

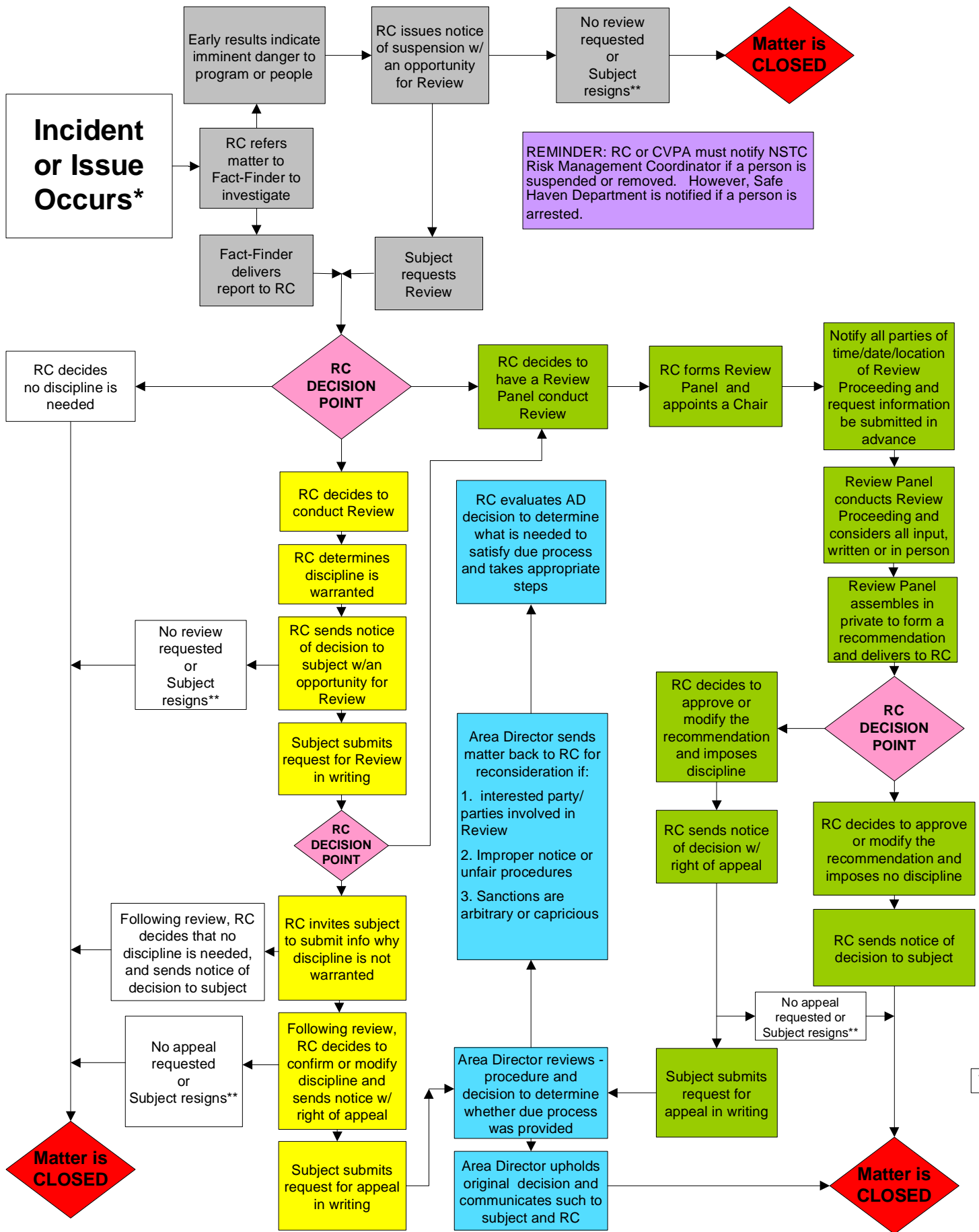


# **Advanced Management Workshop Handouts**





# AYSO DUE PROCESS FLOW CHART



V9

\* If the RC is a witness or has an interest in the matter, the RC should appoint a neutral person who will take the RC's place in this process.  
 \*\*The option to resign identified in this flowchart should not be provided if an adult is accused of a violent act or an alleged sexual offense.  
 REMINDER: IF ANY person resigns, the CVPA must record the resignation in the CVPA screen in eAYSO.



# Non-Executive Member Disciplinary Review Process

**Regions should seek to resolve all disputes involving people in an amicable fashion. Compromise is preferable to more severe forms of resolution.** Almost all problems in the region can be addressed without the need for a formal process. However, for severe problems that cannot be resolved without implementation of formal discipline, a formalized due process procedure should be followed. That may involve the creation of a disciplinary review panel (described below).

Prior to the involvement of a disciplinary review panel, lower level remedies may bring many day-to-day problems to a happier end if they are identified early and handled fairly. These remedies include:

- Evaluation
- Additional education/training
- Additional supervision
- Mentoring
- Counseling
- Behavioral and performance contracts
- Restitution (financial and in-kind service)
- Warnings

When it is determined that a **non-executive member** involved in the region, area or section needs to be disciplined in excess of the above, or that his or her participation in the region (area or section) should be limited, suspended or terminated, the regional commissioner (area director or section director) should ensure that the procedures used provide for appropriate fairness and due process. Due process requires that the person who is the subject of the potential discipline be provided with (1) notice and (2) an opportunity to be heard.

**Review by RC (AD or SD).** If the RC (AD or SD) determines that a person should be disciplined and notifies the person of the discipline, due process will be satisfied if the RC (AD or SD) also gives the person an opportunity to present information and documents to the RC (AD or SD) for his or her review of the matter and reconsideration of whether the discipline is warranted. If, upon reconsideration, the RC (AD or SD) decides that the discipline is warranted and appropriate, the RC (AD or SD) would give the person notice of the decision and let them know that they have the right to appeal the decision to the next level of executive member. In this case, due process is satisfied by giving the person notice and an opportunity to be heard. Therefore, a disciplinary review panel is not needed.

**Review by Disciplinary Review Panel.** Due process may also be satisfied through a review by disinterested individuals assembled for the purpose of determining or reviewing the appropriate discipline. This assembly of disinterested parties is called a "disciplinary review panel" or "Review Panel."

This procedural guideline outlines the steps that the RC (AD or SD) takes to ensure that the actions taken are appropriate. This process is an internal administrative proceeding pursuant to California administrative law that we will refer to as a "review proceeding" in these guidelines.

The review proceeding provides an opportunity for an individual to appeal proposed disciplinary action or discipline already taken against him or her. A review proceeding may also be used to review an incident or matter to determine whether or not discipline or some other action is recommended with respect to a particular individual.

A review proceeding is not a court hearing, however, the individual has the right to bring anyone who may speak on his or her behalf.

**Special Note:** A person who is an attorney may be present during the review proceeding, but not in the capacity of an attorney representing the participant. They can be there for solicited support for the participant. If the attorney attempts to treat the review proceeding as a formal court trial, they should not be permitted to do so. If the attorney continues to treat the review proceeding as a formal trial, the person who is the subject of the review proceeding should be warned that the attorney's misconduct will be treated as a waiver and the Review Panel may terminate the review proceeding and render its findings and recommendation based on the material already submitted. If a Review Panel is required by circumstances to terminate a review proceeding, the chair of the Review Panel should contact the Risk Management Coordinator at the NSTC at the earliest opportunity.

*The suspension or removal of an executive member of AYSO is a special case and must be handled in accordance with the procedures outlined in the AYSO Reference Book*

## **Part One: Before the Disciplinary Review Panel Proceeding**

### **1. Gather Information**

When faced with a situation in your region that requires management intervention, information regarding the incident will be a vital tool in substantiating the sanctions imposed or recommended. The RC should assign an appropriate person to help investigate and gather facts.

For example, if the individual is associated with the coaching program, typically the coach administrator will be the appropriate person to help investigate and gather facts. Similarly, if the individual is associated with the referee program, the referee administrator will typically be involved. If the individual is either a volunteer in another capacity or a player or spectator (mom, dad, grandparent, etc.) the RC could appoint any one of the region board members to assist in gathering information.

Required information includes: names of those involved: witnesses of the incident: dates and locations at which it occurred; and any background history of the player, volunteer or spectator involved. The background information would include, but not be limited to, certification and training, Safe Haven certification, history of similar behavioral problems, etc.

## 2. **Establish a Disciplinary Review Panel**

The RC should identify and train persons in advance to organize and run review proceedings if and when they are needed. RCs and ADs should not be involved since they will be called upon to make decisions based upon the recommendations of the panels. They will be much more likely to be free of the taint of prejudice, real or perceived, if they are not involved in the Review Panel process. This is particularly important if the incident subsequently results in a protest/appeal to a higher level.

It is better to avoid this potential outcome by teaching our executive members not to participate in such a way as to appear to be part of the jury as well as the judge. An RC/AD/SD should never be the one to conduct the review proceeding when a Review Panel is involved. It is not an actual conflict of interest; it just presents the appearance of one.

How can an RC conduct a Review Panel proceeding and then review and/or modify the outcome, accept and enforce any resulting sanctions? It leaves the RC/AD/SD open to charges of appointing a puppet panel and enforcing pre-determined outcomes. It diminishes the credibility of the Review Panel and tarnishes the objectivity of the outcome. Since the RC/AD/SD must receive the recommendation of the Review Panel and then decide whether to accept, reject or modify that recommendation, it is best if they are not present or part of the Review Panel proceeding itself. This means that the Chair of the Review Panel must be trained and qualified to conduct the Review Panel proceeding, and, if possible, the Review Panel (or a panel or committee of trained people from whom a Review Panel may be selected) should be constituted in advance of any need for a review proceeding, with the possible substitution of a replacement for any Review Panel or panel/committee member who might be considered biased.

This may be the most difficult proceeding that an RC must put together. The RC should appoint a Review Panel chairperson. When setting up a Review Panel, the number of people who sit on the Review Panel should be an odd

number. This will ensure that a majority vote will prevail at the end of the Review Panel proceeding.

The Review Panel can consist of members of the region or of other regions within the area that have expertise in their responsibilities on their respective boards. These would include, but are not limited to coach and referee administrators, assistant regional commissioners, child and volunteer protection advocates, division coordinators, etc. Former regional board members may be excellent candidates to serve on a Review Panel. The RC should be sure that the expectations of the Review Panel are explained to each member and that each member agrees to comply with the requirements. For example, the information, such as opinions expressed and any votes taken, during the review proceeding or deliberations are confidential and should not be discussed with anyone outside of the Review Panel or the RC (or AD or SD) in connection with the recommendation or the review of discipline.

It will be helpful if there is at least one member of the Review Panel with experience in due process procedures, e.g. attorney or personnel professional. The procedure is not a legal proceeding or mediation, but an opportunity for individuals involved to voice their opinion of the situation and to appeal any sanctions imposed or proposed to be imposed.

### **3. Share all information**

All Review Panel members should have equal access to information about the incident and the people involved to ensure a fair recommendation. That includes all written material generated during the investigation and any written response given by the individual facing discipline. Great care must be exercised to keep all information that is collected and all discussions of the Review Panel confidential and should be handled and marked as such.

### **4. Review information and establish questions**

Prior to beginning the Review Panel proceeding, the chairperson should introduce everyone and give an overview of the events leading up to the proceeding. Opinions should be stated as such. In other words, actions in question should be preceded by the words, "it is the opinion of ...", "it was perceived that ...", or other appropriate words. The chairperson should be ready to answer any technical or procedural questions that the Review Panel members may have prior to the proceeding.

### **5. Select a location and time**

The review proceeding should be scheduled as soon as possible. Coordinating times that are convenient for everyone involved will be the most challenging part of the disciplinary review process. The location should be a neutral site. The time needs to be convenient for all of the key individuals involved in the disciplinary review.

## **6. Written Notice**

Written notification of a review proceeding must be provided to the individual facing discipline. This notice must include the specific actions that may be taken and the reasons for such actions. The proceeding location and time must be included. The notice must also indicate that the individual will be given a reasonable opportunity to explain why such discipline should not be administered. The response may be made in person, in writing or by telephone if unavailable to attend the proceeding.

## **7. Establish an agenda**

As in any meeting the need of a game plan, i.e. the agenda, is needed so that the Review Panel proceeding stays on track.

# **Part Two: During the Review Panel Proceeding**

## **1. Allow sufficient time to speak**

The order of presentations is not set in stone. The individual(s) who have had sanctions imposed upon them may go first, or the other member(s) of the incident may speak first. Time limits should only be imposed if participants engage in continued repetition. Allow each party sufficient time to “tell their side of the story.”

## **2. Ask questions**

The members of the Review Panel should be prepared to ask questions regarding the event in question. They should ask “open-ended” questions in order to help the fact-finding process. All individuals should also be allowed to ask questions of the Review Panel as well.

## **3. Accept additional information**

By the time a Review Panel is convened, all information that pertains to this incident should have been gathered and made available to the Review Panel members. If anyone involved in the proceeding wishes to present new information, he/she should be allowed to do so. Advising the individual to make copies of any written information prior to the Review Panel proceeding is recommended.

## **4. Ensure there is a gap between each group**

The need for a Review Panel review most likely occurred because one or more individuals wanted something that they could not have in some form or another. This creates conflicts between parties. To ensure that there are no further conflicts, each side should present its case separately from the other with enough time between them for the first side to have completely departed the

## Due Process Scenario Group # 1 Before the Review Proceeding

**Person has done something that violates AYSO governing rules or is otherwise illegal**

You are the regional commissioner of a large region with many board positions. One of the positions on the board is uniform coordinator, held by a woman (Rachel Smart) with many years of successful service to the region. The regional coach administrator approaches you with a concern that the uniform coordinator may be ordering extra uniforms for the region and selling them to other organizations. He says that a friend of his in a town about 100 miles away told him that it was nice that AYSO would sell his soccer organization (not part of AYSO) brand new uniforms at a greatly reduced price. For the past three years this soccer club had purchased about 100 uniforms each year directly through the uniform coordinator. You and the regional coach administrator know nothing of such sales.

1. **Gather information** – What type of information could the RC have gathered that would escalate this situation into one that requires due process?
2. **Establish a Review Panel** – *[NOTE: Although the RC could determine whether and what discipline should be imposed, let's assume that the RC wants to form a Review Panel to conduct the initial review.]* Who should be on the Review Panel? Look over Handout enclosed and determine who should be on the panel.
3. **Share all information** – Who gets the information?
4. **Select a location and time** – Give some examples of good and bad locations and times.

## Group # 1 Assignment

You are an RC who never thought the region would need a disciplinary review panel (Review Panel). You are now faced with a situation that requires due process and you have decided to set up a Review Panel. Look over this list of people and decide which of these could be part of a five (5) member Review Panel. Be prepared to justify why each person was or was not chosen.

- The RC who is friends with the Uniform Coordinator
- The RC who doesn't know the Uniform Coordinator at all personally except for their interaction at regional board meetings.
- RC from a neighboring region
- A lawyer who used to be on the regional board
- The coach of the Uniform Coordinator's son
- The RRA who is a neighbor of the Uniform Coordinator
- The Treasurer
- The RDA
- The RCA who investigated the incident
- A parent who owns a large sporting goods store
- The registrar who informed the Uniform Coordinator how many uniforms to order
- The AD
- The SD
- The RCA
- The CVPA

## **Due Process Scenario Group # 2 During the Review Proceeding**

**Person has done something that violates AYSO governing rules or is otherwise illegal**

You are the regional commissioner of a large region with many board positions. One of the positions on the board is uniform coordinator, held by a woman (Rachel Smart) with many years of successful service to the region. The regional coach administrator approaches you with a concern that the uniform coordinator may be ordering extra uniforms for the region and selling them to other organizations. He says that a friend of his in a town about 100 miles away told him that it was nice that AYSO would sell his soccer organization (not part of AYSO) brand new uniforms at a greatly reduced price. For the past three years this soccer club had purchased about 100 uniforms each year directly through the uniform coordinator. You and the regional coach administrator know nothing of such sales.

- 1. Allow sufficient time to speak** –Who should speak? How much time should be allowed? What happens if Rachel Smart requests that her lawyer be given time to speak?
- 2. Ask questions** – Give some examples of questions that should be asked.
- 3. Accept additional information** – Which of the information provided in the **Handout** (below) should you accept and which is not useful?

### **During the Review Proceeding – Assignment Handout**

***The facts and nothing but the facts. Please review the statements below and determine what information is important to the review proceeding.***

- The regional coach administrator heard from a friend of his who thought the uniforms were extra uniforms from Region 222.
- The uniforms, although the same as Region 222's, were bought for \$6.00 less per uniform.
- The local club program in a town 100 miles away has sent written verification that they indeed buy uniforms from Rachel Smart on three separate occasions.
- Rachel is a regional referee and a referee instructor.

- Rachel Smart previously owned a sports supply store in a neighboring town.
- Rachel Smart has been a trusted AYSO volunteer for 12 years.
- The regional coach administrator who heard the information lives on the same street as Rachel Smart the uniform coordinator.
- The uniforms purchased by the program in question had their club's logo on them.
- The registrar is fairly sure that all the uniforms ordered for Region 222 are delivered with the AYSO logo on them.
- Score has sent a copy of Region 222's uniform order for 2005 and 10 sets of uniforms were ordered without the AYSO logo.
- Rachel Smart used to silk screen uniforms as a service of the sporting goods store she owned 10 years ago.
- The safety director thinks that Rachel Smart still owns the silk screening machine.
- The treasurer has requested all invoices for uniform purchases from Rachel Smart.
- Rachel says she mailed all the invoices to the RC, but they were never received.
- The uniform coordinator from the club in question has supplied uniform invoices and canceled checks signed by Rachel Smart.
- Rachel Smart says the uniforms that were sold to the club in question were old ones from when she owned her sporting goods store.
- Rachel Smart is a friendly outgoing person, respected by the entire regional board.
- The treasurer has canceled checks signed by Rachel Smart and the registrar.
- After a thorough investigation the amount of the check to Score does not match the amount it should have been for the number of uniforms that the registrar requested to be ordered.
- Rachel Smart has written a check to the region for \$13,580.00, which is the total amount paid by the region for uniforms that are unaccounted for (i.e., uniforms ordered in excess of the number of registered players and the uniforms are not in inventory held by the region).

## **Due Process Scenario Group # 3 After the Review Proceeding**

**Person has done something that violates AYSO governing rules or is otherwise illegal**

You are the regional commissioner of a large region with many board positions. One of the positions on the board is uniform coordinator, held by a woman (Rachel Smart) with many years of successful service to the region. The regional coach administrator approaches you with a concern that the uniform coordinator may be ordering extra uniforms for the region and selling them to other organizations. He says that a friend of his in a town about 100 miles away told him that it was nice that AYSO would sell his soccer organization (not part of AYSO) brand new uniforms at a greatly reduced price. For the past three years this soccer club had purchased about 100 uniforms each year directly through the uniform coordinator. You and the regional coach administrator know nothing of such sales.

- 1. Discuss findings** – It was determined that Rachel Smart did steal uniforms from Region 222 and sell them to a club program. What should be her “punishment”?
  
- 2. Determine if any follow-up is required** – What should be the next steps? What procedures can the region put in place to insure that this does not happen in the future?
  
- 3. Establish preliminary recommendation** – What would be your recommendation if you were on the Review Panel? Could different recommendations affect whether this matter escalates further? Why or why not? How could it escalate?
  
- 5. Submit decision to the subject of the review proceeding** – An email is sent out to Rachel Smart informing her of the Review Panel’s decision. Is that okay? If not, is there a more preferable way? Why does it matter how the decision is delivered?

## **Due Process Scenario Group # 4 - Once the Dust Settles**

**Person has done something that violates AYSO governing rules or is otherwise illegal**

You are the regional commissioner of a large region with many board positions. One of the positions on the board is uniform coordinator, held by a woman (Rachel Smart) with many years of successful service to the region. The regional coach administrator approaches you with a concern that the uniform coordinator may be ordering extra uniforms for the region and selling them to other organizations. He says that a friend of his in a town about 100 miles away told him that it was nice that AYSO would sell his soccer organization (not part of AYSO) brand new uniforms at a greatly reduced price. For the past three years this soccer club had purchased about 100 uniforms each year directly through the uniform coordinator. You and the regional coach administrator know nothing of such sales.

**1. Finalize acceptance of decision.** The Review Panel has recommended that Rachel be removed as the uniform coordinator, as a referee and as an instructor, and that she be banned from participating as a volunteer in the region in any capacity for the rest of her life. Rachel is such a nice person. She has written a check to the region for \$13,580.00, which is the total amount of the uniforms she stole. Can't she return as an AYSO volunteer, ever? What are your options as the RC when reviewing the recommendation? Is the sanction appropriate? What would you do?

**2. Review on appeal.** For purposes of this exercise and to confirm your understanding of the appeal process, assume that the RC decided to modify the Review Panel's recommendation by removing Rachel from all of her current volunteer positions and banning Rachel from participating as a volunteer in the region for a two-year period, rather than for the rest of her life. The RC further banned Rachel forever from serving in a volunteer position that involved money or any equipment or other expenditures of the region. The RC gave Rachel notice of the decision and of her right to appeal. Rachel has requested that the decision be appealed to the area director. What role does the area director have in this due process? What role does the section director have in this process? What can be done on appeal? What would you do if you were the AD?

**3. Be prepared to accept a spike between friends.** The regional board is divided on the severity of the punishment and feels that because Rachel paid the region back she should be allowed to referee in the program. What can you do as regional commissioner to get your regional board acting like a "team" again? This has made everyone distrustful.

**4. Make this a "Win – Win" for all –** What kinds of policies can the region put into place so that this does situation does not happen again?

TO: RACHEL SMART, Uniform Coordinator Region 222  
FROM: JACK JONES, Regional Commissioner, Region 222  
RE: Notice of Review Proceeding Final Determination  
DATE: July 13, 2015

Dear Rachel:

Thank you for attending the Review Proceeding on July 11, 2015. We appreciate your time spent to present your position to the Review Panel.

The Chair of the Review Panel has provided me with the Panel's recommendations for sanctions. As Regional Commissioner of Region 222, I have reviewed the Panel's recommendation and impose the following sanctions:

(1) Your suspension as a participating volunteer in any capacity imposed on June 10, 2015 in AYSO Region 222 will convert to immediate termination and will remain in force for a period of five (5) years. You may re-apply to volunteer in AYSO in July 2020. At that time it will be up to the Regional Board [and the recommendation of the Regional CVPA] to accept your volunteer application to once again become an AYSO volunteer.

(2) You are hereby demanded to repay AYSO Region 222 the amount of \$13,580.00, which represents the total amount of misappropriated funds. This amount is to be repaid by August 13, 2015 (30 days from the date of this letter). The payment must be in the form of a certified check made out to AYSO Region 222. If you are unable to repay the region in full by August 13, 2015, the region will exercise their legal rights to gain full recovery. This demand will take second position to any legal restitution required as a result of law enforcement involvement that includes repayment of the \$13,580.00 scheduled by the courts.

If you choose to appeal this decision you may request an appeal by submitting the request in writing so that it is received within 14 days from the date of this notice. The deadline to receive your written request is July 27, 2015. Please mail the request to me, Jack Jones, Regional Commissioner at the following address: 1234 E. Harmony St., Anytown, TX 77206. If you request an appeal, any documents, written statements, and the minutes related to the Review Proceeding, along with the recommendation of the Review Panel and my final sanctions imposed, will be submitted to James Westclock, Area Director for AYSO's Area 12-E, for his review. Mr. Westclock will notify you of his determination in writing. Your termination as an AYSO volunteer and other demands remain in force during this appeal process.

Your cooperation is expected and appreciated.

[Signature of Jack Jones]

cc: James Westclock, Area Director, 12-E, American Youth Soccer Organization  
Annarose Jacent, Section Director, Section 12, American Youth Soccer Organization  
Bob Haddaby, National Board of Directors, Section Liaison, American Youth Soccer Organization  
Holly Veach, Risk Management Coordinator, American Youth Soccer Organization  
Perry Mason, General Counsel, American Youth Soccer Organization



Everyone Plays  
Balanced Teams  
Open Registration  
Positive Coaching  
Good Sportsmanship



American Youth Soccer Organization

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