



## Judo Ontario Discipline, Appeals and Disputes Policy

<b>Approval Authority</b>	Board of Directors	June 25 <sup>th</sup> , 2023
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## DISCIPLINE POLICY

*Note:* In this policy, "days" means total days irrespective of weekends or holidays. "Complainant" refers to the individual who reports a complaint of a disciplinary infraction, and "Respondent" refers to the individual who is the subject of the complaint.

### POLICY STATEMENT

1. Membership and participation in the activities of Judo Ontario offer many benefits and privileges. At the same time members and participants are expected to fulfill certain responsibilities and obligations, including complying with the Code of Conduct of Judo Ontario as well as with Judo Ontario's other policies and procedures. Judo Ontario's Code of Conduct identifies the standard of behavior that is expected of all members and participants, and those who fail to meet this standard may be subject to the disciplinary procedures set out in this policy.

### APPLICATION OF THIS POLICY

2. This policy applies to all categories of Members of Judo Ontario and to all individuals participating in activities with or employed by Judo Ontario. These include, but are not limited to directors, officers, organizers, coaches, officials, athletes, managers, volunteers, medical and paramedical personnel, employees and other members of Judo Ontario
3. This policy applies to all discipline matters that may arise during the course of Judo Ontario's business, activities and events, including but not limited to the office environment, competitions, practices, training camps, travel associated with competitive activities, and any meetings of staff, committees or the Board of Directors.
4. The President of Judo Ontario will be responsible for discipline (hereafter referred to as "President") and will perform critical tasks under this policy. Where the President is unable to perform such tasks, for whatever reason, a designate may be appointed by the President of Judo Ontario to implement this policy.

### REPORTING AN INFRACTION

5. Any individual may report to the President a complaint in writing of a disciplinary infraction. Such written complain must be filed within 14 days of the alleged infraction. It will be at the sole discretion of the President to determine if the infraction is best dealt with as a minor infraction or a major infraction.
6. A complainant wishing to file a notice of complaint beyond the 14 day period must provide a written request stating reasons required for an exemption to this limitation. The decision to accept, or not accept, the notice of complaint outside the 14 day period will be at the sole discretion of the President (or designate).
7. Persons who experience harassment are encouraged to report this conduct to an official of Judo



Ontario, where an “official” is any person in a responsible staff or volunteer position within Judo Ontario. The role of the official is to receive the complaint of harassment and to assist in its informal resolution. Where the complaint cannot be resolved informally, the official will report the complaint in writing to the President (or designate) for resolution under this policy.

8. All written correspondence related to this policy will be directed through the Provincial office.

### **MINOR INFRACTIONS**

9. Minor infractions are single incidents of misconduct that breach the Code of Conduct but generally do not result in harm to others. All disciplinary situations involving minor infractions will be dealt with by the appropriate person having authority over the individual involved: this person may include, but is not restricted to, the President, a board member, committee member, volunteer, staff person, coach, organizer or manager.
10. Procedures for dealing with minor infractions will be informal as compared to those for major infractions and will be determined at the discretion of the person having authority, provided the individual being disciplined is told the nature of the infraction. This policy will not prevent an appropriate person having authority from taking immediate, informal, corrective disciplinary action in response to behavior that constitutes a minor infraction.
11. Disciplinary sanctions for minor infractions may include the following:
  - i. verbal or written reprimand;
  - ii. verbal or written apology;
  - iii. service or other voluntary contribution to Judo Ontario;
  - iv. suspension from the current activity or competition;
  - v. any other similar sanction considered appropriate for the offense.

### **MAJOR INFRACTIONS**

12. Major infractions are instances of misconduct that violate the Code of Conduct and that result, or have the potential to result, in harm to other persons, to Judo Ontario, to the sport of judo, or to sport generally.
13. If the incident is a major infraction, a hearing is required. The President, or designate, will notify the individual alleged to have committed a major infraction of the matter as soon as possible, and will provide the individual with a copy of this policy.
14. The appropriate person having authority may deal with major infractions occurring within competition immediately, if necessary. The individual being disciplined will be told the nature of the infraction and will have an opportunity to provide information concerning the incident. In such situations, disciplinary sanctions will be for the duration of the competition only. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this policy for major infractions.

## **INVESTIGATION**

15. Depending on the nature and severity of the complaint, the President may appoint an independent individual to conduct an investigation. This determination will be made within 7 days of receipt of the written complaint. If this is the case, the Investigator will carry out the investigation in a timely manner and at the conclusion of the investigation will submit a written report to the President.

## **DISCIPLINE PANEL**

16. Within 14 days of receiving a report documenting a major infraction or of receiving the written report of the Investigator if an investigation was carried out, the President, or designate, will appoint three individuals to serve as a Discipline Panel. The President, or designate, may name one of the Panel members to serve as Chairperson of the Panel. In the event the President, or designate, does not name a Chairperson, the members of the Panel will select from themselves a Chairperson.
17. Members of the Discipline Panel will have no significant relationship with the complainant and respondent; will have had no involvement with the alleged infraction; and will be free from any other actual or perceived bias or conflict.
18. The Discipline Panel will hold the hearing as soon as possible, but not more than 21 days after being appointed.
19. Having regard to the nature of the discipline matter and the potential consequences of any resulting sanctions, the Panel may decide to conduct the hearing by way of review of documentary evidence or by way of oral hearing. If the Panel decides to conduct an oral hearing, it may decide to do so in-person or by means of telephone conference.
20. If, due to reasons of urgency, complexity, sensitivity or lack of independence, the President, or designate, is unable to appoint a three person Discipline Panel, then the President, or designate, may appoint a single independent adjudicator to serve as a Discipline Panel under this policy.

## **PRELIMINARY CONFERENCE**

21. The Panel may determine that the circumstances of the complaint warrant a preliminary conference. The Panel may delegate to one of its members the authority to deal with these preliminary matters, which may include but are not limited to: format, date and location of the hearing; timelines for the exchange of documents; clarification of issues in dispute; order and procedure of the hearing; evidence to be brought before the hearing; identification of any witnesses; or any other procedural matter that may assist in expediting the hearing.

## **HEARING**

22. The Panel will govern the hearing fairly and as it sees fit, provided that:
  - i. the hearing will be held within 21 days of the Panel being appointed;
  - ii. the parties will be given 10 days written notice of the day, time and place of the hearing;

- iii. the parties will receive a copy of the Investigator's report, if an investigation was carried out;
  - iv. Where the Panel has three members, a quorum will be all three members, and decisions will be by majority vote where the Chairperson carries a vote;
  - v. the Panel will refrain from communicating with the parties except in the presence of, or by copy to, the other parties;
  - vi. in the case of an oral hearing, the individual being disciplined may be accompanied by a representative;
  - vii. in the case of an oral hearing, the individual being disciplined will have the right to present evidence and argument;
  - viii. any party the Panel deems to be potentially affected by the matter may be made a party to the hearing;
  - ix. the Investigator may participate in the hearing at the request of the Panel;
  - x. the Panel may request that any witness be present at the hearing or submit written evidence in advance of the hearing;
  - xi. if the individual being disciplined chooses not to participate in the hearing, the hearing will nonetheless proceed;
  - xii. the hearing will be held in private;
  - xiii. each party will bear its own costs;
  - xiv. once appointed, the Panel will have the authority to abridge or extend timelines associated with any aspect of the hearing.
23. The preceding provisions may be modified, or added to, as required by the provisions of any other pertinent Judo Ontario policy such as those dealing with doping, conflict of interest, personnel or event-specific matters.
24. After hearing the matter, the Panel will determine whether or not the individual has breached the Code of Conduct, or other relevant Judo Ontario policy, procedure or regulation, and if so, will determine the appropriate penalty to be imposed and any measures to mitigate the harm suffered by others as a result. The Panel's written decision, with reasons, will be distributed to all parties and to the Director within 14 days of the conclusion of the hearing.

## **SANCTIONS**

25. The Panel may apply the following disciplinary sanctions singly or in combination, for major infractions:
- i. written reprimand;
  - ii. removal of certain privileges of membership or employment;
  - iii. suspension from certain events which may include suspension from the current competition or from future teams or competitions;
  - iv. suspension from certain Judo Ontario activities such as competing, coaching or officiating for a designated period of time;
  - v. suspension from employment with or without pay;
  - vi. suspension from all Judo Ontario activities for a designated period of time;
  - vii. costs or expenses incurred by Judo Ontario to send a respondent to a competition or event from which the respondent was dismissed or in which the respondent failed to compete as a result of the alleged infraction;

- viii. expulsion from membership;
  - ix. publication of the decision;
  - x. other sanctions as may be considered appropriate for the offense.
26. The preceding sanctions may be modified, or added to, as required by the provisions of any other pertinent Judo Ontario policy such as those dealing with doping, conflict of interest, personnel or event-specific matters.
27. Unless the Panel decides otherwise, any disciplinary sanctions will commence immediately. Failure to comply with a sanction as determined by the Panel will result in automatic suspension of membership or participation in Judo Ontario until such time as the sanction is complied with.
28. In applying sanctions, the Panel may have regard to the following aggravating or mitigating circumstances:
- i. the nature and severity of the infraction;
  - ii. the extent to which others have been harmed by the infraction;
  - iii. the cooperation of the individual being disciplined in the proceedings under this policy;
  - iv. whether the incident is a first offense or has occurred repeatedly;
  - v. the individual's acknowledgment of responsibility;
  - vi. the individual's remorse and post-infraction conduct;
  - vii. the age, maturity or experience of the individual;
  - viii. whether the individual retaliated, where the incident involves harassment; and
  - ix. the individual's prospects for rehabilitation.
29. Any member suspended or expelled from Judo Ontario may apply for reinstatement by submitting a written application stating reasons. The Executive Committee will consider the application at a regularly scheduled meeting.

### **SERIOUS INFRACTIONS**

30. The President may determine that an alleged infraction is of such seriousness as to warrant suspension of the individual pending the hearing and decision of the Panel.
31. Where it is brought to the attention of the President that a Member has been charged with an offence under the Criminal Code, or has previously been convicted of a criminal offense, the President may suspend the Member pending further investigation, a hearing or a decision of the Panel.
32. Notwithstanding the procedures set out in this policy, any Member of Judo Ontario who is convicted of a criminal offense involving sexual exploitation, invitation to sexual touching, sexual interference, sexual assault or aggravated assault will face automatic suspension from participating in any activities of Judo Ontario for a period of time corresponding to the length of the criminal sentence imposed by the court, and may face further disciplinary action by Judo Ontario in accordance with this policy.



## **CONFIDENTIALITY**

33. Where the behavior reported may constitute harassment, or is of a similar sensitive nature, Judo Ontario will keep all proceedings under this policy confidential, except where disclosure is directed by the Panel as part of a sanction, is required by law or is in the best interests of the public.

## **APPEALS**

34. Except where otherwise provided, the decision of the Panel may be appealed in accordance with Judo Ontario's Appeals Policy.

## APPEALS POLICY

### PURPOSE

1. The purpose of this appeals policy is to enable disputes with members and participants to be dealt with fairly, expeditiously and affordably, within Judo Ontario without recourse to external legal procedures.

### DEFINITIONS

2. These terms will have these meanings in this policy:
  - i. Days -- will mean total days, irrespective of weekends or holidays.
  - ii. Member -- refers to all categories of members in Judo Ontario as well as to all individuals engaged in activities with or employed by Judo Ontario, including, but not limited to directors, officers, coaches, athletes, officials, volunteers, medical and paramedical personnel, employees and members.
  - iii. Appellant -- refers to the Member appealing a decision
  - iv. Respondent -- refers to the body whose decision is being appealed.

### SCOPE AND APPLICATION OF THIS POLICY

3. Any Member of Judo Ontario who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of the Board of Directors, including a Discipline Panel, will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 5 of this policy. Examples of decisions that may be appealed include but are not limited to those relating to eligibility, harassment, team selection, discipline and entitlements and obligations under an athlete agreement.
4. This policy will not apply to decisions relating to:
  - i. Matters of employment;
  - ii. Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program;
  - iii. The rules of Judo, which may not be appealed;
  - iv. Discipline matters arising during events organized by entities other than Judo Ontario, which are dealt with pursuant to the policies of these other entities;
  - v. Matters relating to the substance, content and establishment of team selection criteria, which may not be appealed;
  - vi. Volunteer appointments and the withdrawal of those appointments by the Board of Directors, which may not be appealed;
  - vii. Matters of budgeting and budget implementation, which may not be appealed;
  - viii. Matters of operational structure and committees, which may not be appealed; and
  - ix. Any decisions made under Section 4(b) or Section 6 (b) of this policy.



## **TIMING OF APPEAL**

5. Members who wish to appeal a decision will have 21 days from the date on which they received notice of the decision, to submit in writing notice of their intention to appeal, grounds for the appeal a summary of the evidence that supports these grounds, and the remedy or remedies requested to the President of Judo Ontario.
6. Any party wishing to initiate an appeal beyond the 21 day period must provide a written request stating reasons for an exemption to the requirement of Section 4(a). The decision to allow, or not allow an appeal outside the 21 day period will be at the sole discretion of the President, and may not be appealed.

## **GROUNDINGS FOR APPEAL**

7. Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:
  - i. Making a decision for which it did not have authority or jurisdiction as set out in Judo Ontario's governing documents;
  - ii. Failing to follow procedures as laid out in the bylaws or approved policies of Judo Ontario, including policies for selection; or
  - iii. Making a decision that was influenced by bias.

## **SCREENING OF APPEAL**

8. Within 7 days of receiving the notice and grounds of an appeal, the President will determine whether there are appropriate grounds for the appeal to proceed as set out in Section 5. In the absence of the President, a designate will perform this function.
9. If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President, or designate, and may not be appealed.

## **APPEALS PANEL**

10. If the President, or designate, is satisfied that there are sufficient grounds for an appeal, within 14 days of having received the original notice of appeal the President will establish an Appeals Panel (hereafter referred to as the "Panel") as follows:
  - i. 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 bias or conflict.
  - ii. The President, or designate, may name one of the Panel members to serve as Chairperson of the Panel. In the event the President, or designate, does not name a Chairperson, the members of the Panel will select from themselves a Chairperson.
11. If, due to reasons of urgency, complexity, sensitivity or lack of independence, the President, or

designate, is unable to appoint a three person Appeal Panel, then the President, or designate, may appoint a single independent adjudicator to serve as an Appeal Panel under this policy.

#### **PRELIMINARY CONFERENCE**

12. The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The Panel may delegate to one of its members the authority to deal with these preliminary matters, which may include but are not limited to: format, date and location of the appeal (hearing by documentary evidence, oral hearing, or a combination of both); timelines for the exchange of documents; clarification of issues in dispute; order and procedure of the hearing; location of the hearing, where the hearing is an oral hearing; identification of witnesses; or any other procedural matter that may assist in expediting the hearing.

#### **PROCEDURE FOR THE HEARING**

13. Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing fairly and as it sees fit, provided that:

- i. The hearing will be held within 21 days of the Panel's appointment.
- ii. The parties will be given 10 days written notice of the day, time and place of the hearing;
- iii. Where the Panel has three members, a quorum will be all three members, and decisions will be by majority vote where the Chairperson carries a vote;
- iv. the Panel will refrain from communicating with the parties except in the presence of, or by copy to, the other parties;
- v. 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;
- vi. A representative or advisor, including legal counsel may accompany any of the parties.
- vii. The Panel may direct that any other person participate in the appeal;
- viii. the hearing will be held in private; and
- ix. each party will bear its own costs.

#### **PROCEDURE FOR DOCUMENTARY APPEAL**

14. 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:

- i. All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument; and
- ii. The applicable principles and timelines set out in Section 9 are respected.

#### **APPEAL DECISION**

15. Within 14 days of concluding the appeal, the Panel will issue its written decision, with reasons. The decision will follow this format:

- i. Issue to be decided;
  - ii. Background to the case;
  - iii. Statement of the facts;
  - iv. Authorities considered;
  - v. Decision; and
  - vi. Reasons for decision.
16. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:
- i. To reject the appeal and confirm the decision being appealed; or
  - ii. To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
  - iii. To uphold the appeal and vary the decision but only where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time, or lack of neutrality; and
  - iv. To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.
17. The decision will be considered a matter of public record. A copy of the decision will be provided to each of the parties and to the President, or designate.
18. 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 Section.

#### **TIMELINES**

19. 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.

#### **LOCATION**

20. The appeal will take place in the location designated by the President, or designate, unless the Panel decides the appeal is to be held by way of telephone conference, or unless, at the specific request of a party, a different location is mandated by the Panel as a preliminary matter.

#### **FINAL AND BINDING DECISION**

21. The decision of the Panel will be final and binding on the parties and on all members of Judo Ontario, subject only to the provisions of Judo Ontario's Dispute Resolution Policy.

#### **URGENT APPEALS**

22. Where the appeal relates to a decision arising during a tournament or competition and must be dealt with on an urgent basis, notice of the appeal will be provided to the Chief Tournament Official within

90 minutes of the decision being communicated to the Appellant.

23. Within 60 minutes of receiving the notice of appeal, the Chief Tournament Official will appoint a Panel 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 bias or conflict. The Chief Tournament Official will designate one of the Panel members to serve as Chairperson.
24. The Panel will hear and decide the matter using the following procedures:
  - i. the hearing will be an oral hearing, held in private;
  - ii. the parties will be given 60 minutes notice of the hearing, and may each be accompanied at the hearing by a representative;
  - iii. quorum will be all three Panel members. Decisions will be by majority vote where the Chairperson carries a vote;
  - iv. the Panel may direct that any other person participate in the appeal;
  - v. the Panel will render its decision, with reasons, verbally within 30 minutes of the conclusion of the hearing;
25. The Panel may, in its sole discretion, adapt such procedures and timelines to accommodate any unique, urgent or unforeseen circumstances during a tournament or competition, at all times ensuring that the matter is heard and decided in a timely and fair manner.
26. Where the appeal does not relate to a decision arising during a tournament or competition but is nonetheless of an extraordinary and urgent nature, upon receiving notice of the appeal the President will respect the principles set out in this policy but 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.

## **DISPUTE RESOLUTION POLICY**

### **POLICY STATEMENT**

1. Judo Ontario supports the principles of Appropriate Dispute Resolution (ADR) and is committed to the techniques of negotiation, facilitation, mediation and arbitration as effective ways to resolve disputes with and among members, and to avoid the uncertainty, costs and other negative effects associated with litigation.

### **SCOPE**

2. This policy applies to disputes with and among members, where the term “Member” refers to all categories of members within Judo Ontario, as well as to all individuals engaged in activities with or employed by Judo Ontario, including, but not limited to directors, officers, coaches, athletes, referees, volunteers, medical and paramedical personnel, employees and other members.

### **NEGOTIATION**

3. Judo Ontario encourages all Members to communicate openly and to collaborate in using problem-solving and negotiation techniques to resolve their differences. In almost all cases a negotiated settlement is preferable to any outcome achieved through other dispute resolution techniques, and negotiated resolutions to disputes with and among Members are strongly encouraged.

### **FACILITATION AND MEDIATION**

4. Opportunities for facilitation and mediation may be pursued at any point in a dispute within Judo Ontario where it is appropriate and where the disputing parties agree that such a course of action would be mutually beneficial.
5. Where mediation is pursued, it will be done so in accordance with standard mediation practice using trained mediators who are acceptable to the parties, or alternatively, with the consent of the parties it may be pursued through the Sport Dispute Resolution Centre (SDRC).

### **APPEALS**

6. Appeals within Judo Ontario will be dealt with under the Judo Ontario Appeals Policy.

### **ARBITRATION**

7. In the event that a dispute persists after internal avenues of decision-making, negotiation, facilitation, mediation and/or appeals have been exhausted, the parties may pursue opportunities for arbitration.
8. Where arbitration is pursued, it will be done so in accordance with standard arbitration practice using trained arbitrators who are acceptable to the parties, or alternatively, with the consent of the parties it may be pursued through the Sport Dispute Resolution Centre (SDRC).



9. Where arbitration is pursued through the SDRC, it will be done so in accordance with the rules of arbitration prescribed by the SDRC.
10. The parties involved in a dispute may also mutually agree to bypass internal avenues of dispute resolution, including appeals, and may directly pursue opportunities for arbitration.
11. Where a dispute is referred to arbitration, all parties to the original dispute will become parties to the arbitration.
12. The parties to arbitration will enter into a written Arbitration Agreement that will specify that the decision of the arbitrator will be final and binding upon the parties and not subject to any further review by any court or any other body.

#### **NO LEGAL ACTION**

13. No action, application for judicial review or other legal proceeding will be brought against Judo Ontario respecting a dispute, unless the remedies afforded by this policy have not been offered or have been exhausted. In no case may a party pursue legal action against Judo Ontario in respect of an arbitration, for which the parties have entered into a written Arbitration Agreement.