

## **XI. REGULATORY**



# REGULATORY

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## XI. REGULATORY

### A. General

#### 1. Procedural Fairness

- a) The Discipline and Appeal Committees may be defined as "domestic tribunals". A domestic tribunal of an association investigating charges of misconduct against its members is not generally bound by the same strict rules of procedure as a criminal court and there is a significant difference between the evidence necessary to convict in a criminal court, and that required to convict in an ordinary society. Hearsay evidence, for example, is admissible at hearings of a domestic tribunal, but must be treated with circumspection and it is the question of the weight to be given it by the Committee. Further, there is no need to prove guilt or culpability "beyond a reasonable doubt" but rather of being satisfied on the "balance of the probability test" similar to a civil suit.
- b) Nevertheless, the Discipline and Appeal Committees frequently finds themselves addressing charges against non-members of The Canadian Kennel Club, and important rights and privileges can be affected by their decisions. This power carries with it a strong demand for procedural fairness and natural justice.
- c) The procedural fairness of The Canadian Kennel Club disciplinary system has its foundation in the provisions of Section 15 of the Club's By-Laws, and is further developed by the now well-established procedures set out in this manual. While changes to these procedures will be appropriate and even necessary from time to time, care must be taken when amending them that the procedural fairness of the system is not compromised.
- d) The duty of the Committee members is to act fairly and this responsibility is best met by the Discipline and Appeal Committees demonstrating objectivity and maintaining consistency both in their findings and in the penalties imposed for similar offences. The possibility of bias can always be alleged when Club members sit in judgment of others, the more so when the parties to the complaint may be widely known throughout the dog fancy. The members of the Discipline and Appeal Committees must ensure, therefore, that their decisions are based only on the evidence put before them and not on other knowledge or beliefs that they may have regarding the parties concerned, and that they perform their duties in a detached manner and do not allow parochial bias to influence them.

#### 2. Chairmanship

- a) In accordance with the terms of The By-Laws, Section 13 the members of the Discipline and Appeal Committees shall, at their first meeting, appoint a Chair from their number. Unless unanimously agreed by the members present that the selection of a Chair be made by a simple show of hands, the election will be carried out by secret ballot.
- b) Any member of the Discipline and Appeal Committees may, at any time, call for a review by the Committee of the Chairmanship by advising The Canadian Kennel Club Head Office to place the matter on the agenda of the next meeting. A new

election will then be held at the start of the next meeting at which all members are present. [Board Motion #16-09-12]

3. Conflict of Interest

Any member of the Discipline or Appeal Committees who was personally involved, directly or indirectly, in a matter which is the subject of a complaint, is to withdraw. This information is to be reflected in the decision letter. [Board Motion #07-03-13]

4. Confidentiality

- a) To ensure procedural fairness, members of the Discipline and Appeal Committees are not to discuss any aspect of a case before them with anyone other than another member of their Committee prior to the hearing being convened.
- b) The Executive Director is not to discuss any aspect of a case other than with senior management personnel. [Board Motion #07-03-13]
- c) All deliberations by the Discipline and Appeal Committees are to be kept in confidence; such deliberations, and the views expressed or the position taken by any member during such deliberations shall not be communicated to or discussed with any person other than those present at the time.
- d) All decisions rendered by the Discipline and Appeal Committees, or the Executive Director in accordance with Section 15.1 of The By-laws, are confidential until the parties to a complaint have received official notification of the decision from The Canadian Kennel Club Head Office. [Board Motion #07-03-13]
- e) All Discipline Committee files, and any files referred to the Executive Director in accordance with Section 15.1 of The By-laws, are confidential and access to them is to be limited to the Executive Director or designate, the Club's Legal Counsel, the members of the Discipline Committee and, once a complaint has been heard and the appeal period expired, the members of the Appeal Committee. [Board Motion #07-03-13]
- f) Contact information for a complainant or defendant is confidential. If a complainant or defendant requests this information from Head Office, an application must be made to the Discipline Committee for an order for disclosure of that information. A compelling reason must be offered as to why disclosure is necessary for the purpose of the process and the opposite party is entitled to receive notice of the application and may argue his or her position. Such an application may be disposed of by teleconference following which the Discipline Committee will make a ruling. [Board Motion #54-06-17]

5. Non-Delivery of Certificate Complaints

When Head Office receives complaints relating to non-delivery of a registration certificate within the prescribed six (6) month period, the first priority is to try to obtain a certificate of registration for the Complainant. Often, when a formal complaint is laid, this prompts the Defendant to undertake registration of the purchaser's dog and sometimes the progeny of a litter which was previously unregistered. As a result, when a Defendant shows a willingness to co-operate, the file shall be held in abeyance until all steps have been finalized and purchasers provided with certificates. The Discipline Committee or the Executive Director as the case may be, will then consider disciplinary action on the basis of the co-operation shown by the Defendant. [Board Motion #07-03-13]

6. Hearings

- a) Under the principles of natural justice, any party who is subject to a decision of the Discipline and Appeal Committees has the right to make a representation. Such representation shall include the opportunity for the party to make representation to the Committee, either in writing or in person. Included in such representation shall be the natural right to face an accuser. [Board Motion #75-06-13]
- b) Representation by teleconference shall be at the discretion of the Chair. [Board Motion #75-06-13]
- c) All Discipline and Appeal Committee hearings shall be open to the public, with the final Committee deliberations being held in-camera.
- d) All individuals who may be giving evidence at the hearing, other than the parties to the complaint, shall leave the hearing room until such time as they are called to give their evidence. [Board Motion #16-09-12]
- e) The Chair is responsible for maintaining order throughout the hearing ensuring that each party and witness, if any, is heard without interruption or unnecessary theatrics, and that they address themselves to the Chair and not to the other parties. If one of the parties or their representative consistently interrupts the proceedings or otherwise behaves in a disorderly fashion, they forfeit their right to attend throughout the hearing, and can be ordered to leave the room. [Board Motion #16-09-12]
- f) The Chair of the Discipline or Appeal Committee, as the case may be, may postpone a scheduled hearing when the principles of natural justice are best served by doing so.
- g) Any request by a party to a complaint to postpone a hearing shall reach the Head Office of the CKC at least five (5) days prior to the date fixed for the hearing. [Board Motion #16-09-12]

- h) Any matter before the Discipline Committee in which legal proceedings have been filed in which the outcome may have a direct bearing on the Committee's decision, will be held in abeyance pending the completion of those proceedings. [Board Motion #20-12-16]

7. Recording of Proceedings [Board Motion #16-09-12]

- a) Normally, open sessions of all proceedings will be recorded (no record of the deliberations will be kept or recorded). It is important that the parties present be so advised. No other audio or video recording is to be allowed.
- b) Recordings of disciplinary proceedings shall be retained for five (5) years from the time the file is closed.
- c) If requested a copy of the audio record of the hearing will be provided to a party to the complaint. The applicant will be charged the cost of reproduction of the audio recording.
- d) The Appeal Committee is to be provided with a copy of the audio recording of the Discipline Committee hearing.

8. Guidelines for Penalties

Because the circumstances and individual motives will vary considerably from case to case alleging the same violation, it is not appropriate to establish fixed penalties for specific misconduct. Nevertheless, consistency in applying penalties is important to the demand for procedural fairness and natural justice. Therefore, attached as Appendix 1 is a compilation of what appears to be the generally accepted penalty and administrative costs assessed for the various offences, based on a review of the decisions for the past several years. These should be accepted as guidelines for the Discipline and Appeal Committees, as well as for the Executive Director, and significant variations from these guidelines should only be made if the circumstances warrant. [Board Motion #07-03-13]

9. Publication of Decisions

- a) Action taken by the Discipline Committee and the Executive Director is to be published in The Canadian Kennel Club Official Publication and/or posted to The Canadian Kennel Club's website on an on-going basis and shall include those cases that are under appeal or judicial review. Publication shall include the Complainant and Defendant's name, locale, nature of complaint and the decision of the Discipline Committee. In those cases where a complaint is dismissed, the Defendant will be given the opportunity to have the decision published; however, the Defendant must notify Head Office within thirty (30) days of the date of the decision letter. [Board Motions #16-09-12 and #07-03-13]



- b) All decisions of the Appeal Committee, including dismissals, are to be published in the Official Publication and/or posted to The Canadian Kennel Club's website. [Board Motion #16-09-12]
  - c) When a Committee believes the actions of an individual, organization or club in relation to a matter before it is particularly praiseworthy, it may direct that a suitable commendation be published in the Official Publication and/or posted electronically.
10. Board Notification of Discipline Hearings
- a) For the sake of ensuring that members of the Board are informed and aware of matters before the Discipline and Appeal Committees, each member of the Board shall be provided with a schedule of Discipline and Appeal Hearings before such hearings. [Board Motion #07-03-13]
  - b) Members of the Board shall, at all times, be cognizant of the non-involvement requirement as clearly stated in Section 9.11 of The By-laws.
11. Board Notification of Disciplinary Action
- Each member of the Board shall be provided with the results of matters before the Discipline and Appeal Committees, as well as those matters before the Executive Director; however such results shall only be released to the members of the Board upon all parties first having been formally advised of the results. [Board Motion #07-03-13]
12. Reasons for Decision [Board Motions #16-09-12 and #75-06-13]
- a) Where a decision of the Discipline Committee or Executive Director is appealed or subject to Judicial Review, the Chair of the Discipline Committee or the Executive Director shall prepare a detailed synopsis outlining the reasons for the decision for distribution to all parties to the complaint and to the Appeal Committee or review body.
  - b) Due to the case load and the voluntary nature of the Discipline Committee, a brief summary will be prepared and provided in any case other than those referred to in (a).
13. Interpretations
- a) Participation at Shows and Trials. Any activity directed towards preparing or practising a dog for entry into the ring or field while within the show or trial precincts shall be considered participation in that show or trial. Any individual who has forfeited their right to participate in a show or trial and is found to be engaged in such activity will be subject to disciplinary action.

- b) Misuse of Dogs on Non-Breeding Registration. Any member who knowingly uses a dog or bitch registered on a Non-Breeding Certificate for breeding purposes, or who sells dogs resulting from such a breeding, is in violation of Section 7.2(b) of the Club's By-Laws, and will no longer be eligible for Canadian Kennel Club membership.
- c) Representation of a Dog as Purebred. In order to establish that a dog was represented as purebred at the time of sale it is not necessary that the Bill of Sale, Sales Contract or other proof of purchase explicitly state "purebred" or "Canadian Kennel Club registered". Other evidence such as reference to a tattoo or microchip implant of a form consistent with registration requirements and issued by The Canadian Kennel Club, or provision of a pedigree or the individual registration numbers of the sire and dam can satisfactorily establish that the dog was sold as purebred.
- d) Judging Contracts. If a judge and a club have a written contract (mutual agreement) that the judge will undertake specific assignments, and either party fails to comply (judge does not fulfill assignment or club alters the assignment without the judge's prior agreement) then they may be subject to disciplinary action. However, The Canadian Kennel Club will not, under any circumstances, become involved in disputes over compensation arrangements.
- e) Just Cause. In any instance before the Discipline or Appeal Committees where just cause must be demonstrated, the following definition shall apply:  
  
*"The criterion for establishing 'just cause' is how a reasonable person without personal bias or prejudice would act."*
- f) Misconduct. Behaviour which violates the generally accepted standards of good taste and propriety.

## **B. Discipline Committee**

### **1. Discipline Committee Hearings [Board Motion #16-09-12]**

The procedure for the hearing of a complaint shall be as follows:

- a) The Chair shall call the hearing to order, identify the members of the Committee, the parties present and their representatives, if any, and then ask the witnesses, other than the parties, to leave the hearing room until called to give their evidence.
- b) The Chair shall inform the parties present and their representatives that the hearing is being recorded.
- c) The specific allegations of misconduct that form the substance of the complaint will be stated and the Chair will ask the Defendant whether he admits or denies the allegations.
- d) If the Defendant admits the allegations, the Chair will ask the Defendant whether the Defendant understands that the consequence of admitting the allegations is that the Committee will find that the complaint has been proved, and that the Committee will then proceed to determine the penalty to be imposed. If the Defendant answers in the affirmative, the Chair will state that the complaint has been proved, and will invite the parties to make submissions as to the appropriate

penalty to be imposed. After such submissions, if any, have been completed, the hearing of the complaint will be over and the Committee will conduct its deliberations to determine the penalty to be imposed.

- e) If the Defendant does not admit the allegations, the Committee will proceed to hear the parties' evidence.
- f) The Complainant may then give evidence in support of the complaint and may then be cross-examined by the Defendant or counsel and questioned by any member of the Committee. Witnesses appearing on behalf of the Complainant will then be called, one at a time, to give their evidence following which they may be cross-examined by the Defendant or counsel and questioned by any member of the Committee.
- g) This process will be repeated for the giving of evidence by the Defendant and any witnesses appearing on behalf of the Defendant.
- h) The Complainant and Defendant, in that order, will be given the opportunity to sum up their case.
- i) The Chair shall then announce that the Committee will carefully deliberate on the evidence and arguments presented and render a decision in due course, and that all parties to the complaint will be informed of that decision by mail.

2. Mitigation of Penalty [Board Motions #51-03-12, 49-12-15, 19-12-17]

In extraordinary circumstances, the Discipline Committee may, on written request, grant mitigation of a penalty if it is satisfied that the interests of the Club will best be served by doing so. In those cases involving a decision rendered by the Executive Director, the Discipline Committee will make a determination based on the recommendation of the Executive Director. Except through the appeal process, no decision of the Discipline Committee or the Executive Director will be modified in any other way.

3. Complaints

- a) All complaints submitted directly to the offices of The Canadian Kennel Club must be in the form of a sworn or affirmed affidavit. [Board Motion #16-09-12]
- b) Complaints relating to a show or trial may be submitted directly to the Show or Trial Superintendent in accordance with the rules and regulations governing that particular activity. Such complaints are to be submitted on the form provided by The Canadian Kennel Club, or suitable facsimile.

- c) In accordance with Section 15.1(d) of the Club's By-Laws the complaint fee is set as follows: [Board Motion #34-06-11, #25-12-16]
- (1) for Canadian Kennel Club Members - \$200.00 (plus applicable tax)
  - (2) for Non-Members - \$300.00 (plus applicable tax)
- NOTE: In those cases where the complaint is filed by an established partnership (e.g.: co-breeders or co-owners of a dog), all individuals must be Canadian Kennel Club members in order for membership fees to apply.
- d) Unless the Discipline Committee specifies otherwise in its decision, the following policy will apply with regard to refunding complaint fees: [Board Motion #16-09-12]
- (1) The complaint fee will be refunded if the Discipline Committee finds in favour of the complainant.
  - (2) If a complaint is withdrawn before the Discipline Committee hears it, fifty (50) percent of the complaint fee will be refunded.
- e) Unless the Executive Director deems it to be in the interest of The Canadian Kennel Club to proceed with a complaint, the Discipline Committee has established the following time limitations on accepting formal complaints:
- (1) for complaints alleging a violation of Section 64(a) of the Animal Pedigree Act (i.e.: submitting a registration document containing a material false statement or representation) -- seven (7) years;
  - (2) for complaints alleging a violation of the Codes of Ethics and Codes of Practice – seven (7) years; [Board Motion #28-09-13]
  - (3) for complaints alleging other offences under the Animal Pedigree Act or violations of The Canadian Kennel Club By-Laws -- three (3) years; and
  - (4) for complaints alleging a violation at a show or trial of The Canadian Kennel Club rules or regulations for a violation at that activity related to that show or trial, Canadian Kennel Club licensed, sanctioned or sponsored activities -- ten (10) days, except for:
    - (i) complaints alleging the tendering of a dishonoured cheque or declined credit card in payment of entry fees, in which case the allowable period is one hundred and twenty (120) days from the date of the show, trial or test; and
    - (ii) complaints laid by The Canadian Kennel Club as a result of a show/trial superintendent's report or an investigation conducted by The Canadian Kennel Club, in which case the allowable period is six (6) months;
- f) Complaints which are submitted by mail will be deemed to have been filed with The Canadian Kennel Club on the date on which they are postmarked.
- g) Complaints which are received within the required time frame but in an improper form will be accepted provided they are resubmitted in the proper form within

thirty (30) days from the date of the acknowledgement letter from The Canadian Kennel Club.

4. Delegation to Show and Trial Committees

- a) In the case of complaints filed with Show or Trial Superintendents, in the interests of holding a timely hearing when the parties and witnesses are readily available, the Discipline Committee has delegated to Show and Trial Committees their authority to obtain evidence from the parties and their witnesses. The procedure followed at hearings by Show and Trial Committees must be consistent with that followed by the Discipline Committee. Show and Trial Committees will not render a decision following their hearing, but will submit a complete report to the Discipline Committee of the evidence presented together with their recommendation on the disposition of the case.
- b) The Complainant and Defendant are entitled to be heard in person by the Discipline Committee and produce such evidence and witnesses as they may desire and may at their own expense be accompanied by or represented by a person of their choice. [Board Motion #16-09-12]

5. Falsification of Signatures

Any applications for registration on which it has been alleged that a signature has been falsified should be put on "hold" until such time as the matter has been resolved.

6. Dishonoured Cheques

When a dishonoured cheque is submitted in payment of entry fees, the show- or trial-giving club is to provide The Canadian Kennel Club with the original dishonoured cheque, a photocopy of a registered letter to the Defendant requesting submission of a certified cheque or money order in the required amount within thirty (30) days, and proof such letter was forwarded by registered mail. On receipt of such documentation, The Canadian Kennel Club will lodge a complaint against the individual(s) concerned. Once a dishonoured cheque has come to The Canadian Kennel Club office for action, the case will proceed to a hearing.

7. Complaints Against Club Employees

- a) It is the interpretation of the Board of Directors that a complaint against a Canadian Kennel Club employee concerning anything done or omitted to be done by the employee in the course of his employment involves a matter within the responsibility and authority of the Executive Director under Section 14.1 of The By-laws rather than a contravention of The By-laws, rules, regulations, procedures and policies of the Club within the meaning of Section 15.1 of The By-laws. Such a complaint shall not be heard by the Discipline Committee and immediately upon its receipt, any such complaint shall be referred to the Executive Director and the fee shall be returned to the Complainant. A copy of the complaint shall be provided to the relevant Director.
- b) The complaint shall be promptly investigated by the Executive Director and the Complainant shall be informed of the results of that investigation and, if applicable, of the measures that will be taken to address the complaint. The relevant Director shall be informed of the outcome of the complaint.

8. Interpretation by the Board of Directors

In accordance with The By-laws, the interpretation of any by-law, rule or regulation, as agreed on by the Board of Directors, is final and binding and shall not be put in question before the Discipline Committee or the Appeal Committee. Any disciplinary complaint or appeal that seeks to question an interpretation agreed on by the Board shall be summarily rejected by the Discipline Committee or Appeal Committee, as the case may be.

9. Internal Affairs of Clubs

- a) Until such time as direction and suitable guidance is received from the Board, the Discipline Committee will not consider complaints alleging violation by a Canadian Kennel Club-recognized club or its principals of violation of its Constitution or By-Laws. On receipt of such a complaint, the complaint fee is to be refunded and the Complainant advised that the matter is not within the jurisdiction of the Discipline Committee. [Board Motion #40-09-12]
- b) Show or trial-giving clubs should not accept cheques in payment of entry fees drawn on the accounts of individuals who are deprived, suspended, expelled or debarred of the privileges of The Canadian Kennel Club.

10. Complaints Against Judges

In cases where a judge is found to have breached accepted judging procedure, the Discipline Committee shall consider ordering that observers be placed on at least the next two of the offending judge's assignments.

11. Participation in Canadian Kennel Club Events [Board Motion #16-09-12]

An individual who has forfeited the right to participate in Canadian Kennel Club events because of failure to pay assessed administrative costs within thirty (30) days of notice will have privileges reinstated upon full payment for the assessed costs being received at the Head Office of The Canadian Kennel Club, provided, of course, that no disciplinary penalty remains in effect. Non-members are required to pay by certified cheque or money order.

12. Contractual Matters

The Discipline Committee will not entertain complaints that involve contractual agreements between parties in which there is no allegation of a violation of the Animal Pedigree Act, the Club's By-Laws or its rules and regulations for Canadian Kennel Club activities. Any such complaints shall be refused by The Canadian Kennel Club Head Office and the complaint fee returned along with a comment stating that the Complainant may wish to consider seeking redress in civil court.

13. Ear-Cropping

It is the policy of The Canadian Kennel Club that all ear-cropping of dogs only be performed with the use of a general anesthetic. Any person(s) alleged to have performed or to have caused to be performed or to have participated in the ear-cropping of any dog after January 1, 1995, without the use of a general anesthetic shall be subject to disciplinary action, and could be debarred from all Canadian Kennel Club events for life.

14. Cruelty to Animals

Any individual convicted of cruelty to animals will be automatically debarred from all CKC events until such time as the Board of Directors provides for future participation. The names of such individuals are to be added to the Summary of Disciplinary Proceedings.

**C. Appeal Committee**

1. Notice of Appeal

- a) When the parties to a complaint are notified of the decision of a decision-making committee they are to be advised of their right to appeal and of the procedural requirements for the proper notification of any appeal, and will be provided with a Notice of Appeal form.

- b) The Notice of Appeal form will require the Appellant to state: [Board Motion #07-03-13]
- (1) That the decision of the Executive Director or decision-making committee is being appealed on one (1) or more of the following grounds:
- (i) the Executive Director or decision-making committee erred in its finding;
  - (ii) new evidence, which could not have been made available to the Executive Director or decision-making committee at the time of its hearing and which could have influenced the decision of the committee, has become available;
  - (iii) the penalty imposed by the Executive Director or decision-making committee is inappropriate for the nature and extent of the misconduct involved; and/or
  - (iv) the Executive Director or decision-making committee failed to follow the proper procedure {or demonstrated bias so compromising the Appellant's right to a fair hearing}; and

NOTE: The wording shown in parenthesis is applicable only to decisions rendered by the Discipline Committee and the Registration Committee since the Executive Director is not required to hold hearings. [Board Motion #57-06-17

- (2) The substance of the argument supporting the appeal in sufficient detail to allow the Committee to deal properly with the issues raised.

## 2. Appeal Fee

- a) In accordance with Section 15.2(d) of the Club's By-laws the appeal fee is set at \$350.00 (plus applicable tax) for Members; and \$500.00 for non-members (plus applicable tax). [Board Motion #34-06-11, #25-12-16]
- b) Unless the Appeal Committee specifies otherwise in their decision, if an appeal is allowed in whole, the appeal fee will be returned to the Appellant. [Board Motion #16-09-12]
- c) If an appeal is withdrawn before the Appeal Committee hears it, fifty (50) percent of the appeal fee will be refunded. [Board Motion #16-09-12]

## 3. Location of Hearing

Under Section 15.2(g) of the Club's By-laws the location of any appeal hearing is at the discretion of the Chair of the Appeal Committee and will normally be held at the Head Office.

## 4. Admissibility of Evidence at an Appeal Hearing

- a) Unlike the provisions for a hearing by a decision-making committee (i.e. the Discipline or Registration Committees) or those complaints that come before the Executive Director in accordance with Section 15.1 of The By-laws, in which the parties have the right to "produce such evidence and witnesses as they may



desire", the introduction of new evidence or the calling of witnesses by the parties at an appeal hearing is at the discretion of the Appeal Committee. The Appeal Committee will have before them all the documentary evidence that was available to the decision-making committee or the Executive Director. The failure of one of the parties to submit to the decision-making committee or the Executive Director evidence which could reasonably have been presented, and which might have altered the finding, is not sufficient cause to overturn the finding. The introduction of new evidence by one of the parties should only be permitted by the Appeal Committee if it is first established that this evidence could not reasonably be made available to the decision-making committee or the Executive Director. Similarly, the calling of witnesses should only be allowed if either: [Board Motion #07-03-13]

- (1) the witness appeared personally before the decision-making committee and the testimony is directly relevant to the substance of the appeal; or
  - (2) the witness can present new evidence which could not reasonably have been presented to the decision-making committee.
- b) An appeal hearing is not a "trial de novo"; it is, rather, a hearing to determine whether or not there is just cause to overturn the finding of the decision-making committee or the Executive Director, or to alter any penalty imposed. The onus is on the Appellant to convince the Appeal Committee that the decision-making committee or the Executive Director has erred. Arguments presented by the parties to the complaint during the appeal process should, therefore, be limited to this aspect, and the Appeal Committee must not allow the proceedings to become a retrial. [Board Motion #07-03-13]
- c) That a witness could not present evidence to the decision-making committee because of the cost of travel to the location of the hearing, or because of another commitment on the date of the hearing, is not an acceptable argument that evidence could not have been made available to the decision-making committee; a written statement could have been submitted.

#### 5. Procedure for an Appeal Hearing

- a) The Chair shall call the meeting to order, identify all participants present and the reasons for their presence, and then ask any witnesses to withdraw until called to give their evidence should the Committee give leave for them to do so.
- b) The Chair shall advise the parties present and their representatives that the proceedings are being recorded.

- c) The Chair will identify the case under appeal and confirm that all parties have received copies of the decision letter of the decision-making committee or the Executive Director, the Notice of Appeal and the reasons for the decision of the decision-making committee or the Executive Director. Should any party claim not to have received them, they are to be provided with copies and given an opportunity to read them. [Board Motion #07-03-13]
- d) The Chair will remind the parties present that the hearing is not a trial de novo.
- e) The Appellant will then be invited to state his case for the appeal. If leave has been granted to introduce witnesses, each witness will be called in turn to give their evidence individually, and may be questioned by the other parties or any Committee member.
- f) At the invitation of the Chair, the Appellant may then be questioned by each of the other parties and/or Committee members.
- g) The above procedure for hearing the Appellant will then be repeated for each of the other parties present.
- h) After all parties have been heard, each party in turn, concluding with the Appellant, is to be invited to sum up their case for dismissing or allowing the appeal.
- i) The parties will then be advised that they will be notified by mail of the decision of the Appeal Committee, and dismissed.

6. Report of Reasons for Decision

For each case in which an appeal is heard, the Chair of the Appeal Committee will submit a statement of the reasons for the Committee's decision to the Appellant and Respondent as well as to the chair of the decision-making committee or the Executive Director. [Board Motions #16-09-12 and #07-03-13]

## PROCEDURE RE001 -- Administration of Regulatory Process

1. Agendas
  - a) Discipline Committee members are to be provided with copies of complete files in agenda form with numbered pages. [Board Motion #07-03-13]
  - b) The agenda should reach Committee members a minimum of eight (8) days prior to the meeting, but earlier if possible.
  - c) The Executive Director is to be provided with copies of complete files for first alleged offences relating to the non-delivery of certificates of registration. [Board Motion #07-03-13]
2. Evidence
  - a) In accordance with Section 15.1(c) of The By-laws, Head Office will ensure that all parties to a complaint are fully cognizant of the evidence that is before the Discipline Committee or the Executive Director. [Board Motion #07-03-13]
  - b) In the case of written evidence received from either party to a complaint, Head Office will copy the submission and forward it to the other party. [Board Motion #07-03-13]
  - c) In the case of audio or video evidence, the party submitting such evidence will be required to provide a duplicate copy of the audio or video recording and Head Office will forward it to the other party.
3. The Laying of Canadian Kennel Club Complaints
  - a) In the matter of complaints laid by The Canadian Kennel Club, The Canadian Kennel Club shall not be acting as a representative for the initial Complainant but rather on its own behalf against those who have violated the Animal Pedigree Act and/or the Club's By-Laws, rules or regulations. Therefore, once The Canadian Kennel Club lays a charge, the initial Complainant has no other status than as a witness and if The Canadian Kennel Club wishes to call the initial Complainant as a witness, it will do so. [Board Motion #07-03-13]
  - b) Head Office will advise the initial Complainant in a Canadian Kennel Club charged complaint of the decision of the Discipline Committee after they are reasonably satisfied that the parties to the complaint have received their notification.
  - c) When The Canadian Kennel Club lays charges under the Club's By-Laws reference should also be made, where appropriate, to the relevant section of the Animal Pedigree Act.
  - d) When The Canadian Kennel Club is laying charges in a non-delivery matter, all co-owners of the dog in question at the time of sale are to be named as co-defendants in the charge. If the seller is a kennel, pet shop or other business entity, then all owners of the business as well as the business itself should be named in the charge, if possible.

- e) When The Canadian Kennel Club is laying charges against an individual for failing to submit breeding records for inspection, the individual is to be charged with failing to maintain proper breeding records. The By-Laws provide that failure to produce breeding records when required to do so shall be deemed an admission that such records have not been kept, and a breeder can be deprived or suspended under Section 61(b)(i)(C) of the Animal Pedigree Act for failure to keep proper breeding records.
4. Complaints Against The Canadian Kennel Club
- The Discipline Committee cannot hear complaints against the Club. Should such a complaint be received, The Canadian Kennel Club Head Office is to return the complaint fee and refer the complaint to the Executive Director for consideration.
5. Decisions of the Discipline Committee [Board Motion #75-06-13]
- a) Any decision letter involving a suspension or deprivation must note that the party in question has contravened the provisions of the Animal Pedigree Act or the Club's By-laws relating to registration, identification or keeping of Private Breeding Records.
  - b) In the event that documentary evidence is received by the Head Office after a Committee has rendered a decision on a case, the originator is to be advised that the material arrived too late, and that the case will not be re-heard.
  - c) The Chair will provide Head Office staff with the Committee's decisions, signed by the Chair, before leaving the meeting. Head Office staff is responsible for mailing decision letters in such a manner that there will be proof of receipt by the Complainant and Defendant. [Board Motion #07-03-13]
6. Canadian Kennel Club Head Office Responsibilities [Board Motion #51-12-18]
- a) Discipline Committee
    - (1) The Head Office is to review all complaints received to ensure that they are lodged against the proper person, are consistent with the requirements of Section 15 of the Club's By-Laws, are in the correct form, are accompanied by the required fee and are within the time period prescribed in the Time Limitations policy, and is to reject all complaints improperly submitted. All rejections are to include advice on the correct procedures and requirements. Where the complainant disputes the procedures, the matter is to be referred to the Executive Director for resolution. Where the Executive Director is unable to resolve the matter, the Executive Director shall refer the matter to the Discipline Committee for a ruling, after giving both the Complainant and the Club the opportunity to make written submissions, as to whether the Complainant has followed the correct procedures and requirements. If the Discipline Committee rules that the Complainant has not followed the correct procedures or requirements, the Complainant shall be given a further fifteen (15) days to comply with the proper procedures and requirements, failing which the complaint will be considered void.
    - (2) Upon receipt of a formal complaint properly submitted, the Head Office is to immediately forward a "Notice of Complaint", enclosing a copy of the complaint to the Defendant as well as advice that an Answer Form is available on the CKC website or, alternatively, that the form may be obtained by contacting Head Office. This Notice is to mention that both parties to the complaint will receive a minimum of thirty days' notice of hearing, and is to be mailed in such a manner that there will be proof of receipt by the Defendant. [Board Motion #48-12-15]

(3) In those instances where a purchaser who has initiated a non-delivery complaint does not respond to letters from the Head Office, the file is to be closed without further disciplinary proceedings.

b) Appeal Committee

(1) The Head Office is to review the Notice of Intention to Appeal and the Statement of Grounds of Appeal received to ensure that they are in the form prescribed by the Appeal Committee, are consistent with the requirements of Section 15 of the Club's By-Laws and are accompanied by the required fee. Head Office is to reject all appeals improperly submitted. All rejections are to include advice on the correct procedures and requirements.

(2) In those instances where an Appellant fails to provide sufficient information of the grounds for the appeal on the Statement of Grounds of Appeal to permit the Appeal Committee to deal properly with the issues raised, Head Office will provide the Appellant with fifteen (15) days from the date of the acknowledgement letter from The Canadian Kennel Club to submit a properly completed Statement of Grounds of Appeal.

(3) Where the Appellant disputes the procedures, the matter is to be referred to the Executive Director for resolution. Where the Executive Director is unable to resolve the matter, the Executive Director shall refer the matter to the Appeal Committee for a ruling, after giving the Appellant, the Club and the Respondent the opportunity to make written submissions, as to whether the Appellant has followed the correct procedures and requirements. If the Appeal Committee rules that the Appellant has not followed the correct procedures or requirements, the Appellant shall be given a further fifteen (15) days to comply with the proper procedures and requirements, failing which the appeal will be considered void and will be administratively dismissed by Head Office.

7. Meetings

The Chairs of the Discipline and Appeal Committees are to avoid calling meetings at the same time or at the same time as Board meetings as there is a conflict in that staff attendance and the same facilities (e.g.: recording equipment) are required at both meetings.

8. Notice of Hearing

The Notice of Hearing of Complaint is to include a reminder of the provisions of Section 15.1(g) of the Club's By-Laws, and specifically point out that electronic submissions cannot be accepted. [Board Motion #07-03-13]

9. Administrative Costs

If an individual against whom administrative costs have been assessed contacts The Canadian Kennel Club offices before the thirty (30) day suspense period following notice has expired, and pleads financial hardship, the Head Office may agree to a prolonged payment schedule. In such cases, the individual will forfeit only the right to enter any dogs owned or co-owned by them in shows and trials, and will be free to participate in other capacities. However, should the individual be in default of any payment, all rights to participate in shows or trials will be forfeited immediately until the assessed costs have been fully paid.

10. Judicial Review

a) When served with notice that a judicial review is underway, the members of the Board, Discipline Committee and Appeal Committee shall be notified by Head Office.

- b) Upon the advice of legal counsel, the Executive Director will determine whether or not it is appropriate for the penalty to be stayed and the members of the Board, Discipline Committee and Appeal Committee will be notified by Head Office.

11. Non-Purebred Dogs

When it is alleged that a dog sold as purebred is non-purebred, an Examining Committee is to establish whether or not the dog is purebred by virtue of its physical appearance before any disciplinary proceedings are initiated.

12. Provision of Certificate

- a) The certificate of registration for any dog which is the subject of a non-delivery file will be forwarded directly to the new owner, with a copy to the delinquent seller(s).
- b) If the seller of a purebred dog cooperates with Head Office in the provision of a certificate of registration, the file is to be considered closed unless the new owner chooses to lay a complaint in accordance with Section 15.1(c) of The By-laws.
- c) If the seller is the subject of multiple complaints, the Executive Director may consider laying a complaint in accordance with Section 15.1(c) of The By-laws.

13. Show/Trial Committee Hearings

- a) The rules of natural justice are well served if a hearing of a complaint can be conducted when all parties and witnesses can appear in person and events are fresh in everyone's mind. The Discipline Committee has, for this reason, for show and trial related complaints, delegated its authority to gather evidence and hear the parties and their witnesses. In support of this policy, therefore, show- and trial-giving clubs are urged to:
  - (1) encourage potential Complainants to file their complaints with the Show or Trial Superintendent, rather than directly with The Canadian Kennel Club, to enable a hearing to be held as soon as possible after the incident;
  - (2) ensure that hearings held by Show or Trial Committees are conducted in an objective manner, and according to the procedures set out in the appropriate rules and regulations; and
  - (3) forward copies of the Committee's report of the hearing and recommendations to the parties to the complaint in addition to The Canadian Kennel Club.
- b) Upon receipt of a report on a Show or Trial Committee hearing, a letter is to be forwarded to both the Complainant and Defendant informing them that the Discipline Committee will hear the complaint and they are entitled to be heard in person and produce such evidence and witnesses as they may desire and may at their own expense be accompanied by or represented by a person of their choice. [Board Motion #07-03-13]
- c) In any case in which a hearing was held by a Show or Trial Committee, a copy of the Decision of the Discipline Committee will be forwarded to the show or trial-giving club who heard the complaint. The copy of the letter will be forwarded to the club official who submitted the complaint to The Canadian Kennel Club.

14. Judges

- a) Whenever a judge reports being approached by an exhibitor to favour his or her dog a complaint is to be laid by The Canadian Kennel Club against the offending individual(s).

- b) Indignities to a judge are of sufficient importance to require positive action from the Show Superintendent. The show-giving club should be the originator of the complaint in such cases. Whenever possible, a written statement from the judge should be included in support of the complaint. The complaint fee will be waived for such complaints.

15. Mistreatment of Animals at Canadian Kennel Club Events

The Discipline Committee has had before it a number of complaints regarding cruelty to animals in which the incidents took place outside the defined show precincts of a show-giving club. It is the view of the Discipline Committee that such incidents are the responsibility and concern of every member of The Canadian Kennel Club and cannot be ignored on the grounds of lack of jurisdiction. The Discipline Committee recommends that any club that has such an incident brought to its attention, whether inside or outside the show precincts, should immediately contact the local SPCA or similar organization and the local police. Cruelty to animals, if proven, is a criminal offence.

16. Notice to Show- and Trial-Giving Clubs

The Discipline Committee may request the Head Office to forward to Show- and Trial-giving clubs, on a regular basis, a notice regarding disciplinary matters for the attention of Show or Trial Superintendents. The contents of any such notice are to be reviewed by the Committee periodically.

17. Participation

Once The Canadian Kennel Club has been notified and has obtained satisfactory evidence that a person has been participating in Canadian Kennel Club events after having forfeited their right to do so, Head Office will automatically proceed with charges. Once such a charge has proceeded through the Discipline Committee, if the Committee directs that all wins be cancelled for dogs handled by that person, then a notice should be published in the Official Publication and/or posted electronically, requesting show secretaries to submit any documentation regarding dogs handled by this person.

**PROCEDURE RE002 – Ineligible to Advertise on Puppy List [Board Motion #41-12-15]**

1. Where a member is suspected of having failed to adhere to the conditions of membership as prescribed in The By-laws, Head Office will immediately contact the member, provide the evidence, and ask the member for a response within a period of ten (10) days from the date of the letter. The notice would warn the member that (i) failure to respond within the ten (10) day period may result in the member being deprived of the right to use the Puppy List, and (ii) following any response by the member, the Club will make a decision on the member's continuing right to use the Puppy List and inform the member of the decision.
2. If a response is not received within the ten (10) day period, the Club would consider the matter and then make a decision. The decision would be communicated to the member along with brief reasons for the decision.
3. All such cases will be referred to the Discipline Committee and the Discipline Committee shall have the authority to review the decision to deprive the member of the right to use the Puppy List.



## REGULATORY

### APPENDIX 1 -- Discipline Penalty Guidelines [Board Motions #50-03-12 & 33-03-14]

<u>Offence</u>	<u>Penalty and Assessed Costs</u>
<b>Membership</b>	
a) Engaging in the breeding, buying, or selling of non-purebred dogs.	Termination of membership for a period of one (1) to five (5) years. Administration costs up to \$250.00
b) Violation of Code of Ethics/Code of Practice.	Termination of membership for a period of one (1) to ten (10) years. Administration costs up to \$250.00.
c) Cruelty to animals.	Termination of membership for life.
<b>Registration</b>	
a) Failure to provide certificate (certificate still not provided at time of decision). This includes failure to identify a dog prior to leaving the premises of the owner at birth which renders a dog ineligible for registration unless the breeder undergoes parentage testing of the parents and offspring to facilitate registration.	Suspension or deprivation for a minimum period of ninety (90) days and continuing until such time as either the dog is registered or, alternatively, if the dog is registered on a hardship basis, the purchaser is reimbursed for the cost of registration. Administrative costs -- \$150.00 members; \$250.00 non-members.
b) Failure to provide certificate within six months from the date of sale, but the certificate was provided prior to the hearing taking place.	Reprimand and/or warning. Administrative costs -- \$100.00 members; \$150.00 non-members.
c) Offer to sell, contract to sell or sell as purebred a dog not registered or eligible to be registered.	Termination of membership (if a member) and deprivation for a period of up to five (5) years; an individual selling a dog while under suspension/deprivation will receive a more severe penalty. Administrative costs up to \$250.00.
d) Knowingly presenting an application containing material false statement.	Termination of membership (if a member) for a period of one (1) to ten (10) years. Deprivation for a period of up to five (5) years. Administrative costs up to \$250.00.
e) Failure to submit satisfactory breeding records.	Suspension or deprivation for a minimum period of ninety (90) days and continuing until such time as records are provided. Administrative costs -- \$150.00 members; \$250.00 non-members.

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| f) Failure to maintain satisfactory breeding records.  | Varies from a reprimand and warning to suspension/deprivation of privileges. Administrative costs --\$150.00 members; \$250.00 non-members.   |
| g) Charging extra for certificate.   | Reprimand and warning. Administrative costs -- \$100.00 members; \$150.00 non-members.  |
| h) Failure to comply with the demand to submit official DNA test results. [Board Motion #47-09-15] | Suspension or deprivation for a minimum period of one (1) year and continuing until such time as the DNA test results are provided. Administrative costs -- \$150.00 members; \$250.00 non-members. |

### Shows & Trials

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| a) Tendering dishonoured payment for entry fees. | Debarment for a minimum period of ninety (90) days and continuing until such time as the show-giving club is reimbursed. Cancellation of any wins and prizes, ribbons or trophies must be returned to the show-giving club. Exclusion of the dog(s) so entered from future shows/trials until the show-giving club is reimbursed. Administrative costs up to \$250.00. |
| b) Improper judging procedures.                  | Varies from a reprimand to suspension of judging privileges for a specified period of time. Administrative costs up to \$400.00.   |
| c) Subjecting a judge to an indignity.           | Debarment for a period of ninety (90) days. Administrative costs -- \$100.00 members; \$150.00 non-members.  |
| d) Subjecting a show official to an indignity.   | Debarment for a period of ninety (90) days. Administrative costs -- \$100.00 members; \$150.00 non-members.  |
| e) Misconduct.                                   | Reprimand to debarment for a period of ninety (90) days. Administrative costs up to \$300.00.  |
| f) Physical abuse of a dog.                      | Debarment for a period of ninety (90) days or more. Administrative costs up to \$300.00.   |
| g) Failure to honour signed judging contract.    | Reprimand. Administrative costs of \$400.00.   |
| h) Attempting to influence a judge.              | Termination of membership (if a member) for a period of one (1) to three (3) years and debarment for a period of one (1) year. Administrative costs up to \$300.00.  |
| i) Dog exhibiting viciousness.                   | Exclusion of dog from further shows/trials until   |

	such time as an Examining Committee set up for the purpose is satisfied that the dog is no longer a threat to other exhibitors, spectators or dogs.
j) Participation in a CKC sanctioned event while ineligible to participate.	Debarment for a period of six (6) months. Cancellation of any wins. Administrative costs -- \$150.00 members; \$250.00 non-members.
k) Clubs failing to provide Premium Lists and/or Judging Schedules to CKC. [Board Motion #35-03-17]	Varies from a warning to a reprimand. Administrative costs of \$250.00.
l) Failure of show-giving club to conduct a Dog Show Committee hearing.	Reprimand. Administrative costs of \$400.00.
m) Failure of show-giving club to provide advertised prizes.	Suspension of club recognition until prizes provided. Administrative costs of \$150.00.
n) Knowingly presenting an entry form containing a false statement.	Debarment for a period of up to five (5) years. Cancellation of any wins. Administrative costs of \$300.00.
o) Club holding a show on a date not approved.	Reprimand. Administrative costs up to \$250.00.
p) Refusal of entries without just cause. [Board Motion #26-03-16]	Reprimand. Administrative costs of \$400.00
q) Violation of Code of Ethics for Judges. [Board Motion #24-12-16]	Varies from a reprimand to cancellation or suspension of judging privileges for a specified period of time. Administrative costs up to \$250.00

Note: Penalties indicated are for first offences. Subsequent infractions, not necessarily of the same offence, will carry penalties of increasing severity.



