

Karate B.C. Harassment Policy

1.0 INTRODUCTION

1.1. The purpose of this policy is to provide guidelines for dealing with discrimination and/or Harassment complaints in an effective and timely manner, and to provide a procedure for informal and formal review and resolution.

1.2. In addition to the procedure available under this policy, every person who experiences discrimination or Harassment has the right to:

- a) file a complaint with the BC Human Rights Commission if the alleged behaviour falls within the definition of discrimination under the BC Human Rights Code; (see s. 2.13 for definition),
- b) file a complaint with the police and/or other appropriate authorities if the alleged behavior constitutes criminal activity (e.g., abuse, stalking, etc.), and
- c) to pursue private proceedings in civil court.

1.3. If a Complainant initiates proceedings under the BC Human Rights Code with respect to the same incident(s), which is the subject matter of a Complaint under this policy, the Complainant shall be deemed to have withdrawn the Complaint filed under this policy and the process under this policy will cease.

1.4. If a person proceeds with a Complaint under this policy, the Complaint will be resolved either informally, with the assistance of a Harassment Advisor, or formally after an investigation by an Investigation Officer.

1.5. If Abuse (defined in s. 2.1) of a child is suspected or disclosed, reporting to the appropriate authorities is mandatory and it should be reported to the police and/or the Child Protection Branch of the Ministry of Children and Family Development. (See *Appendix 2 for contact information*).

2.0 DEFINITIONS

2.1 **Abuse:** Abuse can be physical, emotional or sexual.

- a) Physical Abuse - using physical force or actions that result, or could result, in injury.
- b) Emotional Abuse - a pattern of hurting an individual's feelings to the point of damaging their self-respect. It includes verbal attacks on the individual, insults, humiliation or rejection.
- c) Sexual Abuse - using an individual for sexual stimulation or gratification unless, in the case of an adult, that individual consents.

2.2. **Appeal Panel:** At least three (3) individuals appointed by Karate B.C. to consider an appeal from a decision of the Discipline Committee. No members of the Appeal Panel shall have any personal or professional involvement with either the Complainant or Respondent, other than ordinary interaction at tournaments, seminars and similar events, and neither shall they have any prior involvement with the matter under appeal. The members of the Appeal Panel may be appointed from the Sport BC Appeal Roster.

2.3. **Appeal Roster:** A roster of persons appointed by Sport BC who are willing to be appointed to an Appeal Panel.

2.4. **Board of Directors:** The board of directors of Karate B.C.

2.5. **Complaint:** A written statement made by a Complainant seeking recourse pursuant to this policy.

2.6. **Complainant:** Individual(s) making a Complaint.

2.7. **Discipline Committee:** A committee of individuals established by Karate B.C. to review the Investigation Report and accept or reject some or all of the recommendation(s) of the Investigation Officer. No members of the Discipline Committee shall have any personal or professional involvement with either the Complainant or Respondent, other than ordinary interaction at tournaments, seminars and similar events, and neither shall they have any prior involvement with the matter under consideration.

2.8. **Executive Director:** The senior individual within Karate B.C. who is responsible for administrative functions.

2.9. **Harassment:** Any behaviour that satisfies one or more of the following definitions of Harassment.

a) **Personal Harassment:** Behavior, including communication, conduct or gesture, which:
(i) is insulting, intimidating, humiliating, hurtful, malicious, degrading, or otherwise offensive to an individual or group of individuals (including a statement with respect to a Prohibited Ground or otherwise); and

(ii) would be considered by a reasonable person to create an intimidating, humiliating or uncomfortable work or sport-related environment.

b) **Sexual Harassment:** Behaviour involving unwelcome sexual advances, requests for sexual favours or other communication (verbal or written) or physical conduct of a sexual nature when:

(i) such conduct might reasonably be expected to cause embarrassment, insecurity, discomfort, offense or humiliation to another person or group; or

(ii) submission to such conduct is made, implicitly or explicitly, a condition of employment or participation in a sport-related activity; or

(iii) submission to or rejection of such conduct is used as a basis for any employment or sport-related decision; or

(iv) such conduct has the purpose or the effect of interfering with a person's work or sport performance or of creating an intimidating, hostile or offensive work or sport environment.

c) **Retaliation:** Acts of Retaliation (as defined below in s. 2.17).

Types of behaviour that may constitute Harassment include, but are not limited to:

- written or verbal abuse or threats;
- physical assault;
- unwelcome remarks, jokes, innuendoes, or taunting about a person's body, sexual orientation, attire, age, marital status, ethnic or racial origin, or religion;
- displaying of racist or other offensive or derogatory material, racial, ethnic or religious graffiti;
- practical jokes which cause awkwardness or embarrassment,
- endangering a person's safety or negatively affecting their performance;
- hazing or initiation rites;
- obscene gestures;
- intimidation;

- behavior which undermines self-respect or adversely affects performance or working conditions;
- false accusations of Harassment motivated by malice or mischief, and meant to cause harm.

2.10. **Harassment Advisor:** A designate of Karate B.C. who has been trained in respect of this policy and its procedures. The role of the Harassment Advisor is to serve in a neutral unbiased capacity, to provide information about the resources and support available, and to receive Complaints, assist in informal resolution of Complaints, and to make recommendations for further action. The Harassment Advisor will handle Complaints that may be resolved through informal procedures, and refer all other Complaints to the Investigation Officer.

2.11. **Harassment Coordinator:** The person designated by Sport BC to coordinate Harassment issues on behalf of Sport BC. The Harassment Coordinator's office is located at Sport BC.

2.12. **Investigation Officer:** An individual appointed by Sport BC at the request of Karate B.C. to investigate a Harassment Complaint as provided in this policy.

2.13. **Investigation Report:** The draft or final report by the Investigation Officer prepared following an investigation, including, but not limited to, a summary of details, determination of whether Harassment occurred, and recommendations for resolution, including recommendations for disciplinary action.

2.14. **Prohibited Ground:** The BC Human Rights Code provides that no person shall discriminate against another person with respect to, among other things, **employment, publications, accommodation, service, and facilities** on any of the following grounds (the "Prohibited Grounds"):

- *race*
- *colour*
- *ancestry*
- *place of origin*
- *political belief*
- *marital status*
- *conviction for an offense unrelated to employment*
- *physical disability*
- *mental disability*
- *sex*
- *age*
- *sexual orientation*
- *family status*
- *religion*

2.15. **Reasonable Person Standard:** In relation to a determination of Harassment under this policy, an assessment of responsibility that takes into account not only what the Complainant and Respondent actually experienced, knew, or understood about one another or the situation, but also what a reasonable person in each of their circumstances would or ought to have experienced, known, or understood.

2.16. **Respondent:** The alleged offender.

2.17. **Responsible Adult:** Where the Complainant or the Respondent is a minor (under 19), or otherwise unable to speak for himself or herself, a parent, guardian, or other adult of the person's choice who may speak on behalf of the Complainant or Respondent, as referred to in s. 9 of this policy.

2.18. **Retaliation:** Any action taken against an individual in retaliation for:

- a) having initiated this policy on behalf of himself/herself or another individual;
- b) having participated or cooperated in any investigation under this policy; or
- c) having associated with anyone who has invoked this policy or participated in an investigation.

3.0 STATEMENT OF PRINCIPLES

3.1. Karate B.C. does not tolerate Harassment in connection with any of its internal or external business, sport or related activities.

3.2. Karate B.C. is committed to providing an environment in which all individuals are treated with respect and dignity. Each individual has the right to participate and work in an environment that promotes equal opportunities and prohibits discriminatory practices.

3.3. This policy applies to all employees, directors, officers, volunteers, coaches, athletes, participants, officials, members and persons with a employment contractual relationship with Karate B.C.. Karate B.C. encourages the prompt reporting of all incidents of Harassment, regardless of who the alleged offender may be.

3.4. For the purposes of this policy, Harassment may occur:

- a) at sporting events, competitions or training sessions;
- b) at the office;
- c) at office- or sport-related social functions;
- d) at Karate B.C.'s business or sport functions, such as meetings, conferences, training sessions, and workshops;
- e) during work- or sport-related travel;
- f) via the telephone, electronic and/or other telecommunication devices; or
- g) elsewhere if the person harassed is there as a result of work- or sport-related responsibilities or a work- or sport-related relationship.

3.5. The procedure followed under this policy shall adhere to the principles of natural justice, which means that:

- a) the Respondent and Complainant will be advised of the provisions of this policy;
- b) the Respondent and Complainant will be given an opportunity to present evidence in support of his/her position and to defend himself/herself against allegations of Harassment;
- c) the issues will be clearly and concisely stated so that the Respondent is aware of the allegations;
- d) the Respondent and Complainant will have the right to be represented at any stage of the process at their own expense;
- e) the Respondent and Complainant will receive a copy of the Investigation Report;

f) The Respondent and Complainant have the right to an appeal pursuant to s. 8; and
 g) the decision-makers (Investigation Officer, Discipline Committee and Appeal Panel) have a duty to listen fairly to both sides and to reach a decision untainted by bias.

3.6. Karate B.C. is committed to the prevention of Harassment through educational programs including information and training.

3.7. Disciplined training is an indispensable part of high performance sport and should not be confused with discrimination or Harassment. However, it is of vital importance that those in authority:

- a) set and communicate performance and training standards to all participants;
- b) ensure that training involving touching or other physical contact occurs in an appropriate setting and context;
- c) are consistent and non-harassing when taking any corrective or punitive action;
- d) use non-harassing terminology; address individuals by name and avoid the use of derogatory, slang or offensive terms; and
- e) refer to and follow Karate B.C.'s Codes of Conduct accurately.

3.8. In the interest of all parties concerned, the formal resolution of a Complaint under this policy (including an appeal) should proceed as expeditiously as possible within the specified time limits. However, failure to meet the specified time limits will not invalidate the Complaint process.

3.9. Employees or members of Karate B.C. against whom a complaint of Harassment is substantiated may be severely disciplined, up to and including employment dismissal or termination of membership.

4.0 RESPONSIBILITIES

4.1 Karate B.C. is responsible to:

- a) ensure that all of its members, directors, officers, employees, persons under an employment contract, volunteers, coaches, athletes, and officials are familiar with this policy;
- b) appoint trained Harassment Advisors;
- c) pay for any costs associated with processing a Complaint, but not for the Complainant's or Respondent's own costs;
- d) ensure a fair and impartial Discipline Committee;
- e) impose disciplinary or corrective measures fair and timely manner taking into account the recommendations made by the Discipline Committee.

4.2 Sport BC is responsible to:

- a) provide awareness and educational opportunities to the amateur sport and recreation community generally regarding this policy;
- b) provide a training program for Harassment Advisors;
- c) at the request of Karate B.C., appoint an Investigation Officer to investigate a Complaint;
- d) monitor the Investigative Officer to ensure that his or her investigation, filings and reports are conducted according to the policy in a professional manner;
- e) receive a copy of the Final Investigation Report and provide copies to the Discipline Committee, the Complainant and Respondent;
- f) keep a confidential copy of all materials received by Sport BC in relation to a Complaint;

- g) where a Complaint is substantiated, provide a summary of the decision (without identifying the parties) to Sport BC's members;
- h) keep a record of the summary decisions for future reference.

5.0 JURISDICTION

5.1 A Complaint may be lodged by any person against any employee, director, officer, volunteer, coach, athlete, official, member of, or person under an employment contract with Karate B.C..

5.2 A person may initiate a Complaint under this Harassment policy if:

- a) the Complaint alleges that the Respondent has committed an act of Harassment as defined in this policy; and
- b) the Respondent is an employee, director, officer, volunteer, coach, athlete, official, member of, or person under an employment contract with Karate B.C.; and
- c) the Complaint is initiated within one year of the incident (or last in a series of incidents) giving rise to the Complaint. If the Complainant is a minor, the one year commences when the parent or guardian of the minor is made aware of the incident or last in a series of incidents from herein referred to as "the Minor's Limitation Period;" and;
- d) the Harassment Advisor determines that the subject matter of the complaint is appropriately dealt with under this policy rather than an alternate, internal complaint process of Karate B.C.

6.0 CONFIDENTIALITY

6.1. Subject to any limits or disclosure requirement imposed by law or required by this policy, any and all information, oral and written, created, gathered, received or compiled through the course of processing a Complaint is to be treated as confidential by both the Respondent and Complainant, their representatives, witnesses and all persons dealing with the Complaint pursuant to this policy.

7.0 COMPLAINT PROCEDURE

7.1. The Complainant is encouraged to make it known to the Respondent that the behavior is unwelcome, offensive, and contrary to this policy.

7.2. A Complaint is initiated under this policy by delivering a written statement to the Harassment Advisor of Karate B.C. seeking recourse under this policy.

7.3. If Karate B.C. does not have a Harassment Advisor at the time of the complaint, the Executive Director will consult with the Sport BC Harassment Coordinator to appoint an appropriate Harassment Advisor.

7.4. At the first meeting (either in-person or via telephone) between the Harassment Advisor and the Complainant, the Harassment Advisor shall provide the Complainant with a copy of Karate B.C.'s Harassment Policy and inform the Complainant of the following:

- a) the overall process of making and processing a Complaint;
- b) the option of pursuing informal resolution of the Complaint;

- c) the option to proceed with a formal investigation under this policy when an informal resolution is inappropriate or not feasible;
- d) the availability of counseling and other resources;
- e) the confidentiality provisions of this policy;
- f) the right to be represented by a person of his/her choice (including legal counsel) at his/her own expense at any stage in the complaint process;
- g) other avenues of recourse, including the right to file a complaint pursuant to the BC Human Rights Code or, where appropriate, to contact the police where the conduct may be an offense pursuant to the Criminal Code, or pursue private proceedings in civil court;
- h) the fact that discipline may be imposed on the Complainant if it is found that the Complaint is frivolous or vexatious .

7.5. Following the initial meeting between the Complainant and the Harassment Advisor:

- a) if the Complainant and the Harassment Advisor agree that the conduct does not constitute Harassment under this policy, the Harassment Advisor will take no further action and will make no written record of the Complaint;
- b) if the Complainant and Harassment Advisor agree that the conduct does constitute harassment, and the Complainant wishes to proceed with the Complaint, the Harassment Advisor shall assist the Complainant in preparing a written statement outlining the name of the Respondent, the details of the alleged incident(s) of Harassment, and the names of any witnesses (the "Complainant's Statement"). The Complainant's Statement shall be dated and signed by the Complainant.
- c) if there is a discrepancy between the Complainant and Harassment Advisor on whether the complaint constitutes harassment, a second Harassment Advisor will be asked to meet with the Complainant to review the complaint and make a determination. The decision of the second Harassment Advisor with respect to this issue will be binding.

7.6. Upon receipt of the Complainant's Statement by the Harassment Advisor, the Harassment Advisor shall either:

- a) process the Complaint in accordance with this policy; or
- b) reject the Complaint on the basis that:
 - (i) the facts alleged in the Complainant's Statement, if proven, would be insufficient to establish Harassment under this policy; and/or
 - (ii) the subject matter of the Complaint is frivolous or vexatious, made for an improper purpose, or otherwise not made within the spirit of this policy; and/or
 - (iii) the subject matter of the Complaint falls within the jurisdiction of another internal policy of Karate B.C. or jurisdiction of an external authority; or
- c) if the Complainant has initiated a complaint under any other internal or external complaint process (other than a complaint under the BC Human Rights Code, see s.1.3) in relation to the incident(s) which is the subject matter of a Complaint under this policy, the Harassment Advisor may hold the Complaint in abeyance until the other external or internal process is completed.

7.7. In the event that the Harassment Advisor rejects the Complaint pursuant to s. 7.6 (b), the Complainant may appeal the Harassment Advisor's decision to Karate BC's Executive Committee for a second opinion from another Harassment Advisor. The second Harassment Advisor may either confirm the rejection of the Complaint or allow the Complaint to proceed. The second Harassment Advisor's decision with respect to this issue shall be final and binding.

Informal Resolution

7.8. Unless the Harassment Advisor considers it inappropriate on the facts of the alleged harassment, if the Complainant wishes to attempt resolution of the complaint on an informal basis, the Harassment Advisor will attempt informal resolution of the Complaint. This may include the following:

- a) the Complainant talks to the Respondent about the behaviour;
- b) the Harassment Advisor talks to the Respondent about the behaviour;
- c) the Harassment Advisor acts as an informal mediator between the Complainant and Respondent;
- d) the Harassment Advisor accesses the services of a professional mediator for the Complainant and Respondent; or
- e) other types of informal resolution that do not include an investigation.

7.9. If the Complaint is resolved informally to the satisfaction of the Harassment Advisor, the Complainant and the Respondent, or if the Complainant decides to withdraw the Complaint, the Harassment Advisor will make careful notes of the actions taken and **no** report shall be submitted to Karate B.C. other than as provided for in s. 10.2.

Formal Resolution

7.10. If the Complaint is not resolved informally to the satisfaction of the Harassment Advisor, the Complainant, and the Respondent, the Complaint shall be referred to an Investigation Officer for investigation.

Interim Measures

7.11. Karate B.C. may impose interim measures pending the decision of the Discipline Committee if the Karate B.C. is of the view that the imposition of such measures is in the best interests of the Karate B.C. and its members.

7.12. Interim measures are not sanctions and may take many forms including, but not limited to:

- a) the imposition of conditions upon the continued participation of the Respondent in the activities or business of Karate B.C.;
- b) suspension of the Respondent from participation in the activities or business of Karate B.C., with or without pay, pending completion of the investigation; or
- c) such other conditions as the Karate B.C. determines necessary.

7.13. Any interim measures imposed by Karate B.C. shall be reconsidered by Karate B.C. no less than 30 days after being imposed, and shall be reconsidered each successive 30 day period thereafter.

7.14. At the time the Complainant's Statement is forwarded to the Investigation Officer pursuant to s. 7.10, a copy of the Complainant's Statement shall be placed in Karate B.C.'s records relating to the Respondent.

7.15. When the Investigation Officer receives the Complainant's Statement from the Harassment Advisor, the Investigation Officer will:

- a) review and clarify the Complainant's Statement; and
- b) give a copy of the Complainant's Statement to the Respondent.

7.16. Where the Investigation Officer gives a copy of the Complainant's Statement to the Respondent, the Investigation Officer will include with the Complainant's Statement a copy of this policy and a notice that the Respondent has the right to be represented by any person of his/her choice at his/her own expense at any stage of the process when the Respondent is required or entitled to be present.

7.17. The Respondent may provide a written statement in response to the Complaint (the "Respondent's Statement") to the Investigation Officer within fourteen (14) days of receiving the Complainant's Statement. If there are special circumstances, the Investigation Officer may extend the time for response.

7.18. The Investigation Officer shall forward a copy of the Respondent's Statement to the Complainant.

7.19. In a timely manner, the Investigation Officer shall conduct an investigation as to the facts and circumstances relevant to the Complaint.

7.20. During the investigation, the Complainant shall and the Respondent may advise the Investigation Officer of all evidence that is relevant to the Complaint. The Investigation Officer shall attempt to obtain written, signed statements from all relevant witnesses.

7.21. Upon completion of the Investigation, the Investigation Officer shall prepare a draft Investigation Report (the "Draft Investigation Report").

7.22. The Draft Investigation Report shall contain:

- a) a summary of the relevant facts;
- b) a determination as to whether the acts in question constitute Harassment as defined in this policy;
- c) a statement of the standard of conduct used to assess the complaint;
- d) an Executive Summary, including findings;
- e) an analysis of the complaint and conclusions;
- f) if the act(s) constitutes Harassment, recommendations for resolution which may include disciplinary action against the Respondent;
- g) if the act(s) does not constitute Harassment, recommendations to dismiss the Complaint.

7.23. When recommending disciplinary action against the Respondent, the Investigation Officer shall consider factors such as:

- a) the nature of the Harassment;
- b) whether the Harassment involved any physical contact;
- c) whether the Harassment was an isolated incident or part of an ongoing pattern;
- d) the nature of the relationship between the Complainant and the Respondent;
- e) the ages and mental abilities of the Complainant and/or Respondent;
- f) whether the Respondent had previously been found to have committed other acts of Harassment; and

g) whether the Respondent retaliated against the Complainant.

7.24. In addition to recommendations for discipline against the Complainant or Respondent, the Investigation Officer may recommend any other measures he/she considers appropriate in the circumstances. Such recommendations shall be made in writing and supported by reasons.

7.25. Upon completion of the Draft Investigation Report:

- a) the Investigation Officer shall provide the Complainant and Respondent with a copy of the Draft Investigation Report; after which
- b) the Complainant shall have seven (7) days from receipt of the Draft Investigation Report, to provide the Investigation Officer with any written comments with respect to the Draft Investigation Report.; after which
- c) the Investigation Officer shall provide the Respondent with a copy of the Complainant's Response, if any; after which
- d) the Respondent shall have seven (7) days from receipt of the Complainant's Response, to provide the Investigation Officer with any written comments with respect to the Draft Investigation Report. (the "Respondent's Response"); after which
- e) the Investigation Officer shall provide the Complainant with a copy of the Respondent's Response, if any; after which
- f) the Complainant shall have seven (7) days of receipt of the Respondent's Response, to provide the Investigation Officer with a reply to the Respondent's Response, if any.

7.26. After receiving Responses and replies from the Complainant and Respondent pursuant to s. 7.25, and conducting such follow up investigation as necessary, the Investigation Officer shall finalize the Investigation Report and forward a copy of the final Investigation Report (the "Final Investigation Report") to the Harassment Coordinator. The Harassment Coordinator shall distribute copies of the Final Investigation Report to the Complainant, the Respondent and the Discipline Committee.

7.27. The Discipline Committee shall consider the Final Investigation Report and make a determination as to whether the Respondent committed acts of Harassment pursuant to this policy.

- a) If the Discipline Committee determines that the Respondent committed Harassment, it shall recommend to Karate B.C. such resolutions or disciplinary action to be taken against the Respondent as is appropriate in the circumstances.
- b) If the Discipline Committee determines that the Respondent did not commit acts of Harassment, it shall dismiss the Complaint.

7.28. When recommending disciplinary action, the Discipline Committee shall consider the factors referred to in s. 7.23 and may recommend such action as it considers appropriate under the circumstances which may include, but is not limited to:

- a) no action;
- b) a verbal apology;
- c) a written apology;
- d) a letter of reprimand from Karate B.C.;
- e) a fine or levy;
- f) referral to counseling;
- g) sensitivity training in Harassment issues;

- h) removal of certain privileges of membership or employment;
- i) demotion or pay cut;
- j) temporary suspension with or without pay;
- k) termination of employment;
- l) expulsion from membership.

7.29. The Discipline Committee may recommend any other measures it considers appropriate in the circumstances. Such recommendations shall be made in writing and supported by reasons.

7.30. The Discipline Committee shall, not more than fourteen (14) days after it makes its decision and recommendation, send a copy of its decision to the Complainant, the Respondent, the Executive Director (or the Karate B.C.'s Chair if the Complaint concerns the Executive Director), the Investigation Officer and the Harassment Coordinator.

7.31. After completion of its duties, the Discipline Committee shall turn over all copies of the Final Investigation Report and other materials related to the Complaint to Karate B.C..

Standard of Proof

7.32. In making findings of fact relating to whether Harassment has occurred, the Discipline Committee will use a standard of proof being a balance of probabilities.

Withdrawal

7.33. If the Respondent withdraws from the Complaint process or chooses not to participate in the process, the process (including an appeal) may proceed based solely on the Complainant's testimony and supporting evidence and disciplinary measures may be imposed on the Respondent in his or her absence.

7.34. If the Complainant withdraws from the process or chooses not to participate in the process, the process (including an appeal) may either:

- a) be dismissed; or
- b) proceed based solely on the Respondent's testimony and supporting evidence in which case disciplinary measures may be imposed on the Complainant in the Complainant's absence.

Suspension

7.35 The Board of Directors may suspend a Respondent from membership in Karate B.C. without notice for failure or refusal to comply with any disciplinary action determined under this policy.

7.36 Notwithstanding the procedures set out in this policy, any employee, director, officer, volunteer, coach, athlete, participant, official or person under an employment contract with Karate B.C. who has been charged with a criminal offense(s) that may constitute Harassment under this policy may be temporarily suspended from its relationship with Karate B.C. or from participating in any Karate B.C. activities until further notice, whether or not a Complaint has been received or an investigation has been completed pursuant to this policy.

7.37 Notwithstanding the procedures set out in this policy, any employee, director, officer, volunteer, coach, athlete, participant, official or person under an employment contract with Karate B.C. who, while in that capacity, is convicted of a criminal offense(s) involving conduct that may constitute Harassment under this policy shall be automatically suspended from participating in any and all activities of Karate B.C. for an appropriate length of time determined by the Board of Directors having regard to:

- a) the seriousness of the incident(s);
- b) the length of sentence imposed in the criminal proceeding, if any;
- c) the member's prior behaviour; and
- d) any other relevant circumstance.

8.0 Appeals

8.1 A Complainant or Respondent who wishes to appeal the decision of the Discipline Committee may initiate an appeal by serving the office of the Harassment Coordinator with a 'Notice of Appeal and Request for Hearing' not more than 30 days after the date she or he receives notice of the Disciplinary Committee's decision.

8.2 The Notice of Appeal and Request for Hearing shall be in writing and shall set out the grounds for appeal.

8.3 At the time of delivering the Notice of Appeal and Request for a Hearing, the appellant may also submit a written request for the Appeal Panel to rule that any disciplinary action imposed under s.7.28 be held in abeyance until after the hearing.

8.4 Upon receipt of a Notice of Appeal and Request for Hearing, the Harassment Coordinator shall:

- a) notify Karate B.C. of the appeal;
- b) appoint an Appeal Panel to rule on any request under s.8.3 and to hear the Appeal; and
- c) send a copy of the Notice of Appeal and Request for Hearing to the other party or parties involved in the Complaint.
- d) confer with the Appeal Panel and the parties to set a date, time and location for the hearing of the appeal.

8.5 The Harassment Coordinator will send a copy of the Notice of Hearing to the Complainant and Respondent and to Karate B.C. The Notice of Hearing will be sent at least 30 days in advance of the scheduled hearing and shall:

- a) specify the date, time, and location of the Hearing;
- b) set out the rules of procedure that will govern the Hearing;
- c) advise the parties that they should bring with them to the Hearing all relevant witnesses and other evidence they wish to be considered by the Appeal Panel; and
- d) advise the parties that they have the right to be represented by counsel at the Hearing (at their own expense).

8.6 The Hearing is intended to provide an opportunity for each of the Complainant and Respondent to present submissions as to the matters in issue on the appeal.

8.7 In addition to the Notice of Appeal, the Appeal Panel may receive into evidence the Investigation Report, the Discipline Committee's decision, and any other relevant evidence presented at the Hearing.

8.8 In most instances, Complainants and Respondents will be expected to speak for themselves although either may be represented by legal counsel or other advisors.

8.9 Unless otherwise agreed by a majority of the Appeal Panel, a closed hearing will be held within 30 days after the Appeal Panel has been appointed.

8.10 The Hearing will be recorded on tape by the Appeal Panel and the tapes will be kept for safekeeping by Sport BC. Subsequently, either party may have supervised access to the tapes by application to the Harassment Coordinator.

8.11 An Appeal Panel, by a majority vote of its members, may make other rules concerning the procedure of a hearing that it deems appropriate and consistent with this policy.

8.12 The Appeal Panel may, by a majority vote of its members:

- a) dismiss the appeal;
- b) substitute its own decision for that of the Discipline Committee; or
- c) remit the Complaint for further investigation and/or for redetermination in accordance with its directions.

8.13 In addition to recommendations for discipline against the Complainant or Respondent, the Appeal Panel may recommend any other measures it considers appropriate in the circumstances. Such recommendations shall be made in writing and supported by reasons.

8.14 The Appeal Panel's decision is final.

8.15 After completion of its duties, the Appeal Panel will turn over all copies of the Final Investigative Report and other materials related to the Complaint to Karate B.C.

8.16 Within 14 days after completing a Hearing, the Appeal Panel shall send notice of its decision and the reasons for such decision, by registered mail, to the last known addresses of the Complainant and the Respondent, Sport BC and to Karate B.C.

8.17 Karate B.C. shall implement the Appeal Panel's decision with respect to the appeal and may accept and implement any or all of the Appeal Panel's additional recommendations.

9.0 MINORS

9.1 If the Complainant is a minor, or someone otherwise unable to speak for his or herself, the Complaint may be brought forward by a "Responsible Adult." The Responsible Adult will have the right to act on behalf of the Complainant throughout the complaint process, including:

- a) making a Complaint;
- b) receiving all notices on behalf of the Complainant; and
- c) being present at all dealings with the Complainant.

9.2 If the Respondent is a minor, or someone otherwise unable to speak for his or herself, the following shall apply:

- a) If the Harassment Advisor is attempting an informal resolution of a complaint, the Harassment Advisor may speak to the Respondent directly concerning the Complaint provided that, prior to speaking to the Respondent, the Harassment Advisor shall have informed the Respondent that he/she may have a Responsible Adult present during the meeting;
- b) If the Complaint is referred to an Investigation Officer for investigation:
 - (i) a copy of the Complainant's Statement shall be forwarded to a parent or guardian of the Respondent if such person is known;
 - (ii) the Respondent shall be advised that he/she has the right to be represented by a Responsible Adult; and
 - (iii) The Respondent's designated Responsible Adult will have the right to act on behalf of the Respondent throughout the investigation process, including:
 - A. responding to the Complainant's Statement;
 - B. assisting the Respondent prepare a Respondent's Statement;
 - C. receiving all notices of behalf of the Respondent; and
 - D. being present at all dealings with the Respondent.

10.0 SERVICE ON RESPONDENT

10.1 If a complaint is resolved pursuant to s. 7.5(a), the complaint will not be brought to the attention of the Respondent.

10.2 If a written statement is filed pursuant to s. 7.5(b), the Harassment Advisor will provide a copy of that statement to the Respondent.

10.3 Delivery pursuant to s. 10.2 will be by registered mail, courier or process server. Delivery of any subsequent documents pursuant to the process set out in this policy will be by regular mail, fax or e-mail.

11.0 RECORDS

11.1 The Executive Director shall be responsible to keep all records that are required to be kept under this policy, including the Harassment Advisor's reports.

11.2 Where a Complaint is resolved informally without investigation:

- a) the Harassment Advisor shall provide the Executive Director with a confidential written record of the Complaint and details of the informal resolution; and
- b) no reference to the incident shall be recorded in Karate B.C.'s records relating to the Respondent.

11.3 All Harassment Advisors shall have access to the confidential written record under s.10.2 and the Final Investigation Report(s) for the purposes of carrying out the duties of a Harassment Advisor under this Policy.

11.4 If the Complaint is not resolved informally and the Complaint is referred to an Investigation Officer for investigation, a copy of the Complainant's Statement shall be placed

in Karate B.C.'s records relating to the Respondent at the time the Complainant's Statement is forwarded to the Investigation Officer.

11.5 Where an Investigation Report results in a finding of Harassment, the outcome of the investigation and any decisions of the Discipline Committee shall be recorded in Karate B.C.'s records relating to the Respondent. The records shall include copies of the Complaint, the Investigation Report, the Discipline Committee report and, if applicable, the Appeal Panel's decision.

11.6 Where an investigation results in a finding that the Complaint is not substantiated, all records of the Complaint shall be removed from Karate B.C.'s records relating to the Respondent.

12.0 REVIEW AND APPROVAL

12.1 This policy was approved by Karate B.C. Executive Committee directors on the 21st day of June 2003.

12.2 This policy shall be reviewed by Karate B.C.'s Executive Committee on an annual basis.

Current revision: February 2006

July 2009