

Taekwondo Canada

Code and Policy for Prohibited Conduct in Sport

Overview

On behalf of the Canadian sport community, Coaches of Canada is very pleased to advise that after two years of consultation the Code for Prohibited Conduct in Sport (Code) and the Canadian Policy on Prohibited Conduct in Sport (Policy) are now complete and ready to use. The Code and the Policy provide to organizations who adopt them a mechanism to describe and prohibit serious misconduct that is incompatible with continued participation in Canadian sport. As you know, each National Sport Organization is expected to commit to the principle of ethically sound coaching and officiating conduct in order to be eligible for the Government of Canada funding, and we believe that this tool could be useful in meeting this requirement. Taekwondo Canada is adapting this in addition to our sanctions manual and other approved policies to strengthen our commitment to ethical conduct and behaviour within the sport and art of Taekwondo.

The Code and the Policy contain: 1) a list of prohibited conduct, 2) a procedurally fair method of enforcing alleged breaches of the Code, and 3) the authority to act against certain individuals. **The Code and Policy were designed to mesh with all existing policy documents, discipline process and codes of conduct in effect and now relied upon by the organization.** The goal of this initiative was to provide to the Canadian sport community a specific and useful “tool” to use to address in a procedurally fair manner the most serious allegations of misconduct brought against coaches, officials, volunteers and administrators. The Code and Policy does not serve to define all improper conduct that these individual or others may engage in. Rather, the Code and the Policy are intended to serve as the foundation or “floor”. In this way, the Code and the Policy will set a national standard of conduct that coaches, officials, volunteers and administrators may never fall below.

Broad adoption of the Code and Policy, community groups and recreation associations will ensure that no one can easily participate in our sport in Canada at any level if they engage in prohibited conduct. This is our goal!

The Canadian Centre for Ethics in Sport, in addition to Taekwondo Canada will track our own sanctions that are imposed pursuant to the Code when advised by the sanctioning body. The CCES will maintain a database of organizations that adopt the Code and Policy and any sanctions imposed. This database will be accessible to all sport organizations.

Canadian Policy on Prohibited Conduct in Sport

Introduction

The Policy on Prohibited Conduct in Sport (the Policy) is grounded in a fundamental commitment to protect the development, safety and wellbeing of athletes and participants involved in Taekwondo and to provide a procedurally fair mechanism to discipline those who engage in prohibited conduct. The rationale for the Policy is to protect athletes and sport participants from misconduct by those individuals in positions of authority over them. The Policy is not designed to address the potential misconduct of athletes and sport participants as such conduct is regularly controlled pursuant to existing rules and policies we already have in place.

Preamble

Taekwondo builds strong individuals. Taekwondo contributes significantly to its participants' physical, social and character development. Integrity, trust, fair play, respect for others and sportsmanship are respected values that can be learned through Taekwondo. Persons who engage in prohibited conduct cause harm to athletes and sport participants by acting contrary to these values.

The Policy applies to coaches, officials, volunteers and administrators. Individuals who fulfill these roles and assume positions of authority in sport must take responsibility to ensure the safety and wellbeing of athletes and sport participants, especially young people.

The Code consists of expressly prohibited conduct and a procedurally fair adjudication process for the organizations and our members who are responsible for administering it, and with Taekwondo Canada and participants who are bound by it

As a condition of eligibility for federal funding sport organizations are required to have in place procedurally fair Codes of Conduct to protect the rights of their members and sport participants.

Prohibited Conduct

The Code defines a 'floor', below which conduct must never fall. Prohibited conduct is conduct that will not be tolerated by coaches, officials, volunteers and administrators involved in positions of authority in Taekwondo across Canada. The prohibited conduct set out in the Code is not intended to describe all undesirable or unacceptable conduct. Rather, it serves to define only the most serious misconduct which is fundamentally incompatible with continued participation in Taekwondo, in any role, at any level. Engaging in prohibited conduct will result in significant sanctions being imposed, that may include suspensions and expulsion from membership in Taekwondo at all levels.

In the event of a conflict or inconsistency with any other internal policy, rule or code of the organization relating to discipline or conduct, be the governing document and shall have priority according to its terms. However, other internal policies, rules or codes of the organization may operate concurrently with the Code to the extent they are fully consistent with it.

Purpose

The purposes of the Policy are:

- To clearly prohibit certain misconduct in the Code.
- To ensure within Canada a harmonized, coordinated and effective response to allegations of this most serious misconduct.
- To respect the rights of individuals through appropriate fair procedures to determine if a breach of the Code occurred and, if so, what sanction may be appropriate for an individual who engages in prohibited conduct.
- To make any sanction imposed by the organization against an individual pursuant to the Code effective across Canada, in all sports, at all levels and in any role or capacity.

Roles and Responsibilities

Individuals

All coaches, officials, volunteers and administrators involved in Taekwondo to whom the Policy applies, and over whom the Code has jurisdiction, shall support, apply and meet the requirements of the Policy and the Code.

Sport Organizations

Taekwondo has agreed to adopt the Principles of this Policy and the Code as proposed by CCES. As such, they shall support, apply and meet the requirements of the Policy and shall implement, with our, the provisions of the Code. Our members and affiliates shall respect all sanctions as handed down by Taekwondo Canada's Sanctions Committee. In addition, we shall respect the designated Review Authority of the Canadian Centre for Ethics in Sport with regard to the Code and.

Canadian Centre for Ethics in Sport

The Canadian Centre for Ethics in Sport (CCES) shall be the Review Authority with the responsibility to monitor the implementation of the Code by those organizations and their affiliated members adopting it. The CCES shall in the role of Review Authority:

- Maintain a public Registry of all sanctions imposed Taekwondo Canada pursuant to the Code.
- Review on a periodic basis the Policy and the Code and suggest amendments from time to time for the consideration of the Canadian sport community and those organizations adopting it.
- Monitor the general application of the Code and the extent to which there is effective reciprocal recognition by organizations adopting it of all sanctions that are imposed pursuant to it.

Application

Application of the Canadian Policy on Prohibited Conduct in Sport to Organizations

The application of the Policy and the Code to individuals is based on the contractual relationship which exists between Taekwondo Canada and our members and participants through those individuals' agreement to participate in sport according to the internal rules and policies of Taekwondo Canada. Taekwondo Canada which is committed to protecting the safety and well being of athletes and sport participants will adopt the Policy and the Code as part of our governing documents. As such, as one of our policies, it clarifies a means of describing the responsibilities and obligations binding on our members of, and the participants in the activities of, our members and our affiliates.

Application of the Canadian Policy on Prohibited Conduct in Sport to Individuals

The Policy and the Code applies to coaches, officials, volunteers and administrators if they have engaged in that role and when in that role are, or were:

- Individuals who are/were members of Taekwondo Canada, or,
- Individuals who are/were members of such bodies' affiliated members, clubs, teams and associations,
- Individuals who participated, in any capacity in any business, event or activity organized, held, convened, or sanctioned by such bodies, regardless of when they participated or where they reside or are situated.

For the purpose of the Code the foregoing persons are ***Individuals***.

Coming into Force and Revision

Coming into Force

The Policy and the Code become effective once adopted by the National Board.

Revision

In keeping with the Canadian Sport Policy, governments and any other sport organizations may suggest revisions to the Policy and the Code in consultation with Coaches of Canada, the CCES, and the Canadian sport community, including Taekwondo Canada.

Language

The English and French versions of the Policy and the Code are equally authoritative.

Code for Prohibited Conduct in Taekwondo

Preamble

This Code for Prohibited Conduct in Taekwondo (the Code) prohibits conduct that is not consistent with the Canadian Policy on Prohibited Conduct in Sport (the Policy). The Code prohibits conduct by individuals in positions of authority that causes physical or emotional harm to athletes and sport participants. The Code prohibits conduct that is fundamentally incompatible with the values of integrity, trust, fair play, respect for others and sportsmanship. The underlying goal of the Code is to prevent prohibited conduct from occurring. The rationale for the Code, and the reason for its limited scope, is to protect athletes and sport participants from misconduct engaged in by individuals in positions of authority over them. The Code is not designed to address the potential misconduct of athletes and sport participants as such conduct is regularly controlled pursuant to existing rules and policies already in place by Taekwondo Canada through its sanctions manual and/or other policies.

Describing the prohibited conduct in the Code will make it clear to those involved in Taekwondo that certain conduct by individuals in positions of authority will absolutely not be tolerated or condoned. Engaging in prohibited conduct will result in significant sanctions being imposed, that may include suspensions and possible expulsion from membership.

The Code contains a list of prohibited conduct and a procedurally fair adjudication process. Some provisions in the adjudication process are mandatory while some procedural steps allow for flexibility in their implementation, so long as the underlying principles in the adjudication process are respected.

Application

Upon adoption of this code, it forms part of our governing documents. As such, it becomes a policy of the adopting organization and, as a rule of that sport, a means of describing the responsibilities and obligations binding on the members of, and the participants in the activities of, our organization and affiliated members.

The Code applies to an adopting organization's coaches, officials, volunteers and administrators who are defined as **Individuals** in the Policy. These individuals are typically in positions of authority over athletes and sport participants. The Code does not apply to athletes or those who are actively participating in the sporting or recreation activity, when engaged in that role. Other rules and policies regularly constrain that behaviour.

The Code may apply to discipline an **Individual** for his or her conduct if that **Individual** acted in the role of coach, official, volunteer or administrator and was during that time properly inside the jurisdiction of the Policy and the Code.

The fact a person is not acting in the role of a coach, official, volunteer or administrator when a complaint regarding his or her previous conduct is brought forward is not a bar to proceeding pursuant to the Code or pertaining to any of our other codes or rules.

The Hearing Panel may consider such past conduct and may impose a sanction based on that past conduct, if deemed relevant. The Hearing Panel may also authorize proceeding in the absence of an

Individual, regardless of when the conduct complained of occurred, if the Policy and the Code apply to that **Individual** when the relevant conduct occurred.

Notwithstanding the foregoing, with the exception of Section 6 which deals with criminal convictions, complaints may not be brought against an **Individual** if more than eight years have passed after the conduct complained of occurred.

With the exception of Section 6, the Code will not be applied retroactively. The Code is effective from the date of its adoption by Taekwondo Canada's Board of Directors.

Prohibited Conduct

The following conduct is expressly prohibited by an **Individual**:

1. The **Individual** shall not have sexual relations, or sexual intimacy of any description, with any other **Individual**, with any athlete the **Individual** is coaching or with any other sport participant the **Individual** has access to in the sport environment if the other **Individual**, the athlete being coached or the sport participant is 18 years of age or older and if there exists a significant imbalance of power with respect to the relationship between the other **Individual**, the athlete being coached or the sport participant and the **Individual** which could reasonably jeopardize effective decision making regarding the existence or the nature of the sexual relations or sexual intimacy with the **Individual**.

*[Comment: The actual relationship between the parties, their respective roles, the nature and duration of the sexual relations, the age of the **Individual**, the ages of the other **Individual**, the athlete being coached or the sport participant are all relevant factors to consider in assessing the existence and the extent of the imbalance of power and the degree to which any imbalance of power may jeopardize effective decision making regarding the existence or the nature of the sexual relations or the sexual intimacy with the **Individual**. It is assumed that there is no imbalance of power in the relationship between two spouses.]*

2. The **Individual** shall not have sexual relations, or sexual intimacy of any description, with any athlete the **Individual** is coaching, with any other sport participant the **Individual** has access to in the sport environment or with any other **Individual** if the athlete being coached, the other sport participant or the other **Individual** are under the age of 18. With respect to the **Individuals'** relationship with the other sport participant and the other **Individual**, they must each be subject, directly or indirectly, to the authority of the **Individual** for this section to apply.

*[Comment: It is accepted that in every situation where an athlete is under the age of 18 the unique coach/athlete relationship has the requisite authority present on the part of the coach. Once the athlete/coach relationship is established the authority on the part of the coach over the athlete shall be assumed. However, in situations where the **Individual** has sexual relations with a sport participant or sexual relations with any other **Individual** under the age of 18 this section will only apply where the **Individual** has direct or indirect authority over the sport participant or other **Individual**. In each relationship, other than the relationship between a coach and an athlete, if the **Individual**, regardless of his or her age, is not in a position of direct or indirect authority over the person under 18, the section shall not apply.]*

3. The **Individual** shall refrain from all types of sexual misconduct in the sport environment. Age is not relevant to allegations of sexual misconduct. For the purposes of the Code, sexual misconduct shall include either or both of the following:

- a. the use of power or authority in an attempt, successful or not, to coerce another person to engage in or tolerate sexual activity. Such abuses of power and authority include, but are not limited to, explicit or implicit threats of reprisals for non-compliance or promises of reward for compliance;
- b. engaging in deliberate or repeated unsolicited sexually oriented comments, anecdotes, gestures or touching, that:
 - i. are offensive and unwelcome, or
 - ii. create an offensive, hostile or intimidating environment, or
 - iii. can reasonably be expected to be harmful to participants in the sport environment.

4. The **Individual** shall not use or possess illegal drugs or substances, as defined by the Criminal Code of Canada, while participating in the sport environment anywhere in the world.

5. When driving a vehicle anywhere in the world with an athlete or other sport participant inside, the **Individual** shall not: (i) consume alcohol; or (ii) have his or her license temporarily or permanently suspended due to an elevated blood alcohol level; or (iii) be under the influence of illegal drugs or substances, as defined by the Criminal Code of Canada.

6. The following Criminal Code of Canada convictions are fundamentally inconsistent with the **Individuals'** continued involvement with athletes and sport participants. Proof of the **Individuals'** conviction for any of the following Criminal Code of Canada offences, whenever obtained, shall be a breach of this Code:

- a. Any offences involving child pornography
- b. Any sexual offences involving a minor
- c. Any offence of assault involving a minor
- d. Any offence of physical or psychological violence involving a minor

7. The **Individual** shall not engage in deliberate cheating which is intended to manipulate the outcome of a competition.

8. The **Individual** shall not offer or receive any bribe and shall not offer or receive any similar benefit which is intended to manipulate the outcome of a competition.

9. The **Individual** shall not attempt to cover up or conceal any conduct of an *Individual* that is, or may be, in breach of this Code.

National Code of Conduct Adjudication Process

Reporting a Complaint

Any person who is a or has a child who is a member who has adopted the Code (the organization) may report a complaint, in writing and signed, alleging a breach of the Code by an **Individual**, to both the President and the CEO of the organization or their functional equivalent (hereafter referred to as "President/CEO"), and our sanctioned Chair, together with a summary of the matters complained of as per our policies and procedures.

Taekwondo Canada may act on its own initiative and file a complaint against an **Individual**.

Within 5 days of receiving the written and signed notice of the complaint and a summary, the Sanctions Chair shall jointly determine whether the subject matter of the complaint, the conduct complained of and the parties to the complaint are properly within the scope and application of the Code, or are more properly dealt with pursuant to another policy of the organization, or at all. In the absence of the Sanctions Chair, or in the event of a conflict, a designate of that person shall perform this function. The Sanctions Chair decision regarding the application of the Code is final and may not be appealed.

Applicable Principles

In every case where the Code applies and a hearing is warranted pursuant to the Code, an adjudication process shall be conducted by the organization which respects the principles of Natural Justice and procedural fairness. Such an adjudication process shall conform to the provisions and principles set out hereafter. However, deviations in one or more of the procedural steps contained below shall be permitted, provided in every case the following procedural safeguards are satisfied:

(i) The **Individual** complained of is fully informed of all allegations and evidence brought against him or her and there is full disclosure as per our policies and procedures.

(ii) The **Individual** complained of is given a reasonable opportunity to respond to the allegations brought forward.

(iii) The **Individual** complained of may be represented by legal counsel at that **Individual's** expense.

(iv) The Panel member(s) who decide the complaint shall be independent and unbiased and shall render a written and reasoned decision. The Panel shall have at least one member with legal training or arbitration experience.

(v) There shall be the right to appeal the Panel's decision.

Investigation

Depending on the nature of the reported complaint, the President/CEO may appoint someone to conduct an investigation through his/her committee. If this is the case, the Investigator shall carry out the investigation in a fair and timely manner and at the conclusion of the investigation shall submit a written report to the President and VP Martial Arts.

Procedure for selecting a Hearing Panel

After reviewing all relevant information, the Sanctions Chair shall, if the Sanctions Chair is satisfied in the exercise of their discretion that there is sufficient reasonable, reliable and persuasive evidence to support the complaint alleging a breach of the Code, establish a Hearing Panel (the "Panel") in consultation with our Sanction Committee and select the members of the Panel as follows:

a) The Panel shall be comprised of three individuals who shall have no significant relationship with the parties, shall have had no involvement with the substance of the complaint, and shall be free from any other actual or perceived bias or conflict. The decision regarding the size of the Panel shall be in the sole discretion of the Sanctions Chair who must, in coming to their decision, ensure that the hearing process complies with the principles of Natural Justice and provides procedural fairness to all parties. All Panels shall have at least one member with legal training or arbitration experience.

b) If the Panel consists of three persons, one member of the Panel shall be the nominee of the **Individual** complained of. The **Individual** complained of may submit a list of three nominees from which the Sanctions Chair shall select one nominee to be a member of the Panel. The nominee of the **Individual** complained of shall have had no involvement with the substance of the complaint, and shall be free from any other actual or perceived bias or conflict.

c) If the Panel consists of three persons, the Panel's members shall select from the remaining two panel members, if one is proposed as indicated alone.

Procedure for a Preliminary Conference

The Panel may determine that the circumstances of the complaint warrant a preliminary conference. In most cases the preliminary conference shall be conducted by telephone. The issues that may be considered at a preliminary conference include:

a) the format of the hearing, as the hearing may proceed by either a review of documentary evidence, an in-person hearing, an oral hearing by telephone or a combination of these methods. The Panel, in coming to its decision regarding the format of the hearing, must ensure that the hearing process complies with the principles of Natural Justice and provides procedural fairness to all parties;

b) timelines for the exchange of documents and the extent of disclosure required;

c) clarification of the issues in dispute and the parties to be involved;

d) clarification of evidence to be presented to the Panel;

e) order and procedure of the hearing;

f) identification of witnesses; and

g) any other procedural matter which may assist in the conduct of the hearing.

If the Panel consists of three persons, the Panel may delegate to its Chairperson the authority to deal with any or all of these preliminary matters.

Procedure for an Oral Hearing

Where the Panel has determined that the hearing shall be held by way of oral hearing, whether in-person or not, the Panel shall govern the hearing by such procedures as it deems appropriate and fair, provided that:

a) The hearing shall be held in a timely fashion after the Panel's appointment.

- b) The parties involved shall be given adequate written notice of the date, time and place of the hearing.
- c) The parties involved shall receive a copy of the Investigator's report, where an investigation was carried out.
- d) A quorum shall be the single Panel member or all three Panel members, as the case may be.
- e) If there are three Panel members, decisions shall be by majority vote, where the Chairperson carries a vote.
- f) Any of the parties at the hearing may be accompanied by a representative or advisor, including legal counsel.

Procedure for a Documentary Hearing

Where the Panel has determined that the hearing shall be held by way of documentary review, it shall govern the hearing by such procedures as it deems appropriate and fair provided that:

- a) All parties are given a reasonable opportunity to review the Investigator's report, where an investigation was carried out; to provide written submissions to the Panel; to review the written submissions of the other parties; to provide written rebuttal; and to provide written arguments.
- b) The applicable principles and timelines set out above are respected.

Evidence which may be admitted

As a general rule, the Panel shall consider any evidence that is relevant to the matters in dispute. The normal rules of evidence will be relaxed. The Panel shall have authority to consider hearsay evidence provided the Panel gives to such evidence appropriate weight as might be reasonable in light of the circumstances of its inclusion.

Onus of Proof and Parties

It shall be the responsibility of the organization adopting the Code, and deciding to proceed to a hearing pursuant to the Code, to satisfy the Hearing Panel that there has been a breach of the Code. Proof will be required on the civil onus of a balance of probability. The civil standard of proof shall not be elevated regardless of the seriousness of the allegation or the potential consequences.

The parties to the hearing shall include the ***Individual*** complained of and the organization with the onus of proof. The hearing may proceed in the absence of the ***Individual*** complained of, if the Hearing Panel so directs.

The decision

Within 14 days of concluding the hearing, the Panel shall issue its written decision, with reasons. The Panel may decide:

- a) To uphold the complaint and confirm that a breach of the Code occurred;
- b) To deny the complaint and confirm that there was no breach of the Code;

c) To impose a sanction, as authorized below;

d) To determine how costs of the hearing, excluding legal fees and legal disbursements of any of the parties, shall be allocated, if at all.

A copy of the decision shall be provided to each of the parties and to the President. The Panel's decision shall be binding on all parties to the hearing.

Sanctions

Any sanctions imposed by the Panel against an ***Individual*** must be proportionate and reasonable, relative to the conduct that is proven to have occurred. The decision regarding the appropriate sanction shall be up to the Panel deciding each complaint. Sanctions may range from a warning or reprimand to suspension from sport involvement for a period of time. Suspensions from sport involvement may be temporary or permanent. The most severe sanction possible to impose will be permanent suspension from sport involvement and expulsion from the relevant organization's membership.

For the purposes of the Code, a suspension from sport involvement shall mean that for the duration of the period of suspension the ***Individual*** may not participate in any capacity or in any role in the business, events or activities of the relevant organization or its affiliated members. All members and affiliates shall respect and be bound by the decision of the Panel imposing a sanction against the ***Individual*** if the sanction involves a suspension from sport involvement.

Timelines

If the circumstances of a complaint are such that this Code will not allow a timely resolution of the matter, or if the circumstances of a complaint are such that the matter cannot be resolved within the timelines dictated in this Code, the Panel may direct that these timelines be revised.

Confidentiality

The conduct of the hearing shall be private but the result and the Panel's reasoned decision shall be a matter of public record if the individual is found to be in breach of the code or complaint brought against them. The relevant organization shall notify its membership of the Panel's decision and the sanction imposed, if any, provided the disclosure otherwise permitted may be modified to protect the rights and interests of any minor involved in the complaint. The extent of any modification deemed necessary to protect a minor's rights and interests shall be determined by the organization in the exercise of its discretion, acting reasonably. If the individual brought before the committee is found not to have breached the code etc. and if he/she wishes for the panel's decision to be made public through our National website, it can be considered.

Location

The hearing shall take place in the location designated by the Sanctions Chair, unless the Panel decides the hearing 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.

Right of Appeal

The decision of the Panel with regard to a breach of the Code, or a sanction, or both, may be appealed by a party to the Sport Dispute Resolution Centre of Canada (SDRCC) and any such appeal shall be conducted pursuant to the applicable SDRCC Code of Procedure in effect at that time. The decision of

the SDRCC arbitrator shall be final and binding and there shall be no further right of appeal on a matter of fact or law.

Reporting to the Review Authority

In addition to any other circulation or disclosure of the Panel's decision, the Panel shall send a copy of the decision and the sanctions imposed, if any, to the CCES to be included in its National Code of Conduct Registry pursuant to its role as the Review Authority and to any internal related authority or the World Taekwondo Federation if deemed applicable.

The decision of the SDRCC arbitrator hearing an appeal pursuant to the Code will also be sent to the CCES and included in its National Code of Conduct Registry. The National Code of Conduct Registry shall be open to review by all organizations who have adopted the Code, and all of those organizations' affiliated members.

Reciprocity

All organizations who have adopted the Code, and all of those organizations' affiliated members, shall respect and uphold the sanctions imposed, if any, by the Panel or on appeal and will respect and uphold any suspension from sport involvement imposed by the Panel or on appeal against an ***Individual***.