

Due Process Rights

Every individual or team (participant) who participates in volleyball events that fall under the jurisdiction of the Northern California Volleyball Association (NCVA) is entitled to due process whenever NCVA proposes, as part of the penalty levied against the participant, to expel, suspend, or place the participant on probation, a violation of which could result in suspension or expulsion. For matters that are exclusively within the jurisdiction of the NCVA, the following Due Process Procedures shall apply.

NCVA Due Process Procedure

1. Notice of specific charges, or alleged violations, will be made in writing to the participant, along with an explanation of the potential consequences if the charges are found to be true. This notice will be delivered by certified mail or personal delivery. If necessary, to be practical and/or timely, initial notice may be verbal. All verbal communications will be followed by written notice via certified mail or personal delivery. In addition to the specific charges, the notice will include in the following:
 - a. Summary of the charges or alleged violations.
 - b. A statement that the participant has a right to respond in writing with delivery to the NCVA Office within twenty days from the date the written notice was received.
 - c. A statement that the participant has a right to request a hearing before the NCVA Review Committee by delivering a written request for a hearing to the NCVA office, within twenty days from the date the written notice is received.
 - d. An explanation of any potential consequences if the charges are found to be true. If probation is a potential consequence, the notice shall describe the terms of probation.
 - e. An explanation of any immediate actions taken, which in the sole discretion of the NCVA office are necessary to protect the safety of other participants, until the matter can be finally resolved through due process procedures.
2. If the participant does not request a hearing within the time provided above:
 - a. The NCVA Office shall evaluate all of the information and reach a decision as to the appropriate disciplinary action, or non-action, in keeping with the established codes and policies of the NCVA.
 - b. The NCVA Office will notify all involved parties of its decision, and there will be no further right to an appeal.
 - c. Where it deems necessary to protect the safety of other participants, NCVA retains the right to publish notice of the decision in its newsletter or other materials delivered to members or available on its website. (Comment: I would consider when and if public publication is necessary. There are potential tort implications if something is published that later turns out to be false.)

3. If the participant requests a hearing in a timely manner, the hearing will be administered within 30 days by a disinterested and impartial Review Committee, which will be established by NCVA. NCVA may establish a standing committee to serve as a Review Committee, or it may form an ad hoc Review Committee to consider the particular matter. The Review Committee will be an independent review committee and will not report to the Board of Directors (BOD) of the NCVA. The Chairperson of the BOD shall select the members of the Review Committee and may replace members of the Review Committee if a conflict of interest or bias exists, or if a Review Committee member is unavailable. The Review Committee will consist of either three or five individuals, and a minority of the Review Committee members may be members of the NCVA BOD, provided that such members do not have a conflict of interest or bias for or against the participant in question. One member of the Review Committee will be designated by the BOD Chair as the Chair of the Review Committee. A Review Committee member is considered to have a conflict if any of the following exists:
 - a. The Review Committee member has a direct pecuniary interest in the outcome of the matter.
 - b. The Review Committee member has been the target of personal abuse or criticism from the participant in question.
 - c. The Review Committee member is enmeshed in other matters involving the participant.
 - d. The Review Committee member may have prejudged the matter because of prior participation as an accuser, investigator, fact finder, or initial decision-maker in the matter.
4. The BOD Chairperson may elect to hold the hearing in person or by conference call to accommodate the need for timely action. The participant must consent to any hearing to be held by conference call. Both NCVA and the participant may have legal counsel and bring any reasonable number of witnesses. The hearing will not be open to the public.
5. The hearing or conference call will have four parts:
 - a. The participant in question has the right to ask questions of the Review Committee members and challenge their bias or ability to be impartial. The Chair of the Review Committee will then consider these challenges and make a determination. If the Chair is being challenged, other members of the Review Committee will make the decision about the bias or impartiality of the Chair. If the Review Committee dismisses a member for bias or conflict of interest and if the Committee is left with fewer than three (3) members, the hearing will end and a new Review Committee will be appointed by the BOD chair.
 - b. Presentation of the accusation and all evidence in support of the accusation.
 - c. Opportunity by the participant to confront and cross-examine the accusers and to examine and refute all evidence.
 - d. Opportunity to present a defense.
6. The Review Committee will have the opportunity to ask questions of all parties presenting evidence. Either the Participant or the BOD, at either's own expense, may arrange for a transcript of the hearing to be taken and provided to the NCVA BOD and

the participant. Following the hearing, after the participant and its counsel have left, the Review Committee will meet in private to make a decision. A written decision, with reasons therein and based solely on the evidence of record, will be rendered no later than fifteen (15) days after the hearing and will be forwarded by certified mail or personal delivery to all parties. The decision will be made based on evidence or proof that the person who brings the charge is correct, and this proof is greater than the arguments that he or she is wrong.

7. Written communication of the Review Committee's decision will contain the following:
 - a. Decision(s) and reasons for the decision(s) of the Review Committee.
 - b. Notice of any severe sanctions and other sanctions, explaining the terms and reasons for the sanctions.
 - c. Outline of the further appeals process.
8. Upon receipt of the Review Committee's decision, any of the participants may file an appeal of the decision in writing with the NCVA Office within seven (7) days of receipt of the decision. All participant appeals to the NCVA Board of Directors must be accompanied by a \$100.00 filing fee payable to the NCVA. If no timely appeal is filed, the decision of the Review Committee shall be final, and NCVA may publish notice of the decision in its newsletter or other materials delivered to members or available on its website.
9. A final appeal will then be conducted before the NCVA Board of Directors at the date, time, and location of the next regularly scheduled meeting and, in no event, more than sixty days after the mailing of the Review Committee decision. The participant and counsel shall have the right, but shall not be required to, to attend the portion of the meeting at which the hearing will be conducted whether or not the involved parties are present. Each party has the right to be assisted in the presentation of its case at the hearing, including the aid of legal counsel, at the party's expense. Each party has the right to present reasonable verbal and written evidence, including witnesses. Each party has the right to have a record made of the hearing at the party's expense.
10. The NCVA Board of Directors may reverse, affirm, or modify the decision of the Review Committee. The NCVA Board of Directors then present at such meeting, by a vote of the majority directors present, will render a decision within seven (7) days of such meeting. A written decision will be forwarded by certified mail or personal delivery to all parties.
11. Copies of all communications and findings will be forwarded to the appropriate offices of USA Volleyball and Junior Olympic Volleyball. The Board's decision shall be final and binding and shall not be further appealed within the NCVA. The participant shall be entitled to exercise any legal rights that he, she, or it may have.
12. NCVA retains the right to publish the final decision of the BOD in its newsletter or other materials delivered to members or available on its website if necessary to preserve the safety of its participants or other individuals.