

AUSTRALIAN WEIGHTLIFTING FEDERATION

ANTI-DOPING DISCIPLINARY BY LAW

ENDORSED 15 APRIL 2007

Approved by ASADA:	05 April 2007
Adopted by AWF Board:	15 April 2007
Effective:	01 May 2007
Amended:	31 May 2009

1. Power

This Disciplinary Policy is authorised under Part 14 of the Australian Weightlifting Federation (AWF) Association Constitution (amended December 2006) (the **Constitution**).

2. Breach

- i) A Breach occurs where an Athlete or Athlete Support Person:
 - a. records a second strike for a Whereabouts Failure (which may be any combination of Filing Failures and or Missed Tests adding up to two in total) within any 18 month period;
 - b. fails to attend the annual mandatory education session established in conjunction with the AWF and the Australian Sports Anti-Doping Authority (ASADA);
 - c. fails to have overseas travel for the purpose of training and/or competition endorsed by the AWF;
 - d. breaches the terms of a sanction imposed under the AWF Anti-Doping Policy;
 - e. with the exception of an Anti-Doping Rule Violation has breached, failed, refused or neglected to comply with a provision of the AWF Anti-Doping Policy.
- ii) Upon notification of a Breach, the Directors, (in consultation with ASADA) may commence or cause to be commenced investigatory and/or disciplinary proceedings (**Proceedings**) against that Athlete or Athlete Support Person, and that Athlete or Athlete Support Person will be subject to and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms set out in this Policy.
- iii) Unless otherwise provided, words in this policy have the same meaning as defined in the Constitution, or the AWF Anti-Doping Policy. In the event of any conflict between these two definitions, the definition in the Constitution shall prevail.

3. Disciplinary Committee

- i) The AWF (in consultation with ASADA, and the ASC as appropriate) may convene a Disciplinary Committee on an *Ad hoc* basis where necessary to investigate and/or determine matters upon notification to it of a Breach.
- ii) A Disciplinary Committee shall be convened as follows:
 - a. A Disciplinary Committee panel shall consist of three (3) members (the **Panel**), one of whom shall act as the Disciplinary Committee Chairperson (**Chairperson**);
 - b. The Chairperson must be a practising barrister or solicitor in Australia nominated by the Bar Association of the relevant State or Territory, upon application by the AWF;
 - c. One member of the Panel should be nominated by the AWF.
 - d. One member of the Panel shall be nominated by the person subject to the referral.
 - e. The members nominated under (c) and (d) shall be selected from a list of possible nominees prepared by the AWF (in consultation with ASADA, and the ASC as appropriate).
 - f. Each person under 3 (ii)(b), 3(ii)(c) and 3(ii)(d) respectively shall be a different person
 - g. No member of the panel shall be a registered participant (as defined in the Constitution) of the AWF
- iii) A member of the Panel shall act as secretary and keep records of all investigations and decisions.
- iv) No member of the Panel may be a party to, or directly interested in, the matter under consideration.

4. Jurisdiction

The Disciplinary Committee shall have unlimited jurisdiction in all matters referred to it throughout Australia

5. Referrals

- i) Any Member, the AWF (in consultation with ASADA) and the ASC (in consultation with ASADA) may lodge a referral to the Disciplinary Committee.
- ii) Every referral to a Disciplinary Committee shall be in writing and addressed to the Chief Executive Officer of the AWF.
- iii) If the Chief Executive Officer of the AWF is the subject of an intended referral, that referral may be made to the President of the AWF
- iv) The referral shall set out the matter(s) required to be investigated or determined by the Disciplinary Committee.
- v) Upon receipt of a referral to the Disciplinary Committee, the CEO shall, as soon as practicable, notify ASADA of the referral and shall arrange a time and place suitable to the Disciplinary Committee for the proceedings and/or may appoint an investigator, selected from a panel of investigators (in consultation with ASADA), to inquire into the referral.
- vi) A Disciplinary Committee shall process any referral to it as soon as practical and within such time as the Directors provide, provided always that a concerned person may apply for an adjournment by application in writing to the Committee Chair. An application for an adjournment must be received at least two (2) days prior to commencement of proceedings.
- vii) A Disciplinary Committee shall have power to require the attendance of any Athlete or Athlete Support Person bound by the AWF Anti-Doping Policy, at any proceedings before it. Notice shall be given in accordance with this Policy.
- viii) Should an investigator have been appointed, the Committee shall in conjunction with the investigator determine if the matter should proceed.

6. Procedure

Proceedings commenced under these Regulations shall be conducted as follows:

- i) Request to Appear
 - a. Upon receipt of a referral, the Disciplinary Committee shall request the party or parties concerned in the referral to appear before them within a time nominated by the Committee. Such request shall be in writing either delivered personally or in appropriate cases by post or facsimile to the appropriate address or facsimile number of the party or parties concerned.
 - b. A notice given by post shall be deemed to have been given on the second day following that on which it shall be posted. A notice given by facsimile shall be deemed to be given upon receipt of a confirmation report confirming the facsimile was received at the facsimile number to which it was sent.
- ii) Notice
 - a. Proceedings shall take place as soon as practicable.
 - b. All parties concerned shall be given at least seven (7) days notice of the Proceedings. The notice shall:
 - i. Be in writing;
 - ii. State that the party or parties concerned are required to appear and in what capacity;
 - iii. State the nature of the Proceedings and the matters or alleged offence(s), the subject of investigation or determination, the possible penalty or penalties and the date, place and time of the hearing;
 - iv. Invite the delivery of a submission by a nominated date;
 - v. Be delivered in accordance with Regulation 6(i) above.
- iii) Appearance
 - a. Persons appearing before the Disciplinary Committee shall be entitled to be legally represented as they see fit and at their own expense;
 - b. Persons appearing before the Disciplinary Committee shall be entitled to call witnesses.
 - c. If required the Disciplinary Committee shall provide a suitably qualified interpreter at the Committee's expense.

- d. Should a Person concerned and given notice in accordance with Part 6(ii)(b) above not attend the hearing, or should a witness intended to be called not attend, the Disciplinary Committee may nevertheless proceed and make a decision. Before making a decision in default of appearance, the Disciplinary Committee must satisfy itself that the party concerned was aware of the time, date and place of hearing and had been requested to appear in accordance with regulations 6(ii)(b) above.
- e. For the avoidance of doubt, the AWF, ASADA and the ASC may appear at, and present material to, a Disciplinary Hearing as they see fit.

iv)

Procedure at Proceedings

- a. All Disciplinary Committee Proceedings are to be held *in camera* unless the Chairperson of the committee otherwise decides.
- b. The Chairperson shall announce the opening of the Proceedings, state the Disciplinary Committee's authority, jurisdiction, composition and the nature and purpose(s) of the proceedings.
- c. The procedure to be followed at Proceedings shall be clearly explained by the Chairperson. The Chairperson shall state who is entitled to be present throughout Proceedings during evidence and submissions.
- d. The matter(s) which is/are the subject of the Proceedings shall then be read to the person(s) concerned. The body or person reporting the matter(s) and the subjects of the Proceeding shall be given the opportunity to report the circumstances of those matter(s). The person(s) concerned will be given the opportunity to respond to this report and present evidence/submissions as to their view of the circumstances of those matter(s). Any witnesses called by either the reporting body or the person(s) concerned will be given the opportunity to give evidence or make submissions. Witnesses may be questioned on their evidence. Evidence and/or submissions may be tendered in writing.
- e. The person concerned and/or any witness shall be entitled to attend the Proceedings via telephone or video conference at the discretion of the Chairperson.
- f. The Disciplinary Committee will consider the evidence presented. The Disciplinary Committee may adjourn the Proceedings if considered necessary. No other person shall be present or partake in any discussion with the Disciplinary Committee at this time.
- g. The Disciplinary Committee must consider the evidence and provide a timely written decision stating its conclusions and/or recommendations. The decision, any penalty, the reasons for the decision and notice of the person's appeal rights shall be signed by the Chairperson (the **Decision**).
- h. If the Disciplinary Committee finds that a Breach has not been committed or not proved it will advise the referring authority and dismiss the charge accordingly.
- i. If the Disciplinary Committee finds a Breach has been committed or proved, it may impose, in its discretion, an appropriate penalty or penalties, or it may report its findings to the CEO of the AWF with such recommendations as it considers appropriate. The Chairperson will declare the Proceedings closed.
- j. All Decisions of the Disciplinary Committee must be reported to ASADA and the ASC in writing within seven (7) days of the date of Decision.
- k. If a Decision cannot be given immediately after Proceedings, the relevant party or parties must be advised of the time and place at which the Decision will be given.
- l. Every Decision under this Policy shall be conveyed in writing to the parties concerned, and to the Athlete or Athlete Support Person's Club and Member State Association. It shall be incumbent on such Club and member State Association to give effect to the Decision immediately and to notify the CEO that such has been done. The CEO may deal with a Club or Member State Association failing to give immediate effect to such Decision at the CEO's discretion.

7. **Penalty**

- i) Penalties which may be imposed include:
 - a. a reprimand;
 - b. Counselling or further education;
 - c. Suspension of such activities, on such terms and for such period as the Disciplinary Committee thinks fit;
 - d. Exclusion from a particular activity, event or events;
 - e. Suspension of AWF funding, and if required the repayment of any funding as the Panel sees fit;
 - f. Expulsion from the AWF;
 - g. Fines, imposed in such manner and in such amount as the penalising authority thinks fit;
 - h. Such combination of any of the above penalties as the Disciplinary Committee thinks fit.
- ii) During a Proceeding, a person who is a subject of the Proceeding may be suspended on such terms and for such period as the Disciplinary Committee thinks fit, and shall remain under suspension unless and until the Disciplinary Committee decides otherwise. However before the suspension comes into effect the person shall be entitled to the opportunity to make a submission and request a hearing on the grounds for the suspension.

8. **Reporting**

- i) If the Decision of a Disciplinary Committee is not unanimous, the dissenting panel member shall provide a brief written report which will be annexed to the Decision. The Decision of the majority however, shall be deemed to be the decision of the Disciplinary Committee.
- ii) The Decision, once all appeal periods have passed, shall be public. The AWF, ASADA or the ASC may at their discretion publicly release the decision or parts of it, provided prior notice has been given to other parties.
- iii) A Decision of a Disciplinary Committee cannot be altered by the AWF, but a resolution passed by a two-thirds majority of those present and entitled to vote at a meeting of the AWF at which such determination is presented, may refer the matter back to the Disciplinary Committee for the hearing of additional evidence. The grounds for such further reference shall be clearly stated in writing.

9. **Effect of Penalty**

Where an Athlete or Athlete Support Person is suspended under this Policy, all rights and privileges of that Athlete or Athlete Support Person, including access to facilities, shall be forfeited, either partially or completely, during the period of suspension. This includes, but is not limited to, the forfeiture of any results, prizes, records, awards or achievements since the date of the Breach.

10. **Appeals**

- i) A party aggrieved by a Decision of the Disciplinary Committee may, within 14 days from the date of receipt of the written Decision, appeal that Decision to Disciplinary Committee Appeals Panel (**Appeals Panel**).
- ii) Appeals under Part 10(i) above shall proceed in accordance with Part 6 of this Policy.
- iii) An appeal must be lodged in writing to the CEO of AWF, and must include:
 - a. a brief statement setting out the grounds on which the appeal is made;
 - b. a copy of the Decision; and
 - c. must be accompanied by a non-refundable appeal fee of \$250. The party may seek waiver of this fee, stating the grounds for the waiver. Any waiver shall be determined at the Appeal's discretion.

- iv) On receipt of an appeal in accordance with this Policy, the CEO must as soon as practicable convene the Appeals Panel and forward the appeal documents to the nominated Chairperson of the convened Appeals Panel.
- v) An Appeals Panel shall contain three (3) persons to be appointed in accordance with Part 3(ii) of this Policy, except that the Appeals Panel shall not include a person who was a Panel member of the Panel which made the Decision.
- vi) The Appeals Panel has complete jurisdiction to re hear the matter in its entirety. For the avoidance of doubt, the appeal hearing shall be a hearing *de novo*.
- vii) The Chairperson of an appointed Appeals Panel may dismiss the appeal at their discretion, upon considering submissions and without a hearing if, in their opinion, the appeal is trifling in nature, has no merit, or is frivolous or vexatious.
- viii) Following consideration of all information which the Appeal Panel considers relevant and which is available, the Appeal Panel shall arrive at a finding. The Panel can impose new penalties, vary an existing penalty or overturn the existing decision. A decision of the Appeal Panel may be by a majority decision. The decision of the Appeal Tribunal is final.
- ix) The AWF must provide a report to the ASC and to ASADA within seven (7) days of determining the decision.
- x) The decision of the Appeal Panel is public, unless otherwise determined by the Appeal Panel.
- xi) The Appeal Panel has no power to award costs and to that end each party will be responsible for their own costs of the appeal.