

Appeals Policy



January 12, 2018

APPEALS POLICY

Policy Statement

JUDO CANADA is committed to providing opportunities for every individual in the sport of judo to reach his or her potential in fitness and excellence. In keeping with the spirit of this statement, JUDO CANADA is committed to providing a sport and work environment where decisions made, and actions taken respect principles and rules of natural justice are made in a proper, fair and informed manner. Any member has the right to appeal decisions that are deemed to be inconsistent with this Policy and procedure, biased or that carry an undue adverse impact.

Purpose

Decisions, judgements and actions, and their consequences, are complex and involve athletes, coaches, staff and volunteers throughout the judo community. It is critical that these decisions, judgements and actions are made in an informed manner and by those with the authority to do so.

JUDO CANADA has created a policy and procedure structure to guide the effective decision-making, administration and management of the organization. These guidelines must be followed so as not to create hardship for any member of JUDO CANADA.

The Appeals process is in place to provide any member of JUDO CANADA the opportunity to appeal decisions, judgments and actions undertaken through the conduct of the business of JUDO CANADA that may cause undue hardship. Awareness of and accessibility to the Appeal Procedures is a key component of the right to appeal.

Application

This Policy applies to all members of JUDO CANADA including athletes, coaches, officials, organizers, volunteers, employees, directors and officers. It applies to decisions made by the Board of Directors, by any Committee, including the Discipline Committee or by any Board of Directors or individual who has been delegated authority to make decisions on behalf of JUDO CANADA. Any member who is affected by such a decision may appeal the decision, provided there are sufficient grounds for the appeal as defined in this

APPEALS POLICY

1. DEFINITIONS

- a) For purposes of this Procedure:
 - i) “AAP” means the Athlete Assistance Program administered by Sport Canada;
 - ii) “Appeal” refers to the appeal conducted under this Procedure;
 - iii) “Appellant” refers to the member appealing a decision made by JUDO CANADA;
 - iv) “Board” or “Board of Directors” means the Board of Directors of JUDO CANADA;
 - v) “CEO” means, Chief Executive Officer of JUDO CANADA or a substitute as appointed from time to time by the CEO or Board of Directors of JUDO CANADA;
 - vi) “Chairperson” means the Appeal Panel member acting as chair of the Appeal Panel;
 - vii) “Days” means days irrespective of weekends or holidays;
 - viii) “Hearing” means the hearing conducted under this Procedure;
 - ix) “Notice of Appeal” means a notice of appeal duly filed in accordance with this Procedure;
 - x) “Panel” or “Appeal Panel” shall be deemed to be the Appeal Committee as defined in JUDO CANADA Bylaw;
 - xi) “Party” or “Parties” means the Appellant, the Respondent and any other affected Party participating in the Appeal;
 - xii) “PSO” means provincial sport organizations which are members of JUDO CANADA;
 - xiii) “Respondent” refers to the individual or body whose decision is being appealed;
 - xiv) “SDRCC” means the Sport Dispute Resolution Centre of Canada;
 - xv) “JUDO CANADA” means the body duly incorporated under the name Judo Canada and any members of JUDO CANADA as well as all individuals engaged in activities with or employed by JUDO CANADA, including but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel).

2. SCOPE OF APPEAL

- a) Subject to compliance with Section 4 hereof, this Procedure applies to:
 - i) any matter which has been the subject of an investigation or decision pursuant to JUDO CANADA’s Complaint and Dispute Resolution Procedure;
 - ii) any other dispute for which resort to this Procedure is expressly mandated.
- b) This Procedure shall not apply to decisions:
 - i) relating to the technical (field of play) rules of judo;
 - ii) in matter relating to AAP which are managed through the Sport Canada AAP procedures;
 - iii) in matters related to doping offenses which are dealt with under the Canadian Policy Against Doping in Sport or the IJF anti-doping rules;
 - iv) in matters of employment;
 - v) in matters of budgeting, budget implementation and any financial decisions;
 - vi) in matters of governance, operational structure and staffing;
 - vii) In matters that do not meet the grounds laid out in this Policy.
- c) Unless JUDO CANADA accepts, at its discretion, to manage a club or provincial dispute in accordance with this Appeals Policy, a club or provincial level disputes will not be dealt with under this Appeals Policy and at all time, appellants must exhaust all internal remedies at the club and provincial levels.

APPEALS POLICY

3. TIMING OF APPEAL

- a) Members who wish to appeal a decision shall have twenty-one (21) Days from the date on which they received notice of a decision to deliver a written Notice of Appeal to the CEO. The Notice of Appeal must be received at the JUDO CANADA National Office or personally served upon the CEO within the twenty-one (21) Days specified herein.
- b) Notice of Appeal shall contain the following information:
 - i) Appellant's name and address;
 - ii) date the Appellant was advised of the decision being appealed;
 - iii) name of the individual who communicated the decision to the Appellant;
 - iv) Appellant's status;
 - v) copy of decision being appealed or description of said decision if a written document is not available;
 - vi) the grounds of appeal; and
 - vii) the remedy sought.
- c) Notices of Appeal may be delivered in person to the CEO, or delivered by electronic means, fax, courier, special delivery, or in person to the JUDO CANADA National Office.
- d) Any Party wishing to file a Notice of Appeal beyond the twenty -one (21) Days must provide a written request stating reasons for an exemption to the requirement.
- e) Within three (3) days of receiving the notice of Appeal, the CEO will decide whether the Appeal is based on one or more of the grounds described in this Policy.
- f) If the Appeal is denied based on insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the CEO and may not be appealed.

4. GROUNDS FOR APPEAL

- a) A decision cannot be appealed on facts alone. An Appeal may be heard only in respect of the following grounds:
 - i) the Respondent made a decision for which it did not have authority or jurisdiction as set out in JUDO CANADA's governing documents, rules and policies;
 - ii) the Respondent failed to follow procedures as laid out in the bylaws or approved policies of JUDO CANADA;
 - iii) the Respondent made a decision that was influenced by bias, defined as a lack of neutrality, to such an extent that the decision-maker is unable to consider other views;
 - iv) the Respondent exercised its discretion for an improper purpose;
 - v) the Respondent made a decision for which there is no supporting evidence; or
 - vi) the Respondent made a decision that was grossly unreasonable.
- b) Regardless of the grounds of Appeal cited, the Appellant must establish that he or she was prejudiced by the decision.

APPEALS POLICY

5. SCREENING OF APPEAL

- a) Within ten (10) business days of receiving the Notice of Appeal, the CEO or the CEO's delegate shall determine whether there are appropriate grounds for the Appeal, as set out in Article 4;
- b) The facts as alleged by the Appellant(s) in the Notice of Appeal shall be presumed to be correct unless such facts are, to the knowledge of the CEO, clearly erroneous;
- c) If the Appeal is denied based on insufficient grounds, the Appellant(s) and the Respondent(s) will be notified in writing with reasons within three (3) days;
- d) If the Appellant(s) believe(s) the CEO has made an error in denying the right to Appeal, the matter may be referred to arbitration or mediation at the SDRCC administered under the Canadian Sport Dispute Resolution Code, as amended from time to time.
- e) Before proceeding further, the CEO may invite the Appellant(s) to attempt to resolve the dispute using the Early Resolution Facilitation services offered by the Sport Dispute Resolution Centre of Canada (SDRCC).

If the dispute is resolved during the Early Resolution Facilitation, then the matter will be considered closed. Unless minutes of the settlement were already prepared and duly executed by the parties during the Early Resolution Facilitation, the CEO will document the outcome of the Early Resolution Facilitation process, and provide it in writing to both parties.

If the matter of the appeal is time sensitive, the CEO shall set a deadline by which, absent a settlement, the Early Resolution Facilitation will be automatically terminated. Upon such deadline being reached or upon notice from any of the parties that the Early Resolution Facilitation was unsuccessful, the CEO will take the appeal to the next step.

6. APPEAL PANEL

- a) The Appeal Panel shall be established as follows:
 - i) The Appeal Panel shall be comprised of three individuals who shall have no significant relationship with the affected Parties, nor interest, personal or otherwise, in the decision being appealed, and shall be free from any other actual or perceived bias or conflict.
 - ii) A list of six (6) potential Appeal panel members will be provided to the Parties by the CEO from which the Appellant will choose one, the Respondent one, the CEO appointing the 3rd member and Chairperson of the Appeal Panel.
 - iii) Each nominee will be required to sign a declaration stating that they are neutral, unbiased and have no significant prior knowledge or have not been otherwise influenced in anyway.
 - iv) The Chairperson shall be a lawyer or a certified arbitrator.

7. PRELIMINARY CONFERENCE

- a) The Appeal Panel may determine that the circumstances of the dispute warrant a preliminary conference.
- b) The matters which may be considered at a preliminary conference include but are not limited to, date and location of the Hearing, timelines for exchange of documents, format for the

APPEALS POLICY

Appeal, clarification of issues in dispute, any procedural matter, order and conduct of Hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the Appeal proceedings.

- c) The Appeal Panel may delegate to its Chairperson the authority to be responsible for these preliminary matters.

8. PROCEDURE FOR THE APPEAL HEARING

- a) If the Appeal Panel conducts a Hearing, it shall govern the Appeal by such procedures as it deems appropriate, provided that:
 - i) the Appeal shall be heard as quickly as reasonably possible, having regard to the nature and circumstances of the case;
 - ii) all three (3) members of the Appeal Panel shall hear the Appeal, but a majority in favor of the same result shall be sufficient to effect a decision;
 - iii) each Party shall have the right to be represented by legal counsel or a representative of their choice at the hearing;
 - iv) copies of any written documents which any of the Parties would like the Appeal Panel to consider shall be provided to the Appeal Panel, and to all Parties, within the time limits established during the preliminary conference or by the Appeal Panel;
 - v) if the decision of the Appeal Panel may affect another party to the extent that the other party would have recourse to an appeal in their own right, that Party will become a Party to the appeal in question and will be bound by its outcome;
 - vi) the Appeal Panel may direct that any other person or party participate in the appeal;
 - vii) for the sake of expediency and cost reduction, a hearing either by way of written submissions, via telephone conference or video conference is to be preferred with such safeguards as the Appeal Panel considers necessary to protect the interests of the Parties;
 - viii) any Party shall be entitled to address the Appeal Panel in either English or French and shall so notify the Appeal Panel of the language intended to be used so that appropriate translation services, if necessary, can be arranged;
 - ix) unless otherwise agreed by the Parties, there shall be no communication between the Appeal Panel members and the Parties except in the presence of, or by copy to the other Parties.

9. EVIDENCE THAT MAY BE CONSIDERED

- a) As a general rule, the Appeal Panel will only consider evidence that was before the original decision-maker. At its discretion, the Appeal Panel may hear new material evidence that was not available at the time of the original decision.
- b) Unless a Party can prove that he/she couldn't possibly have been aware of a certain fact or argument at the time of the submission of his/her Notice of Appeal or Written Statement, no additional information or argument will be accepted from the Appellant(s) or Respondent(s) by the Appeal Panel after the preliminary conference, other than that provided orally by witnesses at the hearing.

10. APPEAL DECISION

- a) Within seven (7) business Days of the Hearing, the Appeal Panel shall issue its written decision. with reasons. In making this decision, the Appeal Panel shall have no greater authority than that

APPEALS POLICY

of the original decision-maker. The Appeal Panel may decide:

- i) To uphold the decision and dismiss the Appeal;
 - ii) To void the decision and refer the matter back to the initial decision-maker for a new decision;
 - iii) To vary the decision where it is found that an error occurred, and such an error should not 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
 - iv) To determine how costs of the Appeal shall be allocated excluding the legal costs and legal disbursements, if at all.
- b) A copy of the decision shall be provided to all Parties and the CEO.
 - c) Subject to Section 13, the decision of the Appeal Panel shall be final and binding on all parties.
 - d) In extraordinary circumstances, the Appeal Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided that the written decision with reasons is rendered within five (5) business Days.

11. TIMELINES

- a) If the circumstances of the Appeal, or if circumstances beyond or outside of the Appeal, are such that this Procedure will not allow a timely decision, the Appeal Panel may direct that these timelines be abridged. If the circumstances of the Appeal, or if circumstances beyond or outside of the Appeal, are such that the Appeal cannot be concluded within the timelines dictated in this Procedure, the Appeal Panel may direct that these timelines be extended. The Appeal Panel may delegate this authority to abridge or extend the timelines to the Chairperson.

12. DOCUMENTARY APPEAL

- a) Any Party to the Appeal may request that the Appeal Panel conduct the Appeal by way of documentary evidence alone. The Appeal Panel may seek agreement to proceed in this fashion. If agreement is not forthcoming, the Appeal Panel shall decide whether the Appeal shall proceed by way of documentary evidence and submissions alone.

13. ARBITRATION

- a) If any Party believes the Appeal Panel has made an error such as those described in paragraph 4 a) of this Procedure, that Party may seek resort to independent arbitration through the SRDCC, provided the Party does so within the prescribed timeline as set out by the SRDCC. The matters that can be considered by arbitration and the terms under which the arbitration can be conducted will be determined by the SRDCC.

14. LOCATION AND JURISDICTION

- a) Appeals shall take place in Montreal unless held by way of telephone/video conference call or held elsewhere as may be decided by the Panel as a preliminary matter.
 - b) This Procedure shall be governed and construed in accordance with the laws of the Province of
- Judo Canada's programs are sponsored in part by Sport Canada

APPEALS POLICY

- Quebec, even though the Appeal may take place in any other province.
- c) No action or legal proceeding shall be commenced against JUDO CANADA in respect of a dispute, unless JUDO CANADA has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute, as set out in this

Originally approved by Board on October 13, 2017; Modification approved on January 12, 2018.

APPEALS POLICY

JUDO CANADA

NOTICE OF APPEAL FORM

1. Appellant's contact information

Name: _____

Address: _____

Email: _____

Phone number: _____

Name and contact information of Appellant representative (if applicable)

Name: _____

Email: _____

Phone number: _____

2. The decision being appealed

a. Date the Appellant was advised of the decision being appeal:

b. Provide the name of the individual who communicated the decision:

c. Provide a copy of decision being appealed or description of said decision if a written document is not available.

3. Describe the grounds of appeal.

4. Provide the remedy sought or the proposed solutions to resolve the dispute.

Signed in _____ on (date) _____

Name: _____

Signature: _____