



**CLUB
MANAGERS
ASSOCIATION
OF AMERICA**

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Tennessee Volunteer Chapter
presents

ROBYN NORDIN STOWELL, ESQ.
CLUB ATTORNEY

**MEMBER DISCIPLINE, AND A FEW
OTHER THINGS THAT KEEP ME
AWAKE AT NIGHT**

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MEMBER DISCIPLINE IS:

- Required
- Uncomfortable
- Manageable
- Risky
- Can lead to litigation
- . . . Can be pretty funny!

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HOW RISKY IS MEMBER DISCIPLINE FOR THE BOARD?

- One of the most frequent sources of club litigation
- Very important to follow the club's documents and applicable law

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MEMBER DISCIPLINE PROCESS IS A BALANCE BETWEEN

- | | |
|--------------------------|-------------------|
| • Members' interests | • Club safety |
| • Members' personalities | • Member safety |
| • Member satisfaction | • Club liability |
| • Club reputation | • Club reputation |

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MANDATORY DISCIPLINE

- Member behavior reflects on your club
 - Reputation
 - Guests
- Member behavior can lead to legal liability
 - Employment issues
 - Slander / libel
 - Personal injury
 - Non-enforcement



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WHAT LAWS AND RULES GOVERN THE MEMBER DISCIPLINE PROCESS?

- State Law
 - Non-profit corporation laws apply to member owned clubs
- Common Law (court rulings)
- Bylaws
- Contracts between Club and Member
- Club Rules



THE CLUB SERVES AS:

- Rule Maker (legislature)
- Rule Enforcer
 - (police and prosecutor)
- Judge and Jury



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TENNESSEE NONPROFIT CORPORATION STATUTES

Resignation.

(a) A member may resign at any time.

(b) The resignation of a member does not relieve the member from any obligations the member may have to the corporation.

[TN Code § 48-56-301 \(2016\)](#)

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TENNESSEE NONPROFIT CORPORATION STATUTES

Termination.

- (a) Unless the charter provides for the removal of a member and termination of a membership without cause, no member may be expelled or suspended, and no membership or memberships may be terminated or suspended except pursuant to a procedure which is fair and reasonable and is carried out in good faith.
- (b) A procedure is fair and reasonable when either:
 - (1) The charter or bylaws set forth a procedure which provides:
 - (A) Not less than fifteen (15) days' prior written notice of the expulsion, suspension, or termination and the reasons therefor; and
 - (b) An opportunity for the member to be heard, orally or in writing, not less than five (5) days before the effective date of the expulsion, suspension, or termination by a person or persons authorized to decide that the proposed expulsion, suspension, or termination not take place; or
 - (2) It is fair and reasonable taking into consideration all of the relevant facts and circumstances

[TN Code § 48-56-302 \(2016\)](#)

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TENNESSEE NONPROFIT CORPORATION STATUTES

Termination.

- (c) A procedure is not necessarily unfair nor unreasonable:
 - (1) If a member's attorney is excluded from the hearing;
 - (2) If the member is not allowed to cross-examine adverse witnesses; or
 - (3) If the person or persons authorized to make the decision consider matters and evidence which would be inadmissible in a court of law.
- (d) Any written notice given by mail must be given by first class or certified mail sent to the last address of the member shown on the corporation's records.
- (e) Any proceeding challenging an expulsion, suspension or termination, including a proceeding in which defective notice is alleged, must be commenced within one (1) year after the effective date of the expulsion, suspension or termination.
- (f) A member who has been expelled or suspended may be liable to the corporation for dues, assessments or fees.
- (g) This section shall not apply to any amendment of the charter or bylaws meeting the requirements of chapters 51-68 of this title and § 48-60-302.

[TN Code § 48-56-302 \(2016\)](#)

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TIP: PLAN AHEAD

- Update bylaws
- New member documents
- Written policies
- Publish the requirements and policies
- Document infractions and enforcement actions

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TIP: BE CONSISTENT

- Consistency
- Empower the staff
- Enforce the Rules (or change them)
- Follow up on each complaint
- And . . .

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5 STEPS

to Member Discipline

1. Investigation
2. Board Action
3. Notice
4. Hearing or other opportunity to be heard and/or appeal
5. Consequence

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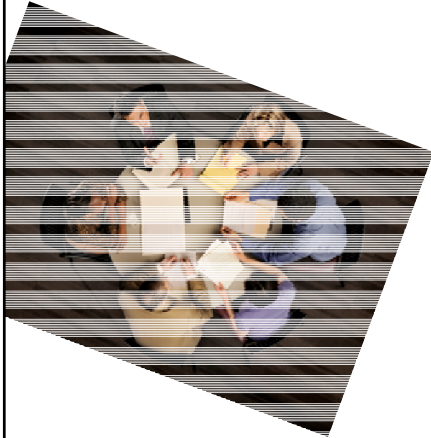
STEP 1 INVESTIGATION

Who conducts the investigation?

- General Manager
- Lawyer
- President
- Grievance Committee

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STEP 2 BOARD/OWNER ACTION



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Board: Follow Documents

- By written consent
- At regular meeting
- At special meeting

Owner:

- Process in documents
- Contract issues

STEP 3 NOTICE

Timing:

- Club bylaws or rules
- Usually 10-30 days



Notice:

- Written letter
- Proposed discipline

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STEP 4 HEARING OR OPPORTUNITY TO BE HEARD

- Can the member have counsel?
- Who presides?
- Do you present witnesses?

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STEP 5 CONSEQUENCES

- Censure
- Fine
- Suspension
 - ✓ Term?
- Request resignation
- Expulsion/termination

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WHEN DO YOU CALL YOUR LAWYER?

- Illegal activity
- Employee involvement
- Liability concern

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OTHER THINGS THAT KEEP ME AWAKE

- Personally identifiable information
- #Metoo

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PERSONALLY IDENTIFIABLE INFORMATION

- Basics:
 - You have information
 - It is breached
 - Required actions
- Other states: “resident”
 - i.e., Massachusetts
- See BoardRoom Article

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PERSONALLY IDENTIFIABLE INFORMATION

- T. C. A. § 47-18-2108 Consumer report security freeze request
- T. C. A. § 47-18-2109 Notice of right to security freeze
- T. C. A. § 47-18-2110 Social security number protection; crime and punishment; exemptions; policy review
- T. C. A. § 47-18-2111 Protected consumer security freeze

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IDENTITY THEFT

- *Consumer Protection Related to Identity Theft*
- T. C. A. § 47-18-2101 Tennessee Identity Theft Deterrence Act of 1999
- T. C. A. § 47-18-2102 Definitions.
- T. C. A. § 47-18-2103 Prohibited Practices.
- T. C. A. § 47-18-2104 Private rights of Action.
- T. C. A. § 47-18-2105 Civil Penalties and Remedies.
- T. C. A. § 47-18-2106 Violation of Tennessee Consumer Protection Act.

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#METOO

- It depends how old you are
- Train and re-train
- Over-reaction
- Under-reaction
- Employee Issues

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QUESTIONS AND CONCLUSIONS

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PRESENTER: ROBYN NORDIN STOWELL



Sherman & Howard
7033 E. Greenway Parkway
Suite 250
Scottsdale, AZ 85254

Ph: (480) 624-2736

Cell: (602) 300-5326

rstowell@shermanhoward.com

www.shermanhoward.com

@clublawyer

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