



## THE CKC DISCIPLINARY PROCESS

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## **THE CKC DISCIPLINARY PROCESS**

### **1. Introduction**

As an association incorporated under the Animal Pedigree Act (APA), a Federal Statute governing the registration of purebred animals in Canada, The Canadian Kennel Club (CKC) is governed by Agriculture & Agri-Food Canada as a registry body for purebred dogs. To review the APA please visit the following website:

**<http://laws-lois.justice.gc.ca/eng/acts/A-11.2/index.html>**

As allowed for under the APA, the CKC may deny a person the right to have registered, to have identified or to transfer ownership when that person has contravened a by-law relating to the following:

- the eligibility for registration or identification, as the case may be, of dogs;
- the individual identification of dogs; or
- the keeping of private breeding records; or
- any provision of the APA.

The APA also allows for the establishment of by-laws respecting the suspension and expulsion of members.

Over the years the CKC has developed a sophisticated disciplinary process which is enshrined in the CKC By-laws and Club Policy set out in the Policy and Procedures Manual which are available for viewing from the Homepage of the CKC website at [www.ckc.ca](http://www.ckc.ca). This process ensures that the rights of individuals are safeguarded.

The information found in this document is intended as a tool to understanding the basic principles governing the disciplinary process. For greater clarity, please refer to CKC By-laws, Section 15, Discipline and Appeal Procedures, as well as the Policy and Procedures Manual, Chapter 11, Regulatory.

If you have any further questions, please feel free to contact the Regulatory Division staff:

Kim Fraser, Regulatory Specialist, [kfraser@ckc.ca](mailto:kfraser@ckc.ca) or 416-675-5511X3329

## **2. Appointment of the Discipline and Appeal Committees**

Every three (3) years the CKC Board of Directors seeks volunteers from the CKC membership to serve on the Discipline and Appeal Committees. The committees operate as quasi-judicial bodies that adjudicate on matters pertaining to the CKC By-laws, rules, regulations, policies and procedures as well as the Codes of Ethics and Codes of Practice.

Candidates are required to have a background in the legal field and/or some experience working with tribunals due to the quasi-judicial nature of the committees.

## **3. Role of the Discipline and Appeal Committees**

The Discipline and Appeal Committees are independent standing committees that operate at arm's length from the Board of Directors and staff; therefore, free from political influence so that they may conduct their business in a fair and unbiased manner.

Both Committees are considered "domestic tribunals". A domestic tribunal of an association investigating charges of misconduct 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. 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.

## **4. Types of Complaints**

Complaints may be broken down into two (2) categories:

- 1) Violations of the APA, CKC By-laws, Codes of Ethics, Codes of Practice, Club Policy set out in the Policy and Procedures Manual. These types of complaints are handled in accordance with the CKC By-laws, Section 15; or,
- 2) Violations of the rules and regulations for the various competitive events that CKC sanctions. These complaints and protests are handled in accordance with the Event Rule Books. For a complete listing of all of the Event Rule Books, members may login to the CKC website [www.ckc.ca](http://www.ckc.ca) with their Membership Number and Password and then go to Membership Services/Event Rule Books.

Event Rule Books are also available for purchase by contacting:

**CKC Store**

[Order Desk](#)

1-800-250-8040

*Note: In the context of the Event Rule Books, a complaint is defined as a complaint against a person. Person is defined in the CKC By-laws as meaning a member, non-member, club, association or corporation. A protest is defined as a protest against a dog. Typically a protest involves a dog that bites or attempts to bite a person or another dog.*

## **5. Filing Complaints**

Event-related complaints and protests must be submitted within the prescribed timelines set out in the Event Rule Book and must be on a form that can be obtained from the event official which is usually the Superintendent or similar focal point.

Complaints alleging violations of the APA, CKC By-laws, Codes of Ethics, Codes of Practice or Club Policy must be submitted within the prescribed timelines set out in the Policy and Procedures Manual, Chapter 11, Regulatory and must be in the form of a sworn affidavit.

A fee is required to file complaints and protests. To review the fee structure, please refer to the CKC Schedule of Fees available on the CKC website at [www.ckc.ca](http://www.ckc.ca). If a complaint is upheld, the fee will be refunded.

From time to time the CKC may file complaints when there are reasonable and probable grounds to believe that a violation of the APA, CKC By-laws, rules, regulations, or Club Policy has occurred. This is particularly true in the case where a new owner complains that the seller has failed to provide a certificate of registration for a dog sold as purebred. In these cases CKC works diligently with the seller and if the seller fails to cooperate, CKC will file a complaint.

## **6. Hearing Complaints and Protests**

As set out in Event Rule Books, clubs holding events are required to conduct hearings when complaints or protests are filed at events. The information gathered at these hearings may play an important role at any subsequent Discipline Committee hearing concerning such complaints or protests. Please review the rules and regulations for full details.

As set out in the CKC By-laws and the Policy and Procedures Manual, Chapter 11, Regulatory, the Discipline Committee is also required to conduct a hearing when a complaint has been filed. At least thirty (30) days prior to the scheduled hearing, the complainant and defendant will be notified by registered post or commercial carrier as to the exact date, time and location of the hearing.

Any request by a party to a complaint to postpone a hearing must be communicated to the Regulatory Division staff at least five (5) days prior to the date of the hearing. The staff will contact the Chair of the Discipline Committee and the Chair may postpone a scheduled hearing when the principles of natural justice are best served by doing so.

## **7. Evidence**

In accordance with the CKC By-laws, parties to any disciplinary complaint have the right, at their own expense, to (i) attend the Discipline Committee hearing concerning their case and be heard in person, (ii) produce such evidence and witnesses as they desire, and (iii) be accompanied by or represented by a person of their choice. Such evidence may include (i) oral testimony, (ii) affidavit, (iii) other sworn or unsworn statements by the parties or other witnesses, (iv) transcript of any prior club hearing into a complaint or protest, and (iv) other documents. Any party or witness who gives oral evidence at a hearing may be cross-examined by the opposite party.

Any written evidence submitted to our office must be filed in such a manner that delivery can be validated (*regular mail is not acceptable*). If the defendant does not appear in person or provide written evidence, the Discipline Committee will proceed on the basis of the evidence on file. Complainants must file a summary of all evidence, and a list of all proposed witnesses (if applicable) to the attention of the Chair of the Discipline Committee, care of the Head Office, at least three (3) weeks before the hearing. Defendants must do the same at least one (1) week before the hearing.

In accordance with the principles of natural justice, Regulatory Division staff will ensure that all parties to a complaint are fully cognizant of the evidence that is before the Discipline Committee.

Parties to a complaint are reminded that evidence provided in connection with a complaint matter is of a confidential nature; therefore, it is in their best interest to exercise discretion with respect to revealing or disclosing evidence to other persons.

## **8. Discipline Committee's Authority**

In accordance with the CKC By-laws, the Discipline Committee has the authority to warn, reprimand, expel which means termination of membership and depriving a person from all privileges of the Club, suspend members of all privileges of the Club for the period ordered, deprive non-members of all privileges accorded to non-members (including the use of CKC services) for the period ordered, debar members and non-members of the right to participate in CKC events for the period ordered, terminate membership, and levy reasonable costs of the investigation and hearing against the defendant.

Penalty guidelines for various offences have been established which can be found in the Policy and Procedures Manual, Chapter 11, Regulatory, Appendix 1 – Discipline Penalty Guidelines. Subsequent infractions, not necessarily for the same offence, will carry penalties of increasing severity.

In the event the Discipline Committee dismisses a complaint as being frivolous and vexatious, the Committee also has the authority to assess a fee against the complainant which reasonably represents the costs of the investigation and hearing.

A decision of the Discipline Committee may only be altered by the Appeal Committee or through judicial review; see 13. Judicial Review, at the end of this document. The Board of Directors, the Executive Director, or any member of staff, does not have the authority to vary a decision of the Discipline Committee.

## **9. Executive Director's Authority**

In accordance with the CKC By-laws, the Executive Director may exercise the same authority as the Discipline Committee when administering complaints for first alleged offences involving the non-delivery of certificates of registration for dogs sold as purebred.

A decision of the Executive Director may only be altered by the Appeal Committee or through judicial review; see 13. Judicial Review, at the end of this document. The Board of Directors or any member of staff does not have the authority to vary a decision of the Executive Director.

## **10. Filing Appeals**

Any person wishing to appeal a decision of the Discipline Committee (or Executive Director) must deliver or mail by prepaid registered post a Notice of Intention to Appeal to the Executive Director within thirty (30) days of notice of the decision. The Notice of Intention to Appeal form is enclosed with the decision letter.

An appeal fee must accompany the Notice of Intention to Appeal; please refer to the CKC Schedule of Fees available on the CKC website at [www.ckc.ca](http://www.ckc.ca). Unless the Appeal Committee specifies otherwise in their decision, the appeal fee will be refunded to the appellant if an appeal is allowed in whole.

The Discipline Committee Chair (or in the case of a decision of the Executive Director) will issue reasons for decision. Within thirty (30) days after the reasons for decision are communicated to the appellant, the appellant is required to file a Statement of the Grounds of Appeal. The Statement of the Grounds of Appeal form is enclosed with the reasons for decision.

Upon filing an appeal, the decision will automatically be stayed pending the decision of the Appeal Committee.

## **11. Hearing Appeals**

At least thirty (30) days prior to the scheduled hearing, the parties to the appeal will be notified by registered post or commercial carrier as to the exact date, time and location of the appeal hearing.

The parties to an appeal may request a postponement of the hearing in which case the Regulatory Division staff will contact the Appeal Committee and the Committee may postpone a scheduled hearing when the principles of natural justice are best served by doing so.

It is important to note that an appeal hearing is not a "trial de novo" (i.e., it is not a "new trial"). All of the evidence that was before the Discipline Committee, including the audio recording of the Discipline Committee hearing, will be before the Appeal Committee. The Appeal Committee will allow the introduction of new evidence only if it is first established that this evidence could not reasonably have been made available to the Discipline Committee or the Executive Director. Similarly, the calling of witnesses should be allowed only if the witness appeared personally before the Discipline Committee and the testimony is directly relevant to the substance of the appeal or the witness can present new evidence which could not reasonably have been presented to the Discipline Committee.

An Appeal Committee hearing is to determine whether or not there is just cause to overturn the finding of the Discipline Committee (or Executive Director) or to alter any penalty imposed. The onus is on the appellant to convince the Appeal Committee that the Discipline Committee (or Executive Director) has erred in making a decision. Arguments presented by the parties during the appeal process should, therefore, be limited to this aspect, and the Appeal Committee will not allow the proceedings to become a retrial.

## **12. Appeal Committee's Authority**

The Appeal Committee is authorized to allow an appeal in whole or in part, set aside or vary any decision of the Discipline Committee (or Executive Director), dismiss an appeal in whole or in part and assess reasonable costs of the appeal hearing against the appellant.

A decision of the Appeal Committee is final unless overturned through judicial review; see 13. Judicial Review, at the end of this document. The Board of Directors, the Executive Director, or any member of staff, does not have the authority to vary a decision of the Appeal Committee.

## **13. Judicial Review**

A decision of a decision-making body may be challenged through judicial review. In this regard the advice of legal counsel should be sought.

