

# **Dodgeball Federation Australia**

## **Dispute Resolution Policy**



**DODGEBALL FEDERATION**  
**AUSTRALIA**

A person is entitled to a fair hearing before he or she may be disciplined by a corporation. This policy provides a guide to suitable bylaws for discipline procedure. Dodgeball Federation Australia (DFA) ensures that its bylaws provide for a fair hearing in the event that discipline is necessary.

This policy calls for accountability to be held by the DFA Ethics Committee :

The investigation responsibilities of the Ethics Committee are:

- (a) To gather information relating to disputes;
- (b) To take any practical steps that may to resolve disputes without the need for a hearing; and,
- (c) When a hearing is necessary, to fairly present all relevant information to a hearing committee by means of evidence acceptable to the hearing committee.

The hearing responsibilities of the Ethics Committee:

- (a) Notice of the hearing;
- (b) Knowledge of the case to be met;
- (c) A right to hear or see all information provided to and considered by the arbitrator;
- (d) An opportunity to provide information and arguments;
- (e) If an oral hearing is conducted (rather than a hearing based solely on written submissions and documents), the right to question witnesses;
- (f) Unbiased arbitrators who will hear and consider all relevant information.

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## **1. Dispute Resolution Bodies**

The DFA Ethics Committee have been appointed to resolve disputes, whether arising from allegations of harassment or other misconduct, team selection, employment or other issues.

The Ethics Committee will include two separate panels one leading on the investigation and one leading on the hearing.

### **1.1 Investigation Panel**

- 1) The investigation panel is established consisting of a chairperson and such other persons as the chairperson may appoint.
- 2) The board shall appoint the chairperson of the investigation panel.
- 3) The chairperson may appoint members to the panel from time to time for the purpose of that appointee serving as investigator of a specific complaint.
- 4) Members of the hearing panel and members of the board are not eligible to be a member of the investigation panel.

### **1.2 Hearing Panel**

- 1) The (designated person) , upon receipt of a report from the investigation panel which recommends that a hearing be conducted, shall appoint a hearing panel consisting of one or three persons.
- 2) Members of the investigation panel and members of the board are not eligible to be appointed as a member of the hearing panel.
- 3) If the (designated person) considers it appropriate to do so, the (designated person) shall appoint to the hearing panel a person nominated by each party to the dispute.

## **2. Misconduct**

2.1 Any matter, conduct or thing, whether or not disgraceful or dishonourable, is misconduct if:

- 1) It is contrary to the best interests of the DFA or of any participant (athlete, coach, official or spectator).
- 2) It is contrary to the rules of the DFA .
- 3) It is contrary to any Code of Conduct established by the DFA.
- 4) It is a failure to comply with an order pursuant to this dispute resolution policy by the (designated person), the board or a hearing panel.

## **3. Referral and review of complaints and incidents**

3.1 Complaints must be made to the (designated person) promptly and within the time guidelines set by policy of the board.

3.2 The (designated person) may extend the time for submission of a complaint notwithstanding the expiration of the time set by board guidelines.

3.3 The (designated person) shall refer the following matters to the chairperson of the investigation panel:

- 1) A complaint alleging that a player, team, coach, official, parent/guardian or spectator is guilty of misconduct.
- 2) On the request of the board, any incident in which misconduct may have occurred.
- 3) A complaint relating to team selection.
- 4) Any other request for resolution of a dispute arising from or relating to the activities of the organization.

3.4 The chairperson of the investigation panel may require that a complaint be stated in writing.

3.5 If the chairperson of the investigation panel is satisfied that the complaint is not valid or does not raise an issue of misconduct or is trivial, frivolous or vexatious in nature, the chairperson shall advise the complainant and thereafter shall take no further action in relation to that complaint.

3.6 Where the chairperson has not dismissed a complaint pursuant to 3.5, the chairperson shall appoint one or more members of the investigation committee as investigator of the complaint or incident.

3.7 The chairperson may appoint himself or herself as the investigator or as one of the investigators.

## **4. Investigation**

4.1 The investigator shall:

- 1) Review the complaint or the request

2) Make such inquiries as necessary to determine the circumstances of the complaint or incident, which may include:

a) sending a copy of summary of the complaint to those named in the complaint, those making the complaint or to any witnesses with a request that they respond in writing to the allegations by a date set by the investigator;

b) communicating with or interviewing persons involved in the incident or whose conduct is the subject of the complaint; and

c) communicating with or interviewing other persons who may have relevant information.

3) Extend the investigation to include misconduct in any other incident that comes to the attention of the investigator in the course of the investigation.

4) When practical to do so, encourage the parties to resolve the dispute directly.

5) With the agreement of the parties, arrange mediation of the dispute.

4.2 On completion of the investigation, the investigator shall make a written report to the (designated person) recommending:

1) That the (designated person) appoint a hearing committee to hear and resolve the dispute or to hear the charges, as the case may be; or.

2) That no further action be taken with respect to the matter investigated because:

a) The matter has been resolved between the parties,

b) no further action is warranted on the facts of the case.

4.3 The charge set out in a written report may relate to any matter disclosed during the investigation.

4.4 A report signed by a majority of the investigation committee is a decision of investigators

## **5. Interim suspension of member**

5.1 In cases of alleged serious misconduct or if there is a risk of physical or emotional harm to other persons, the investigator may submit written reasons to the (designated person) recommending that, pending the outcome of an investigation, an athlete, team, coach, official, parent/guardian or spectator under investigation:

1) be suspended from participation or

2) be allowed to continue participation subject to conditions or restrictions.

5.2 Upon receiving the written recommendations of the investigator, the (designated person) shall:

1) If satisfied that continued participation is inappropriate in the circumstances, may order suspension of involvement in organisation activities or impose other less restrictive conditions pending the recommendations of the hearing committee.

2) If satisfied that continued participation is appropriate in the circumstances, decline the recommendation of the investigator.

5.3 An order of suspension or the imposition of conditions on a member, pending the recommendations of the hearing committee, shall:

1) Terminate 30 days after the date of the suspension or imposition of conditions, unless renewed or revised by the (designated person) upon a further written recommendation by the investigator.

2) be superseded by the recommendations of the hearing panel

## **6. Acting upon the Investigator's report**

6.1 If the investigation panel recommends no further action on a complaint, the (designated person) shall provide a copy of the investigation panel's reasons for that recommendation to the person or person(s):

1) whose conduct is the subject of the complaint

2) who initiated the complaint

6.2 If the investigation panel is of the opinion that a hearing panel should be appointed, the (designated person) shall appoint a hearing panel.

6.3 The (designated person) shall report a decision not to appoint a hearing panel to the next meeting of the board.

## **7. Hearings**

7.1 The hearing panel shall conduct a fair hearing of the charge or dispute reported in the investigation panel's report.

7.2 At the request of the hearing panel (designated person) shall communicate the time and place of the hearing and any other pertinent information to the parties.

## **8. Hearing Procedure**

8.1 In disputes of a nature that the hearing committee considers to be minor, the hearing may be conducted in writing. The parties shall be:

(a) informed that a hearing committee has been established;

(b) informed of the charge or dispute to be heard;

(c) provided with a copies of the dispute resolution policy;

(d) invited, within a time specified by the DFA Ethics Committee, to make written submissions of any information or arguments relevant to the deliberations of the committee;

(e) informed of the findings of the hearing panel;

8.2 If the hearing panel does not consider the dispute to be minor, the parties shall have a right to be heard in person:

1) At least 3 days before the date of the hearing the parties shall be:

(a) informed that a hearing panel has been established;

(b) informed of the charge or dispute to be heard;

(c) provided with a copy of the dispute resolution policy.

2) The hearing panel shall hear the charge or dispute and shall determine whether or not the accused is guilty of misconduct or rule on the issues in dispute.

3) Parties may be represented by legal counsel at their own expense.

4) There is to be full right:

a) to examine, cross-examine and re-examine all witnesses

b) to present evidence in defence and reply.

5) Where a party fails to attend the hearing, the hearing committee may proceed in his or her absence.

6) If, during the course of a hearing, the evidence shows that the accused may be guilty of misconduct different from or in addition to any misconduct specified in the charge, the hearing panel shall adjourn the hearing for any period that the panel considers sufficient to give the accused an opportunity to prepare a defence to the amended charge, unless the respondent consents to continue the hearing.

7) The hearing panel may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.

8) The hearing panel may accept a record of a criminal conviction or the written reasons for a decision imposing discipline by any other organisation as evidence of the conduct giving rise to the conviction or discipline.

9) On its own initiative or at the request of any party, the hearing panel may restrict the public from the hearing. The hearing panel shall exclude the public if the panel is of the opinion that an open hearing will unduly violate the privacy of any person.

10) The deliberations of the hearing panel shall be conducted in private, and no person who is not a member of the panel shall be present.

8.3 The hearing panel shall give written reasons for its decisions and for any discipline imposed. Copies shall be provided to the parties and to the board.

## **9. Disciplinary Powers**

9.1 Where the hearing panel finds a person guilty of misconduct, it may make one or more of the following orders, in writing:

- 1) An order that the person(s) be expelled from the organisation
- 2) An order that the person(s) be suspended from the organisation for a specified period
- 3) An order that the person(s) be suspended pending the satisfaction and completion of any conditions specified in the order
- 4) An order that the respondent may continue to participate only under conditions specified in the order
- 5) An order reprimanding the respondent
- 6) Any other order that the hearing panel considers just.

9.2 In making an order the hearing panel shall take into consideration:

- 1) The age, experience and maturity of the person(s)
- 2) The nature of the misconduct; 3) Any information which, in the opinion of the panel is reliable and relevant to the determination of an appropriate order, including;
  - a) previous misconduct of the respondent, regardless of whether or not that misconduct was the subject of discipline 6.
  - b) the character of the respondent

## **10. Deference to Other Authorities**

10.1 Where the (designated person), chairperson of the investigation panel or the chairperson of the hearing panel believes that the person(s) whose conduct is being investigated may be guilty of a criminal offence, that person may refer the matter to an appropriate authority.

## **11. Time for Completion**

11.1 The investigation, hearing and decision of the hearing panel shall be completed as soon as practical in the circumstances of the complaint.

11.2 The board may set time guidelines for any matters that the board considers appropriate, including the time for complaints to be made to the (designated person) , and the time for completion of steps in the hearing process.

11.3 In deciding an appeal from a decision of the hearing panel, the board may consider the failure to comply with time guidelines.



## **12. Appeal to the Board**

12.1 A person(s) may appeal the decision or any order of the investigation panel or the hearing panel to the organisation board by serving a written notice of appeal within 14 days. of receipt of the decision or order where:

- 1) The member has been found guilty of misconduct by the hearing panel;
- 2) The person is subject to a discipline order;
- 3) The person(s) who initiated the complaint was advised that no further action would be taken.

12.2 The written notice shall state the grounds of appeal.

12.3 The (designated person) shall not participate in the hearing of an appeal.

12.4 No board member shall participate in the hearing of an appeal if:

- 1) The board member has a conflict of interest or is biased
- 2) If there is any reasonable basis on which it may appear that the board member may have a conflict of interest or may be biased.

12.5 The participation by a board member in any step of the investigation process prior to the hearing of the appeal shall be deemed to create the appearance of a bias.

12.6 The participation by a board member in any step of the investigation or hearing process prior to the hearing of the appeal shall be deemed to create the appearance of a bias.

12.7 If all board members are unable to participate in the hearing, the board shall appoint a panel of not more than three persons to hear the appeal.

12.8 On hearing an appeal the board or the appointed panel may:

- 1) Dismiss the appeal
- 2) Quash the finding of guilt
- 3) Direct further inquiries by the investigation committee or appoint a new investigation panel to reinvestigate the matter
- 4) Direct a new hearing or further inquiries by the hearing panel or appoint a new hearing panel to rehear the matter.
- 5) Vary the order of the hearing panel.

## **13. Effect of Expulsion or Suspension**

13.1 When a person(s) is expelled or suspended from the organisation pursuant to the policy, that person(s) is not eligible to serve any function within the organisation or attend any organization activities.

## **14. Reinstatement**

14.1 A person who has been expelled may apply to the board for reinstatement.

14.2 Subject to the bylaws, on receipt of an application of reinstatement the board shall review the application and, if in the opinion of the board the application disclosed information which may justify reinstatement, the board may investigate the application by taking any steps it considers necessary.

14.3 On completion of its review, the board may:

- 1) Where it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, direct that the person be reinstated under any terms and conditions that the board considers appropriate.
- 2) Refuse to reinstate the person.

## **15. Conflict of Interest or Bias**

15.1 In the event that any member of either the investigation panel or the hearing panel, other than one nominated by the parties, has a conflict of interest or is biased, that person shall declare the conflict or bias and the (designated person) shall appoint a replacement.

15.2 In the event of a conflict of interest on the part of a board member, that member shall not participate in the decision of the board.

## **16. Records and Use of Decisions**

16.1 The DFA shall maintain a record of all decisions of hearing panels and of all decisions of the board on appeal.

16.2 The hearing panel and board may consider the decisions of previous hearing panels and boards, but are not bound by the precedent.

16.3 Decisions of a hearing panel and decisions of the board on appeal are matters of public interest and shall be publicly available without disclosing the names of the individuals involved. Names of persons disciplined may be disclosed to the extent necessary to give effect to any sanction imposed.

16.4 If the panel or board decides that making the decision publicly available will unduly violate the privacy of any person, the panel or board may direct that the decision or part of the decision should be kept confidential.

16.5 Decisions resulting in termination of membership or in a suspension of membership rights for one year or longer shall be reported to the DFA Ethics Committee. who may provide information from the decisions to its membership, including the names of persons who have been the subject of the discipline.