

**USA TAEKWONDO, INC.**  
**ETHICS and JUDICIAL COMMITTEES**  
**COMPLAINT and HEARING PROCEDURES**

Approved: April 2014 – v1.1 TAG-30b

Adjusted formatting, retitled document from Processes to “Procedures,” and retitled CEO to “Chief Executive.”  
Retitled §4 to include “Distribution.”

Amended:

The undersigned, being the Secretary of USA-Taekwondo, hereby indicates that the USA-Taekwondo Board of Directors has adopted the *USA-Taekwondo Complaint and Hearing Procedures* - version 1.1 on April 28, 2014 in Board Policy number: 2014-04-28i.



Marco Mack, Secretary  
March 7, 2016

## **SECTION 1.**

### **INTRODUCTION**

The following Complaint and Hearing Procedures (“Procedures”) apply to complaints that are filed with USA Taekwondo (USAT) and fall within the jurisdiction of the Judicial Committee or the Ethics Committee.

Any person who falls within the governance of USAT by virtue of becoming a member or participating in USAT-sanctioned events agrees to be subject to these complaint procedures.

## **SECTION 2.**

### **JURISDICTION**

The USAT Judicial Committee and Ethics Committee (collectively “the Committees”) are created and are governed by the USAT Bylaws, Code of Ethics, and Safe Sport Strategy, Policies, & Procedures (“the Safe Sport Policy”). The purpose of these Complaint and Hearing Procedures is to provide a mechanism for adjudicating cases that fall within any of those policies, and nothing in these Procedures shall be construed as expanding or limiting the jurisdiction of the Committees.

## **SECTION 3.**

### **COMPLAINTS**

A Complaint alleging violation of the USAT Articles of Incorporation, Bylaws, any USAT rule, Code of Conduct, Safe Sport Policy or USAT Code of Ethics shall:

**§3.1** Set forth a statement in clear and concise language of the conduct (or omission) that is alleged to constitute a violation;

**§3.2** Identify the specific document and provision that the Complainant alleges has been violated;

**§3.3** Be signed by the person making the Complaint, who shall attest to its validity, under express affirmations that all factual statements contained in the Complaint are true to the best of the Complainants knowledge, information and belief;

**§3.4** Provide a telephone number and sufficient contact information for the Complainant or the Complainant’s counsel or legal representative (such as a parent or guardian) to permit the exchange of information in written or electronic form (address or e-mail), together with such contact information as the Complainant may have for the Respondent;

**§3.5** Be accompanied by a fee of \$250, except in cases of alleged ethics complaints and Complaints filed by the Chief Executive under Section 3.8 below, which shall require no filing fee; and

**§ 3.6** Filed with the Chief Executive of USAT. A complaint shall be deemed filed when received at the Chief Executive’s office. A Complaint naming the Chief Executive as a Respondent may be filed with the Chair of either Committee.

**§3.7** Either Committee may waive immaterial defects in any Complaint and deem a Complaint filed in advance of correction of such defects.

**§3.8** The Chief Executive of USAT or his/her designee may file a Complaint naming USAT as the Complainant.

## **SECTION 4.**

### **COMPLAINT DISTRIBUTION**

Upon receipt of a Complaint, the Complaint shall be distributed and served as follows:

**§4.1** The Chief Executive or the Committee Chair (for Complaints filed with a Chair) shall within ten days (or within 24 hours for a right to compete matter) forward a copy of the Complaint to the proper Committee. If a Complaint alleges misconduct under rules over which both the Ethics Committee and Judicial Committee have jurisdiction, the Complaint shall be forwarded to both Committees.

**§4.2** The Committee Chair, or his/her designee, shall perform an initial review of materials provided with the complaint to ensure that the Complaint is complete under the provisions of Section 3 and that it is not frivolous or beyond the Committee's jurisdiction on its face.

**§4.3** Either Committee may dismiss a Complaint that fails to comply with the provisions of Section 3 fourteen days after giving the Complainant notice of deficiencies and an opportunity to cure them. Either Committee may dismiss a Complaint on the basis of written finding that it is frivolous or beyond the jurisdiction of the Committee on its face.

**§4.4** If the Complaint is not dismissed upon initial review by the Committee, the Committee shall instruct the Complainant to serve the Complaint by certified mail, return receipt requested or by e-mail at any member's registered e-mail address.

**§4.5** The Respondent(s) shall have fourteen days from service to file a written response to the Complaint, if he/she wishes, or such shorter time as the Committee Chair shall require where the nature of the Complaint requires expedited procedures. The failure to file a written response shall be deemed to constitute a waiver of any right the Respondent(s) might otherwise have to a hearing on the Complaint.

**§4.6** After the initial review has been completed and the complaint accepted, the Committee Chair shall assign the Complaint to a Hearing Panel of three (3) members, at least one of whom shall be an athlete satisfying the requirements of Section 8.8.2 of the USOC Bylaws. Hearing Panel members may be (but are not required to be) members of the Committee, and they need not be "Independent" as that term is defined in the USAT Bylaws. However, all Hearing Panel members shall be impartial and shall be free of any actual or apparent conflict of interest.

**SECTION 5.**

**SANCTIONS**

A Hearing Panel, after conducting such investigation or hearings as they may determine to be necessary, may recommend imposition of any of the following sanctions or resolutions:

**§5.1** Dismiss the Petition with or without permission to re-file;

**§5.2** Censure a party, publically or privately;

**§5.3** Establish a period of probation, with or without conditions;

**§5.4** Deny, grant, suspend or restore the eligibility or right to compete or participate of any member of USAT;

**§5.5** Issue such interim orders, prohibitory or mandatory in nature, as may be necessary pending a final decision; and

**§5.6** Determine the results of, or require a rerun of, any election held or any constituent element thereof;

**§5.7** Deny, grant, suspend or restore membership in USAT for a definite or indefinite period of time, with or without terms of probation, or expel any member of USAT, including any administrator, athlete, coach, trainer, manager, meet director, official, officer, Board Member, coordinator, chair or member of any committee or sub-committee;

**§5.8** Assess actual costs to the prevailing party or refund any filing fee paid by the prevailing party; and

**§5.9** Assess sanctions in any combination of the foregoing or assess any other remedies deemed appropriate under the circumstances.

**SECTION 6.**

**DOPING DECISIONS**

Neither Committee shall have any jurisdiction to adjudicate complaints that fall within the exclusive jurisdiction of the United States Anti-Doping Agency or the doping rules of the World Taekwondo Federation.

**SECTION 7.**

**FIELD OF PLAY DECISIONS**

The final decision of a referee during a competition regarding a field of play decision (a matter set forth in the rules of the competition to be within the discretion of the referee) shall not be reviewable through, or the subject of, these complaint procedures unless the decision is: the product of fraud, corruption, partiality or other misconduct of the referee. For purposes of this Section, the term “referee” shall include any individual with discretion to make field of play decisions.

**SECTION 8.**

**PRELIMINARY HEARING and TEMPORARY ORDERS**

In appropriate cases, the Committee Chair, after an initial investigation and after providing the Respondent an opportunity to be heard, may impose such temporary orders as may be necessary for the good of the sport of Taekwondo and the protection of members. The temporary order may encompass any remedy or order permissible in a final decision (except expulsion).

**SECTION 9.**

**HEARINGS**

**§9.1** The Chair of the Hearing Panel shall preside over any hearing ordered by the Hearing Panel. Upon receipt of Complaint and a response (if any), the Chair shall conduct a preliminary conference during which the Panel shall impose dates for (a) any hearing the Panel deems necessary, (b) the exchange of all exhibits to be used as evidence, (c) the identification of witnesses, their contact information, and a brief statement as to the subject matter of their testimony, and (d) submission of hearing briefs if desired by the Panel.

**§9.2** The Panel may impose such sanctions as it may deem advisable for the failure of any party to comply with the procedural orders of the Panel.

**§9.3** A hearing before the Hearing Panel may be held in person or telephonically. Any witness who testifies must be sworn upon that witness's oath to testify truthfully. Where appropriate in the reasonable determination of the Hearing Panel Chair, the hearing may be conducted in part through written means and in part by testimony and oral argument, except that the Hearing Panel shall not consider any written or oral evidence that the opposing party has not been given an opportunity to rebut.

**§9.4** The Complainant(s), the Respondent(s) and any other person participating in a hearing conducted by a Hearing Panel shall be entitled to be represented by counsel of their choice at their own expense.

**§9.5** Judicial rules regarding admissibility of evidence shall not apply to the Hearing Panel, except that the Hearing Panel shall respect all lawful claims of privilege based on Colorado law.

**§9.6** Any hearing, or a part thereof, shall be open to members of the Hearing Panel, any attorney advising the Hearing Panel Chair, the Complainant(s), the Respondent(s), any other real party in interest, their counsel and any witnesses except that the Hearing Panel shall exclude from the hearing any witnesses who have not testified if so requested by any party. The Hearing Panel Chair may, in the interests of justice and the sport of Taekwondo, direct the participants to keep the proceedings and the decision confidential and all or parts of the record of the hearing to be kept confidential by the Hearing Panel and USAT except such public sanctions as may be imposed.

**§9.7** Except for emergency hearings, which shall not require agreement of the parties, the Hearing Panel Chair for the hearing may order, with the agreement of all parties, an accelerated hearing schedule in the interest of justice and the sport of Taekwondo.

**SECTION 10.**

**PRE-HEARING PROCEDURES**

The procedures to be followed in connection with all hearings of the Ethics Committee Hearing Panel shall be as follows:

**§10.1** The Hearing Panel Chair shall issue a Preliminary Hearing Order setting out the deadlines established under Section 9.1.

**§10.2** The Hearing Panel, may, upon motion and for good cause, amend any of the dates set out in the Preliminary Hearing Order.

**§10.3** No party or party representative shall engage in any ex parte communication with the Hearing Panel Chair or members of the Hearing Panel. All requests for relief shall be made in writing and submitted to the Hearing Panel Chair and its members, with a copy to the opposing party or the opposing party's counsel.

**§10.4** In addition to the items set out in Section 9 above, the Hearing Panel may impose such other procedural orders as it deems necessary to the efficient conduct of proceedings.

**SECTION 11.**

**CONDUCT of HEARING**

**§11.1** Hearings shall be conducted fairly and in an orderly fashion, but without regard for the formalities of traditional courtroom procedures.

**§11.2** Absence of a Party –The hearing may proceed in the absence of any party who fails to be available at the duly noticed time and the hearing may proceed to judgment despite that person's absence. If the Hearing Panel Chair determines that in the interests of justice and the sport of Taekwondo the hearing cannot proceed without the absent party, the Hearing Panel Chair may adjourn the hearing and reschedule it for such time as the absent party can be present. Any subsequent absence may be taken into account by the Hearing Panel in reaching its decision, and the Hearing Panel may impose reasonable conditions on the missing party for continuation of the hearing.

**§11.3** The hearing shall be conducted in the following manner, and the Hearing Panel may set reasonable time limits for each portion of the hearing:

**§11.3.1** The Hearing Panel Chair shall open the hearing and conduct such preliminary matters as may be necessary.

**§11.3.2** Each party shall have the opportunity to make a brief opening statement

**§11.3.3** The Complainant shall call each of its witnesses for examination, which witnesses shall be sworn upon his/her oath, substantially as follows: "I do hereby swear or affirm under penalties of perjury that the testimony I give shall be true and complete." In lieu of formal examination, the witnesses may make a statement after being sworn. Upon completion of each witness's examination or statement, the opposing party(ies) or their counsel may cross-examine the witness. The Hearing Panel Chair shall have the power to limit the cross-

examination as may be necessary to avoid the introduction of irrelevant evidence, to protect against harassment or intimidation of any witness, or to avoid repetitive testimony, except that the Chair may not completely bar the cross-examination of any witness. The Complainant shall then have the opportunity to conduct re-direct examination and any witness shall have the opportunity to make a concluding statement limited to the issues that were raised in cross-examination. No further examination or statements shall be permitted except as the Hearing Panel Chair may permit in his/her discretion.

**§11.3.4** Following conclusion of the presentation of witnesses or witness statements by the Complainant, the Respondent shall have the opportunity to present witnesses in the same manner as above.

**§11.3.5** Following the conclusion of the presentation of witnesses or witness statements by the Respondent, the Complainant shall have the opportunity to present witnesses in the same manner as above limited to new evidence that was presented by Respondent's witnesses.

**§11.3.6** Following conclusion of the Complainant's rebuttal evidence, each side shall be permitted to give closing argument. The Hearing Panel Chair shall decide on the time limits for such closing arguments. The Complainant may divide closing argument time so as to permit rebuttal of the Respondent's closing argument.

**§11.3.7** The Hearing Panel members may question any witness presented by the parties. The Chair of the Hearing Panel shall direct the order of such questioning and any follow-up questions by the parties.

**§11.3.8** Within thirty days following completion of the hearing and within 90 days of receipt of the complaint that is an ethics complaint, the Hearing Panel shall issue a written decision and findings, and shall complete the hearing information form utilized by USAT. No failure to satisfy these requirements shall serve to invalidate any decision or to deprive the Hearing Panel of jurisdiction over the Complaint.

## **SECTION 12.**

### **APPEALS**

The decision of the Hearing Panel may be appealed to the Board of Directors or to the American Arbitration Association, but no appellant shall have the right to a hearing de novo before the Board of Directors. The decision of the Board of Directors shall be final. For purposes of Section 9 of the USOC Bylaws, a party shall not be deemed to have exhausted his/her administrative remedies within USAT unless the party has sought relief from the Board of Directors and such relief has been adjudicated by the Board.