

DISCIPLINE COMMITTEE AND DISCIPLINE APPEAL COMMITTEE

Terms of Reference

Discipline Committee

1. Duties

- (a) To hear and decide complaints made to Tennis B.C. ("TBC") regarding an alleged disciplinary offence by a member of Tennis B.C.; a tennis player; a coach, trainer and other person assisting or supporting a tennis player or a Provincial Team; a parent, relative or friend of a tennis player; or a volunteer or official associated with an event or activity operated, sponsored or sanctioned by Tennis B.C; or any member club of Tennis B.C. Any such hearing and decision shall be in accordance with these terms of reference and any other rules, regulations and procedures established from time to time by the Board of Directors of Tennis B.C. and approved at a general meeting of members held in accordance with Tennis B.C. by-laws.
- (b) A "disciplinary offence" means:
 - (i) A violation of the Tennis B.C. Code of Conduct.
 - (ii) A violation of the Provincial Junior Touring Team Code of Conduct.
 - (iii) A violation of anti-doping rules or policies adopted by Tennis B.C. or to which Tennis B.C. is subject.
 - (iv) A violation by a tennis player of any agreement between Tennis B.C. and the tennis player.
 - (v) Criminal activity perpetrated on Tennis B.C. property or premises, or during or in connection with Tennis B.C. activities events.
 - (vi) Any other matter in which Tennis B.C. is an interested party that may warrant the imposition of a sanction or penalty as a means of addressing the matter.
- (c) The following matters do not fall within the jurisdiction of the Discipline Committee:
 - (i) Grievances against a director of Tennis B.C. when acting as a director.
 - (ii) Grievances against an employee of Tennis B.C. when acting in the course of his or her employment or an independent contractor of Tennis B.C. when operating pursuant to the contract.
 - (iii) Employment-related disputes between Tennis B.C. and an employee of Tennis B.C..
 - (iv) Grievances relating to:
 - (A) provincial team selections or wild cards;
 - (B) Sports Canada carding program selections; or

- (C) other administrative decisions made by Tennis B.C.
- (v) Challenges to, or grievances regarding, the validity or appropriateness of Tennis B.C. rules, policies and procedures or their application.
- (vi) Grievances or complaints, made pursuant to any agreement between Tennis B.C. and a tennis player, that do not involve the possible commission of a disciplinary offence
- (vii) Any matter that does not warrant the imposition of a sanction or penalty as a means of addressing the matter.
- (viii) Complaints of harassment under the Tennis B.C. Harassment Policy. Such complaints are to be addressed through the procedures and by the bodies prescribed in that Policy.
- (d) Where disciplinary action is taken by authorized persons as permitted by the Tennis B.C. Code of Conduct, the Provincial Team Program Policies, or any other Tennis B.C. rules, regulations or policies, appeals from the disciplinary action are to be heard and decided by the Discipline Appeals Committee. However, the Discipline Committee may hear and decide complaints regarding alleged disciplinary offences under these rules, regulations and policies where no disciplinary action was taken by an authorized person, or where it is alleged that the disciplinary action taken was insufficient.

2. Membership

- (a) The Discipline Committee consists of three persons designated by the Executive Committee of Tennis B.C. for the purpose of hearing and deciding a particular disciplinary matter.
- (b) No person may be a member of the Discipline Committee who is:
 - (i) A complainant in the disciplinary hearing.
 - (ii) An accused person in the disciplinary hearing.
 - (iii) A person with a personal interest in the outcome of the disciplinary hearing, or any other conflict of interest.
 - (iv) A person who was or is involved in investigating the allegations in the complaint.
- (c) One member of the Discipline Committee must be a member of the Board of Directors of Tennis B.C.. The other two members need not be members of the Board of Directors or of Tennis B.C..
- (d) The Executive Committee appoints the Chair of the Discipline Committee.

3. Procedure

- (a) Filing of complaint
 - (i) Complaints about alleged disciplinary offences may be made in writing by any person (the "complainant") to the Chair of the Board of Directors of Tennis B.C..

- (ii) The Executive Committee shall consider the complaint and determine if the alleged conduct complained of could, if proved, constitute a disciplinary offence. If so, the Executive Committee shall appoint a Discipline Committee to hear and decide the complaint. If not, the Executive Committee may take whatever other action it deems appropriate to the circumstances, including communication to the complainant of the determination the Executive Committee has made.
 - (iii) The Executive Committee may take such investigative steps, prior to making the determination identified in (ii), as it deems appropriate.
- (b) Notice of Discipline Committee proceedings
 - (i) The Chair of the Discipline Committee shall give notice of the complaint and of the appointment of the Discipline Committee to hear and decide the complaint within 10 days of the appointment of a Discipline Committee, to the accused person and to the complainant.
 - (ii) The Chair of the Discipline Committee may give notice of the complaint and of the appointment of the Discipline Committee to any other person whom the Discipline Committee considers may have an interest in the proceedings or whose participation in the proceedings may be of benefit to the Discipline Committee.
 - (iii) The notice of the complaint must advise of the time requirement for participation in the Discipline Committee proceedings set out in (iv).
 - (iv) Any person, other than the complainant or the accused, who wishes to participate in the hearing before the Discipline Committee or make written submissions to the Discipline Committee, must so notify the Discipline Committee within 21 days of the date of notice of the complaint.
 - (v) In exceptional circumstances, the Discipline Committee may extend the time for notification set out in paragraph (iv).
- (c) Mediation
 - (i) The Discipline Committee shall decide whether a complaint to the Discipline Committee should be mediated, with a view to resolving the complaint in an amicable fashion.
 - (ii) At any time during the proceedings, or at the request of either the complainant or the accused, a representative of the Discipline Committee may contact the complainant and the accused to schedule a mediation.
 - (iii) The choice of mediator is determined by agreement of the complainant and the accused or, failing agreement, by the Discipline Committee.
 - (iv) The mediator need not be an employee of Tennis B.C. or a member of the Discipline Committee.
 - (v) If the decision to mediate is made, the proceedings of the Discipline Committee are stayed until the mediation is completed, terminated or cancelled.
- (d) Hearing date and deadlines

- (i) The Discipline Committee, once appointed, sets a hearing date, and sets deadlines for exchange and filing of written materials in connection with the hearing.
 - (ii) The Discipline Committee shall give notice of the hearing date, the time and place of the hearing, the applicable deadlines for exchanging and filing any written materials the Discipline Committee may require or accept, and the address to which such written materials should be sent, to the complainant, the accused, and all other persons who have notified the Discipline Committee of their desire to participate in the proceedings.
- (e) Notices
- (i) Any notice or other communication to be given in connection with Discipline Committee proceedings under these terms of reference shall be given in writing and shall be by personal delivery, facsimile, ordinary mail or email or other form of electronic communication, addressed to the recipient. Any communication given by personal delivery shall be deemed to have been given on the day following actual delivery; if given by mail, on the fifth day following mailing; and if given by fax, email or other form of electronic communication, on the day following the day on which it was sent.
- (f) The Hearing
- (i) Discipline Committee hearings shall be conducted in an informal manner, in accordance with the principles of natural justice.
 - (ii) The Discipline Committee may impose such procedures, not contrary to these terms of reference, as it deems appropriate. The Discipline Committee is not bound to observe strict legal procedures. Procedural defects will not invalidate the proceedings unless there has been a substantial wrong or miscarriage of justice.
 - (iii) The Discipline Committee is not bound to apply strict rules of evidence. Evidence may be received in written or oral form.
 - (iv) The Discipline Committee may take note of matters generally within the knowledge of the employees, directors or members of Tennis B.C..
 - (v) The complainant or, at the discretion of the Discipline Committee, Tennis B.C., is responsible for putting forward the case against the accused. The onus of proof is on the party putting forward the case against the accused, who must show on clear and convincing evidence that the accused has committed the disciplinary offence alleged.
 - (vi) The complainant, Tennis B.C. (if applicable), and the accused are permitted to call, examine and cross-examine witnesses and present evidence and argument before the Discipline Committee.
 - (vii) The Discipline Committee, in its discretion, determines what level of participation, if any, is to be granted to other persons who wish to participate in the proceedings.
 - (viii) A participant in the proceedings may participate in person or be represented by legal counsel or by an agent.

- (ix) At the discretion of the Discipline Committee, a participant in the proceedings, or a witness, may communicate with the Discipline Committee for purposes of the proceedings by telephone or through other means of long distance communication.
 - (x) The hearing shall be open to members of the public, unless otherwise ordered by the Discipline Committee.
 - (xi) The accused may waive the right to a hearing. In such a case, if the Discipline Committee determines that the case against the accused has been proved on the basis of the written materials submitted, it may rule on the complaint without a hearing. Otherwise, or in its discretion, the Discipline Committee shall proceed to hold a hearing notwithstanding the accused's waiver of the right to a hearing.
- (g) Decision making
- (i) After a hearing, or where the accused waives the right to a hearing, the Discipline Committee shall rule on the complaint and, where the Discipline Committee concludes that a disciplinary offence has been committed and that the accused should be disciplined, impose one or more of the sanctions authorized in these terms of reference.
 - (ii) The decision of the majority of the members of the Discipline Committee governs.
 - (iii) The Chair of the Discipline Committee is a voting member of the Committee.
 - (iv) The Discipline Committee shall give written reasons for its decision. The Discipline Committee shall forthwith send a copy of the written reasons to all participants in the proceedings.
- (h) Powers of the Discipline Committee
- (i) In addition to any other powers properly conferred upon the Discipline Committee in the Tennis B.C. by-laws, these terms of reference and any other applicable rules, regulations and procedures, the Discipline Committee shall have the power:
 - (A) To dismiss the complaint summarily and without formal hearing if it determines that the complaint is frivolous or vexatious.
 - (B) To make preliminary procedural orders.
 - (C) To require that the participants in the hearing attend at a pre-hearing conference or other conference with one or more members of the Discipline Committee to address procedural matters.
 - (D) In the event these terms of reference conflict with other Tennis B.C. rules, regulations or policies with regard to procedural matters, to determine the applicable procedure.
 - (E) To impose any sanction authorized by these terms of reference.
 - (F) In its discretion, to award costs of the proceedings.

4. Sanctions

- (a) The following sanctions or combinations of them may be imposed by the Discipline Committee upon persons found to have committed a disciplinary offence:
 - (i) Publication of the Discipline Committee's determination that the person committed a disciplinary offence.
 - (ii) Formal written reprimand.
 - (iii) Order placing the person on probation conditions, with or without the provision that another sanction or sanctions will be imposed if the conditions are not observed.
 - (iv) Denial of access to specified activities or facilities connected to Tennis B.C.
 - (v) Order for the payment of restitution or damages.
 - (vi) Recommendation to the Board of Directors of the member's temporary suspension from membership in Tennis B.C..
 - (vii) Recommendation to the Board of Directors of the person's expulsion from Tennis B.C..
 - (viii) Any other sanction available under the rule, regulation, policy or agreement found to have been violated, if applicable.

5. Effect of Discipline Committee decision

- (a) A decision of the Discipline Committee is final and binding on all interested parties, subject to a right of appeal to the Discipline Appeal Committee.

Discipline Appeal Committee

1. Duties

- (a) To hear and decide appeals from decisions of the Discipline Committee, and to hear and decide appeals with respect to disciplinary action taken by authorized persons, in accordance with these terms of reference and any other rules, regulations and procedures established from time to time by the Board of Directors of Tennis B.C. and approved at a general meeting of members held in accordance with Tennis B.C. by-laws.
- (b) The Discipline Appeal Committee does not have jurisdiction to hear and decide appeals from decisions and recommendations of the case review panel under the Tennis B.C. Harassment Policy. Such appeals are to be addressed through the procedures and by the bodies prescribed in that Policy.

2. Membership

- (a) The Discipline Appeal Committee consists of three persons designated by the Chair of the Board of Directors of Tennis B.C. for the purpose of hearing and deciding a particular appeal, who were not directly involved in the matter being appealed, and who did not make or participate in making the disciplinary decision being appealed, whether as members of the Discipline Committee or otherwise.
- (b) No person may be a member of the Discipline Appeal Committee who was:
 - (i) A complainant in the disciplinary hearing.
 - (ii) An accused person in the disciplinary hearing.
 - (iii) A person involved in taking the disciplinary action giving rise to the appeal.
 - (iv) A person with a personal interest in the outcome of the disciplinary proceedings, or any other conflict of interest.
 - (v) A person who was or is involved in investigating the allegations against an accused.
- (c) Two members of the Discipline Appeal Committee must be members of the Board of Directors of Tennis B.C.. The other member need not be a member of the Board of Directors or of Tennis B.C..
- (d) The Chair of the Board of Directors of Tennis B.C. appoints the Chair of the Discipline Appeal Committee.

3. Procedure

- (a) Filing an appeal
 - (i) An appeal is made by filing with the Chair of the Board of Directors of Tennis B.C., within 30 days of the giving of notice of the decision being appealed, a notice of appeal stating briefly the relief sought and the grounds on which the appeal is taken.
 - (ii) In exceptional circumstances, the Chair of the Board of Directors of Tennis B.C. may extend the time for filing an appeal.

- (iii) The timely filing of an appeal operates as a stay of the decision appealed from, unless the Discipline Appeal Committee, in its discretion, orders otherwise, whether of its own motion or upon application by an interested party.
 - (iv) On receipt of a properly filed notice of appeal, the Chair of the Board of Directors of Tennis B.C. shall refer the appeal to the Discipline Appeal Committee and shall appoint, if necessary, the members of the Discipline Appeal Committee.
- (b) Participation in an appeal
- (i) The Chair of the Discipline Appeal Committee shall give notice of the appeal within 10 days of the referral of the appeal to the Discipline Appeal Committee, to all interested parties, including the complainant, the accused, and any party who made submissions or gave evidence in connection with the decision appealed from. The notice must advise the interested parties of the time requirement for participation in the appeal set out in (ii).
 - (ii) Any interested party who wishes to make written or oral submissions on the appeal must notify the Chair of the Discipline Appeal Committee within 21 days of the date of the notice of the party's desire to do so.
 - (iii) In exceptional circumstances, the Discipline Appeal Committee may extend the time for notification set out in paragraph (iv).
- (c) Hearing date and deadlines
- (i) The Discipline Appeal Committee, once appointed, sets a hearing date for the appeal, and sets deadlines for exchanging and filing written submissions in connection with the appeal.
 - (ii) The Chair of the Board of Directors of Tennis B.C. shall give notice of the appeal date, the time and place of the hearing, the applicable deadlines for exchanging and filing written submissions, and the address to which written submissions should be sent, to the appellant and all other participants in the appeal.
- (d) Submissions
- (i) A complainant, an accused, and Tennis B.C. are all permitted as of right to make written and oral submissions on an appeal to the Discipline Appeal Committee.
 - (ii) The Discipline Appeal Committee decides who, other than the complainant, the accused, and Tennis B.C., will be permitted to make written and/or oral submissions on the appeal.
 - (iii) Subject to the discretion of the Discipline Appeal Committee, written submissions shall not exceed 20 pages, and oral submissions shall not exceed 60 minutes.
 - (iv) At the discretion of the Discipline Appeal Committee, a participant in the appeal may make oral submissions at the hearing of the appeal by telephone or through other means of long distance communication.
 - (v) The appeal hearing shall be open to members of Tennis B.C., unless otherwise ordered by the Discipline Appeal Committee.

- (vi) A participant in the appeal may participate in person or be represented by legal counsel or an agent.
- (e) Notices
 - (i) Any notice or other communication to be given in connection Discipline Appeal Committee proceedings under these terms of reference shall be given in writing and shall be by personal delivery, facsimile, ordinary mail or email or other form of electronic communication, addressed to the recipient. Any communication given by personal delivery shall be deemed to have been given on the day following actual delivery; if given by mail, on the fifth day following mailing; and if given by fax, email or other form of electronic communication, on the day following the day on which it was sent.
- (f) Appeal not a new trial
 - (i) An appeal to the Discipline Appeal Committee shall not be a new trial of the disciplinary issue decided below.
 - (ii) In its discretion, the Discipline Appeal Committee may allow the introduction of further evidence on appeal that was not available or was not adduced in the proceeding below.
- (g) Decision making
 - (i) The decision of the majority of the members of the Discipline Appeal Committee governs.
 - (ii) The Chair of the Discipline Appeal Committee is a voting member of the Committee.
 - (iii) The Discipline Appeal Committee shall give written reasons for its decision. The Chair of the Discipline Appeal Committee shall send a copy of the written reasons to all participants in the appeal and to the Chair of the Board of Directors of Tennis B.C..
- (h) Powers of the Discipline Appeal Committee
 - (i) In addition to any other powers properly conferred upon the Discipline Appeal Committee in the Tennis B.C. by-laws, these terms of reference and any other applicable rules, regulations and procedures, the Discipline Appeal Committee shall have the power:
 - (A) To dismiss the appeal summarily and without formal hearing if it determines that the appeal is frivolous or vexatious.
 - (B) To make preliminary procedural orders.
 - (C) To require that the participants in the hearing attend at a pre-hearing conference or other conference with one or more members of the Discipline Appeal Committee to address procedural matters.
 - (D) In the event these terms of reference conflict with other Tennis B.C. rules, regulations or policies with regard to procedural matters, to determine the applicable procedure.

- (E) To order a new hearing before the Discipline Committee.
- (F) To affirm, reverse, quash, or modify the decision appealed from.
- (G) To make any decision and impose any sanction that could have been made or imposed by the decision-maker below.
- (H) In its discretion, to award costs of the appeal and/or of the proceeding below.

4. Effect of Discipline Appeal Committee decision

- (a) A decision of the Discipline Appeal Committee is final and binding on all interested parties.