

# **DISCIPLINE AND COMPLAINTS POLICY**



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Karate Canada takes any situation involving misconduct or maltreatment very seriously. For this reason, Karate Canada is committed to enacting and enforcing strong, clear, and effective policies and processes for preventing and addressing all forms of misconduct or maltreatment.

Should any individuals involved with Karate Canada, including but not limited to Athletes, coaches, officials, volunteers, and parents/guardians of Athletes, wish to report any instance of misconduct or maltreatment, it must do so directly to Karate Canada, which will then determine the appropriate forum and manner to address the complaint.

Karate Canada also recognizes the recent development of the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS). Karate Canada's policies incorporate the key elements of version 5.1 of the UCCMS.

## DISCIPLINE AND COMPLAINTS POLICY

\* Indicates a definition or section adapted from the UCCMS

### Definitions

1. The following terms have these meanings in this Policy:
  - a) *"Case Manager"* – An individual appointed by the Independent Third-Party or the Organization to administer complaints that are assessed under Process #2 of this Policy. This individual must not be in a conflict of interest. The Independent Third-Party may serve as the Case Manager
  - b) *\*\*"Complainant"* – A Participant or observer who makes a report of an incident, or a suspected incident, of Maltreatment or other behaviour that is a violation of the standards described in the *Code of Conduct and Ethics*
  - c) *"Days"* – Days including weekends and holidays
  - d) *"External Discipline Panel"* – A Panel of one or three people who are appointed by the Case Manager to handle complaints that are assessed under Process #2 of this Policy. Panel members should not be affiliated with Karate Canada
  - e) *"Internal Discipline Chair"* – An individual appointed by Karate Canada to handle complaints that are assessed under Process #1 of this Policy. The Internal Discipline Chair may be a Director, head coach, staff member, or other individual affiliated with Karate Canada but must not be in a conflict of interest
  - f) *"Independent Third Party"* – An individual appointed by Karate Canada to receive and assess certain complaints under this Policy. The Independent Third Party does not need to be a member of, or affiliated with, Karate Canada
  - g) *\*\*"Maltreatment"* – As defined in the *Code of Conduct and Ethics*
  - h) *\*\*"Minor"* – As defined in the *Code of Conduct and Ethics*
  - i) *"Participants"* – Participants employed by, or engaged in activities with, Karate Canada including, but not limited to, Registrants (as defined in the Bylaws), athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, parents and guardians and spectators at events, and Directors and Officers of Karate Canada

- j) “Organizations” – Karate Canada’s provincial/territorial members as well as their affiliated clubs
- k) “Respondent” – The Party responding to the complaint

**Purpose**

- 2. Participants and Organizations are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Karate Canada’s policies, By-laws, rules and regulations, and the *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

**Application of this Policy**

- 3. This Policy applies to all Participants and Organizations.
- 4. This Policy applies to matters that may arise during Karate Canada’s business, activities and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Karate Canada’s activities, and any meetings.
- 5. This Policy also applies to Participants’ conduct outside of Karate Canada’s business, activities and events when such conduct adversely affects relationships within Karate Canada (and its work and sport environment), is detrimental to the image and reputation of Karate Canada, or upon the acceptance of Karate Canada. Applicability will be determined by Karate Canada at its sole discretion.
- 6. \*This Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Participants who have retired from the sport where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Participant was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Participants involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Participant(s).
- 7. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy. Any infractions or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.
- 8. An employee of Karate Canada who is a Respondent will be subject to appropriate disciplinary action per Karate Canada’s policies for human resources, as well as the employee’s Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

**Alignment**

- 9. Karate Canada recognizes that Participants may also be registered with provincial/territorial members and/or clubs. Karate Canada’s provincial/territorial members and/or clubs should submit discipline decisions involving Participants to Karate Canada and Karate Canada may take further action at its discretion.

10. If Karate Canada decides to take further action upon becoming aware of a Participant who has been disciplined by a provincial/territorial member and/or club, the Participant will be the Respondent to a complaint initiated under the terms of this Policy. Karate Canada may act as the Complainant if the original Complainant is unwilling or unavailable to participate in this process.
11. The Internal Discipline Chair or External Discipline Panel, as applicable, will review and consider the decision by the provincial/territorial member and/or club when deciding on the complaint per the terms of this Policy.

### **Adult Representative**

12. Complaints may be brought for or against a Participant who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
13. Communication from the Independent Third-Party, Case Manager, Internal Discipline Chair or External Discipline Panel (as applicable) must be directed to the Minor's representative.
14. A Minor is not required to attend an oral hearing, if held.

### **Reporting a Complaint**

15. Any person may report an incident or complaint to Karate Canada or Karate Canada's Independent Third Party. The name and contact information of this Independent Third Party are available on Karate Canada's website, in the "Safe Sport" section, under "Reporting", at:  
<https://karatecanada.org/safe-sport/>
16. At the discretion of Karate Canada, Karate Canada may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Karate Canada will identify an individual to represent Karate Canada.
17. Complaints or incident reports should be made in writing for the discipline and complaints procedure to be initiated. The Complainant may contact the Independent Third Party for direction regarding the formal submission of a complaint. The Independent Third Party may accept any formal complaint, in writing or not, at their sole discretion.

### **Independent Third Party Responsibilities**

18. Upon receipt of a complaint, the Independent Third Party has a responsibility to:
  - a) Determine the appropriate jurisdiction to manage the complaint and consider the following:
    - a. Whether the complaint should be handled by the appropriate Club or Provincial/Territorial Organization, or by Karate Canada. In making this decision, the Independent Third Party will consider:
      - i. whether the incident has occurred within the business, activities or events of the Club or the Provincial/Territorial Organization or Karate Canada. If the incident has occurred outside of the business, activities or events of any of these organizations, the Independent Third Party will determine which organization's relationships are adversely affected or which organization's affairs are most impacted; and

- ii. if the Club or the Provincial/Territorial Organization is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest or due to a lack of capacity
- b. If the Independent Third Party determines that the complaint or incident should be handled by the appropriate Club or the Provincial/Territorial Organization, that Club or the Provincial/Territorial Organization may use its own policies to address the complaint or may adopt this Policy and appoint its own Case Manager to fulfil the responsibilities listed below. In such instance where this Policy is adopted by a Club or the Provincial/Territorial Organization, any reference to Case Manager below shall be understood as a reference to the Club's or the Provincial/Territorial Organization's Case Manager
- b) Determine whether the complaint is frivolous and/or outside of the jurisdiction of this Policy and, if so, the complaint will be dismissed immediately and the Independent Third Party's decision to dismiss the complaint may not be appealed;
- c) Propose the use of alternative dispute resolution techniques;
- d) Determine if the alleged incident should be investigated; and/or
- e) Choose which process (Process #1 or Process #2, as outlined below) should be followed to hear and adjudicate the complaint.

There are two different processes that may be used to hear and adjudicate complaints. The Independent Third Party will decide which process should be followed based on the nature of the complaint.

Process #1 - the Complainant alleges the following incidents:

- a. Disrespectful, abusive, racist, or sexist comments or behaviour
- b. Disrespectful conduct
- c. Minor incidents of violence (e.g., tripping, pushing, elbowing)
- d. Conduct contrary to the values of Karate Canada
- e. Non-compliance with the organization's policies, procedures, rules, or regulations
- f. Minor violations of the *Code of Conduct and Ethics*

Process #2 - the Complainant alleges the following incidents:

- i. Repeated minor incidents
- ii. Any incident of hazing
- iii. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- iv. Major incidents of violence (e.g., fighting, attacking, sucker punching)
- v. Pranks, jokes, or other activities that endanger the safety of others
- vi. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- vii. Conduct that intentionally damages the organization's image, credibility, or reputation
- viii. Consistent disregard for the organization's bylaws, policies, rules, and regulations
- ix. Major or repeated violations of the *Code of Conduct and Ethics*
- x. Intentionally damaging the organization's property or improperly handling Karate Canada's monies
- xi. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics

- xii. A conviction for any *Criminal Code* offence
- xiii. Any possession or use of banned performance enhancing drugs or methods

**Process #1: Handled by Internal Discipline Chair**

Sanctions

19. Following the determination that the complaint or incident should be handled under Process #1, the Independent Third Party will inform the Internal Discipline Chair who may:
- a) Recommend mediation;
  - b) Make a decision;
  - c) Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident; or
  - d) Convene the parties to a meeting, either in person or by way of video or teleconference in order to ask the parties questions.
20. Thereafter, the Internal Discipline Chair shall determine if a breach occurred, if so, if one or more sanctions should be applied (see: **Sanctions**).
21. The Internal Discipline Chair will inform the Parties of the sanction, which will take effect immediately.
22. Records of all sanctions will be maintained by Karate Canada, which may disclose such records at its discretion.

Request for Reconsideration

23. If there is no sanction, the Complainant may contest the non-sanction by informing the Internal Discipline Chair, within five (5) days of receiving the decision, that the Complainant is not satisfied with the decision. The initial complaint or incident will then be handled under Process #2 of this Policy.
24. If there is a sanction, the sanction may not be appealed until the completion of a request for reconsideration. However, the Respondent may contest the sanction by submitting a Request for Reconsideration within five (5) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:
- a) Why the sanction is inappropriate;
  - b) Summary of evidence that the Respondent will provide to support the Respondent's position;  
and
  - c) What penalty or sanction (if any) would be appropriate
25. Upon receiving a Request for Reconsideration, the Internal Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate sanction.
26. Should the Internal Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
27. Should the Internal Discipline Chair not accept the Respondent's suggestion for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Policy.

## **Process #2: Handled by Case Manager and External Discipline Panel**

### Case Manager

28. Following the determination that the complaint or incident should be handled under Process #2, the Independent Third Party will appoint a Case Manager (who may or may not be the Independent Third Party themselves) who has a responsibility to:
- a) Propose the use of the *Dispute Resolution Policy*
  - b) Appoint an Investigator who must not be in a conflict of interest situation or have any connection to either party
  - c) Appoint an External Discipline Panel, if necessary
  - d) Coordinate all administrative aspects and set timelines
  - e) Provide administrative assistance and logistical support to the External Discipline Panel as required
  - f) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

### Investigation

29. The Independent Third Party may decide to appoint an Investigator who is affiliated with the Sport Dispute Resolution Centre of Canada (SDRCC) or who is otherwise appropriately qualified to conduct an investigation.
30. Federal and/or Provincial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a worker in a Workplace (defined in the *Code of Conduct and Ethics*). The Investigator should review workplace safety legislation, review Karate Canada's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
31. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial legislation. The investigation may include:
- a) Complainant interviewed;
  - b) Witnesses interviewed;
  - c) Statement of facts (complainant's perspective) prepared by Investigator and acknowledged by Complainant;
  - d) Statement delivered to Respondent;
  - e) Respondent interviewed;
  - f) Witnesses interviewed; and
  - g) Statement of facts (Respondent's perspective) prepared by Investigator and acknowledged by Respondent.
32. \*The Investigator must be aware that sport-specific differences exist with respect to such aspects as acceptable levels of touch, physical contact, and aggression during training or competition and will consider such differences during the investigative process.
33. When the investigation is completed, the Investigator will provide the Independent Third Party with an Investigator's Report which should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether or not, on a balance of probabilities, an incident occurred that was in violation of the *Code of Conduct and Ethics*.

The Independent Third Party may disclose the Investigator's Report to Karate Canada and to others as necessary, per their discretion.

### Hearing

34. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
35. The Case Manager will appoint an External Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Case Manager, an External Discipline Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the External Discipline Panel's members to serve as the Chair.
36. The Case Manager, in cooperation with the External Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, 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 External Discipline Panel deem appropriate in the circumstances, provided that:
  - a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
  - b) Copies of any written documents which the parties wish to have the External Discipline Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing
  - c) The Parties may engage a representative, advisor, or legal counsel at their own expense
  - d) The External Discipline Panel may request that any other individual participate and give evidence at the hearing
  - e) The External Discipline Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
  - f) The decision will be by a majority vote of the External Discipline Panel (when the Panel consists of three people)
37. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
38. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
39. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in their own right, that party will become a Party to the current complaint and will be bound by the decision.
40. In fulfilling its duties, the External Discipline Panel may obtain independent advice.



### Decision

41. After hearing and/or reviewing the matter, the External Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the External Discipline Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, the Independent Third Party, and Karate Canada. In extraordinary circumstances, the External Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the External Discipline Panel.

### Sanctions

42. \*Prior to determining sanctions, the Internal Discipline Chair or External Discipline Panel, as applicable, will consider factors relevant to determining appropriate sanctions which include:

- a) The nature and duration of the Respondent's relationship with the Complainant, including whether there is a Power Imbalance;
- b) The Respondent's prior history and any pattern of inappropriate behaviour or Maltreatment;
- c) The ages of the individuals involved;
- d) Whether the Respondent poses an ongoing and/or potential threat to the safety of others;
- e) The Respondent's voluntary admission of the offence(s), acceptance of responsibility for the Maltreatment, and/or cooperation in the process of Karate Canada;
- f) Real or perceived impact of the incident on the Complainant, sport organization or the sporting community;
- g) Circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in the *Code of Conduct and Ethics*; addiction; disability; illness);
- h) Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate;
- i) A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or
- j) Other mitigating and aggravating circumstances

43. \*Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.

44. \*The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly or in combination:

- a) **Verbal or Written Warning** - A verbal reprimand or an official, written notice and formal admonition that a Participant has violated the *Code of Conduct and Ethics* and that more severe sanctions will result should the Participant be involved in other violations
- b) **Education** - The requirement that a Participant undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics*
- c) **Probation** - Should any further violations of the *Code of Conduct and Ethics* occur during the probationary period, will result in additional disciplinary measures, likely including a period of suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period of time

- d) **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, practice, activity, event, or competition sponsored by, organized by, or under the auspices of the Organization or a Member. A suspended Participant is eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Participant satisfying specific conditions noted at the time of suspension
- e) **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
- f) **Permanent Ineligibility** - Permanent ineligibility to participate, in any sport, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of the Organization, a Member, and/or any sport organization subject to the UCCMS
- g) **Other Discretionary Sanctions** - Other sanctions may be imposed, including, but not limited to, other loss of privileges, no contact directives, a fine or a monetary payment to compensate for direct losses, or other restrictions or conditions as deemed necessary or appropriate

45. \*The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed Maltreatment:
- a) Sexual Maltreatment involving a Minor Complainant shall carry a presumptive sanction of permanent ineligibility;
  - b) Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to Process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.
  - c) While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive sanction shall be a period of suspension.
46. Unless the Internal Discipline Chair or External Discipline Panel, as applicable, decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the External Discipline Panel will result in an automatic suspension until such time as compliance occurs.
47. Records of all decisions will be maintained by Karate Canada, which may disclose such records at its discretion.

#### Appeals

48. The decision of the External Discipline Panel may be appealed in accordance with the *Appeal Policy*.

#### **Suspension Pending a Hearing**

49. Karate Canada may determine that an alleged incident is of such seriousness as to warrant suspension of a Participant pending completion of an investigation, criminal process, the hearing, or a decision of the External Discipline Panel.

#### **Criminal Convictions**

50. A Participant's conviction for a *Criminal Code* offence, as determined by Karate Canada, shall carry a presumptive sanction of permanent ineligibility from participating with Karate Canada. *Criminal Code* offences may include, but are not limited to:
- a) Any child pornography offences
  - b) Any sexual offences

- c) Any offence of physical violence
- d) Any offence of assault
- e) Any offence involving trafficking of illegal drugs

### **Confidentiality**

51. The discipline and complaints process is confidential and involves only Karate Canada, the applicable provincial/territorial members and/or clubs, the Parties, the Case Manager, the Independent Third Party, the Internal Discipline Chair or External Discipline Panel (as applicable), and any independent advisors to the Discipline Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

### **Reprisal and Retaliation**

52. \*A Participant who submits a complaint to Karate Canada or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute Maltreatment and will be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy*.

### **Timelines**

53. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Independent Third Party or Case Manager (as applicable) may direct that these timelines be revised.

### **Records and Distribution of Decisions**

54. Other individuals or organizations, including but not limited to, national sport organizations, provincial/territorial sport organizations, sport clubs, etc., may be advised of any decisions rendered in accordance with this Policy.

55. \*Karate Canada recognizes that a publicly-available searchable database or registry of Respondents who have been sanctioned, or whose eligibility to participate in sport has in some way been restricted, may be maintained and may be subject to provisions in the UCCMS.