subject to timely disclosure requirements in III(5)) to the IRC.
 - e. The Advocate shall be allowed to present any relevant argument or evidence (subject to prior disclosure policy requirements) to the IRC.
 - f. After all argument and evidence has been presented, the parties will be dismissed by the Chair.
 - g. The IRC will then make a decision as to whether or not the aggrieved party was guilty of the violation. Any decision by the IRC requires an affirmative vote by a simple majority of the IRC.
5. **IRC DECISION.** The IRC shall announce its decisions and imposed sanctions, in writing, within FIVE (5) business days of the IRC Hearing. The writing shall include the rationale for the decision and a statement of the appeals process. The Chair shall notify the aggrieved party or organization and the advocate within five (5) business days of the date of the decision. All IRC Decisions and sanctions are binding pending appeal.

IV. **Special Circumstances.** Due to the nature of the Initial Complaint (governed by Section III(1) above), it may be determined by the Commissioner, in his or her sole and absolute discretion, that the Initial Complaint requires immediate action. Complaints that present special circumstances and a need for immediate action are not subject to Section III above unless otherwise noted. Initial Complaints that present Special Circumstances are those that allege violations or behavior that threaten immediate harm to another individual or organization, whether physical or economic. In these cases:

- 1. Immediate sanctions, if any, may implemented by the Commissioner at his sole and absolute discretion in an effort to neutralize the potential harm.
- 2. Notify the aggrieved party or organization of the allegations and imposed sanctions, if any, within 48 hours of the Initial Complaint.
- 3. If the aggrieved party so requests, it may seek relief from the sanctions imposed by requesting an IRC Hearing. If this Hearing is requested, it must be held within FIVE (5) business days of the request.
- 4. Upon request, the Region shall select the IRC pursuant to Section III(4)(1) above and then the Commissioner shall appoint the Advocate pursuant to Section III(4)(4) above.
- 5. All evidence in which either the aggrieved party or the Advocate intends to submit to the IRC must be disclosed to the other party within 24 hours of the IRC Hearing. Failure to comply with this requirement may result in the exclusion of the information from the Hearing at the sole and absolute discretion of the Chair.
- 6. **HEARING.** Because the aggrieved party is entitled to a hearing on a short notice, a physical meeting of the IRC may be difficult to obtain. Therefore, all individuals may appear in any manner so long as that individual is able to participate via any means of communication by which all IRC members may hear during the hearing. Requirements or rules listed in Section III(2)-(7) above apply to these Hearings.
- 7. **DECISION.** If the IRC determines the aggrieved party is guilty of the allegations, it may choose to impose different or additional sanctions than those previously imposed by the Commissioner, if any. If the IRC determines the aggrieved party is not guilty of any of the allegations, the sanctions imposed by the Commissioner, if any, will be lifted. Section III(5) above applies to these Special Circumstances. All IRC Decisions and sanctions are binding pending appeal.

V. **Potential Sanctions.** If the IRC determines the aggrieved party is guilty of the alleged violations or behavior, the IRC may impose one or more of the following penalties on any individuals or organizations involved:

- 1. Probation, meaning a warning that any additional violation of ethics or the rules may result in suspension of participation (roles) within the RMR-USAV or suspension of RMR-USAV membership for a designated period of time;
- 2. Fine(s) to be paid before further participation in RMR events;
- 3. Suspension from participation (roles) within the RMR-USAV for a designated period of time.
- 4. Suspension of rights to participate in designated policies of the RMR such as but not limited to the "Members on Hold Policy".
- 5. Suspension of USAV membership for up to 12 months;
- 6. Expulsion from USAV membership for more than 12 months;
- 7. Any other just or appropriate remedy the IRC sees fit.

- VI. **Appeals.** Only the aggrieved party may appeal an IRC Decision. However, the appealing party is limited to only those things presented in the original IRC Hearing and may not submit new evidence or argument that was not made in the original IRC Hearing. The appeals process is as follows:
1. All appeals of IRC decisions must be in writing and delivered to the RMR Commissioner within TWO (2) weeks of the mailing date of the IRC decision;
 2. This Notice of Appeal must contain, in writing, all of the information the party feels the Appeals Committee should consider in determining whether the IRC properly followed the Incident Review Policy in reaching its decision and if the determination made by the IRC was supported by the weight of the evidence presented;
 3. The Commissioner shall acknowledge the appeal in writing to the parties and inform the Board of Directors of the appeal within FIVE (5) business days of receipt of the appeal;
 4. The other party (either the aggrieved party or the Advocate) shall be informed of the appeal, given a copy of the written appeal, and afforded FIVE (5) business days to provide a Response, in writing, to the Appeals Committee;
 5. The Referee Chair (for matters involving an Adult player or team) or the Jr. Referee Chair (for matters involving a Jr. player or team) shall preside over appeals proceedings as the Appeals Chair and shall appoint an Appeals Committee to adjudicate the appeal;
 6. The Appeals Committee will consist of two other members from the Board of Directors who did not serve on the IRC, plus the Appeals Chair;
 7. The Appeals Chair shall notify the parties of the Appeals Committee's decision by USPS Certified Mail, return receipt requested, with copies to members of the IRC and the Board by regular mail or email, within FIVE (5) business days of the decision.
 8. If it is determined by the IRC that due process was not served to the accused or complainant, the RMR reserves the right to start the due process procedure again.

VII. **Additional Considerations.**

1. Any failure on the Region, the Investigator or the Advocate to strictly follow the policies set forth herein shall only be a defense if the aggrieved party can show that they reasonably suffered some form of prejudice. If no prejudice has been suffered or can be shown, the Region, Investigator or Advocate reserves the absolute right to rectify any oversight or excusable neglect. If the issue is so rectified, the aggrieved party is barred from raising the issue as a complete defense to the action.
2. It shall be presume that any outcome of any non-related violation, sanctions or IRC Hearing is not binding on the Region based on the specific facts and fact intensive considerations given to each action. Therefore, it is no defense to assert any other violations of any other individuals or organizations.
3. **ANONYMOUS COMPLAINING PARTY OR WITNESSES:** Due to the recognition that the volleyball community is small and tightknit, that the Region has a vested interest in protecting the integrity of the individuals, organizations, policies, procedures and rules that all operate under its purview, and that without people willing to discuss ongoing violations, the Region would never be able to police the inappropriate, unlawful or harmful behavior. Therefore, in order to protect the integrity of the above, it may be required that an individual remain totally anonymous when discussing alleged violations. As such, the Region, Investigator or Advocate may rightfully grant a witness total anonymity at their sole and absolute discretion. If such an act is required, the anonymous individual's statements or testimony to the investigator and/or advocate may be disclosed to the aggrieved party in the form of a summary, authored by the investigator or advocate, devoid of all identifying information. If any documentation is provided by said witness, all identifying information will be redacted. If the authenticity of the documents or statements is called into question by the aggrieved party, the IRC reserves the right to question the witness or review the full document on an in-camera basis, without the aggrieved party present. There shall be absolutely no right of the aggrieved party to obtain the individual's information, and no requirement on the Region to disclose such.

RMR Board of Directors Revised and Approved on 8/21/16.