



International Baton Twirling Federation Disciplinary Actions and Appeals Code

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ARTICLE 1

FRAMEWORK & FUNDAMENTAL PRINCIPLES

1.1 Framework

(A) The International Baton Twirling Federation Federation (IBTF) is comprised of and represents its members around the world including both organizations and individuals (Members (as defined in the Constitution)). Within this ecosystem decision making authority resides primarily in IBTF itself and its designated bodies. Official decisions (Decisions) can be made by officials, by authorized bodies such as councils and committees, and by individuals who have been delegated authority to make decisions on behalf of their organization.

(B) IBTF recognizes the right of a Member or affected party to appeal Decisions of IBTF and its designated bodies.

(C) IBTF enacts this Disciplinary Actions and Appeals Code (this Code) to provide a framework and tools to reach decisions on disciplinary matters and to resolve disputes in a transparent, fair and efficient manner.

(D) All Members are bound by this Code as a condition of their membership in IBTF. Each IBTF designated organization shall operate, and shall revise its current practices as necessary, in order to operate, in accordance with this Code.

1.2 Fundamental Principles

(A) This Code specifies in how disciplinary matters are to be managed and disputes resolved in certain situations. In accordance with the principles of good governance and natural justice, this Code is intended to embody two essential principles as set forth below.

(B) The right to be heard in a dispute. This includes, but is not limited to, the following:

- i. the right to be informed of the facts on which any decision will be based so that a defense can be prepared;
- ii. the right to have sufficient time to prepare such a defense;
- iii. the right to have notice of the time, date and location of any hearing;
- iv. the right to be informed of evidence being presented by the other party;
and
- v. the right to be giving the opportunity to present evidence.

(C) The right to an objective and impartial decision. This includes, but is not limited to, the following:

- i. the right to a fair hearing process; and
- ii. the right to protection against conflicts of interest of the decision makers.

ARTICLE 2 GENERAL PROVISIONS

2.1 Applicability and Enforcement

A) IBTF administers this Code for the following purposes.

- i) to provide the rules and procedures to govern IBTF disciplinary matters; and
- ii) to provide a process for fair and expeditious resolution of appeals to IBTF-related disputes.

B) This Code is promulgated in accordance with the IBTF Constitution (Statutes) and may be amended from time to time by IBTF in accordance with the applicable rules.

C) IBTF designated bodies shall comply with, recognize and take all necessary and reasonable steps within their powers to enforce and give effect to this Code and to all decisions and penalties imposed hereunder.

2.2 Scope and Limitations

(A) Appeals to IBTF under this Code must be grounded on the interpretation and application of IBTF Rules. Unless otherwise agreed by IBTF such appeals should not require the interpretation of national or international laws or the rules of non-IBTF-related organizations.

(B) In addition, this Code shall not apply to the following:

- i. matters governed by the IBTF Anti-Doping Rules and Interpretations;
- ii. matters governed by the International Baton Twirling Federation Code on the Prevention of Manipulation of Competitions;
- iii. any dispute that a panel (or IBTF, if a panel has not yet been formed) determines, in its discretion, is not appropriate to bring before IBTF or where the panel (or IBTF, if a panel has not yet been formed) determines that it does not have jurisdiction to deal with the dispute.

2.3 Language

(A) The official and working language of IBTF is English and unless otherwise agreed by IBTF the language for all procedures governed by this Code shall be English.

(B) For any documents submitted under this Code in a language other than English, IBTF (or deciding panel if any) may, at its discretion, require that the submitting party provide at its own expense a certified English translation.

ARTICLE 3 DISCIPLINARY ACTIONS

3.1 Purpose

(A) The purpose of this Disciplinary Actions section is to provide the rules and procedures governing IBTF disciplinary matters.

(B) IBTF designated bodies should adopt equivalent rules to manage disciplinary matters or, at minimum, rules that are in accordance with the Principles of this Code as set forth in Article 1.

3.2 Investigations

(A) IBTF may at its sole discretion initiate an investigation into the actions of any Member that IBTF believes may have infringed the IBTF Statutes or other rules (Infringement(s)). IBTF may also initiate an investigation upon receipt of a complaint in accordance with Article 3.3, below.

(B) IBTF may appoint one or more persons to conduct an investigation. Such investigation may be conducted in conjunction with relevant competent national or international authorities and all Members must co-operate fully with such investigations.

(C) IBTF shall have discretion where it deems it appropriate to stay its own investigation pending the outcome of investigations conducted by other competent authorities.

(D) If IBTF reasonably suspects that a Member has committed an infringement it may make a written demand to such Member for information that is related to the alleged Infringement.

(E) All Members are required to cooperate with any IBTF investigation. Failure of any Member to cooperate with any reasonable investigation can in itself be subject to investigation and penalty.

3.3 Complaints

(A) Members and non-members affected parties can allege the existence of an Infringement if they avow to be the victim of such violation.

(B) Complaints must:

- i. be in English;
- ii. be received within 20 days following the alleged infringement or the date of its discovery (or if this deadline falls on a weekend or holiday then the first working day thereafter);
- iii. include a summary of the facts, an indication of the IBTF rule infringed, and the full contact information of the complainant; and
- iv. be accompanied by proof of payment of the \$500 processing fee. This fee can be waived by IBTF at its sole discretion based on special circumstances. The processing fee should be paid to the following account:

Account Holder Name: International Baton Twirling Federation, Inc.

IBAN: GB34TCCL04140407793909

BIC: TCCLGB3L

Bank Name: The Currency Cloud Limited

Bank Address: 12 Steward Street, The Steward Building, London, E1 6FQ, GB

Bank Country: GB (Note: Payments accepted in US Dollar ONLY)

(C) The complaint can be supplemented by supporting evidence or documentary proof. For any documents submitted in a language other than English, IBTF may, in its sole discretion, require that the submitting party provide at its own expense a certified English translation.

(D) After processing the complaint IBTF at its sole discretion will make a decision on whether or not to act upon a complaint. This decision is unappealable. IBTF will inform the complainant of this decision. Possible decisions include:

- i. Decline to proceed and issue a letter to the complainant describing why the Complaint is not being acted upon (for instance, because of inadequate factual support or a failure to invoke an appropriate rule or regulation);
- ii. Decline to proceed and suggest that the complainant seek an alternative, more appropriate venue in which to air the dispute; or
- iii. Decide to proceed and give notice to the complainant and the accused regarding the initiation of an investigation and the details of the subsequent process in compliance with Article 3.4 (Procedure) below.

3.4 Procedure

(A) Where IBTF determines that there is a disciplinary case for a Member to answer IBTF shall take action in accordance with the following procedure:

- i. give notice of the charge to the accused (Accused);
- ii. give the opportunity for the Accused to request a hearing and to present evidence and arguments in defense;
- iii. have the decision made by an impartial tribunal; and
- iv. inform the Accused of the decision and offer a right of appeal.

3.5 Notice of the charge

(A) The Notice of Charge shall set out the following:

- i. specific rule infringement(s) that the Accused is alleged to have committed;
- ii. facts upon which such allegation(s) are based;
- iii. range of penalties applicable for such Violations;
- iv. details relating to the Accused 's response to the Notice of Charge within a specified deadline; and
- v. the Accused 's right to request a hearing.

3.6 Hearings

(A) The Notice of Charge shall specify that if the Accused wishes to exercise his right to a hearing he must submit a written request for a hearing so that it is received by the IBTF within 14 days of receipt of the Notice of Charge.

(B) The request must state how the Accused responds to the charge(s) and must explain (in summary form) the basis for such response.

(C) Hearings may be conducted in person or via conference call or other media as appropriate at the discretion of IBTF or, if convened, the deciding Tribunal.

(D) If the Accused fails to file a written request for a hearing by the specified deadline, he shall be deemed to have:

- i. waived his right to a hearing;

- ii. admitted that he has committed the Infringement(s) specified in the Notice of Charge; and
- iii. acceded to the range of applicable penalties specified in the Notice of Charge.

(E) Where the Accused requests a hearing the matter shall proceed to a hearing. Where the Accused is deemed to have waived his right to a hearing and to have admitted the Infringement(s) in accordance with the above, any hearing held at the IBTF's discretion shall be limited to determining the applicable sanctions only.

3.7 Tribunal

(A) Where IBTF alleges that a Member has committed an Infringement and the Member denies the allegation and/or disputes the penalties to be imposed for such Infringement, then the matter shall be referred to a hearing before a Tribunal.

(B) Composition:

- i. The Tribunal shall be composed of one (1) or three (3) persons as determined by IBTF based on the complexity or circumstance of the particular case.
- ii. The members of the Tribunal shall have had no prior involvement with the case and shall not, unless otherwise agreed between the parties, be associated in any way with the Accused (or complainant, if any).
- iii. Parties shall be given the opportunity to challenge Tribunal members. Tribunal members may be challenged if there is a perception of conflict of interest. Challenges should be in writing and set forth the facts giving rise to the challenge. IBTF shall give the challenged panelist the opportunity to respond to the challenge. IBTF shall decide on the merits of the challenge and inform all parties in writing.

(C) Procedures of the Tribunal:

- i. Upon appointment, subject to this Code, the Tribunal shall have the power to establish its own procedures so long as the Parties are treated equally and fairly and given a reasonable opportunity to present their case or respond to the case of another Party. The Tribunal may take such steps and conduct the proceedings as considered necessary or desirable by the Tribunal to avoid delay and to achieve a just, speedy and cost-effective resolution of the matter.

ii. The hearing process shall respect the following principles: a timely and fair hearing, the right to be represented by counsel (at own expense), the right to respond to the asserted rule violation and range of resulting sanction; the right of each party to present evidence, including the right to call and question witnesses (subject to the Tribunal's discretion to accept evidence by telephone or written submission), the right to an interpreter at the hearing (at own expense) and a timely, written decision including an explanation of the reason(s) for the sanction imposed.

iii. The Tribunal may require witnesses to testify under oath or affirm the truth of the evidence that they will give.

3.8 Tribunal Decision

(A) Once the parties have had the opportunity to present their evidence, the Tribunal shall determine whether an Infringement has been committed. Where the Tribunal determines that an Infringement has been committed, the Tribunal shall decide the appropriate penalty after considering any submissions on the subject made by the parties.

(B) The Tribunal shall issue a decision in writing, with reasons, as soon as possible after the conclusion of the hearing. The decision will set out and explain:

- i. the Tribunal's findings as to whether any Infringement has been committed;
- ii. the Tribunal's findings as to what penalties, if any, are recommended;
- iii. the date that any period of ineligibility shall commence or that any penalty shall become due; and
- iv. the rights of appeal described in this Code.

3.9 Evidence

(A) The moving party has the burden to establish facts by a preponderance of the evidence.

(B) Infringements of IBTF rules may be demonstrated by any form of evidence. This can include:

- i. video or photos;
- ii. witness statements;
- iii. expert opinions; and
- iv. reports and official findings.

(C) It is the Tribunal's discretion to determine the credibility and weight of evidence presented.

3.10 Aggravating and Mitigating Factors

(A) In imposing penalties a Tribunal is entitled to consider the existence of any aggravating and/or mitigating factors including the following:

(B) Aggravating Factors:

- i. failure to co-operate with any investigation or requests for information;
- ii. any previous Infringements;
- iii. receiving or being due to receive a significant benefit in connection with the Infringement;
- iv. the Infringement having affected or having the potential to affect the course or result of an event or competition;
- v. displaying a lack of remorse; and
- vi. any other aggravating factor the Tribunal deems relevant.

(C) Mitigating factors:

- i. co-operation with any investigation or requests for information;
- ii. a timely admission of guilt;

- iii. clean prior disciplinary record;
- iv. youth or inexperience;
- v. Infringement not having affected or not having the potential to affect the course or result of an event or competition;
- vi. displaying remorse; and
- vii. any other mitigating factor the Tribunal deems relevant.

3.11 Penalties

(A) Penalties may be determined in consideration of past precedent and/or as benchmarked against those imposed by other comparative organizations but these shall be for comparative purposes only and shall not be binding.

(B) Measures which may be taken by the Tribunal include but are not limited to the following:

- i. warnings
- ii. rebuke;
- iii. fine;
- iv. suspension or ban;
- v. expulsion;
- vi. disqualification;
- vii order the return of funds provided by the IBTF;
- viii. order to payment for reasonable costs incurred by the IBTF in relation to the Investigation and Hearing process; and
- xi. any other sanction deemed appropriate.

3.12 Preliminary suspension

(A) In any case where the IBTF decides to charge a Member, IBTF shall have discretion, in circumstances where it considers appropriate, to provisionally suspend the accused pending the relevant Tribunal's determination of whether a violation has been committed.

3.13 Publication

(A) Unappealed decisions shall be made public unless otherwise determined by the IBTF to be of a confidential nature.

3.14 Confidentiality

(A) Investigations and Hearings conducted under this Code are confidential. The Tribunal, the Parties, their representatives and advisors, the witnesses and experts, and any other persons participating in the process, shall not disclose to any third party any confidential information or confidential document related to the proceedings or any information or document given to them during the proceedings. All Members subject to this code shall avoid undue speculation regarding any ongoing investigation or hearing.

3.15 Appeal of Tribunal Decisions

(A) Decisions made under this Disciplinary Actions section may be appealed under and in accordance with Article 4 (Appeals) of this Code.

ARTICLE 4 APPEALS

4.1 Purpose

(A) The purpose of this Appeals section is to provide a process for fair and expeditious resolution of Appealable Decisions.

(B) Members must submit to the jurisdiction of any decisionmaking committee or panel (Appeal Panel) convened under this Code.

4.2 Appealable Decisions

(A) Appealable Decisions include but are not limited to:

- i. decisions related to sanctions or penalties issued by IBTF or its designated bodies;
- ii. decisions to deny an International Baton Twirling Federation license; and
- iii. decisions related to membership and that involve the interpretation of IBTF or Member Rules.

(B) Unless otherwise agreed by IBTF, Appealable Decisions should NOT require the interpretation of national or international laws, other than the law of incorporation of the IBTF, or the rules of non-IBTF-related organizations.

4.3 Procedure

(A) For an appeal to be heard under this Code the following procedure applies:

- i. A Statement of Appeal (Appeal) is received by IBTF from the Appellant.
- ii. IBTF shall verify that the Appeal is timely and complete.
- iii. If the Appeal is timely and complete IBTF will confirm this to the Appellant and, in the same letter, inform the Respondent(s) and/or Affected Parties of the appeal and the applicable time limits to Answer the appeal.

4.4 Time Limits

(A) All days are included in the calculation of time limits hereunder, including weekends and holidays.

(B) Statement of Appeal: In the absence of a time limit set by agreement or by statute, regulation or other applicable rules governing the appealed decision, a Statement of Appeal must be received within 20 days following the appealed decision or the date of its discovery. Untimely Appeals shall be dismissed. Incomplete Appeals may, at the discretion of IBTF, be given a onetime extension. Additional extensions must be based on a showing of good cause and must be approved by the IBTF Board Executive..

(C) Answer: A Respondent's Answer must be received within 20 days following receipt of the notice of the Appeal from IBTF. The Answer deadline may, at the discretion of IBTF, be given a one time extension. Additional extensions must be based on a showing of good cause and must be approved by the IBTF Board Executive.

4.5 Statement of Appeal

(A) The Appeal must be in English and submitted by email to the IBTF at the following email address: disputes@IBTF-batontwirling.org .

(B) The Appeal must include:

- i. name and contact information for the person(s) initiating the process (Appellant(s));
- ii. the name and contact information of the Respondent(s);
- iii. a brief statement of the dispute including, facts and legal arguments;
- iv. a copy of the decision appealed against (if available);

v. the identification of any person whose selection, ranking or other status could be affected by the decision, the reasons justifying why that person should be an Affected Party and the phone number and email address of the person if not set out in the Appeal;

vi. the reasons why this is an Appealable Decision and why IBTF has jurisdiction to deal with the dispute;

vii. the Appellant's request for relief;

viii. any exhibits, including witness statements or expert testimony, upon which the Appellant(s) intend to rely (exhibits may be submitted after the deadline at the discretion of the Panel); and

ix. proof of payment of the processing fee (see Art. 4.5(C)).

(C) The Appeal must be accompanied by a non-refundable \$500 processing fee.

i. The processing fee should be paid to the account stated previously herein.

ii. This fee can be waived by IBTF based on special circumstances, primarily based on a showing of need or financial hardship. To receive such a waiver the complainant must state adequate grounds.

(D) In addition to the processing fee the IBTF may require that an Appellant submit an amount equal to the reasonable expected cost for the hearing of the complaint.

4.6 Answer

(A) The Respondent's Answer to the Appeal shall contain:

i. a brief statement of the dispute including, including facts and legal arguments, questions to be answered, remedy sought, any counterclaim and proposed solution to the dispute;

ii. the identification of any person whose selection, ranking or other status could be affected by the decision, the reasons justifying why that person should be an Affected Party and the phone number and email address of the person if not set out in the Appeal;

iii. any challenge or objection to the admissibility of the Appeal or the authority of IBTF to hear the appeal; and

iv. any exhibits, including witness statements or expert testimony, upon which the Appellant(s) intend to rely (exhibits may be submitted after the deadline at the discretion of the Panel).

4.7 Appeals Panel

(A) Composition:

- i. Panels shall be composed of one (1) or three (3) persons as determined by IBTF based on the complexity or circumstance of the particular case;
- ii. Parties shall be given the opportunity to challenge Panel members. Panel members may be challenged if there is a perception of conflict of interest. Challenges should be in writing and set forth the facts giving rise to the challenge. IBTF shall give the challenged panelist the opportunity to respond to the challenge. IBTF shall decide on the merits of the challenge and inform all parties in writing.

(B) Procedures of the Panel:

- i. Upon appointment, subject to this code, the Panel shall have the power to establish its own procedures so long as the Parties are treated equally and fairly and given a reasonable opportunity to present their case or respond to the case of another Party. The Panel may take such steps and conduct the proceedings as considered necessary or desirable by the Panel to avoid delay and to achieve a just, speedy and cost-effective resolution of the dispute.
- ii. The hearing process shall respect the following principles: a timely and fair hearing, the right to be represented by counsel (at own expense), the right to respond to the asserted rule violation and range of resulting sanction; the right of each party to present evidence, including the right to call and question witnesses (subject to the Panel's discretion to accept evidence by telephone or written submission), the right to an interpreter at the hearing (at own expense) and a timely, written decision including an explanation of the reason(s) for the sanction imposed.
- iii. The Panel may require witnesses to testify under oath or affirm the truth of the evidence that they will give.

4.8 Fact finding and decision-making

(A) The moving party has the burden to establish facts by a preponderance of the evidence. Credibility of the parties and witnesses is a consideration that can be taken into account by the Appeal Panel as the finder of facts.

(B) An Appeal Panel has discretion to conduct a de novo review of the facts and the law, including the introduction of new evidence if compelling reason can be shown as to why the new evidence was not introduced during the initial investigation process. In absence of significant new evidence appropriate deference shall be given to the initial fact finding body, whose findings shall not

be overturned except by a showing of clear and convincing evidence by the moving party.

(C) An Appeal Panel has broad discretion to determine the scope and method of its investigation. The panel shall not be bound by judicial rules governing the admissibility of evidence and facts may be established by any reliable means, including but not limited to, admissions, evidence of third parties, witness statements, expert reports, documentary evidence and other analytical information.

(D) An Appeal Panel has, in its sole discretion, the right to issue formal requests for information to any party to the investigation as well as related persons.

(E) An Appeal Panel shall be entitled to draw an inference adverse against any party if that party fails to participate in a hearing if requested to do so within a reasonable time in advance of the hearing, or fails to comply with any reasonable information request.

(F) Failure of any Member to cooperate with any reasonable investigation, including failing to provide any information and/or documentation requested by IBTF or an Appeal Panel that may be relevant to an investigation, can in itself be subject to investigation and penalty.

(G) The Appeal Panel has full scope to affirm, invalidate, reduce, increase or modify any penalty being appealed.

(H) Appeal Panel decisions shall be in writing and dated. For a Panel of three (3) arbitrators, the decision shall be made by a majority decision.

(I) The Panel decision shall be communicated to the Parties as soon as possible upon completion of the hearing process.

4.9 Costs

(A) Each Party shall be responsible for its own expenses and that of its witnesses. The Panel shall determine whether there is to be any award on costs and the extent of any such award. When making its determination the Panel shall take into account the outcome of the proceedings, the conduct of the parties and each Party's willingness in attempting to resolve the dispute prior to the Appeal. Success in the Appeal does not mean that a party is entitled to be awarded costs.

4.10 Publication

(A) Decisions shall be made public unless otherwise determined by the Panel or if the Decision involves confidential matters.

4.11 Confidentiality

(A) Appeals conducted under this Code are confidential. The Panel, the Parties, their representatives and advisors, the witnesses and experts, and any other persons participating in the process, shall not disclose to any third party any confidential information or confidential document related to the proceedings or any information or document given to them during the proceedings. All Members subject to this code shall avoid undue speculation regarding any ongoing appeal.

4.12 Appeal of Appeal Panel Decisions

(A) Final Decisions made by a IBTF Appeal Panel may be submitted exclusively by way of appeal to the Court of Arbitration for Sport in Lausanne, Switzerland, which will resolve the dispute definitively in accordance with the Code of sports-related arbitration. The number of arbitrators shall be three. The language of the arbitration shall be English. The time limit for appeal is twenty-one days after the reception of the decision concerning the appeal.

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