

**BY-LAWS OF  
THE NEW ZEALAND KUNG-FU WUSHU FEDERATION INCORPORATED**



## **NZKWF By-Law Unanimously Adopted at the 2008 AGM**

### **Discipline Guidelines and Procedures:**

#### **Disciplining of Members**

A member as defined in the Federation's Constitution i.e. Constituent Club and its members, Individual (Club) and its members, Individual Student and all other categories of Individual membership.

1. A complaint may be made to the Executive Committee by any person, that a member of the Federation:
  - a. has refused or neglected to comply with a provision or provisions of these rules, or
  - b. has offered to bribe, or accept a bribe from, any other person.
  - c. has acted in a manner prejudicial to the interests of the Federation. This is described as 'Conduct Prejudicial' and shall be seen as conduct, which includes words, which is or may be reasonably seen as being prejudicial to the interests of the Federation, or likely to bring the art or sport of the Chinese martial arts, which shall include but not be restricted to kung fu/wu-shu/ tai-chi and/or the Federation into disrepute.
  - d. has fraudulently misrepresented, either verbally or in writing, any information which is likely to either mislead or deceive a person authorised by the Federation, or another member, or a competitor at an event sanctioned by the Federation.
  - e. has by words, acts, or omissions abused, intimidated or threatened any other person.
  - f. has engaged in conduct amounting to vilification of, or discrimination against, any person on the basis of their gender, race, religion or sexual orientation.
2. On receiving such a complaint, the Executive Committee:

will consider whether an initial investigation is to be conducted where appropriate i.e. a 'short form' process, that enables the Executive Committee to have an initial look at the complaint to see what the level of severity is i.e. a low level complaint should not unnecessarily tie up resources and may be dealt with outside the formal Discipline process.
3. Where the Executive Committee so decides that the complaint is of sufficient severity, the Executive Committee:
  - a. must cause notice of the complaint to be served on the member concerned; and
  - b. must give the member at least 14 days from the time the notice is served within which to make submissions to the Executive Committee in connection with the complaint, and

- c. must take into consideration any submissions made by the member in connection with the complaint, and
  - d. may refer the matter to a sub-committee formed to deal with the complaint, this sub-committee will be titled 'The Ethics Committee'.
  - e. may suspend without prejudice the member or individual from any post held by them or their association and/or their membership to the Federation pending the outcome of any hearing(s).
4. The Executive Committee may, by resolution, expel the member from the Federation or suspend the member from membership or apply some other penalty in accordance with 'Applicable Penalties' if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.
5. If the Executive Committee expels or suspends or applies some other penalty to a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under "Appeal of Decision".
6. The expulsion or suspension or other penalty does not take effect:
  - a. until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
  - b. if within that period the member exercises the right of appeal, unless and until the Appeal's Committee confirms the resolution,which ever is the later

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### **Appeals Guidelines and Procedures:**

#### **Right of Appeal of Disciplined Member**

- (1) A member may appeal to the Federation at a meeting of the Appeal Committee (so appointed by the Executive) against a resolution of the Executive or Ethics Committee under this rule, within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under clause (1), the Secretary must notify the Executive or Ethics Committee, which is to convene a meeting of the Appeals Committee to be held within 28 days after the date on which the Secretary received the notice.
- (4) At a meeting of the Appeals Committee convened under clause (3):
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the Executive or Ethics Committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the Appeal Committee members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) If at the Appeals Committee meeting a special resolution is passed in favour of the confirmation of the resolution, the resolution is confirmed.

#### **Representation**

- (1) At any Hearing, Committee Enquiry, Meeting or Appeal a person attending or making a written submission:
  - (a) must state their case in person
  - (b) if under eighteen years of age, may, at their request, be assisted by an adult
  - (c) will not be entitled to be assisted, have present or be represented at any in any circumstances, by a person who is, or was, a legal practitioner

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### **Ethics Committee Guidelines and Procedures:**

#### **General Procedures at Ethics Committee Enquiries**

##### **1.1 Evidence**

The Ethics Committee is not bound by the rules of evidence or by practices or procedures applicable to persons exercising a judicial capacity in any court, but may inform themselves as to any matter in any manner as they may see fit in all the circumstances.

##### **1.2 Decision**

At the conclusion of an Enquiry, the Ethics Committee will:

- (a) in arriving at any decision, ensure that it is consistent with that which a reasonable person could conclude on the evidence or information available at the Enquiry, and
- (b) subject to 'Applicable Penalties' impose such penalties and make such orders and give such directions as they may, in their absolute discretion, reasonably think fit.

##### **1.3 Decision Binding**

All persons affected by or concerned in an Enquiry will be bound by the decision of the Ethics Committee, subject only to rights of Appeal.

##### **1.4 Decision in Absentia**

At any Enquiry if a person, or a person's witnesses, fails to attend at the time and place of the Enquiry or does not lodge a requested written submission within the requested time, for whatever reason, in their absence the Ethics Committee may conduct the Enquiry and make their decision in the absence of those parties.

##### **1.5 Validity of Enquiry and Decision**

Any procedure or requirement regulating an Enquiry will be regarded as a guideline only, and any decision of the Ethics Committee is not invalid by reason of a procedure or requirement not being fulfilled.

##### **1.6 Inform Person/s Involved**

- (a) All persons required by the Ethics Committee that are directly involved in an Enquiry will be given reasonable notice to attend the Enquiry or to make a written submission to the Enquiry.
- (b) The Ethics Committee will inform person/s present of the subject of the Enquiry.

**1.7 Cost**

The Federation and its convening committees are not responsible for any costs to those called before a hearing, in anyway howsoever incurred.

**1.8 Opportunity to be Heard**

At an Enquiry, the Ethics Committee will provide a person, against whom a breach of the Rules is alleged, with an opportunity to be heard and to give evidence, ask questions and make submissions.

**1.9 Impartiality**

The Ethics Committee will conduct all Enquiries and make all decisions in good faith and in an unbiased manner.

**1.10 Reasons for Decision**

- (a) As far as is practical, at the conclusion of all Enquiries the Ethics Committee will give reasons for their decision.
- (c) After a Enquiry has concluded, the Ethics committee may, at its sole discretion, provide written reasons for the decision to the person/s directly affected.

**1.11 Member must comply**

To facilitate the conduct of an Enquiry a member must;

- (a) upon receiving any notice to attend an Enquiry, appear at the time and place notified or provide a written statement within the time requested.
- (b) fully co-operate in good faith with the Ethics Committee at the Enquiry;
- (c) provide a full and truthful account of matters within their knowledge to the Enquiry;
- (d) fully and truthfully answer any questions;
- (e) at the request of the Ethics Committee produce any document, image, videotape or any other thing in their possession or under their control;
- (f) not make any false or misleading statement to, or make a statement either calculate or likely to mislead, the Enquiry.

**1.12 Influencing witnesses**

It is expressly forbidden for any person directly or indirectly to influence any person who is, or ought reasonably to be regarded as, required to:

- (a) assist or provide information to a Enquiry, or

- (b) appear or give evidence at any Enquiry, and if any person influences or attempts to influence another person's evidence or information which may be required at any Enquiry, then that first person will be deemed to have committed a breach of these Rules.

**1.13 Sub-Judice**

No person or entity is permitted to comment to any other person or entity on the proceedings of, or any evidence or information given to, any Enquiry until such Enquiry is completed and the decision of the Ethics Committee has been released.

**1.14 Sources of Offences**

A person commits an offence, and may be dealt with by the Ethics Committee if that person breaches any of these Rules.

**1.15 Extent of Jurisdiction**

Unless otherwise specified in these Rules, the Ethics Committee will at any time only have jurisdiction to conduct an Enquiry into an alleged breach of these Rules and into any matter that relates in any way to the Federation.

**1.16 Liability and Responsibility for Offences and Attempts**

- (a) A person will be deemed to be liable for an offence if the Ethics Committee determines that the act or omission constituting the breach of the Rules was committed, or was attempted to be committed by the offender in person; or
- (b) by another person who was counseled or procured by the offender to do, or attempt to do, the act or make the omission; or
- (c) by another person who counseled or procured the offender to do, or attempt to do, the act or make the omission; and this Rule and each of the offences in these Rules will be construed and interpreted accordingly.

**1.17 Applicable Penalties** (Refer also "Disciplining of members")

The Ethics Committee may impose any penalties set out herein:

1. expulsion from the Federation,
2. suspension of Federation membership for a period so determined by the Ethics Committee,
3. removal from any office held within or directly related to the Federation for a period determined by the Committee,

4. a public apology in the form so determined by the Committee,
5. a censure or a warning,
6. or at their discretion, may impose any penalties within the spirit of these Rules that they see fit in the circumstances.

**1.18 Enquiry on Penalty**

Where the Ethics Committee determines an offence has been committed, before imposing any penalty the Ethics Committee shall:

- (a) give the offender the opportunity to make submissions on penalty, including any mitigating circumstances which may bear on the extent of the penalty which may be imposed; and
- (b) give any member affected by the offence the opportunity to make representation and submissions on the subject of penalty and said member may request that the Ethics Committee apply any of the penalties able to be applied under these Rules.

**1.19 Take into Account**

- (a) The Ethics Committee must have regard to the most appropriate penalty or penalties and should take into account the following factors in assessing any penalty to be imposed:
  - (c) whether the offender made an early admission of a breach of the Rules or whether the Ethics Committee found against them following a Enquiry,
  - (d) if the offender sought personal or financial advantage from the offence,
  - (e) any other aggravating or mitigating factors,
  - (e) any previous breaches of the Rules,

**1.20 Reasons**

The Ethics Committee may, but will not be obliged to, give reasons for the imposition by them of any penalty.

**1.21 Multiple Penalties**

The Ethics Committee may impose one or more of the specific penalties applicable under these Rules.

**1.22 Suspended Operation of Penalty**

After imposing any penalty, the Ethics Committee has the power to suspend its operation, in part or full, on such terms as they see fit.