



AUSTRALIAN CHESS FEDERATION INC

Incorporated 1987 – Australian Capital Territory reg no A01325 – ABN 38717503018
Website: www.auschess.org.au – Affiliated with the Fédération Internationale Des Échecs

DISPUTE RESOLUTION

Adopted: 15 November 2010 – Council Meeting

1. DEFINITIONS

Unless otherwise indicated, the definitions of words, expressions and abbreviations given in clause 1.b. of the Constitution of the Australian Chess Federation Inc apply in this by-law, as do the following:

1. 1. “Council” means ACF Council;
1. 2. “Executive” means ACF Executive committee or a member of the Executive committee whom the Executive committee has authorised to act on its behalf for the purposes of this by-law;
1. 3. “process” means procedures followed to produce a recommendation to resolve a dispute in accordance with this by-law;
1. 4. “party” means person, group, organisation and/or authorised representative thereof whom the Executive has agreed to regard as a party for the purposes of this by-law;
1. 5. “Arbitrator” means a person appointed by the Executive to oversee the process in accordance with this by-law; and,
1. 6. “Deputy Arbitrator” means a person appointed by the Arbitrator to assist as the Arbitrator may require to ensure that the process is conducted in accordance with this by-law.

2. DELEGATION OF EXECUTIVE AUTHORITY

2. 1. Authority given to the Executive by this by-law may be delegated by the Executive to one or some of its members and/or to such other person as the Executive may choose.
2. 2. Authority so delegated may be withdrawn by the Executive at any time.

3. APPLICATION

3. 1. Affiliated Associations may apply to the Executive for a decision to resolve a dispute in accordance with the process.
3. 2. Each application must be in writing and include a statement in respect of the dispute indicating:
 3. 2. 1. the nature of the dispute;
 3. 2. 2. the most preferred way in which the party would wish to have the dispute resolved;
 3. 2. 3. alternative ways of resolving the dispute that would be acceptable to the party; and,
 3. 2. 4. the names of persons who are authorised to represent the party in matters relating to the process.
3. 3. Each party to the dispute must provide written guarantees as follows:
 3. 3. 1. for the duration of the process any related legal proceeding will be suspended or terminated to an extent that will not cause forfeiture of legal entitlements;
 3. 3. 2. the party will not seek to hold the Federation, its office-bearers or the Arbitrator or a Deputy Arbitrator responsible for any action or oversight during the process other than that allegedly involving fraudulent or criminal activity or willful misconduct; and,
 3. 3. 3. the party will comply with lawful decisions resulting from the process.

4. APPOINTMENT OF ARBITRATOR

4. 1. The Executive shall inform each party of the names of a number of persons from among whom an Arbitrator is to be appointed.
4. 2. Each party shall be entitled to object to the appointment of up to all but one of that number.
4. 3. The Executive shall appoint as Arbitrator a person in respect of whom no objection was made.

5. **APPOINTMENT OF DEPUTY ARBITRATOR**

5. 1. Upon appointment, the Arbitrator shall determine whether or not the parties are to be invited to consider the possible appointment of up to two Deputy Arbitrators.
5. 2. Where the Arbitrator has decided to invite the parties to consider the appointment of one or two Deputy Arbitrators, the Arbitrator shall ensure:
 5. 2. 1. that all parties are permitted formally to object to the appointment of not more than one proposed Deputy Arbitrator; and,
 5. 2. 2. that no person in respect of whom a permitted objection as provided for in sub-clause 5.2.1. of this by-law is appointed as a Deputy Arbitrator.

6. **RESPONSES TO SUBMISSIONS**

Each party may view and respond once in writing to the submission made by each other party.

7. **CONFIDENTIALITY**

7. 1. Where a party seeks to limit the extent to which its submission and/or responses to the submissions of others are to be disclosed to other parties, the Arbitrator shall determine whether or not such submissions and/or responses shall be so disclosed.
7. 2. No part of any submission or response to any submission shall be published, distributed or otherwise conveyed to any persons other than those to whom the Arbitrator considers distribution necessary for the effective conduct of the process.
7. 3. If invited or required to testify in court, the Arbitrator and all parties shall, to the extent permitted by law, decline to disclose, confirm or deny information exchanged and/or statements alleged to have been made as part of the process.

8. **IF ACF IS A PARTY**

Whether or not the ACF is a party, the Arbitrator shall be under no obligation to serve the interests of the ACF beyond the need to resolve the dispute in a way that is lawful, not inconsistent with the rules of the Federation and, in the view of the Arbitrator, reasonable in the circumstances.

9. **FINANCIAL OBLIGATIONS**

The Executive may require a party to pay a deposit equal to an amount determined by the Executive committee in respect of the process.

10. **FORFEITURE OF DEPOSIT**

The Executive committee may:

10. 1. declare a deposit to have been forfeited in full or in part by a party that, in the opinion of the Executive committee, has:
 10. 1. 1. intentionally misled the Arbitrator by willful submission of misleading information or withholding without acceptable reason information the Arbitrator considers necessary for the achievement of the objectives of the process; or,
 10. 1. 2. unintentionally caused the Arbitrator to be misled due to an error, omission or oversight resulting from failure to exercise reasonable care;
 10. 1. 3. withdrawn from the process without reason acceptable to the Arbitrator;
 10. 1. 4. refused to comply with an appropriate requirement of the Arbitrator;
 10. 1. 5. attempted to jeopardise the process or prevent the process from achieving its objective;
 10. 1. 6. reflected publicly on the process so as to detract from its effectiveness or credibility as a means of resolving the dispute;
10. 2. delay the refund of the aforementioned deposit for a period not exceeding one year after the termination of the process; and,
10. 3. determine that all or a portion of a deposit so paid is to be used to meet costs the Arbitrator attributes to the process and may determine the amount of any such portion.

11. **WITHDRAWAL FROM PROCESS**

A party wishing to withdraw from the process shall notify the Arbitrator in writing to that effect and shall be considered withdrawn upon acknowledgement of that notification by the Arbitrator.

12. **CONCLUSION OF PROCESS**

12. 1. The mediation process shall terminate:
12. 1. 1. at any time chosen by the Arbitrator;
 12. 1. 2. if the Arbitrator considers that a party:
 12. 1. 2. 1. has intentionally breached a significant condition of participation in the process; and,
 12. 1. 2. 2. is unwilling to take whatever steps the Arbitrator considers necessary to enable the process to continue satisfactorily;
 12. 1. 3. upon the withdrawal of a party whose participation the Arbitrator consider essential to a satisfactory conclusion of the process.

13. **ARBITRATOR'S REPORT & RECOMMENDATIONS**

At the conclusion of the process, the Arbitrator shall present to the Executive a report on the process accompanied by recommendations consistent with the manner in which the Arbitrator considers most appropriate to the resolution of the dispute.

14. **OUTCOME**

14. 1. The Executive shall consider the recommendations of the Arbitrator and produce a Statement of Outcome which may incorporate none, some or all of the Arbitrator's recommendations and variations thereof.
14. 2. To the extent permitted by law, the outcome of the process as indicated in the Statement of Outcome shall be binding on the parties from a point in time determined by the Executive.

15. **REASONS FOR DECISION**

Without affecting the outcome of the process, the ACF may decline to offer justification for any action or decision taken during the process.

16. **EFFECT OF DECISION**

Provided the ACF Executive is satisfied that a decision of the Arbitrator is within the range of reasonable decisions available to the Arbitrator, such a decision shall be binding on the parties to the extent permitted by law.

17. **RESPONSIBILITIES OF ARBITRATOR**

17. 1. To determine procedural issues that may arise during the process, including the extent, if any, to which the proceedings of the process are to be recorded.
17. 2. To determine whether or not the parties are to be invited to consider the appointment of up to two Deputy Arbitrators. [ref 5.1.]
17. 3. Where the Arbitrator has decided to invite the parties to consider the appointment of one or two Deputy Arbitrators:
 17. 3. 1. to ensure that all parties are given opportunity to object to the appointment of one of the proposed Deputy Arbitrators; [ref 5.2.1.] and,
 17. 3. 2. to ensure that no person in respect of whom an objection has been made is appointed as a Deputy Arbitrator. [ref 5.2.2.]
17. 5. To acknowledge notification of withdrawal from the process by any party [ref 12.] and to ensure that all other parties are notified accordingly.
17. 6. To invite submissions and responses to submissions [ref 6.] from each party and to ensure that each party is given reasonable time to prepare submissions and responses.
17. 7. To determine the extent if any to which requests to limit disclosure of submissions and responses shall be granted. [ref 7.1.]
17. 8. To endeavor to ensure that no part of any submission or response to any submission is published, distributed or otherwise conveyed to any persons other than those necessary for the effective conduct of the process. [ref 7.2.]
17. 9. To the extent permitted by law, to decline to disclose, confirm or deny information exchanged and/or statements alleged to have been made as part of preparation for and/or during the process. [ref 7.3.]
17. 10. To advise the Executive when forfeiture of a deposit for a reason indicated in paragraph 10.1. would be justified. [ref 10.1.]
17. 11. To ensure that the Executive is appropriately advised of any significant cost that it may be necessary for the Federation to meet in connection with the process and to ensure that no significant financial liability is incurred by the Federation without the prior approval of the Executive. [ref 10.3.]
17. 12. To determine the time at which the process is to terminate. [ref 12.1.1.]
17. 13. To determine whether a party has breached a significant condition of participation in the process and, if so, whether or not the process is to be terminated as a consequence of the unwillingness of that party to take whatever steps the Arbitrator considers necessary to enable the process to continue satisfactorily. [ref 12.1.2.]

17. 14. To determine the parties whose participation is essential to a satisfactory conclusion of the process. [ref 12.1.3.]
17. 15. To present to the Executive at the conclusion of the process a report on the process accompanied by recommendations most appropriate to the resolution of the dispute. [ref 13.]
17. 16. to endeavor to ensure that the dispute is resolved in a way that is lawful, not inconsistent with the rules of the Federation and reasonable in the circumstances. [ref 8.]