

NSDTRC (USA) POLICY STATEMENT – DISCIPLINE

On becoming a member of the NSDTRC (USA), applicants signed an agreement to abide by the NSDTRC (USA) Bylaws, the rules of the American Kennel Club, and the NSDTRC (USA) Code of Ethics. The agreement is an affirmation of how members should conduct themselves and these policies provide direction in the handling of alleged violations of conduct. Filing a complaint is a very serious matter and should never be taken lightly by the membership.

To assist in the handling of complaints and potential actions, the current edition of *Robert's Rules of Order Newly Revised* shall govern the Club in cases to which they are applicable and in which they are not inconsistent with the Bylaws and any special rules of order the Club adopts through these policies and procedures.

As provided in Article VII: Discipline of the Nova Scotia Duck Tolling Retriever Club (USA) Bylaws, the Board of Directors has sole power in areas related to disciplinary matters coming before it except in those cases that occur in relation to AKC member club events. AKC member club events sponsored by NSDTRC (USA) are bound by the *American Kennel Club Charter & Bylaws* and the publication, *Dealing with Misconduct at AKC Events*.

Enforcement

Alleged violations of conduct should be reported to the Board of Directors in writing. The Board of Directors will investigate the report, following a published procedure that provides for due process. Complaints will be handled by sending a copy to the subject of complaint and giving him/her an opportunity to respond.

After consideration and/or formal investigation, the Board of Directors may choose:

1. If the charge is unsubstantiated or outside the bounds of authority of the NSDTRC (USA), a letter will be sent to the complainant and the accused stating such.
2. If the charges are such that reasonable proof cannot be established or the Board of Directors believes the alleged violation is not of a sufficient degree to require formal disciplinary action, an educational letter may be sent to the parties involved.
3. If there is a reasonable belief that the charges could be proven and/or the number (more than one in any twelve (12) month period or three (3) in any three (3) year period) or seriousness of the complaint(s) against a member rises to the level requiring formal discipline, Article VII of the Bylaws shall be invoked. After a hearing and the charges substantiated, the Board of Directors or Committee may take one of the following actions: 1) Reprimand; 2) Suspension from all privileges of the Club for not more than six (6) months from the date of the hearing, or until the next Annual Meeting if that will occur after six months; 3) Recommend to the membership that the penalty be expulsion, and may be accomplished only at the Annual Meeting of the Club pursuant to Article VII, Section 4 of the Bylaws.
4. Any substantiated violations of AKC Rules and Regulations will be forwarded to the AKC by the Board of Directors.
5. Enforcement actions taken by the Board will be published in the Club newsletter to keep the membership informed; however information identifying said member(s) will be omitted, except in the case where expulsion is recommended and would therefore be identified in the proceedings of an Annual Meeting as documented in the Minutes.
6. If a member is suspended from the privileges of The American Kennel Club, member shall automatically be suspended from the privileges of this Club for a like period.
7. If a member chooses to file charges in a legal civil court action against another member, the Club will not entertain jurisdiction on like charges until the case is adjudicated by the courts.

Filing a Complaint

1. Charges of alleged misconduct prejudicial to the best interests of the Club or the breed must be in writing with specifications and filed in duplicate with the Secretary along with a deposit as defined in the Club Bylaws.
2. Complaints may be only filed by members of the club against another member of the Club.
3. Complaints may NOT be filed in an email.
4. Duplicate copies is defined as the number of copies equal to the number of members of the Board of Directors as well as an additional copy to be provided to the accused.

Complaints from Non-Members

1. Written complaints against a member of the club received from non-members are generally not within the scope of authority of the Board of Directors.
2. If the number (more than one in any twelve (12) month period or three (3) in any three (3) year period) or seriousness of the complaints against a member rises to a level of sufficient concern that formal discipline is contemplated (i.e. conduct prejudicial to the breed or the Club), the NSDTRC (USA) Board of Directors will consider preferring charges.
3. Alleged infractions of a lesser degree or not within the authority of the Board of Directors will be dealt with by an educational letter sent to the parties involved.
4. The Club has no jurisdiction over individuals not members of the Club and will take no formal action on any complaints received.

NSDTRC (USA) BYLAWS ARTICLE VII - DISCIPLINE

Section 1. American Kennel Club Suspension.

Any member who is suspended from the privileges of The American Kennel Club automatically shall be suspended from the privileges of this Club for a like period.

Section 2. Charges.

Any member may prefer charges against a member for alleged misconduct prejudicial to the best interests of the Club or the breed. Written charges with specifications must be filed in duplicate with the Secretary together with a deposit of \$10 which shall be forfeited if such charges are not sustained by the Board or a Committee following a hearing. The Secretary shall promptly send a copy of the charges to each member of the Board or present them at a Board Meeting, and the Board shall first consider whether the actions alleged in the charges, if proven, might constitute conduct prejudicial to the best interests of the Club or the breed.

If the Board considers that the charges do not allege conduct, which would be prejudicial to the best interests of the Club or the breed it may refuse to entertain jurisdiction. If the Board entertains jurisdiction of the charges, it shall fix a date of a hearing by the Board or a Committee of not less than three (3) members of the Board, not less than three (3) weeks nor more than six (6) weeks thereafter. The Secretary shall promptly send one (1) copy of the charges to the accused member by certified mail together with a notice of the hearing and assurance that the defendant may personally appear in his/her own defense and bring witnesses if he/she wishes.

Section 3. Board Hearing.

The Board or Committee shall have complete authority to decide whether counsel may attend the hearing, but both complainant and defendant shall be treated uniformly in that regard. Should the charges be sustained after hearing, all the evidence and testimony presented by complainant and defendant, the Board or Committee may, by a majority vote of those present, reprimand or suspend the

defendant from all privileges of the Club for not more than six (6) months from the date of the hearing, or until the next annual meeting if that will occur after six months. And, if it deems that punishment insufficient, it may also recommend to the membership that the penalty be expulsion. In such case, the suspension shall not restrict the defendant's right to appear before his/her fellow members at the ensuing Club meeting which considers the recommendation of the Board or Committee. Immediately after the Board or Committee has reached a decision, its finding shall be put in written form and filed with the Secretary. The Secretary, in turn, shall notify each of the parties of the decision and penalty, if any.

Section 4. Expulsion.

Expulsion of a member from the Club may be accomplished only at the Annual Meeting of the Club following a hearing and upon the recommendation of the Board or Committee as provided in Section 3 of this Article. The defendant shall have the privilege of appearing in his/her own behalf though no evidence shall be taken at this meeting. The President shall read the charges and the findings and recommendations, and shall invite the defendant, if present, to speak in his/her own behalf. The members present shall then vote by secret written ballot on the proposed expulsion. A two-thirds (2/3) vote of those present and voting at the annual meeting shall be necessary for expulsion. If expulsion is not so voted, the suspension shall stand.

NSDTRC (USA)

Procedure for Investigation of Complaints and Actions

SELECTION OF INVESTIGATOR

After receipt of a complaint, the Secretary will forward, within two (2) weeks of its receipt, by mail a copy of the complaint to all Board members. If the Board determines that the complaint may relate to alleged misconduct prejudicial to the best interests of the club or the breed, the Board will appoint a member of the Board to perform the investigation. In selecting the investigator, the Board will make reasonable efforts to select a member who is not well known to either the complaining party or to the accused. If none of the members of the Board believe they can investigate the case in a fair and impartial manner, the NSDTRC (USA) President shall appoint a member of the Club for the purpose of investigating the complaint. The investigator shall be appointed within four (4) weeks of the complaint being reviewed by the Board.

INITIAL CONTACT BY INVESTIGATOR WITH COMPLAINANT

Within two (2) weeks after being appointed, the investigator will contact the complainant and obtain any supporting materials, including documents, statements from witnesses, etc., that the complainant may wish to submit. The complainant shall have three (3) weeks to provide supporting materials. The investigator should have at least one telephone conference with the complainant in order to explain the investigatory process and clarify the facts and issues involved in the complaint. The investigator should explain to the complainant that she/he has a right to submit any further supporting documentation, but that all of the materials submitted will be provided to the accused in order to allow the accused the opportunity to fully respond to the allegations. The complainant should not submit any materials which she/he does not want to be provided to the accused.

INITIAL CONTACT BY INVESTIGATOR WITH ACCUSED

Within three (3) weeks after receiving all materials from the complainant, the investigator will notify the accused and provide all documents obtained during the course of the investigation to the accused. The investigator will have at least one initial telephone conference with the accused to explain the process and to notify the accused that she/he has an opportunity to provide any documents or witness statements in response to the complaint. The accused will have four (4) weeks within which to respond.

REPORT OF INVESTIGATION TO BOARD OF DIRECTORS

Within three (3) weeks after receiving materials from the accused, the investigator shall submit a written report to the Board of Directors summarizing the investigation and all materials received from the complainant and the accused. Within two (2) weeks, the President will convene an Executive Session in the on-line forum, by conference call, or an in-person meeting to determine whether probable cause exists to believe that a violation of conduct prejudicial to the breed or the club has occurred. A majority of the entire Board must vote in the affirmative for a finding that probable cause is present.

If the Board decides probable cause is not present, and that the appropriate response is to issue an educational letter, it is empowered to do so. No further action is required and the matter is considered closed.

If the Board decides probable cause is present, and that the appropriate response is the consideration of disciplinary action as provided in the Bylaws, Article VII – Discipline, it shall fix a date of a hearing by the Board or a Committee of not less than three (3) members of the Board, not less than three (3) weeks nor more than six (6) weeks thereafter. The Secretary shall promptly send one (1) copy of the charges to the accused member by certified mail together with a notice of the hearing and assurance that the defendant may personally appear in his/her own defense and bring witnesses if he/she wishes.

Procedure for Investigation of Complaints and Actions-Approved 10/2007

The Secretary shall also send the complainant a notice of the hearing by certified mail and the assurance that the complainant may personally appear and bring witnesses if he/she wishes.

The Hearing may be held in a telephone conference call with all parties involved being invited to participate or at an in-person meeting.

The Board or Committee shall have complete authority to decide whether counsel may attend the hearing, but both complainant and defendant shall be treated uniformly in that regard. The Secretary will notify the complainant and defendant the Board's determination regarding counsel.

The Procedural Checklist will be used to ensure that due process was followed.

CONFIDENTIALITY

The Board of Directors will use reasonable efforts to maintain the confidentiality of this entire process. The Board of Directors will strive to respect the privacy of the parties during its investigation and make reasonable efforts to avoid inadvertent disclosures. No public announcement will be made by the investigator or Board regardless of its decision. The complainant and the accused will be notified privately by the Board of its decision.

APPEALS

The decision of the Board of Directors or Committee shall be final in all matters related to the handling of complaints. Appeals will only be entertained:

1. If the recommendation is expulsion, the defendant may speak in his/her behalf before the membership at the Annual Meeting and prior to the vote of those members present;
2. Or if serious procedural errors can be substantiated in the handling of a complaint.

MAXIMUM TIMELINE OF EVENTS

Secretary notifies Board of complaint	2 weeks
Board determines if a valid complaint exists and appoints an investigator	4 weeks
Investigator contacts complainant	2 weeks
Complainant submits additional material	3 weeks
Investigator contacts accused and provides documentation from complainant	3 weeks
Accused provides a response	4 weeks
Investigator submits report to Board	3 weeks
Executive Session convened	2 weeks
Board discussion, determination and vote	4 weeks
Hold Hearing	6 weeks
Notification of accused and complainant of decision	1 week
TOTAL	34 weeks

NSDTRC (USA) Disciplinary Hearings
PROCEDURAL CHECKLIST

Defendant:	
Address:	
City/State/Zip:	
Date:	

This checklist must be completed by the Committee Chair and initialed and signed. The accused must also sign this document.

This checklist is part of the record of the Hearing, concerning the alleged conduct of a member, and should be submitted with the complete report of the proceedings. The report must be sent so as to be received by the NSDTRC (USA) Secretary within five days of the date of the hearing.

PREHEARING

Complete and Initial

#	Criteria	✓ when completed	Initials
1.	Preliminary Investigation. An investigation of all complaints was made following club policy/procedure and a preliminary determination was made by the Board of Directors whether, if the alleged conduct was proven true, it was prejudicial to the club and/or breed.	<input type="checkbox"/> Yes	
2.	Name and address of the individual making the complaint.		
	Name:		
	Address:		
3.	The complaint is in writing.	<input type="checkbox"/> Yes	
4.	Appropriate fee submitted with the complaint.	<input type="checkbox"/> Yes	
5.	It was determined that a hearing should be held.	<input type="checkbox"/> Yes	
6.	Notice of Hearing. The accused was advised by certified mail on	Date:	
	a. Accused was told he/she was being charged with the following misconduct:		
		<input type="checkbox"/> Yes	
	b. The hearing will be held _____ at _____ a.m./p.m. on _____ (date). (The accused must be given reasonable time to secure witnesses and to prepare. The hearing must be held not less than 3 weeks nor more than 6 weeks after notification)	<input type="checkbox"/> Yes	
	c. The accused was provided with a copy of the complaint.	<input type="checkbox"/> Yes	
	d. The accused was advised whether counsel could be present.	<input type="checkbox"/> Yes	
7.	The President established the committee as follows (include address and telephone number):		
	Chair:	<input type="checkbox"/> Yes	
	Secretary:		

HEARING

Complete and Initial

#	Criteria	✓ when completed	Initials
8.	Introduction. The Chair introduced himself or herself and the members of the Committee and designated one member of the Committee to keep a record of the proceedings.	<input type="checkbox"/> Yes	
9.	Advisal of Charges. The Chair again advised the accused of the specific charges (same as #6A above).	<input type="checkbox"/> Yes	
10.	Advisal of Rights. The Chair advised the accused of these rights:		
	a. To hear, confront and question all witnesses;	<input type="checkbox"/> Yes	
	b. To present witnesses on his/her own behalf;	<input type="checkbox"/> Yes	
	c. To testify on his/her own behalf; and	<input type="checkbox"/> Yes	
	d. Counsel is/is not allowed to be present.	<input type="checkbox"/> Yes	
11.	Witness List. The Chair determined the list of witnesses to be called by the complainant and the accused.		
	Complainant's Witnesses:		
	Accused's Witnesses:		
12.	Unauthorized Persons Excused. The Chair excused all persons except the Committee, the accused, and counsel if allowed. The witnesses were excused from the proceedings, except when they were called on individually to testify.	<input type="checkbox"/> Yes	
13.	Witnesses. The Chair called and swore in the witnesses: first, the complainant and those named by the complainant; then, those named by the accused. The Chair ascertained the full name and address of each witness. The Chair questioned the witness and then allowed the accused to question the witness. (An appropriate oath is as follows: "Do you swear or promise that you will tell the truth, the whole truth and nothing but the truth?")	<input type="checkbox"/> Yes	
14.	Accused Statement. After all the witnesses testified, the Chair permitted the accused to make a final statement in response to the charges.	<input type="checkbox"/> Yes	
15.	Close Hearing. The Chair then excused all persons except the committee and asked the accused to remain available to receive the committee's decision.	<input type="checkbox"/> Yes	

POSTHEARING

Complete and Initial

#	Criteria	✓ when completed	Initials
16.	Findings. After deliberation and by majority vote, the committee made these findings:		
	a. As to whether the charged conduct has been proven;	<input type="checkbox"/> Yes	
	b. Whether such conduct was prejudicial to the best interests of the breed or the Club.	<input type="checkbox"/> Yes	
17.	Decision.		
	a. The committee found that both of the elements in charge(s) number ____ were not proven and it dismissed the charge(s).	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	b. The committee found that both elements in charge(s) ____ were proven and determined that the following action be taken:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	1) Written reprimand.	<input type="checkbox"/> Yes	
	2) Suspension from the club for _____ months.	<input type="checkbox"/> Yes	
	3) Recommendation for expulsion from the club.	<input type="checkbox"/> Yes	
18.	Notice. After the committee made its decision, the Chair:		
	a. Immediately notified the accused of the charges that were dismissed and those that were sustained.	<input type="checkbox"/> Yes	
	b. If charges were sustained, the accused was so advised and notified of the action taken.	<input type="checkbox"/> Yes	
19.	Reminder.		
	a. Committee must notify the accused, in writing, by certified mail return receipt requested and first-class mail, of the committee's decision.	<input type="checkbox"/> Yes	
	b. Send to the club Secretary, within five days, a complete report of the proceedings, which includes: 1) A copy of the signed written complaint 2) A comprehensive summary of the hearing. 3) This Procedural Checklist 4) A duplicate copy of the notice of action sent to the accused.	<input type="checkbox"/> Yes	
	c. Secretary sends letter to complainant of outcome.		

Chair Signature _____ Attesting to the fact that all items on this list were completed.

Defendant Signature _____ Attesting to the fact that Items 3, 5, 6, 7, 8, 9, 10, 11 and 16 were completed.