

6/23/2024

# TKDNS 9.0

Discipline and Complaints



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## 9.0 - Discipline and Complaints

### 1. Definitions

The following terms have these meanings in this Policy:

- 1.1. **“Association”** – Taekwondo Nova Scotia.
- 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.
- 1.3. **“Complainant”** – This policy uses the term “Complainant” to refer to the person or group who experiences harassment, even though not all persons who experience harassment will make a formal complaint.
  - 1.3.1. A complaint may be made by any Individual and is not limited to the person experiencing the Harassment.
  - 1.3.2. The TKDNS may act as Complainant in any case where such actions are considered appropriate by the Executive.
- 1.4. **“Days”** – For the purposes of this Policy “days” refers to business days, not including holidays and weekends.
- 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.
- 1.6. **“In writing”**- A letter, fax or email sent directly to or from the Association.
- 1.7. **“Respondent”** – The term “Respondent” refers to the person against whom a complaint is made.

### 2. Purpose

- 2.1. Individuals and participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Association’s policies, bylaws, rules, and regulations, and TKDNS -Policy 3.0 - *Code of Conduct and Sanctions Policy 3.0*. Non-compliance may result in sanctions pursuant to this Policy.

### 3. Scope

- 3.1. This Policy applies to all Individuals relating to and/or involved in matters that may arise during Association’s business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Association activities, and any meetings.
  - 3.1.1. This policy and any subsequent rulings apply to all Individuals and Members named in a Complaint.

- 3.2. This Policy applies to TKDNS business, activities, and events, regardless of location, including, but not limited to: Affiliate clubs and related spaces, demonstrations, special events, social events where the majority of those present are Members and or Individuals connected with the Association, tournaments, and training camps.
- 3.2.1. To this policy, “TKDNS business” is defined as, but limited to, any activity endorsed, insured, sanctioned, or organized by the TKDNS or that takes place within the day-to-day or extraordinary activities of TKDNS affiliate clubs.
- 3.2.2. Questions of jurisdiction of this policy will be decided by the Executive Committee of the TKDNS at its sole discretion and may not be appealed.
- 3.2.3. When non-affiliated organizations or businesses related to, doing business with, or otherwise engaging with the TKDNS do **not** have formal policies and mechanisms in place, the policies of the TKDNS shall apply.
- 3.2.4. When non-affiliated organizations or businesses related to, doing business with, or otherwise engaging with the TKDNS **do** have formal policies and mechanisms in place the policies of the non-affiliated organizations or businesses shall apply.
- 3.3. This Policy also applies to an individual’s conduct outside of the Association’s business, activities, and events when such conduct adversely affects relationships within the Association (its work and/or sport environment) or is detrimental to the image and reputation of the Association.
- 3.4. This Policy does not prevent discipline from being applied during a competition or event. Further discipline may be applied according to this Policy. Any infractions or complaints occurring within the competition will be dealt with by the procedures specific to the competition, if applicable or TKDNS Policy 2 - Tournament Policy 2.0. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.
- 3.5. An employee of the Association, including Individuals and firms under contract, found to be a Respondent will be subject to appropriate disciplinary action subject to the terms of the employee’s Employment Agreement or Vendor Contract, as applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment or contract.

#### 4. Reporting a Complaint

- 4.1. Any Individual may report any complaint to the Association. A complaint must be in writing and must be filed within 10 days of the alleged incident. Complaints should be submitted to:

President

Email: [president@tkdns.org](mailto:president@tkdns.org)

Mail: 150 Carsons Wy, Porters Lake, N.S. B3E 0E3

- 4.1.1. The individual or group registering the Complaint with the Maritime Taekwondo Union need not be an “injured party” for the Complaint to be accepted by the Association.

- 4.2. A Complainant wishing to file a complaint outside of the 10 days must provide a written statement giving reasons for an exemption to this limitation. The decision to accept or deny the complaint outside of the 10 days will be at the sole discretion of the Case Manager. This decision may not be appealed.
- 4.3. At the Association's discretion, the Association may act as the complainant and initiate the complaint process under the terms of this Policy. In such cases, the Association will identify an individual to represent the Association.
- 4.4. Resignation or lapsing of membership after a complaint is filed does not preclude disciplinary proceedings being pursued under this policy.
- 4.5. Upon receiving a complaint, the Association will review the complaint to determine required next steps.
  - 4.5.1. The Association will be represented by the President and at least two (2) members of the Executive Committee of the Board of Directors.
    - 4.5.1.1. In the case where the President and/or members of the Executive Committee and /or the Board of Directors are named in the Complaint, a Case Manager will be automatically assigned to review and determine required next steps.

## **5. Case Manager**

- 5.1. Upon the receipt and review of a Complaint, the Association will appoint or request the appointment of an independent Case Manager to manage and administer complaints submitted in accordance with this Policy and such an appointment is not appealable.
- 5.2. Details of the Role of the Case Manager can be referenced from *TKDNS-SD01 Case Manager Position Description*.
- 5.3. The Case Manager has a responsibility to:
  - 5.3.1. Determine whether the complaint is within the jurisdiction of this Policy.
  - 5.3.2. Appoint a Discipline Panel, if necessary
  - 5.3.3. Coordinate all administrative aspects and set timelines.
  - 5.3.4. Provide administrative assistance and logistical support to the Panel as required.
  - 5.3.5. Provide any other service or support that may be necessary.

## **6. Procedures**

- 6.1. If the Case Manager determines the complaint is:
  - 6.1.1. Outside the jurisdiction of this Policy, the complaint will be dismissed immediately, in writing to all Parties, with reasons.
    - 6.1.1.1. The Case Manager's decision to accept or dismiss the complaint may not be appealed.
  - 6.1.2. If within the jurisdiction of this Policy, the Case Manager will notify the Parties the complaint is accepted and the applicable next steps.
- 6.2. The Case Manager will establish and adhere to timeframes that ensure procedural fairness and that the matter is heard in a timely fashion.

- 6.3. Depending on the severity of the actions that lead to the Complaint, and at the sole discretion of the Case Manager, a Discipline Committee of three people may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.
- 6.4. The Case Manager, in cooperation with the Discipline Panel, will then decide the format under which the complaint will proceed.
  - 6.4.1. At the sole discretion of the Panel, an Investigation into the circumstances leading to the Complaint may be undertaken.
  - 6.4.2. The investigation of a Complaint may:
    - 6.4.2.1. Be conducted by an individual not in Conflict of Interest with the Complaint and any parties associated with the Complaint.
    - 6.4.2.2. Be conducted by an individual experienced in conducting investigations.
      - 6.4.2.2.1. Consultation with an experienced investigator will be considered in lieu of direct investigative experience.
    - 6.4.2.3. Be conducted by an Individual recommended by the Association.
  - 6.4.3. The decision of the Case Manager and the Panel regarding who will investigate may not be appealed.
- 6.5. The format of the hearing may involve:
  - 6.5.1. direct communications with the Parties,
  - 6.5.2. oral in-person hearing,
  - 6.5.3. oral hearing by telephone or other telecommunications,
  - 6.5.4. hearing based on a review of documentary evidence submitted in advance of the hearing,
  - 6.5.5. or a combination of these methods.
- 6.6. **Hearing**
  - 6.6.1. The Discipline Panel will hold the hearing as soon as possible, but not more than fifteen (15) days after the Discipline Panel has been appointed by the Executive Committee.
  - 6.6.2. The Discipline Panel will govern the hearing as it sees fit, provided that:
    - 6.6.2.1. Members of the Discipline Panel will select from among themselves a chairperson.
    - 6.6.2.2. A quorum will be all three (3) Discipline Panel members.
    - 6.6.2.3. Decisions will be by majority vote; the Chairperson carries a vote.
    - 6.6.2.4. The Complainant and the Respondent may be accompanied by a representative.
      - 6.6.2.4.1. The costs of all legal representation are the sole responsibility of the Complainant and the Respondent, whomsoever engages such representation.
    - 6.6.2.5. The hearing will be held in private.

- 6.6.3. The Respondent will be given five (5) business days written notice (by email, courier, or fax) of the day, time, and place of the hearing, and included in the notice will be a copy of the formal complaint and a copy of the Investigator's report.
- 6.6.4. The Complainant will receive a copy of the Investigator's report five (5) days prior to the hearing.
- 6.6.5. Both the Complainant and Respondent will be present at the hearing to respond to the Investigator's report, give evidence and to answer questions of the Discipline Panel.
  - 6.6.5.1. The absence of either party at the hearing does not invalidate the proceedings and may not be used as reason for appeal.
- 6.6.6. The hearing will proceed in the absence of either or both parties.
- 6.6.7. The Investigator may attend the hearing at the request of the Discipline Panel.
- 6.6.8. The Discipline Panel may request that witnesses to the incident be present or submit written evidence.
- 6.6.9. And once appointed, the Discipline Panel will have the authority to abridge or extend timelines associated with all aspects of the hearing.
- 6.7. To keep costs to a reasonable level the Discipline Panel may conduct the hearing by means of a conference call or videoconference.
- 6.8. As soon as possible, but in any event within five (5) business days of the hearing, the Discipline Panel will present its decision to the TKDNS Executive, with a copy provided to both the Complainant and Respondent. The decision will contain:
  - 6.8.1. A summary of the relevant facts.
  - 6.8.2. A determination as to whether the acts complained of constitute a breach of TKDNS policy.
  - 6.8.3. Recommended disciplinary action against the Respondent, and
  - 6.8.4. Recommended measures to remedy or mitigate the harm or loss suffered by the Complainant.
- 6.9. If the Discipline Panel determines that the allegations levelled against the Respondent are false, vexatious, retaliatory, or frivolous, their report may recommend disciplinary action against the Complainant.
- 6.10. In the case of an oral in-person hearing, an oral hearing by telephone or other telecommunications, copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing and/or decision rendered.
- 6.11. In cases where anonymity of the Complainant(s) has been requested and granted the Committee must take care to redact or edit documents to maintain anonymity and confidentiality.
- 6.12. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense.
- 6.13. The Discipline Panel may request that any other individual participate and give evidence at the hearing.
- 6.14. The Discipline Panel may allow as evidence at the hearing any oral evidence and

document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate.

- 6.15. The decision will be by a majority vote of the Discipline Panel.
- 7. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate disciplinary sanction.
  - 7.1.1. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
- 8. If a decision affects a 3<sup>rd</sup> party to the extent that the 3<sup>rd</sup> party would have recourse to a complaint or an appeal, that 3<sup>rd</sup> party will become a Party and a part of the complaint procedure to the complaint in question and will be bound by the decision.
- 9. In fulfilling its duties, the Panel may obtain independent advice.

## **10. Discipline**

- 10.1. When recommending appropriate disciplinary action, the Discipline Panel will consider factors such as:
  - 10.1.1. The nature and severity of the policy breach.
  - 10.1.2. Whether the charge involved any physical contact.
  - 10.1.3. Whether the incident was isolated or part of an ongoing pattern.
  - 10.1.4. The nature of the relationship between the Complainant and Respondent.
  - 10.1.5. The age of the Complainant and Respondent.
  - 10.1.6. Whether the Respondent had been involved in previous incidents.
  - 10.1.7. Whether the Respondent admitted responsibility and expressed a willingness to change; and
  - 10.1.8. Whether the Respondent retaliated against the complainant.
- 10.2. In recommending disciplinary sanctions, the Discipline Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment:
  - 10.2.1. Verbal apology.
  - 10.2.2. Written apology.
  - 10.2.3. Letter of reprimand from TKDNS.
  - 10.2.4. A fine or levy.
  - 10.2.5. Referral to counselling.
  - 10.2.6. Public service or other contribution to the Association
  - 10.2.7. Removal of certain privileges of membership, participation, or employment.
  - 10.2.8. Demotion or a pay reduction.
  - 10.2.9. Temporary suspension with or without pay.
  - 10.2.10. Termination of employment or contract.
  - 10.2.11. Expulsion from TKDNS membership.
  - 10.2.12. Publication of the decision

- 10.2.13. Suspension from certain teams, events, and/or activities
- 10.2.14. Suspension from all Association activities for a designated period
- 10.2.15. Withholding of prize money or awards
- 10.2.16. Payment of the cost of repairs for property damage
- 10.2.17. Suspension of funding from the Association or from other sources
- 10.2.18. An award of costs of the proceedings
- 10.2.19. Any other sanction considered appropriate for the offense including but not limited to:
  - 10.2.19.1. Requirement to complete training programs
  - 10.2.19.2. Requirement to complete sensitivity or orientation programs.
  - 10.2.19.3. Applying sanctions to any Individual or Member named in the Complaint.
- 10.3. Unless the Discipline Panel decides otherwise, any disciplinary sanctions applied will take effect immediately.
- 10.4. Both the Complainant and Respondent will have the right to appeal the decision and recommendations of the Discipline Panel, in accordance with TKDNS's Appeal Policy.
- 10.5. The TKDNS reserves the right to notify Taekwondo Canada and other sport governing or regulatory bodies of the incident and any decisions by the Discipline Panel.
  - 10.5.1. This decision may not be appealed.
- 10.6. The TKDNS reserves the right to share all records, proceedings, minutes and related materials with Taekwondo Canada and any other governing sports or regulatory body, including law enforcement officials and will assist in any way necessary in any disciplinary or sanction investigation conducted by said bodies.
- 10.7. Failure to comply with a sanction as determined by the Discipline Panel will result in automatic suspension of Membership in the TKDNS until such time as compliance occurs.
- 10.8. Infractions that result in discipline will be recorded and records will be maintained by the Association.
- 10.9. Decisions will be considered a matter of public record unless decided otherwise by the Discipline Panel.

## **11. Records**

- 11.1. Infractions that result in discipline will be recorded and records will be maintained by the Association.

## **12. Suspension Pending a Hearing**

- 12.1. The Executive Committee of the TKDNS may determine that an alleged incident is of such seriousness as to warrant suspension of an individual pending completion of a criminal process, a hearing, or a decision of the Panel.
  - 12.1.1. The decision by the Executive to summarily suspend an individual may not be appealed.

- 12.2. The decision to summarily suspend an individual may be approved by a majority vote of the Board.

### **13. Criminal Convictions**

- 13.1. An Individual's conviction for a *Criminal Code* offense, as determined by the Association, will be deemed an infraction under this Policy and will result in expulsion from the Association.
- 13.2. Criminal Code offences may include, but are not limited to:
  - 13.2.1. Any child pornography offences
  - 13.2.2. Any sexual offences
  - 13.2.3. Any offence of physical violence
  - 13.2.4. Any offence of assault
  - 13.2.5. Any offence involving trafficking of illegal drugs.

### **14. Confidentiality**

- 14.1. The Discipline and Complaints process is confidential and involves only the Parties, the Case Manager, the Discipline Panel, and any independent advisors to the Panel. Once initiated, and until a decision is released, neither of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.
- 14.2. The TKDNS reserves the right to represent the Association to the media and the public in any instance where the details of the complaint have come to light through no direct action of the Association.
  - 14.2.1. The decision to carry out such public discourse is the sole responsibility of the Executive Committee of the TKDNS and may not be appealed.
  - 14.2.2. The TKDNS will be solely represented in all cases to the public and the media by the President.
  - 14.2.3. The decision to represent the TKDNS to the public through the media or other venues may not be cited as a reason for appeal.

### **15. Timelines**

- 15.1. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Discipline Panel or the Case Manager may direct that these timelines be revised.
- 15.2. Notice of revision of timelines must be made within the timelines defined above to the Board with reasons.

### **16. Records and Distribution of Decisions**

- 16.1. Other individuals or organizations, including but not limited to, national sport organizations, provincial sport organizations, Sport Canada, etc., will be advised of any decisions rendered in accordance with this Policy.

## **17. Appeals Procedure**

- 17.1. The decision of the Panel may be appealed in accordance with Policy 6.0 - Appeal *Policy 6.0.*