APPEALS POLICY

KARATE CANADA

26 JULY 2018

Definitions

1. These terms will have these meanings in this policy:

    a. “Appellant”- The party appealing a decision.
    b. “Days” - Days irrespective of weekends or holidays.
    c. “Respondent” - The person or body whose decision is being appealed.
    d. “Karate Canada Registrant”- All categories of registrants as defined in the Karate Canada Bylaws, as well as all individuals employed by or engaged in activities with Karate Canada, including but not limited to, directors, officers, committee members, volunteers, athletes, coaches, officials, referees and administrators.

Purpose

2. The purpose of this Policy is to enable disputes with registrants to be dealt with fairly, expeditiously and affordably, within Karate Canada and without recourse to external legal procedures.

Scope and Application of this Policy

3. Any Karate Canada registrant will have the right to appeal a decision of the Karate Canada Board of Directors, of any committee of Karate Canada, or any body or individual who has been delegated authority to make decisions on behalf of Karate Canada, provided there are sufficient grounds for the appeal as set out in Section 8 of this Policy subject to the limits in Sections 5, 6, 7, 10 and 11 of this Policy.

4. This Policy will only apply to decisions made by Karate Canada relating to eligibility, selection, carding or discipline. Notwithstanding which proceeds, for any matters related to the Athlete Assistance Program nomination or de-carding, all appeals must follow the Policies and Procedures of Sport Canada's Athlete Assistance Program (AAP) Section 13.
https://www.canada.ca/content/dam/pch/documents/services/funding/athlete-assistance/athlete_assistance_program_2015-eng.pdf

5. This Policy will not apply to decisions relating to:

    a. Infractions for doping offences which are dealt with pursuant to the Canadian Anti-

Doping Program or any successor policy;

b. The rules of karate or disputes over competition rules;

c. Policies and procedures established by entities other than Karate Canada;

d. Issues of operational structure, staffing, employment or volunteer opportunities;

e. Commercial matters;

f. Issues of budgeting and budget implementation;

g. Discipline matters and decisions arising during events organized by entities other than Karate Canada, which are dealt with pursuant to the policies of these other entities;

h. Disputes arising within competitions which have their own appeal procedures; and

i. Any decisions made under Sections 7, 9 and 11 of this Policy.

Timing of Appeal

6. Karate Canada registrants who wish to appeal a decision will have fourteen (14) days from the date on which they received notice of the decision, to submit their appeal in writing addressed to the head office of Karate Canada, attention of the Executive Director and include the following:

    a. Notice of their intention to appeal;

    b. Contact information of the Appellant;

    c. Name of the Respondent;

    d. Detailed reason(s) for the appeal;

    e. Grounds for the appeal;

    f. All evidence that supports the reasons and grounds for an appeal;

    g. The remedy or remedies requested, and

    h. A payment of three hundred ninety-five dollars ($395.00); this payment will only be refunded if the Appeal is upheld.

7. Any party wishing to initiate an appeal beyond the fourteen (14) day period must provide a written request stating reasons for an exemption to the requirement of Section 6. The decision to allow, or not allow an appeal outside the fourteen (14)-day period will be at the sole discretion of the Case Manager appointed by Karate

Canada and may not be appealed.

Grounds for Appeal

8. 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:

    a. Making a decision for which it did not have authority or jurisdiction as set out in the letters patent, bylaws, resolutions or approved policies;

    b. Failing to follow procedures as laid out in the letters patent, bylaws, resolutions or approved policies of Karate Canada;

    c. Making a decision that was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views or that the decision was influenced by factors unrelated to the substance or merits of the decision;

    d. Failing to consider relevant information or taking into account irrelevant information in making the decision;

    e. Exercising its discretion for an improper purpose; and/or

    f. Making a decision that was unreasonable.

9. The Appellant will bear the onus of proof in the appeal, and thus must be able to demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 8.

Case Manager

10. Karate Canada will appoint a Case Manager to oversee the management and administration of appeals submitted in accordance with this Policy. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times, and to implement this Policy in a timely manner. More specifically, the Case Manager has a responsibility to:

    a. Determine if appeals lie within the jurisdiction of this Policy;

    b. Determine if appeals are brought in a timely manner;

    c. Determine if appeals are brought on permissible grounds;

d. Coordinate all administrative and procedural aspects of the appeal;

e. Provide administrative assistance and logistical support to the Panel as required; and

f. Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

Screening of Appeal

11. Upon receipt of the notice and grounds of an appeal and the required fee, the Case Manager will review the appeal and will decide whether or not there are sufficient grounds for an appeal. If the Case Manager is satisfied that there are not sufficient grounds for an appeal, the Parties will be notified in writing, stating reasons. If the Case Manager is satisfied that there are sufficient grounds for an appeal, then a hearing will take place. This decision is at the sole discretion of the Case Manager and may not be appealed.

Appeals Panel

12. If the Case Manager is satisfied that there are sufficient grounds for an appeal, the Executive Committee, or the Case Manager when the Executive is faced with a conflict of interest, will establish a Panel consisting of a single Adjudicator to hear the appeal. In extraordinary circumstances, the Executive Committee/Case Manager may appoint a Panel of three persons. In this event the Case Manager will appoint one of the Panel's members to serve as the Chair.

Procedure for the Hearing

13. The Panel will determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by telephone, a hearing based on written submissions or a combination of these methods. The hearing will be governed by the procedures that the Panel deem appropriate in the circumstances, provided that:
    a. The hearing will be held within the appropriate timeline determined by the Panel.
    b. The parties will be given appropriate notice of the day, time and place of the hearing.
    c. 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 in accordance with the appropriate timeline.

d. Both Parties may be accompanied by a representative or adviser, including legal counsel.

e. The Panel and either Party may request that any other individual participate and give evidence at the hearing.

f. If a decision in the appeal 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.

g. The hearing will be conducted in the official language of choice of the Appellant.

h. In the situation where the hearing is conducted by a Panel consisting of three persons, a quorum will be all three and decisions will be by majority vote.

Appeal Decision

14. Within fourteen (14) days of concluding the appeal, the Panel will issue its written decision, with reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:

    a. Reject the appeal and confirm the decision being appealed; or

    b. Uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or

    c. To uphold the appeal and vary the decision but only where it is found than an error occurred and such an error cannot be corrected by the original decision-maker for reasons of lack of clear procedures, lack of time, or lack of neutrality.

15. The decision will be considered a matter of public record unless determined otherwise by the Appeal Panel. A copy of this decision will be provided to the Parties and to Karate Canada. Where time is of the essence, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision including reasons is rendered within the appropriate timelines.

16. The appeal process may be declared confidential by the Panel, only if the situation requires it and has to follow the terms and conditions set forth by the Panel.

Final and Binding Decision

17. The decision of the Panel will be binding on the parties and on all Karate Canada registrants and members, subject to the right of any Party to seek a review of the decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC) as amended from time to time.

18. No action or legal proceeding will be commenced against Karate Canada or its members and registrants with respect to a dispute, unless Karate Canada has refused or failed to abide by the provisions for appeal and/or dispute resolution as set out in the Karate Canada policies.