

SCHEDULE D: DISCIPLINARY PROCEDURE

(Regulation pursuant to clause 36 of the Constitution)

1. MANDATE OF THE DISCIPLINARY COMMITTEE

- 1.1. The Disciplinary Committee shall consider or hear all protests, disputes and complaints by members and Eastern Suburbs Football Association (ESFA)-related organisations, including the Eastern Suburbs Football Association Referees Branch (ESFARB), and matters referred to it by the ESFA Board of Directors (Board), against Clubs, players, officials and supporters arising from incidents occurring under the jurisdiction of ESFA.
- 1.2. The Disciplinary Committee will:
 - 1.2.1. determine appropriate actions, including sanctions, where required;
 - 1.2.2. meet as required and may conduct hearings in accordance with the procedures set out in this Regulation;
 - 1.2.3. use its best endeavours to reach a decision within five (5) days of a hearing and to provide to the Executive a written decision within ten (10) days of a hearing.
- 1.3. The Executive will:
 - 1.3.1. keep a record of Disciplinary Committee hearings and decisions and of all cautions issued to any player registered with ESFA, and will inform players via their Club Secretary of Disciplinary Committee decisions and of automatic suspensions arising from accumulated cautions;
 - 1.3.2. keep a record of all suspended players and officials and will make that record available to Football New South Wales (FNSW), Football Federation Australia (FFA) and other organisations affiliated with either of those bodies if requested.

2. STRUCTURE OF THE DISCIPLINARY COMMITTEE

- 2.1. Members of the Disciplinary Committee are appointed by the Executive on advice of the Board.
- 2.2. The Disciplinary Committee will consist of a Review Committee, a Judiciary Committee and an Appeals Committee.
- 2.3. The Review Committee will consist of the Executive and one person nominated by the Board.
- 2.4. The Judiciary Committee shall comprise at least two members and no more than three members and shall be formed as the need arises.

- 2.5. The Appeals Committee shall comprise at least two members and no more than three members and shall be formed as the need arises. The chair of the Appeals Committee must be either a current or former judge, magistrate, barrister or solicitor appointed or practising in New South Wales.

3. DISCIPLINARY COMMITTEE TO ACT IN GOOD FAITH

- 3.1. The Disciplinary Committee must be, and must be seen to be, as impartial as is reasonable and practicable in all of the circumstances. No member of the Disciplinary Committee may have any close association with a party, or be a member of a Club or association that is affected by the outcome of a matter before the Disciplinary Committee, or have any material interest in the outcome, unless all the parties to the matter consent to that Disciplinary Committee member's participation. No member of the Board shall be entitled to be a member of the Appeals Committee.
- 3.2. A party may challenge the appropriateness of any person(s) on the Disciplinary Committee. However, it is then up to the Disciplinary Committee, after reviewing all the circumstances, to rule on any such challenge.

4. REVIEW COMMITTEE

- 4.1. The Review Committee must review all Reports as they are received.
- 4.2. The Review Committee must, if it deems appropriate, impose suspensions based on Send-Off Reports, applying appropriate suspension for the relevant offence referred to in the Schedule of Penalties provided that it may in its absolute discretion reduce or suspend a minimum suspension if the offending party has not previously been suspended by the Disciplinary Committee (or its predecessor).
- 4.3. If the Review Committee considers that an incident resulting in a send-off requires further consideration or that an incident described in any Report other than a Send-Off Report gives rise to an offence, it must cite the offending party to appear before the Judiciary Committee.
- 4.4. A suspended party may have a Review Committee suspension reviewed at a hearing of the Judiciary Committee if within 5 days of receipt of notice of the suspension their Club:
- 4.4.1. submits a written request for a review; and
- 4.4.2. pays to ESFA a review fee of \$300 of which a maximum of \$250 is returned if the party is exonerated.
- 4.5. A suspended party who seeks a review under Clause 4.4 remains suspended until the Judiciary Committee hearing has taken place.

5. POWERS OF THE JUDICIARY COMMITTEE

- 5.1. The Judiciary Committee has the power to:
- 5.1.1. consider all Reports received by it;

- 5.1.2. decide if any offence is proved or not, or substitute or add a finding of any other offence found proven on the facts presented in relation to any person, Club or affiliated entity;
- 5.1.3. determine and set whatever punishments, conditions or sanctions are considered appropriate, using the Schedule of Penalties as a guide;
- 5.1.4. set the start and finish of any suspensions it imposes by number of matches or time;
- 5.1.5. impose appropriate fines, conditions and/or bonds against individuals and/or clubs.

6. JUDICIARY COMMITTEE HEARING PROCEDURE

- 6.1. The members of the Judiciary Committee shall appoint one of them to be the Chair and if they cannot agree, the Chair shall be the member with the longest record of service on the Judiciary Committee. The Chair will outline the general form of the proceedings to be followed and may provide to the party assistance to present their case.
- 6.2. Witnesses should be called separately where practicable. The party and members of the Judiciary Committee shall be present throughout a hearing. A party shall be given every opportunity to present a case, and shall be entirely responsible for their selection of witnesses and the presentation of any available supporting evidence they may wish to present. The Judiciary Committee Chair has the right to call a halt to duplication or repetition of evidence or any straying outside the bounds of the case before the Judiciary Committee.
- 6.3. Parties affected by a Judiciary Committee decision must be advised of any rights of appeal, how to exercise those rights, the cost of lodging an appeal and any time limit that may apply, either at the Judiciary Committee hearing or in subsequent correspondence from the ESFA.

7. RIGHTS OF PARTIES

- 7.1. The hearing of any case or issue shall be held expeditiously.
- 7.2. A party is not required to make a statement or to produce any case unless they wish to do so.
- 7.3. Any failure to respond to questions by the Judiciary Committee may have a bearing on any ultimate decision.
- 7.4. In some situations, a party may not wish to make a statement because it may be used in a Court action. A party may request of the Judiciary Committee that the hearing not proceed until finalisation of the court matter in which case the party will be suspended until ready to take part in a hearing and the immediate hearing will be adjourned until a date to be determined by the Judiciary Committee. If the Judiciary Committee is of the view that the matters to be considered by the Judiciary Committee might also be the subject of Court proceedings, before the hearing commences, the chair of the hearing shall inform the party of that view and of the

party's right of adjournment. Upon hearing that warning the party may elect to adjourn the hearing.

- 7.5. The Judiciary Committee is not prevented from proceeding with a hearing if the matters giving rise to the hearing are also the subject of Court proceedings. Any tribunal under the jurisdiction of ESFA is not a court of law and its findings are not recognised in Courts.
- 7.6. A party has the right:
 - 7.6.1. to ask questions of witnesses, but only through the Chair, and never directly at another person;
 - 7.6.2. to produce material that may be considered relevant including documents, statements or photographs and video material;
 - 7.6.3. to offer evidence of good character. Evidence relating to prior suspensions or bad record of behaviour may only be taken into account after the question of guilt has been determined.
- 7.7. Any failure to provide relevant evidence, in circumstances where the Judiciary Committee believes it appropriate, may have a bearing on any ultimate decision.
- 7.8. The use of legal representatives is not permitted at Judiciary Committee hearings. A Club President or Secretary may present the case for a party in their official club capacity, but they may not appear as an advocate for a party.
- 7.9. A party may have a legal representative present at a Judiciary Committee hearing, but only to advise the party and not to argue a case on behalf of the party.
- 7.10. A party may be permitted to use a legal representative at a hearing of the Appeals Committee provided that the party advises ESFA that they will be legally represented not less than three (3) days prior to the hearing.
- 7.11. If a party advises that they intend to be legally represented at an Appeals Committee hearing, provision may be made for ESFA to have legal representation before the Appeals Committee, and the cost of this may be charged to the party in the event that the appeal is dismissed provided ESFA advises the party of the cost, or a reasonable estimate of the cost, of such legal representation prior to the hearing.

8. WITNESSES

- 8.1. Any witnesses that a party wishes to present at any Disciplinary Committee hearing should appear in person so that they can provide evidence. If this is not possible then written statements should be provided in the form of Statutory Declarations. The person appearing can present these by fax, post or email attachment only prior to the relevant Disciplinary Committee hearing. If Statutory Declarations are not available, the Judiciary Committee may elect to consider other written evidence.

9. ATTENDANCE

- 9.1. Parties cited must appear at the Judiciary Committee hearing specified in the notice unless an adjournment has been sought in writing and granted in accordance with this Regulation.
- 9.2. Persons who are unable to attend a scheduled hearing may:
 - 9.2.1. request that the hearing be adjourned;
 - 9.2.2. have the case heard in their absence; or
 - 9.2.3. appoint someone to appear on his or her behalf.
- 9.3. Applications to proceed in accordance with clauses 9.2.1, 9.2.2 or 9.2.3 must be made by the Club Secretary by fax or email to the ESFA at least two (2) business days before the scheduled hearing.
- 9.4. Applications to proceed in accordance with clauses 9.2.2 or 9.2.3 may be accompanied by a written statement from the person cited which may be taken into account by the Judiciary Committee.
- 9.5. A party who does not appear at a Judiciary Committee hearing and has not made a successful application under clause 9.2 shall be suspended until such time as they appear before a Judiciary Committee.

10. NOTIFICATION OF SUSPENSIONS, CITINGS AND PENALTIES

- 10.1. The Executive must notify Club Secretaries of suspensions imposed by the Review Committee or if any player, official or other person is required to appear before the Judiciary Committee. A notice to appear before the Judiciary Committee must include:
 - 10.1.1. the charge;
 - 10.1.2. the Report/s upon which the charge is based;
 - 10.1.3. the time, date and venue of the Judiciary Committee hearing.
- 10.2. Clubs must advise any player, official or other person to make themselves available to appear at the Judiciary Committee hearing.
- 10.3. Where a case is heard in the absence of a party or if the Judiciary Committee reserves its decision, the Executive will inform the Club Secretary by e-mail within 48 hours of the hearing or of receiving the decision from the Judiciary Committee, as the case may be.
- 10.4. Where a party is suspended as a result of accumulated yellow card offences, the Executive will inform the relevant Club Secretary by email within 48 hours of receiving the Caution Report that gives rise to the suspension.

11. PENALTIES

- 11.1. The Judiciary Committee may consider relevant extenuating circumstances including the severity of the offence, a party's record and age, in determining punishment.
- 11.2. Where the offence is of a minor nature and the player has a record of good conduct, the Judiciary Committee may choose to set a suspended sentence or issue an official caution. A suspended sentence will be suspended for a period of time during which

time if the player is found guilty of any other offence, the suspended sentence will be served in addition to any penalty imposed for the more recent offence.

- 11.3. If a party fails to comply with any decision of a Disciplinary Committee the party will be cited to appear before the Judiciary Committee and an additional suspension, fine and/or sanction may be imposed.
- 11.4. A party who is sent-off and cited to appear before the Judiciary Committee is suspended until such time as the matter is determined by the Judiciary Committee.

12. APPLICATION OF SUSPENSIONS

- 12.1. Players and officials are suspended for a number of matches or until a specified date.
- 12.2. Where the suspension is in matches, the suspended party may not participate in the next specified number of matches that the team to which the party is registered plays or in any other competition matches sanctioned by ESFA and its parent bodies during that period.
- 12.3. The Disciplinary Committee in its absolute discretion may give dispensation for short suspensions accrued in Winter or Summer Competition to be served in the following Summer or Winter competition respectively.
- 12.4. Matches missed on the same day as the match in which the send-off occurred will not count towards the serving of a suspension. Only matches participated in from the day following a send-off until the date of hearing will be considered to form part of a suspension served.
- 12.5. Where a suspension specifies a date on which the suspension finishes, the party may not participate in any match sanctioned by ESFA, Football NSW or its parent bodies and any affiliate association until that date has passed.
- 12.6. All suspensions of four (4) or more matches are reported to Football NSW and this information is distributed to all affiliated associations. Parties who have failed to appear or are unfinancial are also reported.
- 12.7. Suspended parties may not enter ESFA sanctioned grounds during games during the period of their suspension. This means that where there is a fence on any side of a ground the suspended party must remain outside that fence. Where there is no fence the suspended party may not come within 10 metres of the outer boundaries of the playing field. Clubs are responsible for ensuring that such sanctions are complied with.
- 12.8. Coaches, managers, Club officials and RTOs who are suspended must not perform any of the functions normally carried out in their position including but not limited to coaching at training sessions and organising and attending matches.
- 12.9. Suspensions imposed as a result of send offs and citings carry over from one year to the next. Suspensions for yellow card offences expire at the end of the year in which the offences were committed.
- 12.10. Any party suspended by ESFA is suspended from all football-related activities of all bodies affiliated to FNSW and FFA, unless the Judiciary Committee or Appeals

Committee makes a specific ruling to the contrary. Similarly, any suspension applied by an affiliated body is binding upon and within ESFA.

- 12.11. Parties who are suspended may not act as a Match Official during the term of the suspension. Similarly, a Match Official who is suspended may not participate as a player, official or spectator during the term of the suspension.
- 12.12. A player registered in a squad consisting of more than 1 team shall serve their suspension in the team set out as follows:
 - 12.12.1. If sent-off or cited for misconduct as a player, the team the player was playing for at the time of the incident.
 - 12.12.2. If cited for misconduct not as a player, the highest ranked team of the squad.
 - 12.12.3. If suspended for accumulation of yellow cards, the team the player was playing for when the last yellow card was received.
- 12.13. Where a suspension specifies a number of games, a player may not participate in any sanctioned games until the day after the last game of the suspension played by the player's registered team.

13. RIGHT OF APPEAL

- 13.1. Any party affected by a decision of the Judiciary Committee may appeal a decision of the Judiciary Committee. A letter of appeal must be lodged with ESFA by the Secretary of the Club of the party or by the Secretary of the affected party within seven (7) days of the date of notification of the Judiciary Committee decision and be accompanied by the Appeal Fee in the form of a cheque for \$500.
- 13.2. Following receipt of an oral decision at a hearing, if a written decision has not yet been issued, a party may give written notice to ESFA through their club Secretary that they intend to appeal within seven (7) days. The party will have seven (7) days from the date of receipt of the written decision to send their letter of appeal.

14. GROUNDS FOR APPEAL

- 14.1. A letter of appeal must state the exact wording of the decision being appealed against and the grounds of the appeal.
- 14.2. An appeal may only be lodged on the following grounds:
 - 14.2.1. the severity or leniency of the sentence. The letter of appeal must contain one or all of a comparison with other sentences imposed for the same offence and a request for consideration of player's age and/or past record, including the details relied on.;
 - 14.2.2. an alleged breach of the common law of Procedural Fairness in the conduct of the proceedings by the Judiciary Committee. The letter of appeal must contain details of the breaches alleged.
 - 14.2.3. the existence of new evidence or evidence that it is alleged was improperly dealt with or not given sufficient weight. This ground of appeal is only available to a player, team official or spectator. The letter of appeal must

contain details of the new evidence or the evidence improperly dealt with or not given sufficient weight.

15. THE APPEALS COMMITTEE

- 15.1. The Appeals Committee may hear appeals against the conduct of or findings of the Judiciary Committee.
- 15.2. The Appeals Committee chair will apply and uphold the principles of procedural fairness in the hearing of appeals and be empowered to make all rulings of law in the hearing of appeals.
- 15.3. If the Appeals Committee upholds an appeal on the grounds of severity or leniency of sentence, it must remit the matter to the Judiciary Committee so as to enable the Judiciary Committee to impose alternate suspensions or sanctions as appropriate. There shall be no appeal from the Judiciary Committee's imposition of alternate sanctions.
- 15.4. The following parties must be present at any appeal:
 - 15.4.1. the party charged; and
 - 15.4.2. the party who originally brought the charge or case.
- 15.5. The Match Official(s) whose Report was relied on by the Judiciary Committee shall be given the opportunity to be present. If the Match Official(s) declines to be present, the Report cannot be tested and any evidence contrary to the Report may be given more weight.
- 15.6. The original decision of the Judiciary Committee must be provided in writing and must include the reasons why its decision was reached. The original charge, if by a Match Official, may be provided in the form of the original report. The Match Official(s), if the appeal involves them, shall be given the opportunity to be present at an appeal.

16. TIMING OF APPEALS COMMITTEE HEARINGS

- 16.1. A determination of the Judiciary Committee stands until and unless it is changed on appeal. ESFA will use its best endeavours to have appeals heard within 10 days of lodgement. Appeals against suspensions of 2 matches or less may not be heard before they are served.

17. RETURN OF APPEAL FEE

- 17.1. No more than \$400 of the Appeal Fee of \$500 is returnable at the conclusion of the appeal if the appeal is upheld. If the appeal is dismissed then the Appeal Fee is retained by ESFA.

18. FURTHER APPEALS

- 18.1. Any party affected by an Appeals Committee decision may appeal to Football NSW by following the procedure set out in the Football NSW Grievance and Disciplinary Regulations. A copy of any appeal to Football NSW must be forwarded to ESFA at the time of lodgement.

19. REFEREES AS MEMBERS OF HEARING PANELS

- 19.1. If an issue of interpretation of the FIFA Laws of The Game arises before the Judiciary Committee or Appeals Committee, ESFARB may be invited to have a delegate sit in on the hearing.
- 19.2. If an ESFARB delegate sits in on a hearing of the Judiciary Committee or Appeals Committee the delegate:
- 19.2.1. is there to offer expert advice, and the Judiciary Committee or Appeals Committee and the parties shall take the delegate's explanation of any FIFA Law in question in the case as final;
- 19.2.2. is not a voting member of the Judiciary Committee or Appeals Committee and does not form part of the quorum.
- 19.2.3. is not entitled to engage in questioning any parties to the hearing, unless in special circumstances they are invited to do so by the Chair of the Judiciary Committee or Appeals Committee.

20. PUBLICATION

- 20.1. After the expiry of any relevant appeal period and subject to any term of a Determination imposing confidentiality or any other legal requirements, any Determination may be published by ESFA or by a third party (with ESFA's written consent).

21. GLOSSARY

In this Regulation the following terms have the following meanings:

"Board" means the board of directors of ESFA;

"Caution Report" means a report of cautions given by a Referee in a match submitted to ESFA in accordance with the Referee Rules;

"Club" means a member club of ESFA;

"Competition Rules" means the competition rules of ESFA being the Regulation known as Schedule C;

"Court" means a civil or criminal court of law of the Commonwealth of Australia or any of its states or territories;

“Determination” means a decision made by a Judiciary Committee or Appeals Committee in accordance with this Regulation;

“Disciplinary Committee” means the Disciplinary Committee described in clause 2 of this Regulation and includes any of the Review Committee, the Judiciary Committee and the Appeals Committee as described in this Regulation;

“ESFA” means Eastern Suburbs Football Association Incorporated;

“Executive” means the ESFA General Manager or their nominee;

“Incident Report” means a report of alleged misconduct submitted to ESFA by an RTO, player or spectator in accordance with the Competition Rules;

“Match Official” means a referee or assistant referee;

“Match Report” means a report of misconduct submitted to ESFA by a Referee in accordance with the Competition Rules;

“Referee Rules” means the rules of ESFARB being the Regulation known as Schedule E;

“Regulation” means a regulation made in accordance with the constitution of ESFA;

“Report” means an Incident Report, a Match Report, a Send-Off Report or a Caution Report;

“RTO” means Registered Team Official as defined in the Competition Rules;

“Send-Off Report” means a report of the sending-off of a player submitted to ESFA by a Referee in accordance with the Competition Rules;

“Schedule of Penalties” means the schedule of penalties being the Regulation known as Schedule I;

“Statutory Declaration” means a statutory declaration made in accordance with the provisions of the Oaths Act 1900 (NSW); and

reference to a “party” means a Club, player, official or spectator who is sanctioned or cited by the Disciplinary Committee, and any other person or organisation who is affected by a decision of the Disciplinary Committee (including ESFA and any organisation related to ESFA) and who appeals to the Appeals Committee.