



TAEKWONDO CANADA

Policy

Appeals

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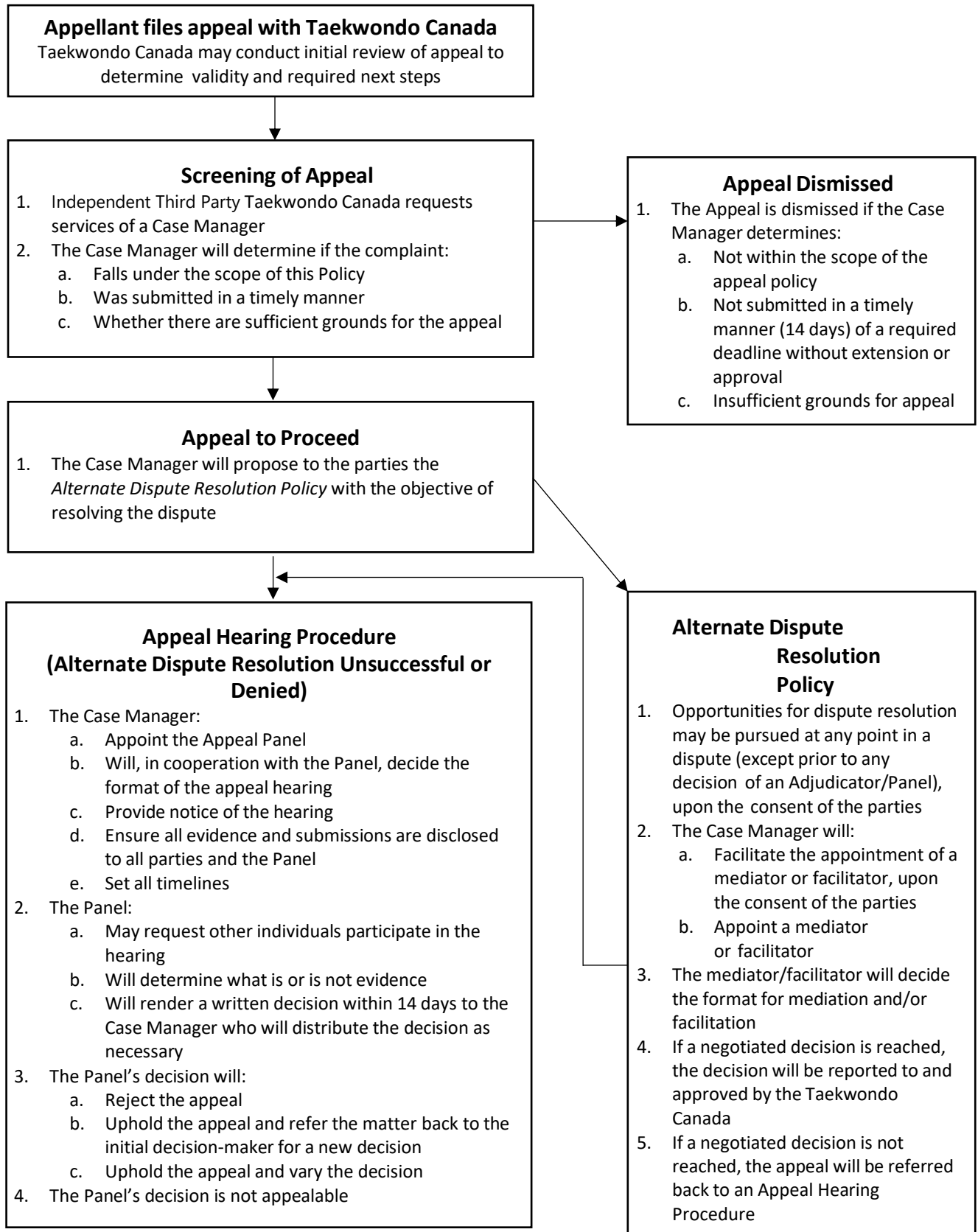
Revision History

Approved/Reviewed/ Revised/Rescinded	Date	Comments
Initial Policy Approval	November 5, 2018	
Update	April 6, 2020	Added clarification regarding application of the policy (section 4 and 5), updated Case Manager description to match the one in the Complaints Policy
Update	January 2022	Added contact information if appeals aren't not able to be sent to the ED or President
Update	November 2022	Revised to meet the needs of Abuse-Free Sport

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APPEAL POLICY FLOWCHART



1. PURPOSE

- 1.1 This Appeal Policy provides Participants with a fair, affordable, and expedient appeal process.

2. SCOPE AND APPLICATION OF THIS POLICY

- 2.1 This Policy applies to all Participants. However, it does not apply to any decision related to the application of the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS) made by the Office of the Sport Integrity Commissioner (OSIC), the Director of Sanctions and Outcomes, the Sport Dispute Resolution Centre of Canada's (SDRCC) Safeguarding Tribunal or any other competent instance within the Abuse-Free Sport program.
- 2.2 Any Participant who is directly affected by a decision taken by Taekwondo Canada, by any Committee of the Taekwondo Canada Board or by any body or individual within Taekwondo Canada who has been delegated authority to make decisions in accordance with Taekwondo Canada's By Laws and governance policies (as applicable), shall have the right to appeal that decision provided that it is a decision that is subject to appeal pursuant to [Section 5](#) of this Policy, that the conditions indicated in [Sections 6](#) or [7](#) of this Policy (as applicable) have been satisfied, and provided that there are sufficient grounds for the appeal pursuant to [Section 9](#) of this Policy.
- 2.3 This Policy **will apply** to decisions relating to:
- 2.3.1 Eligibility
 - 2.3.2 Conflict of Interest
 - 2.3.3 Disciplinary decisions made pursuant to Taekwondo Canada's relevant and applicable policies
 - 2.3.4 (Provincial) Membership
- 2.4 This Policy **will not apply** to decisions relating to:
- 2.4.1 Reported complaints that were managed by the OSIC;
 - 2.4.2 Matters of general application such as amendments to Taekwondo Canada's By-Laws;
 - 2.4.3 Taekwondo Canada's operational structure and committee appointments;
 - 2.4.4 Issues of budgets and budget implementation;
 - 2.4.5 Employment matters or matters of operational structure or staffing or volunteer leadership opportunities;
 - 2.4.6 Except as otherwise provided for in this Policy, decisions made by organizations other than Taekwondo Canada, such as Taekwondo Canada's Members, the Canadian Olympic Committee (COC), U Sports, the International Olympic Committee (IOC), World Taekwondo or any other governing body;
 - 2.4.7 Selection criteria, quotas, policies and procedures established by entities other than Taekwondo Canada;
 - 2.4.8 Substance, content and establishment of team selection criteria;
 - 2.4.9 The Athlete Assistance Program (AAP) policies and procedures established by Sport Canada;
 - 2.4.10 Policy and procedures established by any other agency, association or organization external to Taekwondo Canada;
 - 2.4.11 Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program, by the Canadian Centre for Ethics in Sport and World Taekwondo;
 - 2.4.12 Contractual matters between Taekwondo Canada and its staff for which another dispute resolution process exists under the provisions of the applicable contract; or
 - 2.4.13 Settlements negotiated pursuant to the *Alternate Dispute Resolution Policy*.

3. TIMING AND CONDITIONS OF APPEAL

- 3.1 Participants who wish to appeal a decision have fourteen (14) days from the date on which they received notice of the decision to submit, in writing to the Independent Third Party, the following:
- 3.1.1 Notice of the intention to appeal;

- 3.1.2 Contact information and status of the Appellant;
 - 3.1.3 Name of the Respondent and any Affected Parties, when known to the Appellant;
 - 3.1.4 Date the Appellant was advised of the decision being appealed;
 - 3.1.5 A copy of the decision being appealed, or description of decision if written document is not available;
 - 3.1.6 Grounds for the appeal;
 - 3.1.7 Detailed reasons for the appeal;
 - 3.1.8 All evidence that supports the appeal;
 - 3.1.9 Requested remedy or remedies;
 - 3.1.10 An appeal fee of five hundred dollars (\$500) which will be refunded if the appeal is successful or forfeited if the appeal is denied. Payment will be in the form of an e-transfer, money order or certified cheque Payable to "Taekwondo Canada" and received by the Executive Director.
- 3.2 A Participant who wishes to initiate an appeal beyond the fourteen (14) day period may only do so if exceptional circumstances prevented them from filing their appeal within the deadline indicated in Section 8 above. Any such Participant must provide a written request stating the reasons for which they are seeking an exemption. The decision to allow, or not allow, an appeal outside of the fourteen (14) day period will be at the sole discretion of the Case Manager and this decision may not be appealed.
- 3.3 Within five (5) days of the submission of an appeal, the Appellant will receive acknowledgement of the submitted appeal.
- 3.4 Appeals must be submitted to Taekwondo Canada's Independent Third Party.

4. CASE MANAGER

- 4.1 Upon the receipt of an appeal, the Independent Third Party will appoint an independent Case Manager to manage and administer appeals submitted in accordance with this Policy and such appointment is not appealable.

5. GROUNDS FOR APPEAL

- 5.1 A decision cannot be appealed on its merits alone or because a Participant does not like or agree with a decision. An appeal may only be heard if there are sufficient grounds for appeal, as determined by the Case Manager. Sufficient grounds only include that the Respondent:
- 5.1.1 Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents);
 - 5.1.2 Failed to follow its own procedures (as set out in the Respondent's governing documents);
 - 5.1.3 Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views);
 - 5.1.4 Made a decision that was grossly unreasonable.
- 5.2 The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in [Section 8](#) and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

6. ALTERNATE DISPUTE RESOLUTION

- 6.1 Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing and Conditions of Appeal' section of this Policy), the Case Manager may suggest, and the Parties may consent, to attempt to resolve the appeal under Taekwondo Canada's *Alternate Dispute Resolution Policy*.
- 6.2 Appeals resolved by mediation under Taekwondo Canada's *Alternate Dispute Resolution Policy* will result in the administration fee being refunded to the Appellant.

7. SCREENING OF APPEAL

- 7.1 Should the appeal not be resolved by using the *Alternate Dispute Resolution Policy*, the Case Manager will have the following responsibilities:
 - 7.1.1 Determine if the appeal falls under the scope of this Policy;
 - 7.1.2 Determine if the appeal was submitted in a timely manner;
 - 7.1.3 Decide whether there are sufficient grounds for the appeal.
- 7.2 If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant and Taekwondo Canada will be notified, in writing, by the Case Manager of the reasons for this decision. This decision may not be appealed.
- 7.3 If the Case Manager is satisfied there are sufficient grounds for an appeal, the Case Manager will appoint an Appeal Panel (the “Panel”) which shall consist of a single adjudicator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Panel’s members to serve as the Chair.
- 7.4 When appointing the Panel, the Case Manager must select individuals who are impartial, free from any real or perceived conflict of interest (and who shall remain so until a final decision has been rendered or the proceedings have otherwise finally terminated), and who do not have any direct relationship with any of the Parties. Although not a strict requirement, the Case Manager should attempt to appoint individuals to the appeal panel who have a legal background and who understand the sport of taekwondo. When justified by the circumstances, the Case Manager may appoint individuals to the appeal panel who have specific areas of expertise that would assist in resolving the matter.
- 7.5 The Case Manager will establish and adhere to timeframes that ensure procedural fairness and that the matter is heard in a timely fashion.
- 7.6 **Determination of Affected Parties**
 - 7.6.1 In order to confirm the identification of any Affected Parties, the Case Manager will engage Taekwondo Canada. The Case Manager may determine whether a Party is an Affected Party in their sole discretion.

8. PROCEDURE FOR APPEAL HEARING

- 8.1 The Case Manager, in cooperation with the Panel, shall then decide the format under which the appeal will be heard. This decision may not be appealed.
- 8.2 The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone/telecommunications or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:
 - 8.2.1 The hearing will be held within a timeline determined by the Case Manager or the Panel;
 - 8.2.2 The Parties will be given reasonable notice of the day, time and place of the hearing, in the case of an oral in-person hearing, an oral hearing by telephone or other telecommunications;
 - 8.2.3 Copies of any written documents which the Parties wish to have the Panel consider will be provided to all Parties in advance of the hearing;
 - 8.2.4 The Parties may be accompanied by a representative, advisor, translator, transcription services or legal counsel at their own expense;
 - 8.2.5 The Panel may request that any other individual participate and give evidence at the hearing;
 - 8.2.6 The appeal panel shall allow any evidence at the hearing filed by the Parties and may exclude any evidence is unduly repetitious or otherwise an abuse of process. The appeal panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to evidence filed by the Parties.;

- 8.2.7 Nothing is admissible in evidence at a hearing that would be inadmissible in a court by reason of any privilege under the law of evidence or is inadmissible by any statute;
 - 8.2.8 Any Affected Party shall be permitted to make submissions and file evidence before the appeal panel. The Panel's decision is binding on any Affected Party;
 - 8.2.9 The decision to uphold or reject the appeal will be by a majority vote of the Panel, except in cases where the Panel consists of a single member;
 - 8.2.10 The hearing will proceed if a Party chooses not to participate in the hearing.
- 8.3 In fulfilling its duties, the Panel may obtain independent advice.

9. APPEAL DECISION

- 9.1 The Panel shall issue its decision, in writing and with reasons, after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
 - 9.1.1 Reject the appeal and confirm the decision being appealed;
 - 9.1.2 Uphold the appeal, in whole or in part, and refer the matter back to the initial decision-maker for a new decision;
 - 9.1.3 Uphold the appeal, in whole or in part, and vary the decision;
 - 9.1.4 The Panel will include in the decision whether the filing fee will be refunded in full, in part or not at all.
- 9.2 The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Taekwondo Canada within 14 days of the hearing's conclusion. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter.
- 9.3 Subject to [Section 9](#) below, unless the matter involves a Vulnerable Participant, once the deadline to appeal to the SDRCC (where applicable), as indicated in the Canadian Sport Dispute Resolution Code, has expired, Taekwondo Canada shall publish the outcome of the appeal on their website. Publication shall be limited to, where applicable, the provision(s) of any relevant policies that have been violated, the name(s) of the Participant(s) involved, the sanction(s) or order imposed, if any. Identifying information regarding Minors or Vulnerable Participants will never be published by Taekwondo Canada.
- 9.4 If the appeal panel dismisses the appeal, the decision may only be published, as provided for in Section 24, with the Respondent's consent. If the Respondent does not provide such consent, the decision will be kept confidential by the Parties, the Case Manager and Taekwondo Canada and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to this *Policy*.
- 9.5 Where necessary to implement a decision, other individuals or organizations, including but not limited to, Members and Registered Clubs, may be advised of the outcome of any decisions rendered in accordance with this *Policy*.
- 9.6 Any decision rendered pursuant to this Policy shall apply automatically to and must be respected by Taekwondo Canada, its Members and Registered Clubs.
- 9.7 Records of all decisions will be maintained by Taekwondo Canada and its Members in accordance with their respective privacy policies.

10. CONFIDENTIALITY

- 10.1 The appeals process is confidential and involves only the Parties, the Case Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.
- 10.2 Any failure to respect the aforementioned confidentiality requirement may result in disciplinary action being taken against the Participant(s) in accordance with Taekwondo Canada's relevant and applicable policies.

11. FINAL AND BINDING

- 11.1 The decision of the Panel will be binding on the Parties and on all Taekwondo Canada's Participants, subject to the right of any Party to appeal the Panel's decision before the Sport Dispute Resolution Centre of Canada (SDRCC) pursuant to the Canadian Sport Dispute Resolution Code.
- 11.2 No action or legal proceeding will be commenced against Taekwondo Canada or Participants in respect of a dispute, unless Taekwondo Canada has refused or failed to provide or abide by the appeal process as set out in this Policy.
- 11.3 **Privacy**
 - 11.3.1 The collection, use and disclosure of any personal information pursuant to this Policy is subject to Taekwondo Canada's Privacy Policy.
 - 11.3.2 Taekwondo Canada or any of its delegates pursuant to this Policy (i.e., Case Manager, Panel), shall comply with Taekwondo Canada's Privacy Policy in the performance of their services under this Policy.