

DISCIPLINE, COMPLAINTS AND INTERNAL DISPUTE RESOLUTION MECHANISM (IDRM POLICY)



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Responsible:

Headquarters Abu Dhabi

e-mail: mail[at]jjif.org

P.O. Box 110006

Abu Dhabi

United Arab Emirates

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1. POLICY STATEMENT

1.1 Any breaches of JJIF Statutes, by-laws and policies (in particular those related to the Code of Conduct) shall be handled using the following procedures.

1.2 JJIF will, through the use of this procedures, provide a mechanism to review and dispute decisions made by or on behalf of JJIF and to effectively resolve disputes with its members and avoid the harm of litigation.

1.4 This policy is to be considered as general dispute resolution mechanism and it is complementary to other procedures and mechanisms within JJIF, which may have and follow specific procedures and mechanisms within their own rules and by-laws.

1.5 Internal Dispute Resolution Mechanism is applicable for JJIF, JJCU, JJNO, affiliated regional organisations and clubs, members of regional organisations and JJCU, including, but not limited to individuals (natural persons), elected or appointed officials, coaches, referees and athletes thereof.

2. DEFINITIONS

2.1 Internal Dispute Resolution Mechanism (IDRM): A series of processes that are alternatives to litigation. IDRM processes include prevention, negotiations, mediation, facilitation and arbitration. The goals of an IDRM system are to:

- a) Reduce time and costs for dispute resolution;
- b) Maintain or improve disputants' relationships;
- c) Ensure that the outcome of the system is workable, durable and implementable; and
- d) Develop a process that people can learn from.

The two most common forms of IDRM are mediation and arbitration.

2.2 Arbitration: Is a dispute resolution process in which disputes are submitted to a neutral adjudicator through presentation of evidence and arguments. The arbitrator is empowered to render a binding decision.

2.3 Arbitrator: The role of the arbitrator will be to decide the dispute.

2.4 Mediation: Is a collaborative process in which two or more parties meet and attempt, with the assistance of a mediator, to resolve issues in dispute between them.

2.5 Mediator: Is a neutral and impartial facilitator with no decision-making power who assists parties in negotiating a mutually acceptable settlement of issues in dispute between them (the representative may be any individual employed by, or engaged in activities on behalf of, JJIF including: employees, contract personnel, volunteers, researchers, Executive Board members, Directors, Managers, Commission and Committee members, and administrators).

3. PRINCIPLES

3.1 JJIF believes in the right to access an independent alternative dispute resolution process.

3.2 JJIF believes an alternative dispute resolution process will strengthen the transparency and accountability of the organization.

3.3 JJIF believes that independent alternative dispute resolution processes are equitable to all participants.

3.4 JJIF believes that an effective alternative dispute resolution system offers a low-cost mechanism that can lead to a quick and efficient resolution to disputes.

3.5 JJIF believes in a concept of a natural justice, presented through (when applicable):

a) a fair hearing:

- o notice of the hearing date, time and place
- o notice of the alleged breaches, in as much specific detail as possible
- o the right to appear, produce evidence and have it considered
- o the right to not face duplicitous (i.e. multiple overlapping) charges
- o the right to be heard separately on the question of penalties

b) an honest decision:

- o the IDRM's must come to its decision honestly and without actual bias
- o the IDRM's decision must be bona fide in the association's interests and not for some other purpose.

3.6 JJIF believes that unformal and formal ways of solving problems and procedures have been fully exhausted on a lower level but reserved the right to accept the case bona fide.

4. PROVISIONS

Preamble

4.1 JJIF supports the principles of IDRM and is committed to techniques of mediation and arbitration as effective ways to resolve disputes with its members.

4.2 Accordingly, opportunities for mediation may be pursued at any point in a dispute where it is appropriate and where such a course of action would be mutually beneficial.

4.3 In the event a dispute persists after internal avenues of decision-making and appeals have been exhausted, opportunities for arbitration may be pursued.

4.4 Where the continuing dispute relates to the appeal panel having made a decision which was outside its jurisdiction, having failed to follow proper procedures, or having made a decision which was influenced by bias, such a dispute may be dealt with through binding arbitration before an independent arbitrator who is acceptable to both parties in the dispute.

4.5 No action or other legal proceeding shall be commenced against JJIF, unless JJIF has failed to participate in arbitration in accordance with this policy.

Mediation

4.6 Mediation is the use by disputing parties of a neutral third party to facilitate their own resolution of their dispute. It works only when both parties agree to engage in the process and where there is some hope of a mediated solution.

4.6.1 Mediation only brings a dispute to an end if both parties, with the intervention and assistance of the mediator, are able to come to an agreement that resolves the dispute.

Arbitration

4.7 Arbitration, on the other hand, employs a neutral third party to hear evidence and decide for the disputants how their conflict should be resolved. Arbitration tends to be more structured and formal than mediation.

4.7.1 Unlike mediation, arbitration will bring finality to the dispute whether the parties agree or not; the arbitrator's decision is and is meant to be final and binding on the parties to the dispute. Indeed, the decision of the arbitrator may not accord with the resolution suggested by either party, but it will be final.

Neutrality and guarantees

4.8 In both, mediation and arbitration, the independence of the third party – whether one individual or a panel – is critical. Both methods also tend to be more successful when the mediator or arbitrator has expertise in the area being disputed.

4.9 Access to IDRM services is a guaranteed right for any member of the JJIF or any participant within the JJIF activities - organisation (as described in the article 1.5) for any dispute within the jurisdictions of those bodies or individual.

4.10 The IDRM can be used on the following national level issues:

- Harassment;
- Discipline;
- Eligibility;
- Interpretation of a contract or a rule;
- Any decision handed down by a JJNO or one of its representatives that affects one of JJIF members

4.11 In cases of legal vacuum related to procedure, the JJIF may use the analogy of the CAS procedures, related to the case and when applicable.

5. PROCEDURES

5.1 Reporting a Complaint

5.1.1 Any JJIF member (including a member of a JJNO) may report any complaint to the JJIF Office. Such a complaint must be in writing and signed and must be filed within twenty-one (21) days of the alleged incident.

5.1.2 Partners of the JJIF may only report complaints directed at JJIF employees or volunteers as defined in the Definitions Section.

5.1.3 A Complainant wishing to file a complaint outside of the twenty-one (21) day period must provide a written statement giving the reason for asking for an extension to this limitation.

5.1.4 The decision to accept, or not accept, the complaint outside of the twenty-one (21) day period will be at the sole discretion of the Director General or designated person ("designate") of the JJIF. This decision may not be appealed.

5.1.5 Anonymous complaints or complaints outside of the JJIF may be accepted at the sole discretion of the JJIF.

5.2 Dispute Resolution and Mediation

5.2.1 Before any complaint proceeds to the formal stage, the dispute will first be referred to the JJIF Office for review, with the objective of resolving the dispute via internal dispute resolution mechanism in accordance to the procedures noted below.

5.2.2 JJIF encourages all Members (individuals or JJNO) Employees, Volunteers and Partners to communicate openly, collaborate, and use problem- solving and negotiation techniques to resolve their differences. JJIF believes that negotiated settlements are usually preferable to outcomes resolved through other dispute resolution techniques. Negotiated resolutions to disputes with and among Members, Employees, Volunteers and Clients are strongly encouraged.

5.3 Case Manager

5.3.1 Should the review by the Office (or designate person by the President) not resolve the dispute, then JJIF will appoint a Case Manager from a list of approved candidates to oversee management and administration of complaints submitted in accordance with this Policy and such appointment is not appealable.

5.3.2 The Case Manager is not required to be associated with JJIF.

5.3.3 The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner. More specifically, the Case Manager has a responsibility to:

- a. Determine whether the complaint is frivolous or vexatious and within the jurisdiction of this Policy. If the Case Manager determines the complaint is frivolous or vexatious or outside the jurisdiction of this Policy, the complaint will be dismissed immediately. The Case Manager's decision to accept or dismiss the complaint may not be appealed;
- b. Determine if the complaint is a minor or major infraction;
- c. Appoint the Panel, if necessary, in accordance with this Policy;
- d. Coordinate all administrative aspects of the complaint;
- e. Provide administrative assistance and logistical support to the Panel as required; and
- f. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

5.3.4 The Case Manager will inform the Parties if the incident is to be dealt with as a minor infraction or major infraction and the matter will be dealt with according to the applicable section relating to the minor or major infraction.

5.3.5 This Policy does not prevent an appropriate person having authority from taking immediate, informal or corrective action in response to behaviour that constitutes either a minor or major infraction. Further sanctions may be applied in accordance with the procedures set out in this Policy.

5.4 Minor Infractions

5.4.1 Minor infractions are single incidents of failing to achieve expected standards of conduct that generally do not result in harm to others or to JJIF. Examples of minor infractions can include, but are not limited to, a single incident of:

- a. Disrespectful, offensive, abusive, racist, or sexist comments or behaviour;
- b. Disrespectful conduct such as outbursts of anger or argument;
- c. Conduct contrary to the values of the JJIF;
- d. Being late for, or absent from, the JJIF events, and activities at which attendance is expected or required;
- e. Non-compliance with JJIF policies, procedures, rules, or regulations (including disclosure of the confidential data of the IDRM process); and
- f. Minor violations of JJIF's Code of Conduct (preliminary opinion from the JJIF Ethics Commission is required).

5.4.2 All disciplinary situations involving minor infractions will be dealt with by the appropriate person who has authority over both the situation and the individual involved. The person in authority can be, but is not restricted to being, JJIF representative, organizers, or JJIF decision-makers.

5.4.3 Provided that the JJIF representative being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident,

procedures for dealing with minor infractions will be informal (compared to the procedures for major infractions) and will be determined at the discretion of the person responsible for discipline of such infractions (as noted above).

5.4.4 Penalties for minor infractions, which may be applied singularly or in combination, include the following:

- a) Verbal or written reprimand from JJIF to one of the Parties;
- b) Verbal or written apology from one Party to the other Party;
- c) Service or other voluntary contribution to the JJIF,
- d) Restriction of activities;
- e) Fines; and
- f) Any other sanction considered appropriate for the offense.

5.4.5 Minor infractions that result in discipline will be recorded and records will be maintained by the JJIF. Repeat minor infractions may result in further such incidents being considered a major infraction.

5.5 Major Infractions

5.5.1 Major infractions are instances of failing to achieve the expected standards of conduct that result, or have the potential to result, in harm to other persons or to the JJIF. Major infractions include, but are not limited to:

- a) Repeated minor infractions;
- b) Disrespectful, offensive, abusive, racist, or sexist comments or behaviour made in public (including but not limited to official meetings, events, social media etc.);
- c) Any incident of hazing;
- d) Incidents of physical abuse;
- e) Behaviour that constitutes harassment, sexual harassment, or sexual misconduct;
- f) Pranks, jokes, or other activities that endanger the safety of others (in and off competition);
- g) Attack or act of aggression or physical violence with injury or intention to deliberately harm to others (per example to other athletes, officials, coaches, referees...);
- h) Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition;
- i) Conduct that intentionally damages the JJIF's image, credibility, or reputation;
- j) Disregard for the JJIF's Statutes, by-laws, policies, rules, and regulations;
- k) Major or repeated violations of the JJIF's Code of Ethics;
- l) Intentionally damaging the JJIF property or improperly handling the JJIF resources;

m) Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics; and

n) Any possession or use of banned performance enhancing drugs or methods.

5.5.2 Major infractions will be handled using the Procedure for Major Infraction Hearing set out in this Policy, except where a dispute resolution procedure contained within a contract, employee agreement, or other formal written agreement takes precedence.

5.6 Procedure for Major Infraction Hearing

5.6.1 The Case Manager shall notify the Parties that the complaint is potentially legitimate, and the incident shall be dealt with as a major infraction. The Case Manager shall then decide the format under which the complaint will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.

5.6.2 The Case Manager will appoint a Discipline Panel of three persons from the list of Arbitrage Members (see By-laws to Section 5 for procedures).

5.6.3 If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Panel will determine the appropriate disciplinary sanction. The Panel may still hold a hearing for the purpose of determining an appropriate sanction.

5.6.4 If a Party chooses not to participate in the hearing, the hearing will proceed in any event.

5.6.5 The Case Manager will determine the format of the hearing, which may involve an oral in-person hearing, an oral hearing by telephone, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager deems appropriate in the circumstances, provided that:

a) The Parties will be given appropriate notice of the day, time, and place of the hearing;

b) Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing;

c) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense;

d) The Panel may request that any other individual participate and give evidence at the hearing;

e) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate; and

f) The decision will be by a majority vote of Panel members.

5.6.6 If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in their own right, that party will become a Party to the complaint in question and will be bound by the decision.

5.6.7 In fulfilling its duties, the Panel may obtain independent advice.

5.7 Decision

5.7.1 After hearing the matter, the Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the JJIF. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Panel.

5.8 Sanctions

5.8.1 The Panel may apply the following disciplinary sanctions, singularly or in combination, for major infractions:

- a) Verbal or written reprimand from the JJIF to one of the Parties;
- b) Verbal or written apology from one Party to the other Party;
- c) Service or other voluntary contribution to the JJIF;
- d) Restriction of activities;
- e) Expulsion or dismissal from the JJIF; à Statutes procedures are used.
- f) Fines;
- g) Payment of the cost of repairs for property damage;
- h) Returning of the medal, trophy, diploma, award or licence (including particular sums awarded as benefit together with symbolic objects like trophy etc.);
- i) Any other sanction in accordance with the JJIF Statutes, by-laws and Policies; and
- j) Any other sanction considered appropriate for the offense.

5.8.2 Restrictions of activities (for minor and major infringements) include, but are not limited, to the following:

- a) The right to organise any international competition or other event;
- b) The right to vote in any JJIF panel or of the Continental Union;
- c) The right to participate in any JJIF panel or of the Continental Union (like congress, general assembly, seminar etc.);
- d) The right to compete or take part in any international event of JJIF or in any other international competition recognized by JJIF.

5.8.3 Unless otherwise directed (JJIF Financial Rules) the fines shall not exceed EUR 3.000,00 (three thousand) per individual, per infringement, and shall not be more than EUR 10.000,00 (ten thousand) per sanctioned JJNO or associated partner (entity), per infringement.

5.8.4 Unless the Panel decides otherwise, any disciplinary sanctions will begin immediately. Failure to comply with a sanction as determined by the Panel will result in automatic suspension until such time as compliance occurs.

5.8.5 Elected JJIF (and Continental Union's) Officials from a suspended JJNO or associated partners may continue their respective duties until the end of their electoral period.

5.8.6 Major infractions that result in discipline will be recorded and records will be maintained by the JJIF.

5.9 Suspension Pending a Hearing

5.9.1 The JJIF may determine that an alleged incident is of such seriousness as to warrant suspension of an individual pending a hearing and a decision of the Panel and/or completion of the criminal process.

5.10 Criminal Convictions

5.10.1 The JJIF representative (including JJNO and Continental members – individuals) conviction for any of the following Criminal Code offenses will be deemed a major infraction under this Policy and will result in dismissal from the JJIF upon the sole discretion of the JJIF:

- a) Any child pornography offences;
- b) Any sexual offences;
- c) Any offence of physical or psychological violence;
- d) Any offence of assault;
- e) Any offence involving trafficking of illegal drugs and arms and smuggling people;
- f) Any offence related to match fixing or illegal betting;
- g) Any offence related to illegal tickets selling (including but not limited to conspiracy and scalping).

6 Confidentiality

6.1 The discipline and complaints process are confidential and involves only the Parties, the Case Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

6.2 All meetings and decision-making process under this mechanism are private.

7 Timelines

7.1 If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Panel may direct that these timelines be revised.

7.2 Upon receipt of the complaint, and throughout the process, the complainant will receive regular (every 2-4 weeks) communications back from the organization on the status of their complaint.

8 Records and Distribution of Decisions

8.1 Minor and major infractions that result in discipline shall be recorded and maintained by the JJIF.

8.2 Decisions are matters of public interest and shall be publicly available with the names of the individuals redacted. Names of persons disciplined may be disclosed to the extent necessary to give effect to any sanction imposed.

9 Referral

9.1 Once a decision is received from the Panel, the JJIF Discipline, Complaints & Dispute Resolution internal process will have been completed and the conclusions must be sent to the JJIF Ethics Commission.

9.2 In addition, the JJIF and the parties involved hereby confirms and undertake to recognize and accept the jurisdiction of the Court of Arbitration of Sport (CAS) at Lausanne, Switzerland and to recognize and shall accept the application of the Code of Sports – related Arbitration and the submission to the CAS of all sports related disputes, which cannot be settled amicably or through IDRM or JJIF Ethic Commission.

10 Language, fee and costs

10.1 The official language of communication is English.

10.2 Parties bare their own costs for experts, lawyers and other persons, invited by their own initiative.

10.3 In arbitrage the loosing party is obligated to pay the costs registered to the Arbitrage Panel of the other party.

10.4 The JJIF Financial Rules may determine a specific fee for parties involved in order for its application for this mechanism to be registered.

10.5 The JJIF Financial Rules may determine the administrative costs for each case in accordance with the amount disputed or at the discretion when the amount disputed is not disputed or there is no value to dispute.

11 Final provisions

11.1 Antidoping cases are processed by the WADA and the JJIF Anti-doping regulations and not by the IDRM.

11.2 Cases also presented to the JJIF Ethic Commission will be kept pending until the decision of the Ethic Commission is reached (with the JJIF discretion to use article 5.9).

11.3 On the day this act enters into force, the JJIF Disciplinary Code, approved by the JJIF General Assembly in Kamena Vurla, Greece, from July 25 2015, shall cease to be valid.

11.4 These procedures are operational from the date of approval.

11.5 JJIF is encouraging its members to follow the principles of internal dispute resolution mechanism appropriate to their needs.

By-law to the section 5 (Procedures) of this Policy

(1) Graded approach to discipline, complaint and internal dispute resolution mechanism has, in principle, the following steps:

- a. Receiving the case and first review by the Office with attempt to try to solve the dispute;
- b. If dispute is not solved, the JJIF Case Manager will take over the proceedings to determine and identify the case by the article 5.3.1 (process monitoring);
- c. Following procedures may include mediation or arbitration (when requested by the parties directly);
- d. For Minor and Major Infractions, the formal procedures shall take place and Discipline Panel may include from one (minor) to three members (obligatory for major);
- e. For article 5.10 the JJIF Board may be the decision-making authority directly, but the preliminary advice may be requested in any time.

(2) The Arbitration Panel for the case consist of three persons nominated specifically for the case (ad-hoc) or chosen randomly from the permanent Arbitrage Members list. The Head of the Arbitration Panel is elected within the Panel on their first meeting (or by the Case Manager if the agreement cannot be reached).

(3) Each of the Parties in the case have the right to propose an arbiter from the list and the President of the panel is chosen by the Case Manager.

(4) When nominating a Panel, to prevent conflict of interests and provide the best service possible, the Panel members:

- cannot be first degree relatives or spouses;
- cannot be associates or partners in the same or related business organisation;
- cannot have an employer – employee relationship;
- should not have been convicted of any criminal offence as indicated in article 5.10;
- should have a proper education level (experience can be considered also).

(5) The Case Manager prepares a report about the case to the Board (at the end or periodically when requested).

(6) The same proceedings are use also for Discipline Panel per 5.6 article procedures. For the Discipline Panel the permanent list of the Arbitrage Members is used.

(7) Members of the Arbitrage Members List are ratified by the Congress or Session on the proposal of the Board. Candidatures, proving their competences and experience (record of activities etc.), should come from the National federations (JJNO). The Board has the right to propose members also.

(8) If the Arbitrage Members List does not provide sufficient number of individuals to compose an officer in charge or a panel, the JJIF Board may appoint requested number of members for the Panel, based on their record activities and competences, with respect to the procedures set in this mechanism.

This document was approved by the JJIF Congress 26.11.2018.
Panagiotis Theodoropoulos
JJIF President