



BOARD OPERATIONS & PROCEDURES MANUAL

JUDICIAL REGULATIONS

Adopted 2005

- 1.1 The purpose of this Judicial Regulations Manual is to provide a way through which all allegations of misconduct arising from *BBNZ-related* activities and/or by persons over which The Southland Basketball Association (SBA) or Basketball New Zealand (BBNZ) has jurisdiction can be dealt with effectively and fairly.

2 Scope

- 2.1 This Judicial Regulations Manual covers all persons, bodies and organisations over which SBA or *BBNZ* has jurisdiction.

3 Structure of the Judicial System

- 3.1 This Judicial Process is essentially a two-tier process. All parties heard at first instance by the appropriate body will have the right to appeal the decision by appealing to the SBA Board.

4 Who can set up a Judicial Committee?

- 4.1 Any Local Association shall set up a Judicial Committee to deal with *alleged offences* committed by persons, teams or bodies during events and competitions over which they have jurisdiction.
- 4.2 *BBNZ* tournaments will have a Championship Technical Committee that will also have the role and powers of a Judicial Committee (refer to Tournament Procedures Operations Manual)
- 4.3 *Regional* or local tournaments will have a Technical Committee that will also have the role and powers of a Judicial Committee.

5 How is the Judicial Committee formed?

- 5.1 Procedures for forming the Championship Technical Committee are outlined in the *BBNZ* Tournament Procedures Manual.
- 5.2 The SBA chair shall appoint a Judicial Committee for all circumstances coming under clause 4.1 (d) above.
- 5.3 The Committee members will be chosen for their experience and standing in the basketball community, and shall have the following qualities:
- i a sound knowledge of the game;
 - ii and understanding of procedures; and
 - iii an understanding and experience of the principles of natural justice.

- 5.5 The Committee shall consist of 3 members. These members will be chosen from the following; Board members, life members and senior referees.
- 5.6 The members of the Appeal Committee must be independent of the appeal and have no vested interest in the outcome of the appeal.

6 What is an Offence?

- 6.1 A person who is playing in a game commits an offence if before, during or after that game they:
- i Fight (two players involved);
 - ii Strike or attempt to strike a *player, coach, official, or other person* with clenched fist;
 - iii Strike a *player, coach, official or other person* with open palm;
 - iv Strike a *player, coach, official or other person* with the ball or other objects;
 - v Deliberately trip a *player, coach, official or other person*;
 - vi Move in under a *player* who is in the air;
 - vii Play unduly roughly;
 - viii Use abusive or offensive language or signs, threatening or obscene language towards a *player, coach, official or other person*;
 - ix Adopt a threatening attitude towards a *player, coach, official or other person*;
 - x Adopt a fighting attitude towards an *official*;
 - xi Participate in basketball whilst suspended;
 - xii Carry out unsportsmanlike conduct;
 - xiii Carry out unsportsmanlike conduct disputing decisions with officials;
 - xiv Pause an *official* with open palm or shoulder or hip;
 - xv Violently, dangerously or with anger or otherwise treat the game equipment or fixtures in such a way as might be reasonably be expected to cause serious damage to the equipment or fixtures or people in the venue;
 - xvi Wager anything of value in connection with any game or event conducted by or under the auspices of *BBNZ*;

- xvii Offer, give, solicit, accept, or agree to offer, give, solicit or accept anything of value to or from any person with the intent to influence any player's efforts in a game;
- xviii Engage in *aggravated behaviour*
- xix Engage in conduct contrary to the integrity of the game of basketball

6.2 A person who is refereeing, officiating or coaching in a game commits an offence if, before, during, or after that game they:

- i Carry out unsporting conduct arguing with or between players, coaches, referees or officials;
- ii Strike or attempt to strike, kick, elbow or trip a *player, coach, official* or *other person*;
- iii Intentionally trip a *player, coach, referee* or *official*;
- iv Adopt a threatening attitude towards a *player, coach, referee* or *official*;
- v Adopt a fighting attitude towards a *player, coach, referee* or *official*;
- vi Use abusive, threatening or obscene language towards a *player, coach, official* or *other person*;
- vii Pause a *player, coach, referee* or *official* with open palm or shoulder or hip;
- viii Strike a *player, coach, referee* or *official* with the ball or other objects;
- ix Wager anything of value in connection with any game or event conducted by or under the auspices of *BBNZ*;
- x Offer, give, solicit or accept, or agree to offer, give, solicit or accept anything of value to or from any person with the intent to influence any player's efforts in a game;
- xi Engage in aggravated behaviour;
- xii Engage in conduct contrary to the integrity of the game of basketball;

6.3 A person commits an offence if they engage in unsporting conduct as covered by the SBA Code of Conduct and Fair Play Policy.

7 Who Can Make a Report That an Offence has Occurred?

7.1 A report that a person has committed the offence may be made by:

- i An *official* in relation to conduct that occurred during a game they officiated;
- ii A floor controller in relation to conduct occurring at any facility when an event is being conducted under the auspices of *BBNZ* or in relation to conduct occurring during a game.
- iii Any other person not covered by (a) or (b) that witnessed the offence.

8 How is a Report Made?

8.1 A report shall be in writing, signed by the person making the report and shall include:

- i The name of the person making the report
- ii The capacity in which the person makes the report
- iii The name of the person who has been alleged of making the offence
- iv What offence, or offences, it is alleged the person has committed
- v A description of how the offence was allegedly committed
- vi The name of any known witnesses

9 When is a Report Made?

9.1 A report must be lodged with the Chairperson or Secretary of the SBA within 48 hours of the completion of the game or event.

9.2 The Chairperson or Secretary must sign the report and write the date and time they received the report.

9.3 On receipt of a report, the Chairperson shall inform the board members of the complaint and they will determine whether the report requires a hearing or not:

10 Without Merit

10.1 If the Board determines that the report is without merit, the report will be thrown out, and the Secretary shall be informed accordingly.

10.2 Cautionary Report

10.3 If the Board determines that the report relates to conduct that:

- i is not sufficiently serious to require a hearing,
- ii and the alleged offender has not within the period of the six months preceding the complaint received a written caution,
- iii but is sufficiently serious to warrant a written caution,
- iv the Board is required to action a written caution which will be issued by the Association to the alleged offender.

11 Approved Report

11.1 If the Board determines that the report has merit and is sufficiently serious to require a hearing, the Board shall notify those involved that the report will proceed to a hearing.

11.2 The Board does not have to give reasons for the determination. The Board may obtain information from officials, in helping with the determination.

11.3 In the case of general offences, if the report seems to satisfy the requirements in clauses 6.1, 6.2 and 6.4, the Board will notify those involved that a hearing will proceed.

11.4 If the report does not seem to satisfy the requirements in clauses 6.1, 6.2 and 6.4, but can be classed as a complaint, the Board will deal with it according to the appropriate administrative procedure.

11.5 If the report does not seem to satisfy the requirements in clause 6, and cannot be classed as a complaint, the Board will throw the report out.

12 Notification of Report Without Merit

12.1 The Board shall inform the person who made the report and the alleged offender that the report has been thrown out.

Cautionary Report

12.2 The Board shall arrange for a written caution to be posted to the alleged offender and the alleged offender's club, team or school if appropriate.

12.3 Upon receipt of the written caution, the alleged offender has the right to have the report heard by the Judicial Committee.

12.4 The alleged offender must inform the Board of his/her wishes in writing, and within seven days of receipt of the written caution.

12.5 If the report is to go to a hearing, it will now be treated as an approved report.

Approved Report

12.6 The Board shall obtain statements from officials, and other persons who the Chair considers may be able to provide evidence bearing on the subject of the approved report. Such statements will be added to the approved report.

12.7 The Board will acknowledge the receipt of an approved report within three working days.

12.8 Upon notification of an approved report, the chairman of the Local Association shall appoint a Judicial Committee in accordance with clause 5.

12.9 The Board shall inform the chairman of the Judicial Committee of the approved report.

12.10 The Board will send to the person it is alleged committed an offence:

- i a copy of the approved report;
- ii notice of rights in Judicial proceedings (see Appendix 5);
- iii election to admit offence (see Appendix 6).

13 Referral to Judicial Committee

13.1 The *chairman* of the Judicial Committee will refer the matter to a hearing under clause 11.2 unless the person who it is alleged committed an offence acknowledges that they committed the offence and waives the right to a hearing in relation to whether they committed an offence.

13.2 If the person acknowledges they committed an offence and waives the right to a hearing, the *chairman* will refer the matter to the Judicial Committee to proceed pursuant to clause 12.4.

13.3 The *chairman* of the Judicial Committee will wait 14 days after receiving the material in clause 10.3 and then will:

- i set a date for the hearing which is at least 14 days in the future;
- ii advise in writing the alleged offender and the person making the report of the date for the hearing.

- 13.4 Either the *alleged offender* or the person making the report may request in writing for the hearing date to be changed. Any request must be made at least 7 days before the date set for the hearing. The *chairman* of the Committee will change the date of the hearing if the request is reasonable.
- 13.5 At least 7 days before the date set for the hearing, the person making the report will advise the *chairman* of the Judicial Committee of the names of any witnesses to the alleged offence. These witnesses are not restricted to people named in the report of the offence.
- 13.6 The *chairman* of the Judicial Committee will notify these witnesses of the date of the hearing and will send the list of witnesses to the *alleged offender*.

14 How are Judicial Committee Hearings conducted?

- 14.1 In this clause the person alleged to have committed an offence is referred to as "the *alleged offender*".
- 14.2 The *alleged offender* has a right to a hearing unless the circumstances in clause 11.1 apply.
- 14.3 The Judicial Committee will conduct the hearing as quickly and with as little formality and technicality as proper consideration of the matter permits.
- 14.4 At the start of the hearing the *chairman* of the Committee will:
- i Identify the members of the Committee and give the *alleged offender* the opportunity to object to any Committee member on the grounds of bias or perceived bias. If an objection is made the *chairman* will consider any submission made by the *alleged offender* and any response made by the Committee member (in the presence of the *alleged offender*) before deciding upon the objection;
 - ii Read the report of the offence to the *alleged offender*.
 - iii Ask the *alleged offender* whether they have had an opportunity to consider the report of the offence and prepare for the hearing. If the *alleged offender* indicates that they have not been able to do so the hearing will be adjourned for a period not exceeding seven days.
 - iv Ask the *alleged offender* whether or not the allegations in the report are admitted.
 - v If the *alleged offender* admits the allegations in the report, pursuant to either clause 11.1 or clause 12.3 (d), the Committee members will read the report of the offence and then consider the sanction to apply pursuant to clause 13.
 - vi If the *alleged offender* does not admit the allegations in the report:

- vii The person who made the report will give evidence of the events giving rise to the alleged offence. They may refer to their report of the offence and may be questioned by the *alleged offender* or their representative or any of the Committee members;
 - viii After the person who made the report of the offence has given evidence they will be asked to identify any witnesses;
 - ix These witnesses, if available, will give evidence of the events giving rise to the alleged offence. The *alleged offender* or their representative or any of the Committee members may question the witnesses. No witness will be present when another witness is giving evidence;
 - x After these witnesses have given evidence the *alleged offender* or their representative will be given the opportunity of making an initial statement. They may then identify any witnesses who shall give evidence. No witness will be present when another witness is giving evidence. The Committee members or the person making the report may question these witnesses;
 - xi If either the person making the report or the *alleged offender* identifies a witness who is not available to give evidence at the hearing, a written and signed statement from that witness may be produced or the hearing may be adjourned (after hearing all available evidence) to enable that witness to give evidence;
 - xii The *alleged offender* or their representative may then make a closing statement.
- 14.5 After hearing the evidence the Committee members will consider whether, on the balance of probabilities, the offence was committed. Only the Committee members shall be present during this consideration. If the Committee members are not satisfied that any offence was committed the report will be dismissed.

15 What Sanctions Apply for Offences?

- 15.1 For any offence described in clause 5.1 the Judicial Tribunal will apply one or more of the following sanctions:
- i Ban the person from competing, refereeing or officiating in any events and competitions conducted by or under the auspices of Southland Basketball or BBNZ.
 - ii Fine the person or direct the person to pay costs.
 - iii Suspend the person from membership of SBA and consequently BBNZ.

16 Notification of Decision

- 16.1 The *chairman* of the Judicial Committee will provide the person making the report of the offence and the *offender* with a report of the Judicial Committee proceedings (in accordance with Appendix 4)
- 16.2 Apart from the report referred to in clause 14.2, the Judicial Committee does not have to provide reasons for their decision.

17 Appeals from Decisions of the SBA Judicial Committee

- 17.1 Any party to any matter which has been determined by the SBA Judicial Committee may appeal (“the appellant”) such decision to the New Zealand Sports Disputes Tribunal.
- 17.2 An appeal may only be made on one of the following grounds:
- i That natural justice was denied;
 - ii That the SBA Judicial Committee acted outside of its powers and/or jurisdiction (ie acted ultra vires)
 - iii That substantially new evidence has become available after the decision, which is being appealed was made
 - iv In respect of a decision relating to misconduct involving the appellant, that penalty was either excessive or inappropriate.
- 17.3 Any such appeal shall be filed within 10 working days from the date the appellant was notified of the decision of the SBA Judicial Committee and in all other respects shall be in accordance with the rules of the New Zealand Sports Disputes Tribunal
- 17.4 The decision of the New Zealand Sports Disputes Tribunal shall be final and there shall be no further right of appeal
- 17.5 The rules of the New Zealand Sports Disputes Tribunal set out the procedure for the appeal and there shall be no further right of appeal

18 How is an Appeal Made?

- 18.1 An appeal must be in writing and may be in the form set out in Appendix 4.

18.2 The appeal must be signed by or on behalf of the person lodging the appeal and shall specify:

- i the decision appealed against
- ii the date of the decision appealed against, and
- iii the specific grounds of the appeal.

18.3 The *offender* may appeal to the SBA Appeal Committee on the grounds that:

- i the *chairman* of the Judicial Tribunal unreasonably refused a request to change the hearing date;
- ii the *offender* was not given the opportunity to adequately respond to the allegations against them;
- iii the procedure adopted by the Judicial Tribunal was unfair or discriminated against the *offender*;
- iv there was bias on the part of one of the tribunal members;
- v the sanction was unreasonable having regard to the nature of the offence;
- vi the sanction was unreasonable having regard to the *offender's* previous conduct;
- vii new and relevant information is now available, which was not reasonably available at the time of the hearing.

18.4 The person making the report may appeal the SBA Appeal Committee on the grounds that the:

- i sanction was inadequate having regard to the nature of the offence;
- ii sanction was inadequate having regard to the *offender's* previous conduct.

19 When is an Appeal Made?

19.1 The appeal shall be lodged within seven days after the date on which the written decision from the Judicial Committee has been sent to the parties heard at the hearing.

19.2 The appeal shall be lodged when the SBA Chair receives written notice of the appeal together with the deposit of \$100.00.

19.3 Within 48 hours of receipt of the appeal the Chair shall notify the person who has lodged the appeal of the deposit to be paid on the appeal.

19.4 The deposit shall be paid directly to the Chair within 48 hours after such notification.

- 19.5 If the deposit is not paid within the required time, the appeal shall be deemed abandoned provided that the Appeal Committee shall have power to extend the time for payment.
- 19.6 On lodgement of the appeal, the SBA Chair shall notify the Chair of the Appeal Committee, or where for any reason they are not available, any member of the Appeal Committee of the appeal.
- 19.7 The Chair or member shall fix a time, date and place for the hearing of the appeal.
- 19.8 Particulars thereof shall be notified by the SBA Chair to all parties to the proceedings heard by the Judicial Committee.
- 19.9 On any appeal, the Appeal Committee may direct SBA to be represented and SBA shall appear by counsel or by representative at the hearing of the appeal in such capacity, as the Appeal Committee requires providing assistance in the discharge of its duties.
- 19.10 When the parties have been notified of the time, date and place of the hearing of the appeal, the SBA Chair shall forward to the Appeal Committee:
- i the Notice of Appeal; and
 - ii the report of the Judicial Committee proceedings

20 How is the Appeal Committee Formed?

- 20.1 The Board shall appoint the SBA Appeal Committee on an ad hoc basis.
- 20.2 The Committee members are generally chosen for their experience and standing (not necessarily in the basketball community), and shall have the following qualities:
- i a sound knowledge of the game;
 - ii and understanding of procedures; and
 - iii an understanding and experience of the *principles of natural justice*.
- 20.3 The Committee shall consist of 3 members.
- 20.4 The members of the Appeal Committee must be independent of the appeal and have no vested interest in the outcome of the appeal.

21 How are Appeal Committee Hearings Conducted?

- 21.1 An appeal brought shall be by way of re-hearing subject to the provisions outlined below.
- 21.2 Where any question of fact arises on the appeal before the Appeal Committee, it shall be determined by reference to the report of the Judicial Committee proceedings provided that the Appeal Committee in its discretion may re-hear the whole or any part of evidence given before the Judicial Committee, as it considers appropriate.
- 21.3 The Appeal Committee shall have full discretionary power to hear and receive such further evidence on appeal as it thinks fit.
- 21.4 Where any party entitled to be heard on an appeal wishes to put before the Appeal Committee evidence not heard by the Judicial Committee, that party shall:
- i notify the SBA Chair of the fact not less than 48 hours prior to the hearing of the appeal; and
 - ii send to the SBA Chair within the time specified in paragraph (a) hereof a written outline of the nature of the evidence proposed to be given which shall be immediately sent by the SBA Chair to other parties to the appeal.
- 21.5 The Appeal Committee shall be entitled to receive such evidence as it thinks fit notwithstanding the evidence may not be legally admissible.
- 21.6 Where evidence is given before the Appeal Committee there shall be no cross-examination or questioning of witnesses except to the extent that the Appeal Committee in its discretion permits.
- 21.7 The decision of the Appeal Committee shall be advised to the parties as soon as practicable after the conclusion of the hearing. Where it considers it appropriate the Appeal Committee may deliver a short oral decision at the conclusion of the hearing with its reasons to be put in writing and communicated to the parties at a later date or it may reserve its decision.
- 21.8 All parties heard by the Appeal Committee shall be entitled to a copy of the written decision of the Appeal Committee which shall be sent by the SBA Chair as soon as practicable after it is available.
- 21.9 Any other person shall be entitled to a copy of the written decision of the Appeal Committee upon payment of such fee (if any) as the SBA Chair fixes.
- 21.10 Except as provided by these Rules, the Appeal Committee shall have power to regulate its own procedure. The Appeal Committee shall have power to vary or increase any penalty imposed in any case.
- 21.11 The Chairman of the Appeal Committee or any member thereof may exercise any power exercisable by the Appeal Committee in relation to an appeal from time to time.

21.12 The hearing of an appeal by the Appeal Committee shall be fully recorded. The SBA Chair shall hold the record of the proceedings and all papers produced at the hearing.

21.13 The Appeal Committee may, in its discretion, order that the deposit paid on the lodgment of an appeal be refunded.

21.14 The Appeal Committee shall have full discretionary power to regulate its own procedure.

21.15 The decision of the Appeal Committee on an appeal shall be final and binding on all parties to the appeal hearing.

22 Meaning of words in this Policy

In this policy:

- “SBA” means Southland Basketball Association
- “SBA Chair” means the SBA’S Chairperson of the Board
- “BBNZ” means Basketball New Zealand Inc, the sport’s governing body in New Zealand
- “alleged *offence*” means an offence that has been identified but has not yet been tried and/or proven
- “first *tier Judicial procedure*” means the procedure that is first used to deal with alleged offences.
- “principles of *natural justice*”
- “player” means any person who plays in a game or event conducted by or under the auspices of BBNZ
- “coach” means any person who coaches in a game or event conducted by or under the auspices of BBNZ
- “official” means any person who officiates in a game or event conducted by or under the auspice of BBNZ. This covers referees, umpires, table officials, floor controllers, and tournament controllers. This list is not exhaustive.
- “other *person*” means anyone else that may be reasonably covered.
- “aggravated *behaviour*” means behavior that is flagrant and particularly injurious to the success of the game, event, league or venue.
- “conduct *contrary to the integrity of the game of basketball*” means behaviour that is severely damaging to the reputation of the game, BBNZ and The SBA.

- “unsporting *conduct*” means conduct that violates BBNZ’s Fair Play Policy or Code of Conduct in such a way as may be considered an offence as determined by the appropriate Judicial Committee.
- “chairman” means chairman of the Judicial Committee appointed pursuant to clause 5. “chairman” may also mean chairman of the SBA Appeal Committee appointed pursuant to clause 18.

APPENDIX 5

NOTICE OF RIGHTS IN JUDICIAL PROCEEDINGS

Notice of Rights in Judicial Proceedings

To: *[Name of alleged offender]*

It has been alleged that on [date] you committed the following offence/offences:

A copy of the report made by [person making the report] is attached to this notice. You are entitled to a hearing before the Judicial Committee to determine whether or not you committed this offence [these offences]. If you admit that you did commit the offence [any of the offences] you may waive the right to this hearing by completing the attached election to admit offence and returning it within 14 days.

If you do not complete the election to admit offence within 14 days or if you do not admit that you committed the offence, a hearing before the Judicial Committee will be convened. You will be notified of the time and place of that hearing.

At the hearing:

- you have the right to question the person making the report or any witnesses they call;
- you have the right to call witnesses to give evidence on your behalf
- another person, including a legal representative may represent you.

The maximum recommended sanction for the offence it is alleged you committed is [sanction]. If the Judicial Committee find that the offence was committed they may impose any sanction up to that maximum. They may also decide, having regard to your prior good record, to impose no sanction. Any prior established offences will be taken into account in determining a sanction.

During any period of suspension you may not play, coach, officiate or table officiate at a basketball game conducted under the auspices of *BBNZ* or the *SBA*.

If you admit that you committed the offence the Judicial Committee will still be convened to determine the sanction. You have the right to address that Judicial Committee and may be represented by another person (including a legal representative).

Chairman
Judicial Committee

APPENDIX 6

ELECTION TO ADMIT OFFENCE

I *[name of person]* have read the attached report that alleges that I committed the following offence/offences:

I admit that I committed that offence and do not want there to be a hearing to determine whether or not I committed that offence. I acknowledge that the maximum sanction for that offence is [sanction] and that this may be imposed upon me. I understand that during the period of suspension I will not be able to coach, play, officiate or table officiate in any game of basketball conducted under the auspices of *BBNZ or the SBA* . I also understand that any sanction will be recognized by SBA, every association, regional and *BBNZ* bodies in New Zealand.

I have had 7 days to consider whether or not to make this election and understand that if a hearing were held I could, if I chose, be represented by a lawyer.

[Name of person]
Date

APPENDIX 8

SPECIFIC GROUNDS OF APPEAL

The offender may appeal to the SBA Appeal Committee on the grounds that:

- The chairman of the Judicial Committee unreasonably refused a request to change the hearing date
- The offender was not given adequate opportunity to respond to the allegations against them
- The procedure adopted by the Judicial Committee was unfair and discriminated against the offender
- There was bias on the part of one of the Judicial Committee members
- The sanction was unreasonable having regard to the nature of the offence
- The sanction was unreasonable having regard to the offender's previous conduct
- New and relevant information is now available, which was not reasonably available at the time of the hearing.

The person making the report may appeal to the SBA Appeal Committee on the grounds that:

- The sanction was inadequate having regard to the nature of the offence
- The sanction was inadequate having regard to the offender's previous conduct