

ARTICLE VIII – RESOLUTION OF DISPUTES AND SUSPENSIONS

Section 8.1 Dispute Resolution

(a) **General.** All claims, demands, discipline or disputes (“Disputes”) arising by and between Parties, as defined in Section 8.2, below, shall be subject to the provisions of this Article VIII and shall constitute the sole and exclusive remedy for dispute resolution. As provide in Section 8.7 hereof, this Article VIII is meant to be read and construed with USA Hockey Bylaw 10, and in the event of an omission or ambiguity in this Article, the provisions of USA Hockey Bylaw 10 shall be consulted to provide appropriate guidance therefor. 38

(b) **Purpose.** It is the specific purpose of this Article VIII to provide a uniform method of resolving Disputes that is a full and complete substitute for any court proceedings and that utilizes the specific skills, expertise and background of individuals experienced in the sport of hockey and sports administration.

(c) **Failure to Follow Procedure.** All Parties agree to abide by this dispute resolution procedure. Failure to abide by this dispute resolution procedure shall, in addition to any other sanctions allowed by this Article VIII:

(i) Make a Party and any person or entity representing, participating with or aiding such Party liable for any and all costs and expenses, direct or indirect, including reasonable court costs and attorneys’ fees and the value of volunteer time incurred by USA Hockey, NYS Hockey and its Member Associations, directors, officers and/or agents; and

(ii) Subject such Party to Summary Suspension and/or disqualification from membership and any right to participate in USA Hockey or its Affiliate Associations’ sanctioned events in the sole discretion of USA Hockey, NYS Hockey and its Member Associations.

(d) **Forms.** Appended to this Annual Guide are the following forms that may be used in compliance with the requirements of this Article VIII and the Unified Procedure described below. The forms are:

- Form 1 - Notice of Hearing for Suspension/Discipline: a letter to a Party advising that a hearing will be conducted to determine if suspension or discipline should be imposed.

- Form 2 - Notice of Hearing to Contest Administrative Action: a letter to a Party advising that a hearing will be conducted to contest an Administrative Action that was made.

- Form 3 - Notice of Summary Suspension: a letter to a Party advising of suspension and the right to a hearing.

- Form 4 - Hearing Panel Decision of Suspension/Discipline: a format for composing the decision of a Disciplinary Authority Panel regarding Suspension or Discipline.

- Form 5 - Hearing Panel Decision of Administrative Action: a format for composing the decision of a Disciplinary Authority Panel regarding an Administrative Action contest.

- Form 6 - Appeal Authority Decision: a format for composing the decision of an Appeal Authority Panel.

Section 8.2 Definitions.

For the purposes of this Article VIII, the words, terms and phrases used in this Article VIII shall have the following definitions:

“Administrative Action” shall mean any action or decision by a Disciplinary Authority (other than “Discipline”) that affects any Party’s eligibility to participate in “Domestic Competition” and/or their membership in any organization within the jurisdiction of these By-Laws. 39

“Appeal Authority” shall mean USA Hockey, NYS Hockey, and if applicable any league, having jurisdiction to decide any applicable appeal according to “Applicable Rules.”

“Applicable Rules” means the articles, bylaws, rules and regulations, playing rules, core values, and decisions of the Boards of Directors of, USA Hockey, NYS Hockey and the applicable Section.

“Disciplinary Authority” shall mean an Association (as defined at Section 3.1), a league or a program, or a component part thereof, a Section and/or NYS Hockey, having jurisdiction to issue Discipline to any Party within the jurisdiction of NYS Hockey.

“Discipline” shall mean a suspension, Probation, censure or other discipline of a Party.

“Domestic Competition” shall mean any ice hockey event, including, but not limited to, games, tryouts, competitions and the like, other than an international competition, organized and conducted by USA Hockey or NYS Hockey in the New York District.

“New York District” shall mean the New York District of USA Hockey.

“Party” shall mean: (i) an Association (as defined at Section 3.1), Affiliate, league, club, sponsor, facility, program, entity or other group or organization, or a component part or a component person thereof; (ii) a person who is a Registered Participant Member of USA Hockey (as defined in USA Hockey Bylaw 1.A), or a person or organization that is an Allied Member (as defined in USA Hockey Bylaw 1.A and 6.C); and (iii) other members within the jurisdiction of NYS Hockey, including but not limited to, players and their parents and/or guardians, managers, coaches, agents or other persons engaged in any manner in or with Domestic Competition or participating in a USA Hockey sanctioned event of any kind in the New York District.

“Playing Rules” shall mean playing rules of the game adopted from time to time by: (i) USA Hockey and published as USA Hockey Playing Rules; and (ii) NYS Hockey and published as Playing Rules – Modifications to USA Hockey Official Playing Rules.

“Playing Rules Suspension” shall mean suspensions expressly permitted or mandated by the Playing Rules.

“Probation” shall mean that, for a defined period of time, if a new infraction against the person or organization is determined to have occurred, then the earlier infraction that gave rise to the probation will be also considered with the current infraction in deciding an appropriate penalty. Often, this means that the penalty will be increased from what it would have been had probation not been imposed. Probation may be imposed by the Disciplinary Authority initially hearing the Dispute, or by the Appeal Authority (as defined in this Article VIII) hearing an appeal hereunder.

Section 8.3 Unified Procedure

(a) **General.** Except as may be permitted in Section 8.4 below, no Party may be suspended from participation or otherwise disciplined for any alleged violation of the Rules and Regulations, Policies, Codes of Conduct and Ethics, of USA Hockey, NYS Hockey or a Disciplinary Authority in the New York District, unless a hearing has been held prior to the Discipline being taken according to the provisions of this Unified Procedure. A Party or other person within the jurisdiction of NYS Hockey may be subject to Discipline in accordance with this Unified Procedure for violation of the Applicable Rules or for conduct unsuitable for the sport of ice hockey. With respect to Administrative Actions, a Party is entitled to contest an Administrative Action that has been made with respect to that Party. Where a writing is required, such may be made by email.

(b) **Purpose.** It is the purpose of this Unified Procedure to provide Parties a fair hearing: (i) prior to being subject to Discipline, which shall include reasonable notice of the grounds for the proposed Discipline; and (ii) to contest an Administrative Action that has been made. The hearing shall include reasonable opportunity to prepare and present their case and argument in accordance with these rules, including the opportunity to call witnesses and present evidence, the opportunity to see all evidence intended to be used at the hearing, to have witnesses questioned pursuant to the rules adopted by the hearing panel, and to be assisted by counsel at the hearing.

(c) Hearing Procedure

(i) **Hearing Panel.** The Disciplinary Authority considering issuing any Discipline, or upon demand by a Party contesting a suspension or other disciplinary action where no hearing was held, or desires to contest an Administrative Action, shall appoint a hearing panel of a minimum of three reasonably disinterested and impartial persons to conduct the hearing. In cases involving the discipline of referees or coaches, the New York District Referee-in-Chief or Coach-in-Chief, as appropriate, or his/her designee, shall serve on the hearing panel if so appointed.

(ii) **Hearing Timing.** The hearing panel shall hold the hearing no later than thirty (30) days after its appointment unless a later date is agreed upon by the Parties and approved by the hearing panel.

(iii) **Hearing Notice.** Not later than seven (7) days before the hearing date, the hearing panel shall provide written notice to all interested Parties of the time and place of the hearing, the manner in which the hearing will be conducted, the grounds for any proposed suspension or discipline, or to contest an Administrative Action, the possible consequences of an adverse finding, and the issues to be resolved by the panel; provided, however, that only the Party subject to the hearing may waive such seven (7) days' notice but such waiver must be in writing. 41

(iv) **Hearing Location.** Subject to the provisions of the following subsection (v), the hearing panel shall make every reasonable effort to convene the hearing in a location accessible to all the Parties.

(v) **Conduct of Hearing.** The hearing panel may in its discretion hold a formal or informal hearing, in person or by telephonic conference call or video conference, hear any evidence it believes is relevant to the issue(s) before it, place limits on time, evidence and documentation, have witnesses or written statements and establish other hearing rules so long as the Parties are informed of the established procedures, each Party has a reasonable opportunity to present its case and argument in

accordance with the hearing panel's rules, and each Party is treated in a substantially equal manner. The Rules of Evidence in judicial proceedings shall not apply in the hearing. The Parties may be represented by counsel of their choosing at their own expense, provided that the hearing panel may set rules for the involvement of counsel in the hearing. If the hearing panel has not made arrangements for a record of the proceedings, a Party may at its own expense create a stenographic or other record of the proceedings (but excluding a record by video) and must inform the hearing panel prior to the hearing of any arrangements so made. A copy of any such record created by or for a Party shall be provided at such Party's cost to the hearing panel. Other Parties will be permitted to secure a copy of the record in the normal course at their own expense.

(vi) Burden of Proof

(A) Suspension and Discipline. In order to impose a suspension or discipline, the hearing panel must make a finding supported by a preponderance of the evidence (i.e., more likely true than not true) that the Party violated an Applicable Rule. The Disciplinary Authority proposing the Discipline shall have the burden of proof and shall present evidence to support the suspension or discipline by a preponderance of the evidence.

(B) Administrative Action. When an Administrative Action is contested, the burden of proof shall be on the Party challenging the Administrative Action to prove by a preponderance of the evidence that the Administrative Action was made in an arbitrary or capricious manner or was not supported by the facts. In a contest of an Administrative Action, only the evidence presented to or considered by the Party taking the Administrative Action shall be presented and considered by the hearing panel.

(vii) Decision. The hearing panel shall use reasonable efforts to: **(A)** render its decision within five (5) business days of the completion of the hearing or the closing of the record, whichever is later; and **(B)** prepare and deliver a written decision to the Parties within fifteen (15) business days of the completion of the hearing or the close of the record, whichever is later. The written decision shall contain findings of material facts, conclusions, the determination of the hearing panel and a statement of any right of appeal a Party may have as a result of the decision. Delivery of the decision to the Parties may be made by First Class United States Mail or other delivery service or electronic mail in the discretion of the hearing panel, as permitted in Section 10.7.

(viii) Scope of Hearing Panel Decision. The decision of the hearing panel shall be: **(A)** in effect only for the program governed by the Disciplinary Authority; and **(B)** subject to appeal as set out in Section 8.5. If the Disciplinary Authority wishes to extend any suspension or discipline it imposed beyond its program, it must notify NYS Hockey through its Section President. If the suspension or discipline is imposed by NYS Hockey, or if a local Disciplinary Authority's decision is affirmed by NYS Hockey, and either wishes to extend the scope of the hearing panel's decision beyond the New York District, it may only do so by NYS Hockey submitting a written request therefor with a copy of the written Disciplinary Authority's and/or Appeal Authority's decision to the Executive Director of USA Hockey, who will advise all other Affiliate Associations of the suspension or Discipline, and upon such notice the suspension or Discipline will be in effect for all Affiliate Associations as provided by USA Hockey Bylaw 10.C(3)(h).

Section 8.4. Exclusions from Unified Procedure

(a) **General.** As a matter of policy, law and practicality, there are matters that at least initially do not or should not be subject to the Unified Procedure. Any matter not specifically excluded from the Unified Procedure shall be covered by the Unified Procedure.

(b) **Purpose.** It is the purpose of this Section 8.4 to distinguish those disputes and actions that do not require a hearing prior to imposing a suspension or discipline, or that require different procedural handling and safeguards, and to set them out separately in order to highlight any uniqueness such disputes and actions may possess.

(c) **Exclusions**

(i) **Summary Suspensions.** A Summary Suspension may be imposed by any Disciplinary Authority only in those cases where a Party: **(A)** has been arrested for a crime alleged to have been committed; **(B)** a Party has assaulted another or violated the USA Hockey SafeSport Policy, including such abuse between adults; or **(C)** other violations of Policies set forth in the annual guides or comparable policies of USA Hockey or NYS Hockey that are in writing and have been approved by USA Hockey or NYS Hockey, respectively.

Any such Summary Suspension must be in writing and given to the suspended Party, and the writing shall inform the Party of his or her right to request a hearing. The suspended Party must submit a request for a hearing of a Summary Suspension within seven (7) days of the Party being notified of the suspension. Any hearing following a Summary Suspension shall be conducted according to the provisions of the Unified Procedure.

(ii) **Playing Rules Suspensions.** Any Playing Rules Suspension does not require a hearing except that, in the event of the imposition of a match penalty as defined in the Playing Rules, a hearing must be offered to be held as set forth in the Playing Rules, and the terms and length of the Party's suspension shall be as set forth in the Playing Rules unless modified or revoked by the hearing panel. Any hearing for a match penalty shall be conducted according to the Unified Procedure; provided that, in the case of a match penalty being imposed in a district or national championship tournament held in the New York District, the hearing will be conducted immediately after the game in question by the on-site USA Hockey personnel. All applicable game scoresheets and referee reports must be presented to the hearing panel and made available to the Party subject to suspension. Any Playing Rule Suspension shall remain in force and effect and be final unless modified or revoked at a hearing, except that if the hearing is not held within 30 days of the incident together with a decision in accordance with the Unified Procedure, the suspended Party shall be automatically reinstated after the 30- day period. The failure to offer the hearing shall not prohibit the hearing body from conducting the hearing after the 30-day period and thereafter imposing further disciplinary action.

(iii) **Officiating Suspensions.** An official's organization or league or local supervisor of officials shall have the authority to suspend a referee up to ten (10) days without a prior hearing. An official's Association or NYS Hockey shall have the authority to suspend a referee after a hearing (held in accordance with the Unified Procedure) or in accordance with the Summary Suspension procedures.

Any official(s) who boycotts any game(s) due to any disciplinary action taken or not taken by a Disciplinary Authority shall subject said official(s) to Discipline in accordance with the Unified Procedure conducted by the responsible Disciplinary Authority.

USA Hockey does not recognize officials' organizations. However, if any registered USA Hockey official is restricted or denied assignment eligibility for any USA Hockey game by an officials' organization (including any group of officials), except for good cause shown in accordance with such organization's written rules and then only for a very limited duration without a hearing as provided herein, then said such organization shall be subject to suspension or expulsion in accordance with the rules and regulations herein and that restriction or denied assignment shall have no effect.

A USA Hockey registered official who receives a match penalty while playing or coaching, shall also be suspended from officiating subject to a process for review as set forth below. The official (a) shall not officiate any games pending the review, (b) shall be required to immediately notify the New York District Referee-in-Chief of the player's receipt of the match penalty, and (c) shall advise any assignors/schedulers of officials in order to be replaced in any scheduled games in the immediate future. The Referee-in-Chief shall immediately investigate the incident (including by review of the score sheet, game report and interview of the officials assessing the match penalty) and make a determination and supply a written determination as to whether the match penalty shall cause the official to be suspended from officiating while the match penalty is in effect. The Referee-in-Chief's determination shall be provided to the official in question, the President of NYS Hockey, the appropriate Section President, and the applicable assignors/schedulers. The Referee-in-Chief may make a determination (1) that the official shall be ineligible to officiate pending the match penalty hearing (or expiration of 30 days period for the hearing), (2) that the official shall be eligible to officiate pending the match penalty hearing, or (3) such possible restrictions as may be appropriate for the official's eligibility (e.g., the official is restricted from certain leagues or categories of games, etc.). The decision of the Referee-in-Chief shall not be binding on the hearing panel reviewing the match penalty or any appeal therefrom. Game assignors and schedulers shall appropriately schedule replacement officials for any previously scheduled games for which the suspended official is ineligible.

(iv) Assault on Game Official. Assaults on Game Officials are violations of the Playing Rules and as such are subject to the provisions for Playing Rules Suspensions. In the event of a match penalty for assault on a game official, the offending Party shall be immediately suspended from all of NYS Hockey and USA Hockey sanctioned activity, and if such penalty is affirmed after a hearing, the offending Party shall be suspended for not less than one calendar year with one year calendar year Probation thereafter. In the cases of match penalties for assault on a game official, NYS Hockey or its designated hearing body, shall exercise original jurisdiction in such matter. Suspensions for assault on a game official shall be immediately reported to the President of NYS Hockey, the appropriate Section President, and the USA Hockey Registrar for the New York District. Any game official assessing said penalty shall file with the USA Hockey Referee-in-Chief for the New York District a written game report within forty-eight (48) hours of the incident. The Referee-in-Chief shall immediately investigate the incident and promptly submit a written opinion, together with the game sheets and reports to the President of NYS Hockey, the appropriate Section President, and the applicable Disciplinary Authority (typically, the Association and/or applicable league), indicating whether the incident is applicable under Rule 601(f)1 or is more applicable under a different playing rule. A copy of the Referee-in-Chief's written report and opinion shall be sent by the Disciplinary Authority to the player, team official and the game official involved. The Registrar may accept a registration subject to the terms of this suspension.

(v) High School, College Club Hockey or Other Members. A high school program or college club hockey program that is a 45 member of USA Hockey and NYS Hockey but where membership and

eligibility issues are determined pursuant to rules, regulations and dispute resolution procedures of a national, state or district interscholastic athletic organization, shall not be subject to the Unified Procedure to the extent that such organization's rules, regulations and dispute resolution procedures also address the matter.

(vi) **Unified Procedures Not Applicable to Personal Injury Claims.** Disputes concerning liability or damages arising from personal injury claims are not subject to the Unified Procedure.

(vii) **Procedures Applicable to Financial Disputes and Participant Ineligibility.**

(A) **Decisions Internal to Programs.** An Association, a local league or program, and other local organizations in the New York District (collectively, for purposes of this sub-section (vii), a "Program") may, pursuant to its internal procedures, determine that a player that is delinquent in dues or fees owed to the Program is not eligible to continue participating in the Program during such delinquency. Such determination shall only apply to eligibility within that Program.

(B) **Disputed Claims and Extension of Ineligibility Determination to Other Programs.** In the event a Program desires to cause a player to be declared ineligible to participate throughout the New York District based on a determination that the player is delinquent in dues or fees owed to the Program, such extension of the suspension or ineligibility must comply with the following procedures (for purposes of this sub-section (vii), references to a "player" who is a minor-aged player, shall also apply to that player's parent(s) or other person(s) responsible for payment):

1. **Notice Required.** The Program must deliver a written notice to the player that, at a minimum: (i) describes the nature of the delinquent fees (e.g., membership dues, ice fees, equipment/uniform fees, etc.), (ii) states the amount due, (iii) advises that the player must notify the Program in writing within thirty (30) days if he/she disputes the financial obligation, and (iv) advises that, if the full amount is not paid within thirty (30) days of the player's receipt of the notice, the Program may in its discretion seek to enforce the liability for the financial obligation and have the player deemed "ineligible" throughout the New York District.

2. **Discussion Period.** During the thirty (30) day period, the parties may discuss the matter and seek to amicably resolve any disputed amounts and provisions for payment. The parties are encouraged to amicably resolve any disputed debts, and if at any time the Program and player enter into a written agreement to resolve the debt and also making provisions for payment, then the player shall become immediately eligible to participate in all New York District and USA Hockey programs.

3. **Financial Obligation Not Disputed.** Upon expiration of the thirty (30) day period described above, if (i) the parties have not otherwise resolved the matter, (ii) the amount claimed in the Program's notice has not been paid, and (iii) the Program has not received written notice from the player disputing the financial obligation, then the Program may request that NYS Hockey deem the player to be ineligible to participate in any Program within the New York District (which request shall include proof of compliance with ¶¶ 1-3 of this sub-section). In

this circumstance, NYS Hockey may extend the ineligibility of the player throughout the New York District in accordance with the procedures contained in this Article VIII.

4. Financial Obligation Disputed. If the amount of the financial obligation has not been paid or otherwise resolved, and the Program has received written notice from the player that it disputes the financial obligation, then the Program may seek extension of the player's ineligibility throughout the New York District in accordance with the procedures set forth in this Article VIII, provided that the Program shall take reasonable affirmative steps to enforce the obligation. NYS Hockey, in its discretion, may deny the Program's request. Any determination by NYS Hockey that the player is ineligible throughout the New York District shall not be a determination that the debt is owed or the amount of such debt, but only that the player is ineligible based on the existence of a disputed debt.

5. Appeals. Any dispute about whether these procedures have been followed shall be decided by a hearing conducted by NYS Hockey pursuant to this Article VIII, and shall be appealable to the Executive Committee of USA Hockey pursuant to USA Hockey Bylaw 10.E. The hearing and appeal shall only address whether the procedures set forth in this sub-section (vii) have been followed, and shall in no way address the liability for or amount of the financial obligations.

Section 8.5 Appeals

(a) **Right to Appeal.** Any Party that is suspended, otherwise disciplined or subject to an Administrative Action may, after a hearing or failure to have a hearing in accordance with the Unified Procedure, appeal such action as follows:

(i) **Suspensions.** Playing Rule Suspensions or suspensions for violations of bylaws and/or rules of an Association and/or applicable league, may be appealed, as applicable, to the next higher authority, that being to the responsible Section President and then to the Board. Upon the written appeal of any Party whose suspension has been upheld by the Board, the Executive Committee of USA Hockey shall allow an appeal of such suspension to be determined by it pursuant to the provisions of USA Hockey Bylaw 10, provided that the appealing party shall have the burden of production and of proving that the Board committed a gross abuse of discretion.

(ii) **Appeals Not Involving Suspensions.** Appeals of Administrative Actions or other disciplinary action which do not involve 47 suspension shall be appealed to the responsible Section President and then to the Board. Pursuant to USA Hockey Bylaw 10, there shall be no further appeals of Administrative Actions or other disciplinary actions not involving a suspension from the decision of the responsible Section President or the Board.

(iii) **Officials.** Officials may appeal a suspension, other disciplinary action or an adverse Administrative Action if by an officials association, by the USA Hockey Referee in Chief for the New York District or by a local supervisor of officials in the New York District, to the Board. Pursuant to USA Hockey Bylaw 10, if the official has been disciplined by the Board, or if the Board has affirmed the discipline previously imposed, the official may appeal the discipline to a USA Hockey committee consisting of the National Referee in Chief, a District Director from NYS

Hockey and a third impartial individual selected by those two, and there shall be no further appeal of any decision by the said committee and the Discipline shall be final.

(b) **Appeal Procedure.** The appeal procedure for all appeals as described in Section 8.5 above shall be as follows:

(i) **Statement of Appeal.** The appealing Party must submit a Statement of Appeal in writing to the responsible Section President or to the Board (the "Appeal Authority"), with a copy to the Disciplinary Authority and the hearing panel, of the decision appealed from within fourteen (14) days of receipt of the decision appealed or of the date of the failure to hold a hearing, whichever is applicable. The Statement of Appeal shall include a statement of why the Discipline should be overturned or reversed, and should attach the record of the hearing panel, if any, and a copy of the decision. The Disciplinary Authority and any responding Party shall have fourteen (14) days from the receipt of the Statement of Appeal to file a reply and any reply must be served upon the Appeal Authority and the appealing Party. The Statement of Appeal and reply should be a complete and comprehensive document and include all materials the Party wishes to be considered. Letters and other documents not submitted by the Party him/herself as part of the Statement of Appeal need not be considered by the Appeal Authority. If a Statement of Appeal is not received by the appropriate Appeal Authority within the fourteen (14) day period, the discipline shall be final. The failure to respond by any Party will exclude that Party from further participation in the appeal proceedings.

The Statement of Appeal and any reply shall be no longer than ten (10) typed double spaced pages with a font size no smaller than twelve (12) point. Exhibits to support the Statement of Appeal and/or reply may also be attached, including any relevant governing documents the Party is relying upon to support its argument. Exhibits shall not be included in the ten (10) page limitation.

(ii) **Conduct of Appeal Hearing.** The Appeal Authority may in its discretion hold a hearing or consider the appeal on the written 48 submissions of the Parties and establish other hearing rules so long as each Party is treated substantially equal. Notice of a hearing, if any, shall be given to all Parties, and any hearing may, in the discretion of the Appeal Authority, be held in person, telephonically, or by video conference. Only the evidence and theories presented to the Disciplinary Authority or party taking the Administrative Action prior to rendering its decision shall be presented or considered on appeal.

(iii) **Appeal Decision.** The Appeal Authority shall make every reasonable effort to issue a written decision that shall include a statement with a finding of the facts that were proven at the hearing and the conclusions of the Appeal Authority within fourteen (14) days of the hearing. The Appeal Authority may affirm, reverse or modify (including increase or decrease the term of a suspension) any decision in its sole discretion and as it deems proper under the circumstances.

(iv) **Suspension or Discipline Remains in Effect.** Any suspension, discipline or Administrative Action appealed from shall remain in force and effect until it expires, is reversed or is modified by the Appeal Authority.

Section 8.6 **NYS Hockey Suspensions and Expulsions**

(a) **Violation of Bylaws or Applicable Rules.** Violation of these Bylaws or the Applicable Rules, or conduct unsuitable for the sport of ice hockey, by any Party, may subject such Party to suspension or expulsion from NYS Hockey and thus USA Hockey by the Board:

(i) Upon notice of such violation(s), the Board may appoint a special committee to investigate such matters and report to it with recommendations addressing the violations. If the recommendation is suspension or expulsion of the offending party, the Board shall hold a hearing pursuant to this Article VIII to allow the offending Party to present such evidence as it, he or she deems pertinent to the issues before the Board.

(ii) Following the hearing, in closed session, the Board may take action to suspend or expel the offending party from NYS Hockey and/or USA Hockey.

Section 8.7 **Bylaws and Rules of USA Hockey.** The rules and practices set forth in the preceding Sections of this Article VIII:

(a) Are based upon rules and practices adopted by USA Hockey; and

(b) Shall be deemed to have been updated or modified to maintain consistency with the Bylaws, rules and practices of USA Hockey. In the event of a conflict between the rules and practices set forth in the preceding sections of this Article VIII, and the bylaws, rules and practices of USA Hockey, if such conflict affects the substantive rights of a party, the rules and practices of USA Hockey shall control.

Section 8.8 **Recourse to Courts, Rules.** If recourse is had to the courts of any jurisdiction on any matter and for any reason without adhering to this Article VIII, and without altering the prohibition against that recourse stated in this Article VIII, except with respect to USA Hockey (whose own Bylaws shall there apply) the following principles shall apply:

(a) **Laws of New York Apply.** The laws of the State of New York (except for any conflict of laws provision that may invoke another state's law) shall govern.

(b) **Deference to Governing Body Expertise.** The constructions, interpretations, rulings, procedures, decisions and opinions of NYS Hockey, its directors, officers and other duly authorized personnel, shall be deferred to as being the product of its experience and judgmental expertise in ice hockey and in the administration of ice hockey. In the event of a conflict in constructions, interpretations, rulings, decisions and opinions between NYS Hockey and its Associations, leagues, programs, players, managers and coaches, they shall be given precedence in the following order: USA Hockey, NYS Hockey, and then Associations, with USA Hockey being considered the highest authority and NYS Hockey the next highest authority.

(c) **Other Reasonable Inferences Not Controlling.** The fact that another reasonable inference or interpretation could be made will not be grounds for overruling or modifying a decision of NYS Hockey (including its duly authorized personnel).

(d) Limitation on Evidence and Theories to Original Hearing. Only the evidence and theories explicitly presented to the original hearing committee for its consideration prior to the rendering of the initial decision by that authority shall be presented or considered in court.

(e) Burden of Proof. The burden of proof shall be on the party attempting to have any decision or action of USA Hockey or NYS Hockey or its Members (including its duly authorized personnel) reversed, modified or changed in any way, and that burden shall be the equivalent of the highest degree of proof required in any civil proceeding.

(f) Governing Bodies/Volunteer Costs. Given the fact that NYS Hockey and many of its Members are not-for-profit organizations administered by volunteer effort, each party that is not successful in overturning in its entirety a proceeding, ruling or other decision of USA Hockey or NYS Hockey or its Members, shall pay for any and all fees, expenses and other costs incurred thereby with respect to that matter including, but not limited to reasonable attorney's fees, court, court reporter, transcript, document and exhibit costs; fees and expenses of consultants, experts, investigators and witnesses, and in obtaining and producing materials or evidence, transportation and other per diem and incidental expenses of each of the foregoing and of all volunteers; and, the value of each volunteer's time, 50 both in and out of court, as measured by that individual's customary work position.