

# Complaints and dispute resolution Policy



**March, 2018**

## COMPLAINTS AND DISPUTE RESOLUTION POLICY

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### **Policy Statement**

Judo Canada believes in the fair and equitable treatment of all members, athletes, staff and volunteers and non-adversarial dispute resolution. And, in cases where mediation is unsuccessful, supported complaints, disagreements or challenges between athletes, staff and volunteers must be settled through a fair, effective and peaceful dispute resolution.

### **Purpose**

Disputes between members, staff and volunteers will be unavoidable over the course of the direction, administration and management of the Judo Canada Program. Decisions, judgements and actions, and their consequences, are complex and involve athletes, coaches, staff and volunteers throughout the judo community. It is critical that there are procedures in place that encourage open, prompt discussion of any such dispute so as to lead to effective resolution.

### **Application**

Judo Canada encourages all parties to a dispute or complaint to seek non-adversarial consensual resolution. In such circumstances, the CEO or designate can act as a mediator, if agreed upon by the parties, working to mutual agreement on resolution. Should a consensual resolution not be reached within a reasonable time, the CEO or his designate may impose a resolution upon the parties. Any party affected by the resolution may pursue an appeal in accordance with the Appeal Procedure.

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## PART ONE (I)

### 1) DEFINITIONS

- a) For purposes of this Procedure:
  - i) “CEO” means Chief Executive Officer or a his or her designate.
  - ii) “Days” means days, irrespective of weekends or holidays.
  - iii) “Judo Canada” means the body duly incorporated and any members or registrant of Judo Canada as well as all individuals engaged in activities with Judo Canada, including but not limited to, Athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators.
  - iv) “Complaint” means a complaint that allegedly constitutes a violation of this Policy, Judo Canada Code of conduct and Harassment Policy against a member of Judo Canada as defined by this Policy.
  - v) “Code of Conduct” means any code of conduct document, signed or to be signed by any Judo Canada member, whether under the Judo Canada Athletes Agreement or otherwise.
  - vi) “Panel” means the Panel appointed pursuant to Part V of this Procedure.
  - vii) “Major Infractions” or “Minor Infractions” include those, but not limited to, matters described in Appendix A of this Procedure.
  - viii) “Senior Employee or Representative” any employee of JC or designated representative as determined by Judo Canada CEO from time to time.

### 2) SCOPE AND APPLICATION OF THE PROCEDURE

- a) This Procedure applies to complaints from, or disputes between, Judo Canada’s membership, registrants, participants, or volunteers, arising from or pertaining to the business of Judo Canada. Except for a major infraction occurring at the club or provincial territorial level that Judo Canada determines to be of a national interest and that Judo Canada decides, at its discretion, to manage in accordance with this Policy and Procedure, Disputes involving the decisions of provincial/ territorial judo associations or clubs are to be pursued through the appropriate procedures of provincial sections or clubs.
- b) This Policy does not apply to Criminal Code of Canada offences, whenever obtained, such as but not limited to:
  - i) Any offences involving child pornography
  - ii) Any sexual offences involving a minor
  - iii) Any offence of assault involving a minor
  - iv) Any offence of physical or psychological violence involving a minor
- c) An employee of Judo Canada found to be a Respondent in a Complaint will be subject to the terms found of the Judo Canada Workplace Policy and Manual, as well as the employees Employment agreement where applicable.
- d) Subject to those matters addressed in Parts III, IV and V hereof, Part II of the Procedure shall apply to all complaints and disputes, including Major Infractions.
- e) Any dispute where there is a critical lack of time shall be governed by Part III of this Procedure.
- f) Any dispute involving a Minor Infraction shall be governed by Part IV.

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- g) Any dispute involving a Major Infraction shall be governed by Part V.
- h) Complaints may not be brought against an individual if more than eight years have passed after the conduct complained.

### **PART TWO (II)**

#### **3) INITIATION OF COMPLAINTS**

- a) Except for harassment complaint and in case of a minor, any complaint shall not be anonymous and be made in writing and shall within fifteen (15) days with a summary of the matter in dispute or infraction and sent by email to the CEO.
- b) A complaint may be initiated by Judo Canada following an investigation.
- c) Any complainant wishing to file a notice of complaint beyond the fifteen (15) days must provide a written request stating reasons for an exemption to this requirement. The decision of whether to accept the notice of complaint or not outside the fifteen (15) day period shall be at the sole discretion of the CEO (or designate). This decision may not be appealed.
- d) Depending on the nature of the complaint a verbally received summary may be forwarded to the appropriate law enforcement agency or investigated by Judo Canada.
- e) Within forty-eight (48) hours, the CEO will acknowledge receipt of the complaint to the complainant and will provide notice to any other affected parties that a complaint has been received.
- f) Depending on the nature of the complaint, the CEO may issue, at its discretion, an immediate interim suspension of membership pending the outcome of disciplinary Procedures described in Sections 7 or 8 of this Procedure or an external investigation initiated by a partner organization or a law enforcement agency. The CEO may decide at his or her discretion to defer the Procedure until the judicial process will be exhausted.
- g) The CEO may assign the matter to a designate to fulfill the duties of the CEO. The designate will fulfill the duties of the CEO as per this Procedure.
- h) Depending on the nature of the reported complaint, the CEO may investigate personally or appoint an independent investigator. If this is the case, the investigator shall carry out the investigation in a timely manner and, after the investigation is completed, submit a written report to the CEO. The investigator shall have no power to render any decisions under this Procedure, however based on the investigator's expertise he or she may offer non-binding recommendations to the CEO.
- i) The investigator's report can be shared with the parties, but the report be considered confidential and will not be shared outside of the CEO.

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- j) Upon completion of the investigation, or receipt of the investigator's report, the CEO may seek to resolve the dispute to the mutual satisfaction of the involved parties.
- k) If the parties, even with the assistance of the CEO, are unable to resolve the dispute, the CEO may decide the following:
  - i. confirm the decision or action under review;
  - ii. alter, vary, or otherwise amend the decision or action under review; or
  - iii. determine that it is a Minor infraction to be dealt with in accordance with the procedures described in Part four (IV).
  - iv. determine that it is a Major infraction to be dealt with in accordance with the procedures described in Part five (V).
- l) Complaints made against employees of Judo Canada will be primarily reviewed in accordance with the Judo Canada Workplace Policy and Manual. Employees do not include part time contracted coaches.

### 4) TIMELINES

- a) The CEO shall render a decision in accordance with Section 3, within twenty-one (21) days of the receipt of the complaint. The CEO has the authority to extend or abridge this timeline here appropriate or required in the circumstances.

### **PART THREE (III)**

### 5) DISPUTES HERE THERE IS A CRITICAL LACK OF TIME

- a) Any dispute between Judo Canada's and its membership arising where there is a critical lack of time to deal with a dispute resulting from a breach of Judo Canada Policies, Procedures, rules and contracts shall be governed by these provisions.
- b) Whenever possible, complaints or disputes under this Part III shall be heard and determined by a Senior Employee of Judo Canada.
- c) The employee will hold the title of Senior Employee. Depending on the nature of the complaint or dispute and the severity at the time, the CEO may decide immediately on a course of action.
- d) Notwithstanding any other process contained in this Procedure, nothing shall prevent the Senior Employee from assuming jurisdiction when the complaint, dispute or the breach of any Policy, rules or contract occur where there is a critical lack of time from responding to a complaint or the breach and imposing, in a reasonable and fair manner, sanctions or disciplinary action against a Judo Canada member or registrant.
- e) Any sanction, discipline or remedy imposed upon the Judo Canada member or registrant by the Senior Employee shall:
  - i. be reasonable and proportionate to the conduct complained of after reasonably investigating the matter and hearing the Judo Canada member/registrant's version of

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- events in a procedurally fair manner; and
- ii. where a decision is made by the Senior Employee that results in the removal of a Judo Canada member or registrant from a competition or a Judo Canada activity, such a decision may only be implemented by the Senior Employee after the Senior Employee consults and obtains written approval from the CEO or in absence of the CEO, the President of Judo Canada or their designated representatives.
- f) The decisions of the Senior Employee shall be binding on all parties. Failure by a Judo Canada member or registrant to comply with a decision and remedy properly imposed by Judo Canada shall result in an automatic suspension of all the Judo Canada member or registrant's privileges and there shall be no further right to participate at such event or competition, until such time as the sanctions, discipline or other remedies are complied with.
  - g) Where a dispute is of a highly sensitive nature, Judo Canada shall keep all proceedings under Part III of this Policy confidential, except where disclosure is directed as part of the remedy to resolve the dispute, is required by law, by order of a Court of competent jurisdiction, pursuant to the Canadian Anti-Doping Policy or is in the best interests of the public.
  - h) If a party believes the decision of the Senior Employee rendered pursuant to this Part III of the Policy has violated the rules of natural justice, the decision of the Senior Employee may be appealed according to the Judo Canada Appeals Policy and Procedure.

### **PART FOUR (IV)**

#### **DISPUTES INVOLVING MINOR INFRACTIONS**

##### **6) APPLICATION**

- a) This part of the Policy applies to Minor infractions which may arise during all Judo Canada business, activities and events, including but not limited to, Judo competitions, training camps, meetings and travel associated with these activities. Examples of Minor infractions can be found in Appendix A.
- b) Disciplinary matters arising within the business, activities or events of provincial/territorial judo associations, clubs, or affiliated organizations of Judo Canada shall be dealt with using the discipline policies and mechanisms of such organizations.
- c) Judo Canada's CEO reserves his or her right to deal with and resolve a Minor infraction arising within the business, activities or events of provincial/territorial judo associations, clubs, or affiliated organizations of Judo Canada if Judo Canada's CEO determines, at his or her discretion, that the infraction is of a national interest.

##### **7) DISCIPLINARY PROCEDURES FOR MINOR INFRACTIONS**

- a) Disciplinary situations involving Minor Infractions occurring within the jurisdiction of Judo Canada shall be dealt with by the CEO or his or her designate.

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- b) Procedures may be informal and shall be confidential and determined at the discretion of the person responsible for discipline of such infractions, provided the individual being disciplined is informed of the details of the alleged infraction and has an opportunity to provide information and his or her position concerning the incident and be represented by the person of her or his choice.
- c) Depending on the circumstances and the nature of the Minor infraction, Judo Canada's CEO may decide to impose an immediate or future period of suspension as determined at his or her discretion.
- d) The following disciplinary sanctions may be applied, in addition to a period of suspension, singularly or in combination, for Minor Infractions:
  - i. verbal reprimand;
  - ii. written reprimand to be placed in individual's file;
  - iii. verbal apology;
  - iv. hand-delivered written apology; or
  - v. team service or other voluntary contribution to Judo Canada.
- e) Minor Infractions shall be recorded by the Judo Canada's CEO. Repeat minor offences may result in a further incident being referred to as a Major infraction.
- f) If a party believes the decision of the person having taken the decision has violated rules of natural justice, the decision may be appealed according to the Judo Canada Appeals Policy and Procedure.

### **PART FIVE (V)**

#### **DISPUTES INVOLVING MAJOR INFRACTIONS**

Major Infractions are behaviors more severe than Minor infractions that may result into aggravating harm and consequences. Examples of Major infractions are described in Appendix B.

#### **8) DISCIPLINARY PROCEDURES FOR MAJOR INFRACTIONS**

- a) If Judo Canada's CEO determines that the complaint or matter should be dealt with more formally by means of a hearing because it is a Major Infraction, Judo Canada's CEO will refer the matter to a Discipline Panel.
- b) Depending on the circumstances and the nature of the Major infraction, Judo Canada's CEO may decide to impose an immediate suspension for the duration of the process, as determined at his or her discretion.
- c) Within seven (7) days of Judo Canada decision to refer the matter to the Discipline Panel, Judo Canada's CEO will appoint three (3) members to act as Panel members and one Chairperson among them.
- c) The Disciplinary Panel shall be independent from the parties and all Panel members shall sign a declaration of independence.
- d) The Discipline Panel shall conduct the hearing procedures and may request the

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assistance of Judo Canada or an independent third party to act as case manager.

- e) Having regard to the nature of the Major Infraction and the potential consequences of any resulting sanctions, the Discipline Panel will decide whether to conduct the hearing by way of review of documentary evidence, by way of oral hearing or by way of a combination of these two methods, after consulting with the parties. If the Discipline Panel decides to conduct an oral hearing, it may decide to do so in-person or by means of telephone conference.
- f) The Discipline Panel may determine that the circumstances of the infraction warrant a preliminary meeting. The Discipline Panel may delegate to one of its members the authority to deal with these preliminary matters, which may include but are not limited to:
- date and location of the hearing;
  - timelines for the exchange of documents;
  - clarification of issues in the infraction;
  - order and procedure of the hearing;
  - evidentiary rules and evidence to be brought before the hearing;
  - identification of any witnesses; or
  - any other procedural matter that may assist in expediting the hearing as long as the rules of natural justice are respected.
- g) The Discipline panel will govern the hearing as it sees fit, provided that:
- the hearing will take place within twenty-one (21) days of the Discipline Panel's appointment, unless otherwise determined by the Discipline Panel after consulting with the Parties or if the circumstances of the Case are such that the hearing cannot be concluded within the timelines dictated in this Procedure, in which case, the Discipline Panel may direct that these timelines be extended. The Discipline Panel may delegate this authority to abridge or extend the timelines to the Chairperson.
  - the respondent will be given then (10) days written notice of the day, time and place of the hearing;
  - the respondent will receive a copy of the Investigator's report, if an investigation was carried out; which shall remain confidential
  - all parties will have an opportunity to adduce evidence and make submissions before the Panel;
  - the respondent and all parties may be accompanied by a representative of their choice;
  - the Discipline Panel's quorum shall be three (3) Panel members, and decisions be rendered by majority vote;
  - the Discipline Panel may request that any witness or any other person be present at the hearing or submit written evidence in advance of the hearing;
  - if the respondent chooses not to participate in the hearing, the hearing will proceed in his or her absence;
  - the hearing will be held in private.
- h) In deciding the matter, the Discipline Panel has the power to review all the facts pertaining to the infraction and the law.

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- i) After hearing the matter, the Discipline Panel will determine whether the individual has committed a Major Infraction and if so, the appropriate sanction (s) or consequence (s) to be imposed and any measures to mitigate the harm suffered by others as a result of the Major Infraction. The Discipline Panel's written decision, with reasons, will be distributed to all parties and to Judo Canada's CEO within seven (7) days of the conclusion of the hearing.
- j) Where the individual acknowledges the facts of the incident, he or she may waive the hearing, in which case the Discipline Committee will determine the appropriate disciplinary sanction. The Discipline Committee may hold a hearing for the purpose of determining an appropriate sanction and the hearing may be held at the request of the individual.
- k) Where the Major Infraction relates to harassment and where the Discipline Panel determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, the Discipline Panel may recommend that there be disciplinary action against the complainant.
- l) The decision of the Discipline Panel will be final and binding upon the individual being disciplined and Judo Canada, subject only to an Appeal pursuant to Judo Canada's Appeals Policy and Procedure.
- m) The Discipline Panel may apply the following disciplinary sanctions, singly or in combination, for major infractions:
  - written reprimand;
  - removal of certain privileges of membership or employment;
  - suspension from certain events which may include suspension from the current competition or from future teams or competitions;
  - suspension from certain Judo Canada activities such as competing, coaching or judging for a designated period of time;
  - suspension from all Judo Canada's activities for a designated period of time;
  - expulsion from membership;
  - removal official coaching recognition;
  - publication of the decision;
  - suspension of removal of athlete assistance program privileges;
  - mandatory training or re-certification;
  - stripping of points earned at event where the incident took place;
  - other sanctions as may be considered appropriate for the infraction.
- n) Unless the Discipline Panel decides otherwise, any disciplinary sanctions will commence immediately. Failure to comply with a sanction as determined by the Discipline Panel will result in automatic suspension of membership or participation in Judo Canada activities until such time as the sanction is complied with.
- o) In applying sanctions, the Discipline Panel may have regard to the following aggravating or mitigating circumstances:
  - the nature and severity of the infraction;

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- the extent to which others have been harmed by the infraction;
  - the cooperation of the individual being disciplined in the proceedings under this policy;
  - whether the infraction is a first offense or has occurred repeatedly;
  - the individual's acknowledgment of responsibility,
  - the individual's remorse and post-infraction conduct;
  - the age, maturity or experience of the individual;
  - whether the individual retaliated, where the incident involves harassment; and
  - the individual's prospects for rehabilitation.
- p) Where the reported behavior may constitute harassment, or is of a similar sensitive nature, Judo Canada will keep all proceedings under this Policy confidential, except where disclosure is directed by the Discipline Committee as part of a sanction, is required by law or is in the best interests of the public.
- q) Except where otherwise provided, the decision of the Discipline Panel may be appealed in accordance with the Judo Canada's Appeals Policy and Procedure.

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### APPENDIX A

#### 1. Examples of Minor infractions are:

- a) a single incident of disrespectful, offensive, abusive, racist or sexist comments or behavior directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, spectators and sponsors;
- b) a single incident of being absent or significantly late from Judo Canada events and activities at which attendance is expected or required;
- c) breach of curfew as designated by the Judo Canada Coach or Team Leader; and
- d) non-compliance with the rules and regulations under which Judo Canada events are conducted, whether at the local, provincial, national or international level.

#### 2. Examples of Major infractions are:

- a) breaching of any provision of the Articles of continuation, Coaches and Instructor Code of Conduct, bylaws or the rules and regulations or policies of the Association;
- b) behaving in an inappropriate manner (rudeness, swearing, lack of etiquette) at judo events anywhere in Canada and in the world;
- c) fighting, of any nature unless in self-defense, which is outside the rules of the sport;
- d) an egregious or repeated incident of disrespectful, offensive, abusive, racist or sexist comments or behavior directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, spectators and sponsors;
- e) damaging the property or equipment of others;
- f) committing any form of harassment (physical, sexual, racial, religious) (see Harassment Policy);
- g) repeated incidents of being late for or absent from Judo Canada events and activities at which attendance is expected or required;
- h) any action or conduct that would, in the discretion of the Judo Canada CEO or his or her designate be detrimental to the reputation or image of Judo Canada;
- i) the willful abuse of property owned, rented, borrowed or leased by Judo Canada including but not limited to vehicles, hotel rooms and team equipment;
- j) serious breach of curfew as designated by the Judo Canada CEO or his or her designate;
- k) activities or behaviors which interfere with a competition or with any athlete's preparation for a competition;
- l) hazing, pranks, jokes or other activities, which may be construed as harassing, abusive, humiliating; or having the potential to endanger the safety of others (including coercive activities such as pressure, physical or psychological, to participate in a specific initiation rite);
- m) deliberate disregard for the rules and regulations under which Judo Canada events are conducted, whether at the local, provincial, national or international level;
- n) abusive use of alcohol or cannabis causing the individual to behave in a disruptive manner; or interfering with the individual's ability to perform effectively and safely;
- o) any use of alcohol or Cannabis by athletes under the age of 19 or where prohibited by law;

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- p) use of illicit drugs or narcotics;
- q) use of drugs for the use for which they were not intended including over the counter drugs.
- r) harassment as defined by the Judo Canada Harassment Policy.
- s) use of banned performance enhancing drugs or methods and/or any anti-doping rules violation of any applicable antidoping policies and rules adopted pursuant to the Canadian Anti-Doping Program, as amended from time to time, including failure to sign the annual contract, failure to cooperate in an investigation and failure to abide to the results management authority - whether in or out of competition;
- t) other infractions as determined in accordance with this Policy.

*Approved by Board on October 13, 2017 and revised March 2018*

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## APPENDIX B

### NOTICE OF COMPLAINT FORM

*Note: Notice of complaint shall sent by email to the CEO ([n.gill@judocanada.org](mailto:n.gill@judocanada.org)) within fifteen (15) days of the matter in dispute or infraction.*

Date of dispute or infraction: \_\_\_\_\_

Complainant: \_\_\_\_\_

Tel: \_\_\_\_\_ E-mail: \_\_\_\_\_

Position/Role within Judo Canada: \_\_\_\_\_

Individual(s) suspected of dispute or infraction: \_\_\_\_\_

Describe all of the relevant facts of the event:

\_\_\_\_\_

How did Complainant become aware of the event:

\_\_\_\_\_

Steps taken by Complainant prior to complaint submitted:

\_\_\_\_\_

Who, if anyone, may be harmed or affected by the event?

\_\_\_\_\_

If event was in violation of the law, was a formal complaint made to legal forces, if yes specify:

\_\_\_\_\_

Provide any suggestions for remedying the violation:

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date