

3/30/2024

# TKDNS 6.0

Appeals Policy



**TKDNS**

## 6.0 - Appeals Policy

### 1. Purpose

- 1.1. The purpose of the appeal policy is to enable disputes with and between members of TKDNS to be dealt with fairly, expeditiously, and affordably, within TKDNS, without recourse to external legal procedures such as the courts.

### 1. Definitions

- 1.1. The following terms have these meanings in this Policy:
  - 1.1.1. **“Association”** – Tae Kwon Do Nova Scotia.
  - 1.1.2. **“Case Manager”** – An individual appointed by the Association, who need not be a member or affiliated with the Association, to administer this Discipline and Complaints Policy. The Case Manager will comply with the position description described in TKDNS-SD01-Case Manager Position Description.
  - 1.1.3. **“Complainant”** – The Party alleging an infraction.
  - 1.1.4. **“Days”** – For the purposes of this Policy “days” refers to business days, not including holidays and weekends.
  - 1.1.5. **“Individuals”** – All categories of membership defined in the Association’s Bylaws, including Affiliated clubs, teams, as well as all individuals engaged in activities with the Association including, but not limited to, athletes, coaches, referees, officials, volunteers, managers, administrators, committee members, and directors and officers of the Association
  - 1.1.6. **“In writing”**- A letter, fax or email sent directly to or from the Association.
  - 1.1.7. **“Respondent”** – The alleged infracting Party
  - 1.1.8. **“Ruling Body”** – Any Panel, Committee or other group assembled, recruited, or assigned by the Association for the purpose of reviewing and ruling on a Complaint or Appeal.

### 2. Scope of Appeal

- 2.1. Any individual who feels unfairly affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any Ruling Body who has been delegated authority to make decisions on behalf of the Board of Directors (such as TKDNS Sanctions Committee or Discipline Panel), will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Paragraph 4 of this policy.
- 2.2. This policy cannot be used and will not apply to decisions relating to:
  - 2.2.1. Matters of employment.
  - 2.2.2. Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program.
  - 2.2.3. The rules of amateur Taekwondo, which may not be appealed.
  - 2.2.4. Matters relating to the substance, content, and establishment of team selection criteria, which may not be appealed - the only exception being that of attendance at the criteria event with respect to its timing relative to a National and/or international event(s) as per accepted standards.

- 2.3. Volunteer appointments and the withdrawal of those appointments by the Board of Directors, which may not be appealed.
- 2.3.1. Matters of budgeting and budget implementation, which may not be appealed.
- 2.3.2. Matters of operational structure and staffing, which may not be appealed.
- 2.4. Decisions and rulings of a duly appointed Case Manager and/or Ruling Body may not be appealed.

### **3. Timing of Appeal**

- 3.1. Any individual who wishes to appeal a decision from the Board and/or Board Committee will have 10 days from the date on which they received notice of the decision, to submit in writing notice of their intention to appeal, along with grounds for the appeal and a summary of the evidence that supports these grounds.
- 3.2. Appeals must be submitted to the President of TKDNS  
TO: [president@tkdns.org](mailto:president@tkdns.org)  
CC: [secretary@tkdns.org](mailto:secretary@tkdns.org)
- 3.3. Appellants must submit a \$250 CAD payment to [payments@tkdns.org](mailto:payments@tkdns.org) by e-transfer. Cheque, or money order is acceptable, or other payments arrangements can be discussed. If their appeal is granted, they will receive a refund of the \$250 in full. If their appeal is denied, they will not receive a refund.

### **4. Grounds for Appeal**

- 4.1. Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds.
- 4.2. Appeals may be granted only if evidence is presented if a Ruling Body:
  - 4.2.1. Made a decision for which it did not have authority or jurisdiction.
  - 4.2.2. Failed to follow procedures as laid out in the bylaws or approved policies of TKDNS.
  - 4.2.3. Made a decision that was influenced by bias.
- 4.3. The litmus test for granting an Appeal will include but not be limited to:
  - 4.3.1. Whether any new information, not previously presented to the ruling body, has subsequently come to light.
  - 4.3.2. Whether either party were treated in an overtly biased manner and had opportunities granted or denied influencing the outcome of a decision not proffered to the other party or parties.
  - 4.3.3. Whether the evidence presented during appeal would have resulted in a substantially different outcome from the Ruling Body.

### **5. Screening of Appeal**

- 5.1. Within 10 days of receiving the notice and grounds of an appeal, TKDNS will assign a Case Manager to determine whether there are appropriate grounds for the appeal to proceed as set out in Paragraph 4.
  - 5.1.1. The Case Manager will not be bound by time restrictions while considering whether there are appropriate grounds for an Appeal unless there are specific reasons presented by the Appellant for such urgent consideration.

- 5.2. If the appeal is denied the Appellant and the TKDNS Executive will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the Case Manager and may not be appealed.

## **6. Appeals Panel**

- 6.1. If the Case Manager is satisfied that there are sufficient grounds for an appeal, within 10 days of having received the original notice of appeal the Case Manager, in consultation with the Association, will establish an Appeals Panel (hereafter referred to as the "Panel") as follows:
  - 6.1.1. The Panel will be comprised of three individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived conflict.
  - 6.1.2. The Case Manager, or designate, may name one of the Panel members to serve as Chairperson of the Panel. In the event the Case Manager, or designate, does not name a chairperson, the members of the Panel will select from themselves a chairperson.

## **7. Scope of Appeals Panel**

- 7.1. The Appeals Panel may only consider the evidence presented and accepted as part of the Appeal and in what manner that evidence may have influenced the outcomes of the original ruling.
- 7.2. The Appeal may not be seen as an opportunity to retry the original case and any attempt by either party to consider evidence or issues not a part of the Appeal will negate the Appeals process and all original rulings will stand.
  - 7.2.1. In any case where the Appellant attempts to introduce or discuss evidence not defined in the Appeal, the Appellant's Appeal fee will not be refunded.

## **8. Preliminary Conference**

- 8.1. The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:
  - 8.1.1. format of the appeal (hearing by documentary evidence, oral hearing or a combination of both);
  - 8.1.2. Timelines for exchange of documents.
  - 8.1.3. Clarification of issues in dispute.
  - 8.1.4. Clarification of evidence to be presented to the Panel.
  - 8.1.5. Order and procedure of hearing.
  - 8.1.6. Location of hearing, where the hearing is an oral hearing.
  - 8.1.7. Identification of witnesses; and
  - 8.1.8. Any other procedural matter that may assist in expediting the appeal proceedings.
- 8.2. The Panel may delegate to its chairperson the authority to deal with these preliminary matters on behalf of the Panel.

## **9. Procedure for the Hearing**

- 9.1. Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:

- 9.1.1. The Committee will make every effort to hold the hearing within 15 days of the Panel's appointment.
- 9.1.2. The Appellant and Respondent will be given 5 days written email notice of the date, time, and place of the hearing.
- 9.1.3. A quorum will be all three Panel members.
- 9.1.4. Decisions will be by majority vote, where the Chairperson carries a vote.
- 9.1.5. If the decision of the Panel may affect another party to the extent that the other party would have recourse to an appeal in their own right under this policy, that party will become a party to the appeal in question and will be bound by its outcome.
- 9.1.6. A representative or advisor, including legal counsel, may accompany any of the parties.
  - 9.1.6.1. Any costs or fees associated with the hiring of legal council is solely the responsibility of the party that engages that service.
  - 9.1.6.2. The decision to engage legal counsel on behalf of TKDNS must be brought to the Executive Committee for approval prior to such services being engaged.
- 9.1.7. The Panel may direct that any other person participates in the appeal process.
- 9.2. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone conference.

## **10. Procedure for Documentary Appeal**

- 10.1. Where the Panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures as it deems appropriate, provided that:
  - 10.1.1. All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written and/or oral submissions of the other parties, and to provide written rebuttal and argument; and
  - 10.1.2. The applicable principles and timelines set out in Paragraph 9.1 are respected.

## **11. Appeal Decision**

- 11.1. Within 10 days of concluding the appeal, the Panel will issue its written decision, with reasons. The decision will follow this format:
  - 11.1.1. Issue to be decided
  - 11.1.2. Statement of the facts
  - 11.1.3. Authorities considered
  - 11.1.4. Decision
  - 11.1.5. Reasons for decision
- 11.2. In making its decision, the Panel will have no greater authority than that of the original Ruling Body. The Panel may decide:
  - 11.2.1. To reject the appeal and confirm the decision being appealed; or
  - 11.2.2. To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
  - 11.2.3. To uphold the appeal and vary the sanction and/or decision.
  - 11.2.4. To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.
- 11.3. The decisions of the Appeal Panel are final and may not be appealed.

- 11.4. The decision will be considered a matter of public record and may be placed on TKDNS website or forwarded to others if deemed applicable. A copy of the decision will be provided to each of the parties and to the President or designate.
- 11.5. In extraordinary circumstances, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision with reasons is rendered within the timelines specified in Paragraph 11.1.

## **12. Timelines**

- 12.1. If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

## **13. Location**

The appeal will take place in the location or venue (conference call) as determined by the Panel, keeping in mind the Society's budget.

## **14. Urgent Appeals**

- 14.1. Where the appeal is of an extraordinary and urgent nature, upon receiving notice of the appeal the President will respect the principles set out in this policy and may, in his or her sole discretion, adapt procedures and timelines to ensure that the appeal is heard and decided in a fair and timely manner.

## **15. Decision**

- 15.1. The decision of the Panel is the final step of the TKDNS Appeal process.