

## **NSWTA DISCIPLINARY BY- LAW**

In accordance with Rule 32.1 of the NSW Touch Constitution, the following By-Law is adopted by the NSW Touch Association Board.

This Disciplinary By-Law sets out the procedure for dealing with disciplinary actions and matters under Rule 13.1 of the NSW Touch Constitution.

Where a member (Affiliate, Region or Individual) is deemed to have breached the objects of the Constitution or brought the sport into disrepute the Board may elect to handle the matter in the following way.

1. The Board may choose to hear and deal with the matter entirely themselves.
2. The Board may elect to have the matter heard by a Disciplinary/Judiciary Panel.

In any matter that is referred to a Disciplinary/Judiciary Panel, the functions of that Panel will be governed by the Touch Football Australia Disciplinary Regulations Manual.

Where a disciplinary matter relates to an incident that occurs at a NSWTA Tournament/Event, the matter will be handled under the NSWTA Disciplinary Policy of the NSWTA.

### **NSWTA Disciplinary Policy summary**

This policy is to be used by the Disciplinary Panel/Judiciary Chair or their nominee for the offences assessed by the respective Chair of Disciplinary Panel/Judiciary or their nominee as being from Level 1 to Level 5 and carrying suspensions.

The aim of the policy is to aid in streamlining and limiting the number of the Disciplinary Panel/Judiciary hearings that need to be heard by allowing the individual to accept the charge and penalty. If they choose to challenge the charge and elect to have the matter heard by the Disciplinary Panel/Judiciary the minimum penalty if found guilty is greater than an early acceptance.

The referee/official who lodges the Incident report indicates which charge and level they are applying. Based on the written report the Chair of the Disciplinary Panel/Judiciary or their nominee has the power to down grade, upgrade or move straight to a the Disciplinary Panel/Judiciary hearing.

Should a Disciplinary Panel/Judiciary hearing be required then current TFA guidelines on the conduct of such hearings are to be followed.

If a hearing is required, the Disciplinary/Judiciary Panel has the power to down grade or upgrade the charge based on evidence provided during the hearing. In such case where the charge is downgraded the defendant will be offered the opportunity to accept the new grading and penalty prior to further proceeding. Should they accept the guilty charge on the new grading they will be suspended at the acceptance level and the hearing concluded with no further evidence required to be taken.

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Any suspension is from all Touch. That is if a person is suspended from one Affiliate they are suspended from all affiliates.

A match is deemed to be represented as one (1) game in the division that they were playing at the time of the offense. It will not count as a match in any other division that the guilty party may be participating in. That is if registered to play in both a Men's and Mixed competition, and the party is suspended for an offense committed in the Men's division, they cannot participate in the mixed competition until such time as they have served their sentence from the men's competition.

For weekend tournaments where a player is only registered in one team the suspension will be served as stated. Should they be eligible to be registered in two or more teams the same principle as the previous clause will apply.

For any appearance before a Disciplinary Panel/Judiciary hearing where the party is found guilty, the level of remorse, the seriousness of the incident and their previous record can all be used in setting sentence above the minimum stated in the policy.

The full Range of Suspensions applies to all offences referred to the Disciplinary Panel/Judiciary and shown under NSWTA Disciplinary guidelines of this policy, the TFA Disciplinary Regulations, NSWTA Constitution and this bylaw.

### **Board Dealt with Matters**

The Board can if they chose act as the Disciplinary body to deal with all disciplinary actions and matters under Rule 13.1 of the NSW Touch Constitution.

#### *Composition of Board Disciplinary body*

Where the Board acts as a Disciplinary body it will consist of a minimum of 3 members of the Board to hear matters under Rule 13.1 of the NSW Touch Constitution.

#### *Consideration of Alleged Breach*

Where the Board is advised or considers that a Member of NSW Touch Association has allegedly:

- (a) breached, failed, refused or neglected to comply with a provision of the Constitution, the By-Laws or any resolution or determination of the Board or any duly authorised committee; or
- (b) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of NSW Touch and/or the sport of touch; or
- (c) brought NSW Touch or the sport of touch into disrepute;

the Board shall convene to decide to act in the matter itself or refer to a Disciplinary/Judiciary Panel.

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## Board Hearing Procedures

At a hearing the Board shall:

- (a) give to the Member every opportunity to be heard;
- (b) give due consideration to any written statement submitted by the Member; and
- (c) by resolution determine whether the alleged breach occurred.

NSW Touch and the Member shall not be entitled to legal representation at a hearing.

The Board shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged breach occurred.

If the Board considers that the alleged breach occurred, it may impose any one or more of the sanctions/penalties set out below.

If the Board considers that the alleged breach did not occur, the matter shall be dismissed.

Each party shall be responsible for their own costs associated with the hearing.

### *Penalties*

If the Board considers that the alleged breach occurred, they may impose any one or more of the following penalties:

- (a) impose a warning;
- (b) fine the Member;
- (c) where there has been damage to property, direct that the Member pay compensation to the relevant organisation which controls or has possession of the property;
- (d) cease funding granted or given to it by NSW Touch from a specified date;
- (e) suspend for a specified period and/or terminate any rights, privileges and benefits provided to that Member by NSW Touch;

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- (f) cease to sanction events held by or under the auspices of that Member;
- (g) reprimand the Member;
- (h) suspend the Member from membership of NSW Touch for a specified period;
- (i) expel the Member from NSW Touch;
- (j) any other such penalty as the Board considers appropriate.

#### *Grounds for Appeal from Decision of the Board*

Where the Board has elected to deal with the matter, then the disciplinary action and matter must be solely and exclusively resolved by the Board and the decision of the Board is final and binding upon the NSW Touch Association and the Member.

The Board is under no obligation to hear an appeal on their decision. If they do so it can only be considered for appeal on the severity of sentence or if significant new evidence is made available. NSW Touch Association and the Member have no right of appeal.

Adopted by the Board on August 15 2013.

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