

# GRIEVANCE & APPEAL PROCEDURE



**August, 2007**

# GRIEVANCE & APPEAL PROCEDURES

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## ARTICLE I

## GENERAL RULES

1.1 All members of Judo Canada are required to follow the procedures set forth in this document as the correct method to resolve a grievance only after all other reasonable means or procedures designed to settle the grievance have been exhausted.

This includes, but is not limited to, selection, carding issues, discipline, harassment, etc.

1.2 The time limitations for notice and due process as outlined in this document will be respected so long as fundamental justice can be served.

Situations may arise that require the time limitations to be expanded or reduced to ensure that the decision rendered is fair and effective. In such cases the parties involved will be required to agree in writing upon a schedule that meets the needs of the situation.

1.3 All correspondence will be directed through the National office (including correspondence to the President). Registered mail may be replaced by courier or facsimile transmission providing receipt of material is confirmed by signature on an appropriate acknowledgement form.

1.4 The President of Judo Canada, or in absence of the President, the 1st Vice-President or the President's designate shall preside over these procedures.

1.5 The correct order of procedures to follow are:

intent to grieve,  
notice of grievance,  
review and decision, and  
appeal.

1.6 In matters regarding any decisions related to a) implementation and delivery of the Judo Canada National Team Program; or b) the selection of athletes to a team representing Canada at international multisport events, once the internal appeal process as described above has been exhausted, Judo Canada athletes and coaches of the National Team are entitled to a second-level appeal in accordance with the rules and procedures of the ADRsport RED code.

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### ARTICLE II

### INTENT TO GRIEVE

- 2.1 A written **intent to grieve** must be filed with the National Office to the attention of the President within fifteen (15) days of the alleged incident (or upon the team's return to Canada from the trip on which the alleged incident occurred).
- 2.2 The person(s) filing the intent to grieve will be hereafter referred to as the **complainant** and the person(s) or organization to which the grievance applies, the **respondent**.
- 2.3 The intent to grieve must clearly state the nature of the grievance, the parties involved, correct addresses, telephone and facsimile numbers, and be signed by the complainant.
- 2.4 The President may request clarification of the intent to grieve and will ensure that all other reasonable means to resolve the matter have been exhausted before a decision is made by the President to formally accept or reject the intent to grieve.
- 2.5 An intent to grieve can be rejected, where, in the opinion of the President, the matter is trivial, frivolous, vexatious, or has not been initiated in good faith.
- 2.6 The President will provide an **acknowledgement** of the intent to grieve by registered mail to the complainant stating whether the intent to grieve has been accepted or rejected.
- If the intent to grieve has been accepted the President will supply the complainant with a Notice of Grievance which binds the complainant to the grievance procedures and any decision delivered by an appeal committee, should an appeal be necessary.
- 2.7 The signed declaration form must be returned to the national office before the notice of grievance is issued.

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### ARTICLE III

### NOTICE OF GRIEVANCE

- 3.1 The President, upon accepting an intent to grieve, will notify, by telephone or other means of communication, the respondent(s) identified in the intent to grieve, informing them that a grievance has been initiated and that Judo Canada has agreed to proceed with a **review** of the matter.
- 3.2 The President will forward within fifteen (15) days, a copy of the **notice of grievance** to the respondent by registered mail. If applicable, the possible sanctions that relate to the grievance will be attached. The President will request that the respondent or a designated representative reply to the notice of grievance in writing to the national office within fifteen (15) days of giving notice. The deadline for a response will be clearly identified.
- The President will supply the respondent with a declaration form which binds the respondent to the grievance procedures and any decision delivered by an appeal committee, should an appeal be necessary.
- 3.3 If the respondent or a designated representative fails to reply in writing within the fifteen (15) day period, as outlined in article 3.2, the review and decision of the grievance will continue without representation by the respondent.
- 3.4 If the grievance involves an athlete, copies of all correspondence will be mailed to the athlete's personal coach. At the request of the athlete, copies of all correspondence will also be mailed to the relevant Provincial Association.

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### ARTICLE IV

### REVIEW & DECISION

- 4.1 The parties shall make every effort to resolve the grievance to the satisfaction of both parties without a full hearing by holding a formal review of the matter.
- 4.2 Judo Canada will work with both parties to establish an "**Agreed Statement of Facts**".
- 4.3 The President will appoint a **Review Committee** of no less than three and no more than five people (including the chairperson) to review the grievance.

When the grievance is athlete centered the Athlete Representative as elected by the National team athletes, or designate as agreed upon by both parties, will be automatically included on the review committee.

When the grievance is referee centered the Chairman of the Referee Committee, or designate as agreed upon by both parties, will be automatically included in the Review Committee.

The Executive Director may be present throughout the review but is not a member of the committee and has no vote.

- 4.4 A conference telephone call is an acceptable forum to hold the review.
- 4.5 The Review Committee will examine the Agreed Statement of Facts and shall render one of two possible decisions:
- rule in favor of the respondent.
  - rule in favor of the complainant. If the decision requires that a sanction be levied then the appropriate sanction will also be determined by the Review Committee at the time of the review.
- 4.6 The President will notify both parties of the decision of the Review Committee by registered mail.
- 4.7 The complainant and the respondent, both have a right to accept the decision of the Review Committee or to appeal the decision. The deadline for an appeal will be clearly identified.

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## ARTICLE V

## APPEAL POLICY & PROCEDURES

### 5.1. GENERAL RULES

- 5.1.1 Any member of Judo Canada (hereinafter referred to as the "**Association**") and any individual that participates in an Association sanctioned event or program shall be governed by these appeal policies and procedures as set out herein.
- 5.1.2 Any decision of the National Councillors (Board of Governors), of any committee formed by the National Councillors (Board of Governors), or of any body or individual who has been delegated authority to make a decision on behalf of the National Councillors (Board of Governors), shall be open to the right of appeal provided there are sufficient grounds as set out in the procedures herein. Such decisions may include, but are not limited to, those relating to athlete carding, employment, contract matters, and selection,.
- 5.1.3 This policy shall not apply to matters relating to disputes arising within competitions which are governed by the International Judo Federation Rules and that may not be appealed; to matters of doping control which are governed by the Canadian Centre for Ethics and Sports, and to selection matters which fall under the jurisdiction of other competent bodies such as the Canadian Olympic Committee.
- 5.1.4 The President of the Association (or in the absence or conflict of the President, the Vice President or the President's designate) shall preside over the proceedings.
- 5.1.5 All written correspondence shall be directed through the National office. Registered mail may be replaced by courier, fax or other delivery methods providing that the party sending the material confirms its receipt.

### 5.2. NOTICE OF APPEAL

- 5.2.1 Any member of the Association (hereinafter referred to as the "**Appellant**") may file a written "**notice of appeal**" delivered to the National Office to the attention of the President. Such written notice must be filed within fifteen (15) days from the date on which the Appellant received notice of the decision and shall clearly state the grounds for appeal, the parties involved in the decision making (hereinafter referred to as the "**Respondent**") and signed by the Appellant.
- 5.2.2 Any Appellant wishing to file a notice of appeal beyond the fifteen (15) days must provide a written request stating reasons for an exemption to this requirement. The decision to accept, or not accept, the notice of appeal outside the fifteen (15)

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day period, shall be at the sole discretion of the President (or designate). This decision may not be appealed.

### **5.3. GROUNDS FOR APPEAL**

5.3.1 A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds may include the respondent:

- a) making a decision for which he/she did not have the authority or the jurisdiction to do so as set out in governing documents;
- b) failing to follow procedures as laid out in the bylaws or approved policies of the Association;
- c) making a decision in which the Association's "Conflict of Interest Guidelines" were not adhered to or were influenced by bias;
- d) exercising his/her discretion for an improper purpose; and
- e) making a decision which was grossly unreasonable considering all the circumstances of the case.

5.3.2 An Appeal shall be heard as an appeal of record, unless, on application by a party, the Appeal Board allows new evidence.

### **5.4. PRELIMINARY INVESTIGATION**

5.4.1 At the request of the President (or designate), the National office may assist in gathering reports from any person who may be considered as a witness to the matter in dispute.

5.4.2 The Respondent shall be notified in writing of the notice of appeal and shall have seven (7) days from the date of receiving notification to provide the Association, in writing, with any information to be considered.

5.4.3 The President (or designate) shall examine the notice of appeal and any relevant information and shall make all reasonable efforts to resolve the matter with the parties before making a decision as to whether or not there are sufficient grounds to conduct an appeal hearing.

5.4.4 At the sole discretion of the President (or designate) the matter may be dismissed on the basis of insufficient grounds. This decision may not be appealed.

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5.4.5 If the President (or designate) is satisfied that there are sufficient grounds for an appeal hearing, he shall have an Appeal Board established

### 5.5. **APPEAL BOARD**

5.5.1 The President (or designate) shall appoint three (3) individuals who will form an Appeal Board within twenty-one (21) days of receiving the notice of appeal, in accordance with the following:

- a) The Board shall be comprised of three (3) individuals who shall have no significant relationship with the Appellant and Respondent or affected third parties, shall have had no involvement with the decision being appealed, and shall be free from any other actual bias or conflict of interest. In harassment cases, the board shall be composed of at least one woman and at least one man.
- b) At least one (1) of the Appeal Board members shall be from among the Appellant's peers.
- c) In appointing the Appeal Board, consideration shall be given to the geographic location of the Appellant, Respondent, third parties, witnesses and other Appeal Board members, in order to minimize the inconvenience and expense to all parties.
- d) The Appellant shall be given the opportunity to recommend the peer member on the Appeal Board, providing that the member satisfies criteria a) and c) above. Should the Appellant not recommend the Appeal Board member within seven (7) days, the President (or designate) shall appoint the peer member of the Appeal Board.

5.5.2 Appeal Board members shall select a Chairperson from themselves.

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### **5.6. PRELIMINARY MATTERS**

- 5.6.1 The Appeal Board may determine that the circumstances of the dispute warrant a preliminary conference.
- 5.6.2 The matters which may be considered at a preliminary conference include:
- a) the format for the appeal hearing;
  - b) clarification of the issues in dispute;
  - c) any procedural matter;
  - d) the order and procedure of the hearing;
  - e) the date and time;
  - f) timelines for exchange of documents;
  - g) remedies being sought;
  - h) identification of witnesses;
  - i) and any other matter which may assist in expediting the proceedings.
- 5.6.3 Any party potentially affected by a decision of the Board shall be made a party to the hearing.
- 5.6.4 The Board may direct that any other individual participate in the hearing.
- 5.6.5 Any appeal hearing, unless held by way of telephone conference call or held elsewhere as may be decided by the Board, shall take place in the National Capital Region, in the Province of Ontario.
- 5.6.6 The Board may delegate to its chairperson the authority to deal with these preliminary matters.

### **5.7. FORMAT OF THE APPEAL HEARING**

- 5.7.1 Any party to the appeal may request that the Appeal Board conduct the appeal by way of documentary evidence. The Appeal Board may seek agreement from the other parties to proceed in this fashion. If an agreement is not forthcoming, the Appeal Board shall decide whether the hearing shall proceed by way of documentary evidence or by an in-person hearing.
- 5.7.2 In order to keep costs to a reasonable level, the Appeal Board may conduct an in-person hearing by means of a conference call or video conference.

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### **5.8. PROCEDURE FOR THE APPEAL HEARING**

The Appeal Board shall govern the appeal hearing by such procedures as it deems appropriate, provided that:

- a) The appeal hearing shall be held within fifteen (15) days of the Appeal Board's appointment.
- b) The parties shall be given fifteen (15) days written notice of the date, time and place of the appeal hearing.
- c) Any of the parties may be accompanied by a representative or an advisor, including legal counsel.
- d) A quorum shall be all three (3) Appeal Board members.
- e) In the event that one (1) of the Appeal Board members is unable or unwilling to continue with the hearing, the matter will be concluded by the remaining two (2) members. Should the remaining two members not be in agreement on the final decision a new board shall be formed and the hearing shall be conducted from the beginning.
- f) Decisions shall be by majority vote.
- g) Unless otherwise agreed by the parties, there shall be no communication between Board members and the parties except in the presence of, or copy to, the other parties.
- h) Copies of any written documents which any of the parties would like the Board to consider shall be provided to the Board members, and to all other parties, at least seven (7) days in advance of the hearing.
- i) Translation services shall be supplied as determined by the Board.

### **5.9. SCOPE OF THE APPEAL BOARD'S AUTHORITY**

5.9.1 If the circumstances of the dispute are such that these procedures will not allow for a timely hearing or, external timelines are imposed by a third party, the Appeal Board may direct that these timelines be altered.

5.9.2 The Appeal Board shall determine whether each party shall bear their own costs or it may allocate cost as it deems appropriate.

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- 5.9.3 Within fifteen (15) days of concluding the hearing, the Appeal Board shall issue its written decision with reasons and a copy of which shall be provided to Judo Canada's President and each of the parties.
- 5.9.4 In making its decision, the Appeal Board shall have no greater authority than that of the original decision-makers. The Appeal Board may decide:
- a) to void, vary or confirm the decision being appealed;
  - b) to vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality; and
  - c) to refer the matter back to initial decision-maker with instruction for making a new decision.

### **5.10. ARBITRATION**

- 5.10.1 All differences or disputes shall first be submitted to appeal pursuant to the appeal policy and procedures as set out herein.
- 5.10.2 If any party is not satisfied with the decision of the Appeal Board on any such appeal, the matter shall be referred to arbitration and shall be administered by the Sport Dispute Resolution Center of Canada; Providing that the Sport Dispute Resolution Center deems such case eligible for review by the Dispute Resolution Secretariat. For details see: [http://www.adrsportred.ca/faqs/index\\_e.cfm#120](http://www.adrsportred.ca/faqs/index_e.cfm#120)
- 5.10.3 The parties to arbitration shall enter into a formal Arbitration Agreement, and the decision of any arbitration shall be final and binding and not subject to any further review by any court of competent jurisdiction or any other body.
- 5.10.4 Notwithstanding paragraph 5.10.2 above, for any matters related to the Athlete Assistance Program Nomination or de-carding, all appeals must follow the Policies and Procedures of Sport Canada's Athlete Assistance Program (AAP) Section 13.1 [http://www.pch.gc.ca/progs/sc/pol/athlete05/1\\_e.cfm](http://www.pch.gc.ca/progs/sc/pol/athlete05/1_e.cfm).

### **5.11. JURISDICTION**

- 5.11.1 This policy shall be governed and construed in accordance with the laws of the Province of Ontario.
- 5.11.2 No action or legal proceeding shall be commenced against the Association in respect to a dispute, unless the Association has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute as set out herein.

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## NOTICE OF GRIEVANCE CHALLENGE TO SELECTION

1. Name: \_\_\_\_\_ Weight: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Postal Code: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Facsimile: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

2. I disagree with the decision of: \_\_\_\_\_  
(Technical Committee, Executive Committee, Coach, Manager) in which it was  
decided that:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(attached additional information/documentation as required)

3. The decision was made on the date of \_\_\_\_\_ and communication to me  
by \_\_\_\_\_ on the date of \_\_\_\_\_.

4. The decision directly affects me because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(attached additional information/documentation as required)

5. I disagree with the decision for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(attached additional information/documentation as required)

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6. My suggestion as to how to rectify the situation is as follows:

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7. I wish to have my coach, as listed below, provided with a copy of all correspondence.

Coach: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Facsimile: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

8. Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**NOTE:** Please notify, in writing, the National office immediately of any change in address. The Committee will communicate with you by mail at the address shown by you in this notice unless you notify the National Office of a change of your address.

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