

Newfoundland Club of America

Policies and Procedures

2006

Volume II

Updated through 1/19/06 NCA Board Teleconference

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*NOTE:* Volume II of the NCA Policies and Procedures contains standing documents, guidelines and procedures as cross-referenced in Volume I of the NCA Policies and Procedures

## **BY-LAWS**

### **Article I - Membership**

#### Section 1 - Eligibility

There shall be three types of membership:

- 1) Regular Membership: open to all persons 18 years or older who are in good standing with the American Kennel Club and who subscribe to the purposes of the Newfoundland Club of America, Inc. These members will have full voting privileges, if current dues are paid.
- 2) Junior Membership: open to persons 10 through 17 years of age. Juniors cannot vote or hold office, however, they may convert to Regular Membership upon reaching their 18th birthday.
- 3) Honorary-Life Membership: for persons who have made an outstanding contribution to the Newfoundland Breed. These members will enjoy all privileges of membership including the right to vote and to hold office.

#### Section 2 - Dues and Levies

- a) Membership dues shall be assessed annually for all Regular and Junior members and shall be payable on or before the first of July each year.
- b) The amount of the dues of each membership category shall be determined by a majority decision of the full membership of the Board of Directors prior to March 1 of each year in order to take effect the following July 1. In any year when the Board has not acted by March 1 to change the amount, the dues for the current year shall continue to effect for the ensuing year.
- c) Honorary-Life members are exempt from all dues and levies.

No member may vote whose dues are not paid for the current year. During the month of May, each member shall be sent a statement of his/her dues for the ensuing year.

#### Section 3 - Election to Membership

- a) Election to regular membership. Each applicant for membership shall apply on a form as approved by the Board of Directors and which shall provide that the applicant agrees to abide by the Constitution and By-Laws of this Club and the rules of the American Kennel Club. The application shall carry the endorsement of two (2) members in good standing, and the applicant shall submit dues payment for the current year to the Membership Chair.

The applicant's name(s) shall be published in a Club publication following initial Board approval, and any comments received by the Membership Chair within thirty (30) days of publication shall be forwarded to the Recording Secretary to be included in the material distributed to Board members prior to final consideration by the Board. During final consideration, an applicant must receive a favorable vote of 2/3

of the Board members conducted by secret ballot. Together with the application for membership, the prospective member shall submit dues payment for the current year. The Board may deny membership for any reason and is not required to give reasons for denial of membership.

Applications which have received unfavorable action at a Board Meeting may be presented by the applicant's endorsers at the next meeting of the Club and may be elected by a favorable vote of 75 percent of the members in attendance at a meeting of the Club. Otherwise, no applicant who has been rejected at any meeting may be again considered at any meeting held within twelve (12) months after the date of the last such rejection.

- b) Election to Honorary-Life Membership. Honorary-Life members may be proposed by a Board members or Club member through the Corresponding Secretary. Election will be by 2/3 vote of the Board of Directors, voting by secret ballot.

#### Section 4 - Termination of Membership

Membership may be terminated by:

- a) Resignation. Any member in good standing may resign from the Club upon written notice to the Membership Chairman; but resignation shall not affect or cancel any obligation of dues or any other debt to the Club which has accrued prior to resignation.
- b) Lapsing. A membership may be considered lapsed and automatically terminated if such member's dues remain unpaid thirty (30) days after the first day of the fiscal year. In no case may a person be entitled to vote at any Club meeting whose dues or other financial obligations to the Club or Club sponsored functions are unpaid as of the date of that meeting.
- c) Expulsion. A membership may be terminated by expulsion as provided in Article 6 of these By-Laws.

### **Article II - Meetings**

#### Section 1 - Annual Meeting

The annual meeting of the Club shall be held in March, April or May of each year at such time and place as may be designated by the President. Written notice of each such meeting shall be mailed by the Recording Secretary at least twenty-one (21) days prior to the date of the meeting. The quorum for such a meeting shall be 1/10 of the members in good standing.

#### Section 2 - Special Club Meetings

Special Club meetings may be called by the President or by a major vote of the members of the Board at any regular or mail meeting of the Board, or by the Recording Secretary upon receipt of a petition signed by 10 percent of the members of the Club who are in good standing. Such special Club meetings shall be held at such time and place as may be designated by the President. Written notice of such meeting shall be mailed by the Recording Secretary at least fourteen (14) days and not more than sixty (60) days prior to

the date of the meeting; and said notice shall state the purpose of the meeting; and no other Club business may be transacted. The quorum for such a meeting shall be 1/10 of the members in good standing.

Section 3 - Annual Meeting of the Board of Directors

The annual meetings of the Board of Directors shall be held in March, April or May of each year immediately following the Annual Meeting of the Club, as provided in Section 1 of this article. The quorum for such meetings shall be seven (7) directors present and voting.

Section 4 - Special Board Meetings

Special Board meetings may be called by the President or by a majority vote of the Board. Such special Board meetings whether mail, face to face, or conference call, shall be held at such time and place as may be designated by the President. Written notice of such meeting shall be mailed by the Recording Secretary at least fourteen (14) days and not more than sixty (60) days prior to the date of the meeting, unless such time limit is waived by the President for cause. The quorum of such meeting shall be seven (7) directors.

Section 5 - Regular Board Meetings by Mail

Such meetings shall be called by the President whenever it becomes necessary to transact the business of the Club. The Recording Secretary will act as the clearing house for such meetings. Seven (7) written replies from the Directors acceptable under the conditions set forth in Section 6 of this Article will constitute a quorum.

Section 6 - Conduct of Mail Meetings

Upon notice from the President that the Mail Meeting is to be held, the Recording Secretary will circulate to the Board an initial letter stating the business to be transacted. Replies will be made to the Recording Secretary. Recording Secretary to be counted as "attending" the meeting. Directors may vote on the issue as received or may write discussion to be considered if there are insufficient votes to settle the matter. If issues are not settled on the first exchange of letters and sufficient discussion is presented to warrant further correspondence, the Recording Secretary may then circularize the Board in the same manner until a deciding vote is cast. At the close of the meeting, the Recording Secretary will advise the Board members of all decisions reached; this advice will then constitute the minutes.

**Article III - Officers and Directors**

Section 1 - Board of Directors

The Board of Directors shall be comprised of twelve (12) members, all of whom shall be members in good standing who are residents of the United States. They shall be elected for two-year terms. Six (6) members shall be elected each year. General management of the Club's affairs shall be entrusted to the Board of Directors. The Officers shall be elected by the Directors among all the Directors.

Section 2 - Officers

The officers of this Club shall consist of a President, a First Vice President, as Second Vice President, a Treasurer, a Recording Secretary and a Corresponding Secretary. The

officers shall be elected by the Directors from among the Directors, as proposed by Article 4, Section 2, of these By-Laws and shall serve in their respective capacities at all meetings of the Club and, so far as may be appropriate, at all meetings of the Board of Directors. The Board of Directors at their meeting following the Annual Meeting of the Club shall appoint from their number or from the membership at large, a delegate to the American Kennel Club to serve for a term not less than two (2) years. If the delegate appointed is not a Board Member, he shall have the privilege of attending Board meetings to report on AKC activities, express his/her opinion on matters under discussion, but shall have no vote.

The immediate past President is entitled to become a non-voting member of the Board of Directors for a period of two (2) years. At the discretion of the Board, this term may be extended.

- a) President. The President shall preside at all meetings of the Club and of the Board and shall have the duties and powers normally appurtenant to the office of President in addition to those particularly specified in these By-Laws.
- b) Vice President. The two Vice Presidents shall have the powers and exercise the duties of the President in case of the President's death, absence, or incapacity, in the order of their election.
- c) Recording Secretary. The Recording Secretary shall keep a record of all meetings of the Club and of the Board and of all matters of which a record shall be ordered by the Club. He shall notify members of meetings, notify officers and directors of their election to office, keep a roll of the members of the Club with their addresses, present the names of proposed new members as received from the Membership Chair, and carry out such other duties as are prescribed in these By-Laws.
- d) Corresponding Secretary. The Corresponding Secretary shall have charge of answering all inquiries directed to the Club and such other correspondence as may be delegated to him/her.
- e) Treasurer. The Treasurer shall collect and receive all monies due or belonging to the Club. Monies shall be deposited in a bank approved by the Board in the name of the Club. The books shall be open at all times to inspection of the Board at all times, and a report shall be given at every meeting of the condition of the Club's finances and every item of receipt of payment not before reported; and at the Annual Meeting an accounting shall be rendered of all monies received and expended during the previous fiscal year. The Treasurer shall be bonded in such amount as the Board of Directors shall determine.

### Section 3

Any Board Member who fails to attend two meetings for just cause in a Club year, may be removed by a 2/3 vote of the Board.

### Section 4 - Vacancies

Any vacancy occurring on the Board during the year shall be filled for the unexpired term of office by a majority vote of the members of the Board at its first meeting following such vacancy except that a vacancy in the office of President shall be filled automatically by the First Vice President. The resulting vacancy in the position of the First Vice President shall be filled automatically by the Second Vice President, and the resulting vacancy shall be filled by the Board.

## **Article IV - The Club Year, Annual Meeting, Nomination, Elections**

### Section 1 - Club Year

The Club's Fiscal year shall begin on the first day of July and end on the thirtieth day of June. The Club's official year shall begin immediately at the conclusion of the Annual Meeting and shall continue through the next Annual Meeting.

### Section 2 - Annual Meeting

- a) Annual Meetings of the Members. The Annual Meeting of the Club shall be held in accordance with Article II, Section 1. The Directors chosen by secret ballot from among those nominated in accordance with Section 4 of this Article shall take office immediately upon the conclusion of the Annual Meeting of the members.
- b) Annual Meeting of the Board of Directors. The Annual Meeting of the Board of Directors shall be held in accordance with Article II, Section 3. At this meeting, the Board shall elect the Officers from among its members. These Officers shall serve until the next Annual Meeting of the Directors or until their successors have been duly elected. Each retiring officer shall turn over to his successor in office all records and properties related to that office, within thirty (30) days after the election of his successor. Any retiring officer who fails to turn over such records and properties within thirty (30) days may be suspended from all privileges of the Club until the transfer is effected.

### Section 3 - Elections

No person may be a candidate in a Club election who has not been nominated in accordance with these By-Laws. No later than December 1, the Board of Directors shall select a nominating committee consisting of five (5) members and their alternates, in good standing, not more than one (1) of whom shall be a member of the Board. The Board of Directors shall name a chair for the Committee. The Nominating Committee may conduct its business by mail.

- a) The Nominating Committee shall nominate from among the eligible members of the Club six (6) candidates for the position of Director to replace those six (6) Directors whose terms will expire at the next Annual Meeting and shall procure the acceptance of each such nominee so chosen. The committee shall then submit its slate of candidates to the Recording Secretary on or before September 1. The Recording Secretary shall mail the list of nominations to each member of the Club on or before September 15, so that additional nominations may be made by members if they so desire.
- b) Additional nominations of eligible members may be made by written petition, addressed to the Recording Secretary and received at his/her regular address on or before November 1, signed by thirty (30) members in good standing and accompanied by the written acceptance of each such additional nominee signifying his/her willingness to be a candidate.
- c) If no valid additional nominations are received by the Recording Secretary on or before November 1, the Nominating Committee's slate shall be declared elected as of February 1, to take office at the next Annual Meeting of the



Board, and no balloting will be required. The Recording Secretary shall inform the membership on or before February 1 if no balloting is required.

- d) If one (1) or more valid additional nominations are received by the Recording Secretary on or before November 1, he shall on or before December 15, mail to each voting member in good standing a ballot listing all of the nominees in alphabetical order, together with a blank envelope and a return envelope addressed to the Recording Secretary and marked "Ballot" and the name of the member to whom it was sent. So that the ballots may remain secret, each voter, after marking his ballot, shall seal it in the blank envelope which in turn shall be placed in the second envelope addressed to the Recording Secretary. Ballots to be considered valid must be received by the Recording Secretary by February 1. The ballots shall be counted by an independent or professional firm or by three (3) inspectors, none of whom are candidates. Three (3) inspectors and three (3) alternates shall be timely appointed by the six (6) Board members whose terms will not expire at the next Annual Meeting. The candidates receiving the largest numbers of votes shall be elected to the vacancies on the Board of Directors. The inspectors shall certify the results of the voting prior to February 21. Results shall be announced in the Annual Meeting Notice. If any Director-elect is unable to serve for any reason, the vacancy so created shall be filled by the new Board of Directors, in the manner provided by Article III, Section 4, of these By-Laws.
- e) Nominations cannot be made at the annual meeting or in any manner other than as provided above.

#### **Article IV - Committees**

##### Section 1

The Board of Directors will each year appoint standing committees to advance the work of the Club. Such committees shall always be subject to the final authority of the Board. The Board may at its discretion determine the size and composition of any committee. Special committees may also be appointed by the Board to aid it on particular projects. The Chair of each committee shall submit an annual report to the Recording Secretary no later than January 2.

##### Section 2

The Chair of each NCA committee shall be appointed annually by the Board of Directors for a term of one (1) year. The Board may choose to recommend additional members for each committee appointed.

##### Section 3

Any committee appointment may be terminated by a majority vote of the full membership of the Board upon written notice to the appointee; and the Board may appoint successor to those persons whose service has been terminated. Each retiring committee chairman or members shall turn over all records and properties relating to the committee to his successor, or, if the committee has been dissolved, to the Recording Secretary, within thirty (30) days after he has been notified of the termination of his office. Any person who fails to do so within thirty (30) days may be suspended from all

privileges of the Club until the transfer is effected.

Section 4

Any policy change proposed by a committee must be referred to the Board for consideration. Resulting policy changes must appear in an official communication of the NCA to the general membership at least sixty (60) days before the effective date of the change.

**Article VI - 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 the Club for a like period.

Section 2 - Charges

Any person may prefer charges against a member for alleged action prejudicial to the best interest of the Club or the Breed and/or for failure to abide by the Constitution and By-Laws of the Club. Written charges with specifications must be filed with the Recording Secretary, together with a deposit of \$100.00 which shall be forfeited if such charges are not sustained. The Secretary shall promptly send a copy of the charges to each member of the Board or present them at a Board meeting. The Secretary will also send copies of the charges to the defendant who shall have the opportunity to submit written documents to the Board. The Board shall first consider whether the actions alleged in the charges, if proven, might constitute action prejudicial to the best interest of the Club or the Breed. If the Board considers that the charges do not allege conduct which would be prejudicial to the best interest of the Club or of the Breed, it may refuse to entertain jurisdiction. If the Board decides to entertain jurisdiction, the Recording Secretary shall so inform the parties to the complaint and shall send one (1) copy of the charges by certified mail together with a notice of the hearing. The hearing shall be held at the next regularly scheduled Face to Face Meeting of the Board, unless the date of that meeting would be less than twenty-one (21) days from the date of the hearing notice. In that event or should the Board decide that such scheduling does not allow adequate preparation time to the Board or to either or both parties, the hearing date shall be put over until the following Face to Face Meeting.

Section 3 - Board Hearing

Should either party to the proceeding choose to be represented by counsel, he should so inform the Recording Secretary no later than thirty (30) days prior to the date of the hearing. The Recording Secretary shall promptly inform the other party. Should the charges be sustained, after hearing all the evidence and testimony presented by complainant and defendant, the Board may by a majority vote of those present suspend the defendant from all privileges of the Club for not more than six (6) months from the date of the hearing. 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 fellow members at the ensuing Club meeting which considers the Board's recommendation. Immediately after the Board has reached a decision, its findings shall be put in written form and filed with the Recording Secretary. The Recording Secretary, in turn, shall notify each of the parties of the Board's decision and penalty, if any.

Section 4 - Expulsion

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

**Article VII - Amendments**

Section 1

Amendments to the Constitution and By-Laws and to the Standard for the Breed may be proposed by the Board of Directors or by written petition addressed tot the Recording Secretary signed by 20 percent of the members in good standing. Amendments proposed by such petition shall be promptly considered by the Board of Directors. All amendments shall be submitted to the membership, inviting comment form the members. No less than sixty (60) days, and no later than four (4) months after submission to the membership, the Board shall report on such proposal(s) to the Club and present the same for action.

Section 2

The Constitution and By-Laws and the Standard for the Breed and the Ethics Guide may be amended at any time provided a copy of the proposed amendment has been mailed by the Recording Secretary to each member in good standing on the date of the mailing accompanied by a ballot in which a choice for or against the action to be taken shall be indicated. Dual envelope procedures described in Article IV, Section 4 shall be followed in handling such ballots to ensure secrecy of the vote. Notice with such ballots shall specify a date not less than thirty (30) days after the date of mailing by which the ballots must be returned to the Recording Secretary to be counted. The favorable vote of 2/3 of the members in good standing whose ballots are returned within the time limit shall be required to effect any such amendment.

Section 3

No amendment to the Constitution and By-Laws or to the Standard for the Breed that is adopted by the Club shall become effective until it has been approved by the Board of Directors of the American Kennel Club.

**Article VIII - Dissolution**

Section 1

The Club may be dissolved at any time by the written consent of not less than 2/3 of the members. In the event of the dissolution of the Club other than for the purposes of re-organization, whether voluntary or involuntary or by operation of law, none of the property of the Club nor any proceeds thereof, nor any assets of the Club shall be distributed to any members of the Club, but after payment of the debts of the Club, its property and assets shall be given to a charitable organization for the benefit of dogs as

selected by the Board of Directors.

## **Article IX - Order of Business**

### Section 1

At meeting of the Club, the order of business, so far as the character and nature of the meeting may permit, shall be as follows:

- Roll Call
- Minutes
- Report of the Board
- Report of the President
- Report of the Recording Secretary
- Report of the Corresponding Secretary
- Report of the Treasurer
- Report of the Delegate
- Reports of Committees
- Election of new members
- Unfinished business
- New business
- Adjournment

### Section 2

At meetings of the Board, the order of business, unless otherwise direct by a majority vote of those present, shall be as follows:

- Reading of minutes of last meeting
- Report of the Recording Secretary
- Report of the Corresponding Secretary
- Report of the Treasurer
- Reports of Committees
- Election of Officers (at the Annual Meeting)
- Election of new members
- Unfinished business
- New business
- Adjournment

**COMMITTEE GUIDELINES AND POLICIES** (modified 04/07/98\*)

Membership

- 1) Chairs are appointed annually by the NCA Board.
- 2) Most, but not all, NCA Committees are non-exclusive, i.e., any NCA member may serve on such a committee providing they are contributing to the goals of the committee.
- 3) For exclusive (limited membership) committees, it is the responsibility of the Board to appoint committee members. An example of that is the Nominating Committee.
- 4) For non-exclusive committees, the Board may suggest or appoint committee members or the Chair may appoint as many members as they feel are necessary to conduct business effectively. Others may volunteer to serve by contacting the Committee Chair.

Responsibilities

- 1) Job descriptions will be supplied by the Committee Liaison. (Second NCA Vice President)
- 2) Committee purpose, goals and operating policies should be understood by the Committee Chair and all committee members.
- 3) Committees that are not on-going (i.e., Ad Hoc Committee) should prepare a general time schedule noting what is expected to be accomplished over a given period.
- 4) A proposed budget must be prepared and submitted annually when requested by the Treasurer. All committee bills must be submitted to the Treasurer (with receipts) by the Committee Chair. Committee bills will not be paid if a budget for the year has not been submitted by the Committee Chair or if a bill is submitted without a receipt.
- 5) Annual committee reports are due at the year end (normally 12/15) to the Committee Liaison and *Newf Tide* Policy Chair and for *Newf Tide* publication. Committee Chairs are also urged to send brief periodic reports to *Newf Tide* regarding their committee's on-going business: issues under discussion, issues resolved, pleas for input from membership, etc.
- 6) All committee proposals and reports submitted to the Board should include the voting results on each issue.
- 7) Communications for distribution to the Board should be directed to the Recording Secretary with an advance copy to the Committee Liaison.
- 8) Any committee appointment may be terminated by a majority vote of the full membership of the Board upon written notice to the appointee; and the Board may appoint successors to those persons whose service has been terminated. Each retiring Committee Chairman or member shall turn over all records and properties relating to the committee to the successor, or, if the committee has been dissolved, to the

Recording Secretary, within thirty (30) days after he has been notified of the termination of his office. Any person who fails to do so within thirty (30) days may be suspended from all privileges of the Club until the transfer is effected.

- 9) Committees are to be knowledgeable of the current NCA policies governing their committee's responsibilities. Any policy change proposed by a committee must be referred to the Board for consideration prior to implementation. Proposed changes in content including text, photos/illustrations, additions to or deletions from ANY official NCA publication must receive approval from the NCA Board prior to publication or distribution, whether written, video, via Internet or other media.

Operating Procedures

- 1) All meetings of the committee should be conducted in a democratic manner (see By-Laws, Article II, Section 6, Conduct of Mail Meetings). All members should have an equal voice in all decisions, and all final decisions must be based on a majority vote.
- 2) All committee members are expected to participate and to contribute to the work of the committee or they will be dropped from the committee. If business is conducted by mail, missing two (2) (unexcused) consecutive meetings or three (3) (total) meetings in a calendar year is grounds for dismissal.
- 3) A committee member of a Board appointed committee may be removed by notification in writing to the Second Vice President of NCA Board for possible inclusion in the Board's next scheduled meeting (mail or otherwise). This recommendation for removal must be submitted by the appointed Committee Chair citing reasons for removal and recommendation for replacement (based on the maintained list of candidates for that committee). Copy of recommendation should be provided to that individual committee member. Removal and replacement must be approved by the NCA Board.
- 4) The Committee Chair should notify all members of any changes in the roster.
- 5) Any Committee Chair or committee member who cannot perform their assigned job should offer their resignation immediately to the Committee Chair (Committee Member Resignation) or to the Committee Liaison (Committee Chair Resignation) rather than hold up committee functioning. The Board will then act to fill the vacancy.
- 6) The NCA Second Vice President has been appointed as Committee Liaison and will provide any assistance requested by Committee Chairs.
- 7) Any letters of complaint or recommendation received by a Board Member are to be sent to the Recording Secretary and, if appropriate, to the respective Committee Chair, within one (1) week of receipt.

## CONSTITUTION

### Article I - Name and Objects

#### Section 1

The name of the Club shall be the Newfoundland Club of America, Inc.

#### Section 2

The objective of the Club shall be:

- a) To encourage and promote the quality of pure-bred Newfoundland dogs and to do all possible to bring their natural qualities to perfection.
- b) To encourage the organization of independent Regional and local Newfoundland Specialty Clubs in those localities where there are sufficient fanciers of the breed to meet the requirements of the American Kennel Club and the Newfoundland Club of America, Inc.
- c) To urge members and breeders to accept the standard for the breed as approved by the American Kennel Club as the only standard of excellence by which Newfoundland Dogs shall be judged.
- d) To do all in its power to protect and advance the interests of the breed and to encourage sportsmanlike competition at dog shows, obedience trials and other Club sponsored activities and Club functions.
- e) To conduct sanctioned matches, Specialty shows and obedience trials under the rules of the American Kennel Club.
- f) To promote the special qualities of the breed by sponsoring working dog activities under the rules of the Newfoundland Club of America.
- g) To urge all members to abide by the Newfoundland Club of America Ethics Guide as a guideline for responsible Newfoundland ownership.
- h) To bring fanciers of the breed together in friendly counsel.

#### Section 3

The Club shall not be conducted or operated for profit and no part of any profits or remainder or residue from dues or donations to the Club shall inure to the benefit of any member or individual.

#### Section 4

The members of the Club shall adopt and may from time to time revise such By-Laws as may be required to carry out these objectives.

## **ETHICS GUIDE**

Love and respect for the Newfoundland is inherent in membership in the Newfoundland Club of America. Therefore, all members agree to foster the goals set forth in the Code of Ethics.

### *Responsibilities of Members*

To provide for all dogs in their keeping; the physical requirements of appropriate food, water, and shelter, protection from bodily harm; proper health care including sanitation, immunization, and veterinary attention as needed. The emotional requirements of attention and affection and appropriate training as needed.

To abide by AKC rules applicable to activities in which they engage.

To refuse to sell Newfoundland dogs to any pet shop, or any wholesale dealer in dogs, or knowingly to sell or aid or abet the sale of any Newfoundland to a person or agent who will sell the animal through a pet shop.

### *Responsibilities of Breeders*

To be familiar with the Standard and to be aware that the purpose of breeding is to maintain or improve the quality of the Newfoundland in accordance with the Standard.

To be familiar with the AKC rules applicable to litter registration and individual registration.

To use for breeding only bitches in good health.

To represent accurately the health history and breeding records of the bitch when negotiating for stud service.

To negotiate all terms of a breeding agreement prior to a breeding. A written contract is recommended.

To produce puppies only when he/she has the time, facilities, and resources to provide attention to proper physical and emotional development.

### *Responsibilities of the Stud Dog Owner*

To be familiar with the Standard and to be aware that the purpose of breeding is to maintain or improve the quality of the Newfoundland in accordance with the Standard.

To be familiar with the AKC rules applicable to litter registration.

To accept for servicing only bitches who appear to be in good health.

To represent accurately the health history and breeding records of the dog.

To negotiate all terms of a breeding agreement prior to a breeding. A written contract is recommended.



To complete the chain of registration by signing and returning the stud service certification promptly on satisfaction of the terms of the contract.

Responsibilities of Seller

To ascertain that the prospective buyer is aware of the needs of a Newfoundland and has the knowledge and facilities to care properly for a growing or grown dog.

To transfer registration papers to the buyer at the time of sale or to withhold papers only in accordance with AKC rules applying to individual registration, or by written agreement with the buyer.

To advise a buyer, or prospective buyer, of any probable delay or difficulty in registration.

To provide the buyers with a written Bill of Sale to include a description of the dog, the whelping date, the names of sire and dam, and the litter or individual registration number if available.

To advise the buyer of any known health defects.

To advise the buyer in writing of any or all health guarantees and compensation offered by the seller.

Advertising

It should be borne in mind that advertising may be read by persons having little or no knowledge of dogs. Each member is responsible to see that all advertising in his/her name does not promote his/her Newfoundland through misleading or exaggerated statements or distortion of fact, or through stated or implied deprecation of the Newfoundland of others.

Discipline

The following are **prima facie** grounds for disciplinary action:

- Neglect or abuse of any Newfoundland in the care of a member documented by the affidavits of three (3) witnesses or by investigation of an authorized humane organization.
- Suspension of privileges by the AKC for violation of its rules.
- Advertising found to be in violation of the Code of Ethics.
- Knowingly to sell, or to aid and abet the sale of a Newfoundland to or through a pet shop or its agents.
- Refusal to comply with the terms of a written contract involving a Newfoundland without showing just cause.
- Refusal to complete the chain of AKC registration without showing just cause.

- Refusal to transfer registration papers to a buyer without showing just cause.
- Refusal to honor guarantees and agreements made in writing without showing just cause.

Enforcement

Enforcement of the disciplinary section of the Code of Ethics will be handled in accordance with the disciplinary procedures outlined in Article VI of the By-Laws. In case of any business transaction involving Newfoundland, the NCA will refuse to entertain any grievances brought against a member unless a written contract or other document signed by both parties is submitted with the grievance.

## **HEARING PROCEDURES**

### **Disciplinary (By-Laws - Article VI)**

The Newfoundland Club of America requires its members to abide by its long established Ethics Guide. To clarify current established procedures and to avoid confusion these following avenues are described below. Allegations against members that the Ethics Code has not been adhered to will be handled in accordance with Arbitration Policy and the Constitution and By-Laws depending upon the type of allegation made.

All allegations which involve a contractual dispute: dog transactions, including puppy sales; co-ownership agreements; stud services; etc. between NCA members and the public are handled by the Arbitration Committee. Non-NCA members may file complaints through this process; however, no complaints can be heard against anyone who is not an NCA member. All complaints of this nature are to be submitted in accordance with procedure directly to the Arbitration Committee. Any complaint received directly by the NCA Board which has not gone through the Arbitration Committee will be referred to that committee in accordance with procedure.

Unsportsmanlike conduct at an AKC event are governed by the Disciplinary Rules of the American Kennel Club. Occurrences at NCA events (which are non-AKC) and violations of the Ethics Guide (which are not transactions) are not matters for the Arbitration Committee. Grievances that arise at NCA working events are held in accordance with rules established by the NCA.

Other allegations of Ethics Code violations may be handled in accordance with the NCA Constitution and By-Laws, Article VI - Discipline. Complaints must be specific and must reference the Ethics Guide section which has been alleged to be violated. The Board will determine if it has appropriate jurisdiction and notify the complainant of its decision as to whether the complaint will be heard. Disputes of a "personal nature" which are not dog related will not be entertained.

### **Initial Procedures**

#### **1. Preliminary Matters**

##### **a. Definition of Terms**

- i. The term "Complainant" shall be the person filing the charges
- ii. The term "Respondent" shall be the person against whom the charges are preferred. The term "Respondent shall be synonymous with the term "Defendant", as used in the By-Laws.
- iii. Collectively, the Complainant and the Respondent shall be referred to as the Parties. When referring to both the Complainant and the Respondent individually, the term Party shall be used.
- iv. The term "Board" shall refer to the Board of Directors of the Newfoundland Club of America, Inc.

v. President, Recording Secretary, etc. refer to the Officers as set forth in the NCA Constitution.

vi. The Chairperson shall be a person whose duties are as set forth more fully later in this document.

vii. In this document, where appropriate, the singular will include the plural and the male gender will include the female gender.

b. Objections to Individual Board Members Deciding a Complaint

i. If either of the Parties have any objections to any members of the Board deciding a complaint, then those objections must be stated in detail and in a writing sent to the Recording Secretary, the Chairperson, the individual board member(s) so challenged and the opposing Party.

ii. Normally, objections must be stated within twenty (20) days after receipt of the notice of hearing and if not so stated are waived. Objections do not have to be made to any member(s) of the Board who have previously disqualified themselves because they will normally not hear or decide the complaint. The time limits of this section may be extended by the President or the Chairperson for reasonable cause.

iii. Within five (5) days of receipt of the challenge, the opposing Party shall indicate if they are in agreement or oppose the challenge. This writing shall also be sent to all of the people named in the preceding section.

iv. The ultimate decision as to whether an individual Board member can sit in this matter will be made by the President after consultation with the challenged member(s) and other members of the Board.

v. Since this is a fraternal organization where the Board members will most likely know the Parties or have heard of them, familiarity of itself with the Parties involved will not be a ground for disqualification, although more extensive involvement may be grounds.

vi. Failure to make a timely objection will result in waiver of any objections to that Board member determining this matter.

c. Objections to Procedural Irregularities in the Proceedings

i. All objections to procedural irregularities such as, but not limited to, the validity of the election of the Board of Directors, the appropriateness, legality or ability of the Board to hold a hearing, the adequacy and sufficiency of the notice of the hearing, or any other similar matter going to the issue of whether or not a hearing should be held, must be stated as soon as the problem becomes known or, in the exercise of due diligence, would have been known.

ii. If either of the Parties have any such procedural objections, then those objections must be stated in detail and in writing sent to the Recording Secretary, the Chairperson and the opposing Party.

iii. Specifically excluded from this section is any requirement to object to the factual determination of the Board to hold a hearing based upon a consideration of the evidence initially presented it in executive session.

iv. Failure to make a timely objection will result in waiver of that ground.

2. Fixing of the Date, Time and Place of the Hearing

a. The hearing shall be held at such time, place and location as the Board may designate. Normally such hearings will be held at a scheduled face-to-face meeting of the Board.

b. The Board may initially indicate a general time and place and date for the hearing and then, at a later time, indicate a specific date, time and place for the hearing.

c. The Board may for good cause postpone or adjourn the hearing upon request of a Party or upon the Board's own initiative. If a situation arises where there is insufficient time for the Board as a group to determine whether a postponement should be granted, then the decision will be made by the NCA President.

3. Preparation and Contents of Documentary Evidence Packets

a. In order to provide the Board and the Parties with a convenient manner of reviewing and referring to the various documents likely to be presented at the hearing, the Chairperson shall prepare and distribute prior to the hearing a documentary packet.

b. The packet shall include the following contents:

i. Table of Contents

ii. Chronology of events, if appropriate

iii) A brief biographical summary, if submitted, of the Parties including their names, educational background, their general experience with dogs, their experience with Newfoundlands, and how long they have been a member of the NCA. The Parties shall be responsible for providing the information to the Chairperson. The purpose of this section is to provide the Board with a brief summary of the background of the Parties. This section may also include biographical summaries of witnesses if deemed appropriate

iv. Complaint, with attached exhibits

v. Response, with attached exhibits

vi. Replies, with attached exhibits to the Response

vii. Sur Replies, if any, to the Replies

viii. Any other documentary evidence that the Chairperson feels is

desirable to include. This may include documentary evidence to be presented by one Party although objected to by the other Party if the Chairperson is satisfied that it is more likely than not that the evidence will be admitted at the hearing

### **Conduct of the Hearing**

#### **1. General Procedures**

- a. The hearing shall normally proceed in the following manner:
  - i. Opening statements
    - 1) 1) The Chairperson, the Complainant and the Respondent (or their representatives) in that order shall make a brief opening statement to the Board.
      - 2) The opening statement of the Parties shall include what they expect to prove by their testimony and a brief summary of the facts about which they expect each witness will testify.
    - ii. The principal presentation of the Parties starting with the Complainant's side followed by the Respondent's side.
    - iii. Rebuttal and Sur rebuttal of the Parties concerning matters which they reasonably could not have expected to present in their original presentations.
    - iv. Closing statements
      - 1) After all testimony has been received, the Complainant (or his representative), the Respondent (or his representative) shall in that order address the Board summarizing facts they think fairly proven and arguing, if desired, the correctness of their position and urge the Board to reach a specific conclusion.
        - 2) The closing statement of the Parties shall include what facts they believe they have fairly proved at the hearing, any principals of laws or regulations they feel are applicable to the facts, and the relief that they desire from the Board.
        - 3) After the Parties have addressed the Board, the Chairperson may offer any concluding remarks which he feels are appropriate, including commenting upon the evidence and applicable regulations and laws.
    - v. Deliberation and decision of the Board
      - 1) After the hearing is closed and the Parties have made all of their statements, the Board shall retire in private to discuss and analyze the evidence presented to them and reach a fair decision.
        - 2) Normally, the Board shall begin deliberations immediately after the reception of the evidence and remain together until they have reached a decision. The Board may, however, adjourn such deliberations to meet the requirements of the members of the Board.
  - b. Adjournments during the course of the hearing
    - i. Normally, the Board will begin the hearing and continue without interruption or break, other than normal breaks to attend to other matters.

ii. The Board may adjourn the hearing if it appears to the members of the Board that the matter cannot be resolved without additional evidence not available at the time or under other circumstances which in the Board's opinion are just cause for continuing the hearing.

2. Duties of the Parties

a. The Parties have a duty of candor and truthfulness to the Board and the NCA membership.

b. The Parties have a duty to aid the Board and the general membership in reaching a just decision based upon all of the evidence.

3. Duties and Selection of the Hearing Chairperson

a. The Board of Directors by majority vote of its members shall elect either one of its members or some other person to act as the Chairperson of the hearing. It will generally be preferable if the Chairperson is an attorney.

b. The Chairperson shall be responsible for the general conduct of the hearing and contacts with the Parties prior to the hearing in order to ensure that the hearing proceeds in an orderly fashion and in accordance with this procedures.

c. In the interests of justice, the Chairperson may modify these rules concerning the Conduct of the Hearing prior to or during the hearing.

d. If general questions of law arise, it shall be the duty of the Chairperson to advise the Board on the applicable principals of laws. The Board may also request advice of its legal counsel on matters of law.

e. Because there may be multiple Parties, the Parties may be so geographically spread out, and simultaneous communication may be impracticable and burdensome, the Chairperson may speak with only one Party at a time.

4. Representation by Other of the Parties at the Hearing

a. There is no right to having an attorney or other representation at a disciplinary hearing, however, the Board may permit representation by an attorney.

b. If the Board permits representation, then such representation shall be designated in writing delivered to the Recording Secretary, the Chairperson of the hearing and the opposing Parties. Normally such representation should be made known as soon as possible but in no event less than thirty (30) days prior to the hearing.

c. The Chairperson may modify these time limits in the interest of fairness.

5. Attendance of the Parties at the Hearing

a. The hearing may proceed in the absence of any Party, who, after due notice, fails to be present or fails to obtain a postponement or adjournment.

b. The Parties and their witnesses should be prepared to start at the designated

time and ensure that they are close enough to the hearing location before it starts so that travel will not be a problem nor a cause for delay.

c. The Board may require the appearance of a Party if the Board determines the appearance is necessary to have a just decision of the dispute and to afford due process.

d. An award shall not be made against a Party simply because the Party did not appear. The Board shall require the submission of evidence as may be required for the making of a decision.

e. The failure of a Party to appear at a proceeding without just cause shall be considered in determining the merit of that Party's position and may be considered as an admission of the truthfulness of the opposing Party's allegations.

f. If a Party attends the hearing, the Party must remain and be present when the Board's decision is announced.

#### 6. Attendance of Other Persons at the Hearing

a. Persons having a direct interest as a participant in the hearing are entitled to attend hearings. It shall be discretionary with the Chairperson to determine the propriety of the attendance of any other person.

b. Normally the hearing shall be closed to the general public. If both Parties request an open hearing and all Parties consent in writing, then the hearing will be open to the general public. If not all Parties reach a unanimous decision, the Chairperson shall so inform them and give them a chance to reconsider their decision.

c. Each Party must signify in writing within thirty (30) days of receipt of notice of the hearing if they agree to an open hearing. If both Parties agree, the Chairperson then shall so inform all Parties.

d. In the discretion of the Chairperson, witnesses may be sequestered to minimize their testimony from being influenced by the testimony of other witnesses.

#### 7. Presentation and Reception of Evidence

a. The Chairperson of the hearing, who may, but is not required to consult the members of the Board, shall be the initial judge of whether the evidence is relevant and admissible. The Chairperson's action in receiving evidence is not necessarily indicative of the weight which the Board will give the evidence and their ultimate determination of the case.

b. The final decision of the relevance, materiality, and weight accorded the evidence shall be made by the individual Board members in their individual decisions.

c. Relevant, material and competent evidence may be offered but the evidence need not be in strict conformity to legal rules of evidence, either federal or state. The Board, not being bound by legal rules of substantive law, evidence or procedure, may be liberal in receiving evidence.



d. Character witnesses are generally not necessary at a hearing because the Board is familiar with the reputation of the Parties for truth and veracity. Upon prior application at least forty-five (45) days prior to the hearing date, a Party may request to present character evidence if it includes the names, addresses and a brief statement as to what the witness will testify. Examination of character witnesses will normally not be extended to include prior bad acts of the Party unless they are convicted of a crime equal to a felony under federal law or a lesser conviction for crimes involving falsehood or fraud.

e. The Chairperson and Parties may offer such evidence as is relevant and material to the dispute and the Parties shall produce such evidence as the Board may deem necessary to an understanding and determination of the problem. Normally, the evidence offered by the Chairperson shall be of a documentary background nature in the form of stipulations between the Parties and other evidence which the Chairperson feels will be helpful to the Board in reaching a determination.

#### 8. Documentary Evidence

a. The Board may initially receive and consider documentary evidence which on its face appears to be normal and made in the regular course of business. The Board may also receive and consider the evidence of witnesses by affidavit as well as the records of the NCA. The ultimate weight of any documentary evidence is for the individual members of the Board.

b. If possible, all documents including affidavits to be submitted at the hearing shall be transmitted to the Chairperson at least forty-five (45) calendar days prior to the hearing. This provision may be waived by the Chairperson for good cause shown and shall not include rebuttal evidence.

c. If a Party or the Chairperson offers documentary evidence which is not contained in the Documentary Evidence Packet, they shall provide nineteen (19) copies of the document to be distributed to the twelve (12) Board members, each of the opposing Parties, the Chairperson and four (4) copies for NCA records.

#### 9. Questioning of Parties and Witnesses During the Hearing

a. The normal procedure shall be the Complaint's side and witnesses to proceed first and then the Respondent's side and witnesses. Each witness shall testify, be open to questions from the opposing Party or their representatives, then from the Chairperson and the individual members of the Board. The Chairperson and the members of the Board may ask questions out of turn if they feel a particular point needs clarification.

b. Questions of witnesses or informational questions of anyone present concerning the production of documents and the facts surrounding any affidavits may be asked by the Chairperson or any member of the Board.

c. The Chairperson may establish such additional rules and regulations as necessary to facilitate the orderly progress of the proceedings.

#### 10. Administration of Oaths

a. The Board shall not require a witness to testify under oath or affirm that their

statements are true under the penalties of perjury; however, the Board may request such an oath or affirmation and weigh testimony under oath or affirmation greater than testimony not under oath or affirmation.

11. Stenographic and Tape Recording Record of the Hearing Proceedings

a. A stenographic record of the hearing shall not be required. Either the Board or the Parties, however, may request such a record if it informs the other Party, makes the necessary arrangements, and pays the cost thereof directly to the person or agency making such record.

b. Whether or not a stenographic record of the proceeding is made, an audio tape recording may be made.

c. Records made under these rules shall remain the exclusive property of the Party who makes the record, but the other Party or the representatives of the Board will be entitled to inspect and copy it. If a copy is made, either of a stenographic record or a tape recording, the cost to the requesting Party shall be the actual, reasonable costs of duplication.

12. Formal Closing of Hearing

a. The Chairperson shall specifically inquire of all Parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the Chairperson shall declare the testimony portion of the hearing closed and permit closing statements.

b. After the testimony has been closed and arguments have been heard, the Chairperson shall formally declare the hearing record closed and the matter ready for decision by the Board.

**Decision of the Board**

1. Standard of Proof

a. The standard and burden of proof to be used in determining the correctness of the factual situation shall be the standard commonly used in civil proceedings, namely: by the fair weight of the credible evidence and shall not be the standard used in criminal proceedings, namely: proof beyond a reasonable doubt.

b. The ultimate burden of persuasion shall be upon the Complainant.

2. Credibility of Witnesses, General

a. Each member of the Board in reaching a decision has the sole responsibility of deciding whether the testimony of each witness or documentary evidence is truthful and accurate and is to be believed or disbelieved in whole or in part.

b. Among the factors that the Board members should consider for witnesses that appear before the Board are:

i. the manner of testifying, how he looked, conducted himself and spoke while testifying;

- ii. his ability to remember the events about which he testified;
- iii. whether the witness was positive and certain or hesitant and doubtful about the matters to which he testified;
- iv. whether the witness testified frankly and fairly or whether he displayed favoritism or was biased in any way;
- v. whether the witness or any group he is associated with has anything to gain or lose from the outcome of the Board's decision; and
- vi. whether and to what extent the witness' testimony is supported or contradicted by other evidence which the Board member believed.

c. Among the factors that the Board should consider for documentary evidence are:

- i. how regular the document appears on its face and if it is the whole document or merely a portion of the document;
- ii. what is the normal purpose of the document;
- iii. how the document was secured;
- iv. assessment of the fact that such evidence may not be under oath, not subject to cross examination and may be less than all of the facts concerning this matter;
- v. whether the document was prepared in the normal course of the preparer's business or if the document was prepared at the request of a Party for the purposes of litigation or this hearing;
- vi. the reasons for the non production of the information by actual witnesses; and
- vii. the ability and opportunity for the opposing Party to refute the evidence.

d. Evasiveness

i. In assessing the credibility and reliability to be placed on witnesses, the Board shall look at the candor that the Party has displayed in responding to the allegations of the initial complaint, the request for additional documentation, and the answers of its witnesses. The Board shall also use the same standard of candor with respect to evidence presented against the Parties.

ii. Lack of truthfulness, evasiveness, and deception, will be taken into account and may be used as a standard to justify disregarding all of the evidence produced by a Party.

e. After examining all the testimony and the documentary evidence and using

the Board member's individual experience and good common sense, the Board member should give the evidence such credibility and weight as he or she thinks it deserves.

3. Voting Procedure for Reaching Board Decision

- a. The Board will deliberate as a group with only Board members present.
- b. The final decision of the Board with respect to this matter shall be by secret ballot, each member present being entitled to one vote. Board members may not abstain from voting. A simple majority decision of those voting shall control the result.
- c. The President shall remind the Board of its duty to try and reach a decision and the importance of this matter to the Parties and the members. If there is a deadlock of the Board and no majority decision can be reached, then the complaint shall be dismissed and no action shall be taken against the Respondent.
- d. The Board may, if it desires, during its deliberations, request the presence and assistance of legal counsel of the Chairperson in interpreting these rules concerning matters related to the hearing and formulating its decision or any other such matters as the Board deems appropriate. The Parties' representatives shall not have a right to be present during these deliberations, although they may be permitted to be there by the Board.

4. The Form of Decision by the Board

- a. The Board of Directors may enter a decision to dismiss the charges, suspend the member for a period of six (6) months or less or recommend to the membership the expulsion of the member.

5. Delivery of the Decision to the Parties

- a. The decision of the Board shall be publicly announced by the President or his representative at an open meeting of the Board of Directors, usually immediately after the conclusion of the hearing and the deliberation of the Board. The decision shall be recorded and published in the minutes of the meetings.

- b. Generally, the decision shall be made and delivered no later than one (1) calendar day from the date the hearing is completed. Failure to adhere to this time limit shall not nullify the decision.

- c. The decision shall also be reduced to writing and shall be substantially in the following form:

- i. If the decision is in favor of the Respondent, the decision shall read, "After due consideration and hearing which occurred on <date> , the Board of Directors dismissed the charges brought by <Complainant> against <Respondent> by a vote of <x> members for dismissal and <y> members against dismissal"

- ii. If the decision is against the Respondent, the decision shall read, "After due consideration and hearing which occurred on <date>, the Board of Directors upheld the charges brought by <Complainant> against <Respondent> by a vote of <x> members for dismissal and <y> members against dismissal and decided on the following

discipline: by a majority vote of <x> for and <y> against: <a brief summary of the discipline is then inserted here>

iii. When there are multiple Complainant against a Respondent and one individual hearing is held and some charges are upheld and some are dismissed, the decision shall be in the form as set forth for individual complaints.

d. Normally, the decision of the Board will be delivered to the Parties when the Board's decision is publicly announced. The Parties are expected to remain until the decision is rendered or they are released by the President.

e. The Parties shall also accept as delivery of the decision the placing of the decision or a true copy thereof in the mail, addressed to the Parties or their designated representatives at their last known address or by any other form of service permitted by law.

f. Prior to the beginning of the hearing, the Respondent may elect to have the Board decision reported in *Newf Tide* in a special box of one column width and approximately two inch height which shall be substantially in the written form of the Board's decision referred to in the preceding subparagraphs.

## **Appeal Procedures**

### 1. Time and Manner of Taking an Appeal When the Decision of the Board is Suspension of the Respondent

a. The By-Laws of the NCA do not provide for an appeal if the decision of the Board is suspension. The Board recognizes the possible desire to have the decision of the Board reviewed by the general membership at an annual meeting and therefore, will provide the Respondent an opportunity to appeal the Board's decision if he so desires.

b. If the Respondent wishes to appeal, he or she must notify the Recording Secretary in writing within fifteen (15) hours after the public announcement of the decision of the Board, unless the time is extended by the Board when the decision is orally announced. If the Respondent has been excused from the proceedings and he is informed by mail, the time for requesting an appeal will be extended until ten (10) days after receipt.

c. The appeal shall proceed in accordance with Alternative Presentation of the Disciplinary Action for Membership Review section of these rules, namely Section \_\_\_\_.

### 2. Time and Manner of Taking an Appeal When the Board Recommends Expulsion

a. No appeal to the general membership is necessary if the decision of the Board is to recommend expulsion to the general membership as that decision will be automatically reviewed by the general membership.

b. If the Respondent chooses to resign his or her membership in the Newfoundland Club of America, Inc. after the decision but prior to the presentation of the decision to the general membership, then at the Respondent's discretion:

i. the matter will not be presented to the general membership for their determination

ii. the Respondent may, if they choose, have five (5) minutes to address the general membership and then the Complainants will have a total of five (5) minutes to address the general membership. These times may be extended by the President for cause shown. In this instance the membership will not vote on the discipline imposed.

3. Alternative Presentation of the Disciplinary Action to the Membership for Their Review

a. The By-Laws provide only for review of the Board's recommendation for expulsion and provide a set procedure for that review.

b. The Board realizes that the Respondent may want a more open forum to address this issue. The purpose of this section is to provide an alternate, equally fair and balanced procedure for both the Board and the Parties to present their positions to the general membership so they make a decision regarding the appeal or the desired discipline.

c. The decision of the Board of Directors can come before the general membership either as an appeal by the Respondent of the Board's decision, ratification of the Board's recommendation for expulsion, or both.

d. Method of Processing before the membership at an annual meeting:

i. Prior to the meeting the Chairperson shall make available the documentary evidence produced at the hearing and a copy of the tape recording, if available, for the general members to listen to.

ii. If the disciplinary hearing was open to the general public, then anyone may attend the general members meeting. If the hearing was closed and the Respondent objects to non-members attending the meeting, then the meeting shall be open only to NCA members in good standing.

iii. The Chairperson, or his designate, shall review the charges, the evidence presented and the Board's decision.

iv. The Respondent, or his representative, shall have five (5) minutes to address the general membership giving their version of the facts.

v. The Complainant, or his representative, shall have five (5) minutes to address the general membership giving their version of the facts.

vi. The Complainant(s) shall be present and available for questioning. The Respondent will have two (2) minutes to ask questions of the Complainants and the general membership shall have five (5) minutes.

vii. The Respondent(s) shall be present and available for questioning. The Complainant will have two (2) minutes to ask questions of the Respondent and the

general membership shall have five (5) minutes.

viii. The above time limits may be extended by the Chairperson if it appears that an extension is necessary in the interest of fairness.

e. Voting at the general meeting

i. Only members in good standing shall be entitled to vote on this matter.

ii. The decision of the members shall only be to ratify and accept the Board's decision or not to uphold the Board's decision. The general membership may not have any other decision or impose any other discipline.

iii. If the recommended discipline is suspension, then a simple majority of those present and voting is needed to affirm the Board's decision. If the recommended discipline is expulsion, then a two-thirds (2/3) vote of the members present is necessary to affirm the Board's decision for expulsion.

iv. Voting shall be by secret ballot which shall be counted by a committee appointed by the President. Board members, the Chairperson and representative of the Parties shall be allowed to be present during the counting, if they desire.

### **Miscellaneous Provisions**

1. Interpretation and Application of Rules

a. The Board shall interpret and apply these rules insofar as they relate to the Board's powers and duties.

b. The Chairperson's decision with regard to the conduct of the hearings and the initial admissibility of evidence shall be final.

c. These rules shall be interpreted liberally to treat all parties fairly and to further the interests of a just determination of the dispute.

2. Expenses

a. The expenses incurred by either of the Parties in conjunction with these proceedings shall be at the cost and sole expense of the Party procuring them. This clause shall apply to all expenses including, but not limited to, producing witnesses at the hearing, procuring documentary evidence presented at the hearing, preparation for the hearing, or representation of the Parties by counsel.

3. Waiver of Objections By Silence or Failure to Timely Object

a. It is fundamentally unfair to permit a Party to have an objection, not voice it as soon as possible so that it can be dealt with or have the Board consider it, permit the Board to reach a decision, and then object if the Party does not like the decision.

b. If a Party proceeds with the hearing after knowledge that any provision or

requirement of these rules has not been complied with and fails to state an objection in writing before the hearing or if no opportunity exists prior to the actual hearing, then to orally object at the hearing, then the Party shall be deemed to have waived the right to object on that ground.

4. Effective Date

a. These rules shall be effective immediately and shall apply to all pending and future proceedings.



## **HEARING PROCEDURES**

### **Hearing Procedures For Revoking NCA Recognition Of A Regional Club**

#### **Initial Procedures**

##### **1. Initiation of a Formal Hearing Procedure**

a. The proceedings shall be started by a document called an Initial Complaint, signed by either the Newfoundland Club of America (NCA) President, Recording Secretary or their duly authorized representative. All paragraphs of the Initial Complaint shall be numbered and shall state with particularity the material facts on which the proposed revocation is based. References may be made to documents by attaching a copy of the documents.

b. The original of the complaint shall be filed with the Secretary of the Newfoundland Club of America and a true and correct conformed copy shall be served upon the appropriate representatives of the Regional Club.

##### **2. Required Initial Response of the Regional Club**

a. Within fourteen (14) days of receipt of the Initial Complaint, the Regional Club shall file in conformance with these rules a written document called Regional Club's Response which shall particularly answer all of the allegations made in the Initial Complaint.

b. The Regional Club response shall be signed by the highest ranking Regional Club officer who is also an NCA member, unless none of the Regional Club officers are NCA members and then it shall be signed by the President and one other officer.

c. The Regional Club's response shall admit or deny each averment of fact and conclusion thereof in the Initial Complaint by a direct response to each paragraph number. The Regional Club, if it denies only part of an averment, shall specify so much of it as is admitted and shall deny the remainder. If an averment is denied, specific facts must be stated to determine on the face of the Regional Club's Response the position and the factual situation averred by the Regional Club.

d. A general denial, such as the simple statement "Denied" without any supporting counter facts will be insufficient or the lack of any response will be deemed to be an admission of the correctness of the facts.

##### **3. Amended Complaint and Required Response of the Regional Club**

a. After receipt of the Regional Club's Initial Response, an Amended Complaint may be issued by the NCA. If there is an Amended complaint, then the Regional Club must file, within fourteen (14) days of receipt of the Amended Complaint, a document entitled Regional Club's Response to the Amended Complaint. The Amended Complaint and Response thereto, shall be governed by the same rules applicable to the Initial Complaint and Response thereto.

##### **4. Designation of NCA and Regional Club Representatives**

a. Either prior or immediately after the initiation of proceedings, the NCA and the Regional Club can designate in writing to the other party, two people who are to receive notice and documents as set forth in these rules.

b. In the absence of any written designation of the proper individual to receive notice, the proper officers of the NCA will be the President and the Recording Secretary. The proper officers of the Regional Club will be the President and the Secretary.

5. Service of Notice and Other Papers

a. The Initial Complaint shall be served by both certified mail and regular mail, postage prepaid upon the President of the Regional Club and the Secretary of the Regional Club. In absence of the timely acceptance of the certified mail, the regular mail shall be deemed sufficient and three (3) days from the date of mailing shall be the date used as the time of receipt.

b. Service of the Regional Club Initial Response shall be by regular and certified mail to the President of the NCA, the Recording Secretary, and any legal counsel so designated in papers accompanying the Initial Complaint.

c. Papers filed after the initial documents may be served upon any persons so designated by the Regional Club or the NCA. Service shall be by regular and certified mail. In lieu of regular mail, papers may be faxed to a number so designated.

6. Written Questions to be Answered by the Regional Club

a. At any time during these proceedings, the NCA may send written questions to be answered in writing within fourteen (14) days from receipt by the Regional Club and signed by the designated Regional Club representative who verifies that the answers are true and correct to the best of that person's information, knowledge and belief. The signer shall also signify that he has made a diligent investigation to obtain the correct answers, if the signer does not personally know the answers to the questions asked.

7. Fixing of Date, Time and Place of the Hearing

a. The hearing shall be held at such time, place and location as the Board may designate. Normally such hearings will be held at either a National Specialty Show or at a scheduled face-to-face meeting of the Board.

b. The Board may initially indicate a general time and place and date for the hearing and then, at a later time, indicate a specific date, time and place for the hearing.

c. The Board may for good cause postpone or adjourn the hearing upon request of a Party or upon the Board's own initiative. If a situation arises where there is insufficient time for the Board as a group to determine whether a postponement should be granted, then the decision will be made by the NCA President.

d. The Regional Club, with the consent of the NCA Board, may by written agreement waive oral testimony in a recognition revocation hearing and the Regional

Club may present only documentary evidence. The decision of the Regional Club to waive oral testimony will not prevent the reception by the Board of oral testimony from other witnesses with the same force and effect as if the Regional Club were present.

### **Conduct of the Hearing**

#### **1. Hearing Chairperson**

a. The Board of Directors by majority vote of its members shall elect either one of its members or an attorney to act as the Chairperson of the hearing.

#### **2. Representation at Hearing**

a. Any Regional Club may be represented by an attorney or any other individual, if so designated in writing and notice of such representation is given at least seven (7) days prior to the hearing.

b. If more than one representative is designated, then the Regional Club must designate its principal representative and only that person, however, may act on the Club's behalf and participate as a representative at the hearing to address the Board on the Club's behalf and examine the witnesses and object to the evidence.

c. The Board may also be represented by an attorney or any other individual. The Chairperson can consult with the Board's representative during the course of the hearing.

#### **3. Attendance of the Regional Club at the Hearing**

a. The hearing may proceed in the absence of any Regional Club, who, after due notice, fails to be present or fails to obtain a postponement or adjournment.

b. The Board may require the appearance of a Regional Club representative if the Board determines the appearance is necessary to have a just resolution of the dispute and to afford due process.

c. An award shall not be made against the Regional Club simply because the Regional Club did not appear. The Board shall require the submission of such evidence as may be required for the making of an award.

#### **4. Attendance of Other Persons at Hearings**

a. Persons having a direct interest as a participant in the hearing are entitled to attend hearings. It shall be discretionary with the Chairperson to determine the propriety of the attendance of any other person.

b. In the discretion of the Chairperson, witnesses may be sequestered to prevent their testimony from being influenced by the testimony of other witnesses.

#### **5. Presentation of Evidence**

a. The Chairperson of the hearing, who may, but is not required to consult the

members of the Board shall be the judge of whether the evidence is relevant and admissible. The Chairperson's action in receiving evidence is not necessarily indicative of the weight which the Board will give the evidence and their ultimate determination of the case.

b. The final decision of the relevance, materiality, and weight accorded the evidence shall be made by the individual Board members in their individual decisions.

c. Relevant, material, and competent evidence may be offered but the evidence need not be in strict conformity to legal rules of evidence, either federal or state. The Board, not being bound by legal rules of substantive law, evidence or procedure, may be liberal in receiving evidence.

d. The Board may receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as the Board deems it entitled to after consideration of any objection made to its admission.

e. If possible, all documents including affidavits to be submitted at the hearing shall be transmitted to the Board at least seven (7) calendar days prior to the hearing. This provision may be waived by the Chairperson for good cause shown and shall not include rebuttal evidence.

f. The Board and Regional Club may offer such evidence as is relevant and material to the dispute and the Regional Club shall produce such evidence as the Board may deem necessary to an understanding and determination of the problem.

#### 6. Questioning During the Hearing

a. Questions of witnesses or informational questions addressed to the general body concerning the production of documents and the facts surrounding any affidavits may be asked by the Chairperson, any member of the Board, or its legal representative.

b. The Chairperson may establish such rules and regulations as necessary to facilitate the orderly progress of the proceedings.

#### 7. Oaths

a. The Board shall not require a witnesses to testify under oath or affirm that their statements are true under the penalties of perjury; however, the Board may request such an oath or affirmation and weigh testimony under oath greater than testimony not under oath.

#### 8. Record of Hearing Proceedings

a. A stenographic record of the hearing shall not be required. Either the Board or the Regional Club, however, may request such a record if it informs the other Party, makes the necessary arrangements, and pays the cost thereof directly to the person or agency making such record.

b. Whether or not a stenographic record of the proceeding is made, an audio tape recording may be made.

c. Records made under these rules shall remain the exclusive property of the Party who makes the record, but the other Party will be entitled to inspect and copy it. If a copy is made, either of a stenographic record or a tape recording, the cost to the other Party shall be the actual, reasonable costs of duplication.

9. Closing of Hearing

a. The Board shall specifically inquire of all Parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the Board shall declare the hearing closed.

**Decision of the Board**

1. Majority Vote

a. The final decision of the Board with respect to this matter shall be by secret ballot, each member present being entitled to one vote. A simple majority decision of those voting shall control the result.

b. If there is a deadlock of the Board and no majority decision can be reached, then the recognition of the Regional Club shall continue.

c. The Board may, if it desires, during its deliberations, request the presence and assistance of legal counsel in interpreting these rules concerning matters related to the hearing and formulating its decision. The Regional Club's representative shall not be present during these deliberations.

2. Standard of Proof

a. The standard of proof to be used in determining the correctness of the factual situation shall be the standard commonly used in civil proceedings, namely: by the fair weight of the credible evidence and shall not be the standard used in criminal proceedings, namely: proof beyond a reasonable doubt.

3. Credibility of Witnesses, General

a. Each member of the Board in reaching a decision has the sole responsibility of deciding whether the testimony of each witness or documentary evidence is truthful and accurate and is to be believed or disbelieved in whole or in part.

b. Among the factors that the Board members should consider for witnesses that appear before the Board are:

- i. the manner of testifying, how he looked, conducted himself and spoke while testifying;
- ii. his ability to remember the events about which he testified;

iii. whether the witness was positive and certain or hesitant and doubtful about the matters to which he testified;

iv. whether the witness testified frankly and fairly, or whether he displayed favoritism or was biased in any way;

v. whether the witness or any group he is associated with has anything to gain or lose from the outcome of the Board's decision; and

vi. whether and to what extent the witness's testimony is supported or contradicted by other evidence in the case which the Board member believed.

c. Among the factors that the Board should consider for documentary evidence are:

i. how regular the document appears on its face if it is the whole document or merely a portion of the document;

ii. what the normal propose of the document is; and

iii. how the document was secured.

d. Evasiveness

i. In assessing the credibility and reliability to be placed on witnesses, the Board shall look at the candor that the Regional Club has displayed in responding to the allegations of the Initial Complaint, the request for additional documentation, and the answers of its witnesses. The Board shall also use the same standard of candor with respect to evidence presented against the Regional Club.

ii. Lack of truthfulness, evasiveness, and deception, will be taken into account and may be used as a standard to justify disregarding all of the evidence produced by the Regional Club.

e. After examining all the testimony and the documentary evidence and using the Board member's individual experience and good common sense, the Board member should give the evidence such credibility and weight as they think it deserves.

#### 4. *The Form of Decision by the Board*

a. The Board of Directors may enter a decision with as broad a scope as necessary to maintain the interests of the NCA and its members.

b. The Board of Directors has the power to enter an absolute decision which immediately revokes the recognition of the Regional Club.

c. The Board of Directors may also, however, enter a conditional decision which immediately revokes the recognition of the Regional Club but automatically reinstates them if, within a specific time, the Regional Club makes certain changes as specified by the Board.

5. Delivery of the Decision to the Regional Club

a. The decision of the Board shall be publicly announced by the President or his representative at an open meeting of the Board of Directors, usually after the conclusion of the hearings and the deliberation of the Board.

b. Generally, the decision shall be made and delivered no later than one (1) calendar day from the date the hearing is completed. Failure to adhere to this time limit shall not nullify the decision.

c. The Regional Club shall also accept as delivery of the decision the placing of the decision or a true copy thereof in the mail, addressed to the Regional Club or their designated representatives at their last known addresses or by any other form of service permitted by law.

**Appeal Procedures**

1. Time and Manner of Taking an Appeal

a. Within thirty (30) days from the announcement of the decision of the Board regarding revocation of recognition, the Regional Club must, if it desires to appeal the decision, file a written notice with the President and the Recording Secretary stating the reasons for the appeal. The notice shall be sent certified mail, return receipt requested. The written notice must state with particularity the reasons why the Regional Club wishes to appeal and why it feels that the decision of the Board was improper. Any matters not raised in the written notice cannot be raised at a later time.

b. At the time of the taking of the appeal and accompanying the written notice of appeal, the Regional Club shall deposit with the NCA Treasurer the sum of \$800 which is the initial estimate of the costs of first class postage for mailing documentation regarding the appeal to all of the members of the NCA. This amount is only a preliminary deposit and may be increased or refunded as the exact costs of the appeal are determined and as further defined in Section 5 of these procedures.

c. If the Regional Club takes an appeal, it must do so within the time period set forth above. The time period is the same for both an absolute revocation and a conditional revocation with automatic reinstatement upon specified changes. There is no extension of time in a conditional revocation with automatic reinstatement. The time period for taking an appeal begins from the announcement of the decision and does not run from the conclusion of the time to make specified changes.

2. Position Papers Summarizing the Position of the Regional Club and the NCA Board

a. The purpose of this section is to provide a fair and balanced procedure for

both the Board and the Regional Club to present its views to the general membership so they make a decision regarding the appeal.

- b. The Regional Club will indicate its position with a two page document.
- c. The NCA Board will respond with a two page document of its position.
- d. The Regional Club may then have a one page rebuttal.
- e. The NCA board will then respond with a one page sur rebuttal.
- f. The time schedule for providing these papers shall normally be within three (3) weeks but may be extended or shortened by the President of the NCA giving due consideration to the complexity of the issues.

3. Printed Booklet

- a. The position papers of the NCA and Regional Club, together with the Initial Complaint, the Regional Club's Response, the Amended Complaint, the Regional Club's Response to the Amended Complaint and the various Requests for Information together with the summaries shall be printed in a booklet. The booklets may also include at the request of either Party, the notice of appeal and any written documents introduced into evidence at the hearing. In the interest of fairness, the President may allow other items to be included.

4. Submission of the Documents and Decision of the Membership

- a. The documents submitted to the membership for their decision shall include the printed booklet, a ballot, and a return envelope. The ballot and the return envelope shall conform to the standards used for the election of members to the NCA Board.

- b. The decision of the membership shall be by a majority of those members voting, and the decision shall be framed to either uphold the decision of the Board or require the Board of Directors to reconsider the issue.

5. Payment of the Appeal Costs

- a. The costs of preparing, printing, and mailing the booklet as well as the costs of voting and counting of the votes shall be borne by the Regional Club.

- b. Upon receipt of the appeal, the NCA shall obtain an estimate from a printer who is familiar with NCA policies and procedures and shall normally be the same printer that prints *Newf Tide*. The printer shall give an estimate of the cost of the printing, providing labeled envelopes, any charges associated with placing the material in the envelopes and an estimate of the first class mailing charge.

- c. The NCA Treasurer shall inform the Regional Club of the costs and then the Regional Club shall deposit within twenty (20) days with the NCA Treasurer an amount equal to those costs which exceed the \$800 deposited as defined in Section 1(b) of these



procedures. If the final actual costs incurred by the NCA are less than the total of the deposit(s), then the excess shall be refunded to the Regional Club. If the final actual costs exceed the deposit(s), then the Regional Club shall be responsible for those additional costs.

d. Failure to timely post the required amounts shall act as a forfeiture of any appeal rights.

e. Payment of the Appeal Costs shall not be refundable to the Regional Club.

### **Miscellaneous Provisions**

#### **1. Interpretation and Application of Rules**

a. The Board shall interpret and apply these rules insofar as they relate to the Board's powers and duties.

b. The Chairperson's decision shall be final.

#### **2. Expenses**

a. The expenses of witnesses called either by the Board or the Regional Club shall be paid by the Party producing such witnesses.

b. If the Regional Club appeals the decision of the Board to the general membership, then the expenses of preparing and sending all materials shall be the responsibility of the Regional Club and shall not be refundable.

#### **3. Waiver of Rules**

a. If the Regional Club proceeds with the hearing after knowledge that any provision or requirement of these rules has not been complied with and then fails to state an objection in writing before the hearing or, if no opportunity exists prior to the actual hearing, then it must orally object or it shall be deemed to have waived the right to object.

#### **4. Effective Date**

a. These rules shall be effective immediately and shall apply to all pending and future proceedings.

#### **5. Effect of a Decision Revoking Recognition of a Regional Club**

a. If a decision is made to revoke recognition of a Regional Club, either absolutely or conditionally, that decision shall be effective immediately and the Regional Club shall not have any of the rights and privileges of membership in the NCA.

b. If a decision is made to revoke recognition of a Regional Club conditionally unless certain specific conditions are met, that decision is also effective immediately. If the specific conditions are met, the President of the NCA shall be notified in writing that the required changes have been made. Once the President verifies the fact that the changes have been made, the President will promptly notify the Board. Upon approval of

the Board, the Regional Club's recognition will be automatically reinstated. If the changes are not made, or the NCA not notified of the changes, or the Board determines that the changes have not been made to the satisfaction of the Board, then the revocation of the recognition of the Regional Club will be permanent.

c. After revocation of recognition, the Regional Club will not be able to hold events as an NCA Regional Club.

## **NCA WORKING DOG GRIEVANCE PROCEDURES**

- Premise

The NCA Working Dog Committee (WDC) has the responsibility to oversee working tests and to ensure that the NCA Water Test and NCA Draft Test regulations are followed. Occasionally, problems arise at tests requiring the attention of the WDC and these procedures have been established so that the problems may be investigated in an efficient, systematic and thorough manner. The purpose of the WDC Grievance Procedure is to promote quality working tests and in the event that problems arise to help clubs, exhibitors and judges improve future tests.

- Definitions

“Prejudicial to the sport” is defined as conduct which is detrimental to the working tests. Conduct which could be considered prejudicial to the sport includes, but is not limited to, using foul language, mistreating a dog, and behaving in a manner meant to reduce the chances of another handler and dog passing the test. One test of “prejudicial” is whether someone who was attending a working event for the first time would decide, after witnessing the incident, that the sport is not for him.

“Complainant” shall be used to designate an individual filing a grievance.  
“Respondent” shall be used to designate an individual accused of alleged misconduct.

“Working Test Committee” (WTC) shall be used in this document to indicate either the Draft Test or Water Test Committee at a particular test.

“Working Dog Committee” (WDC) shall be used to indicate the NCA Working Dog Committee, the general overseer of both NCA Water and Draft Tests.

“Working Test Committee Member” is defined as any of the individuals who have signed the test application or any individual acting in any official capacity during the actual test. Those acting in official capacity during the test include any steward, the Test Secretary, the Test Chairperson, the Safety Officer, and any individual appointed on the day of the test by the Test Chairperson to act at his direction.

“Judges’ Decisions” are defined as those decisions made by the test judges regarding the scoring of the dogs, determination of lameness, or other matters specifically designated to the judges in the Test Regulations.

### Filing a Grievance

#### I) When may a Grievance be filed?

A Grievance may be filed in the case of an alleged infraction of the NCA Water or Draft Test Regulations at, or in conjunction with, an NCA Working Test or in the event of alleged “conduct prejudicial to the sport” at, or in conjunction with, an NCA Working Test.

Some examples of conduct which might occur and be subject to a grievance procedure are as follows:

- Mistreatment of a dog by its owner or another individual

- Swearing in an abusive or foul manner in public
- Altercations with, verbal abuse of, or harassment of any show officials, stewards or exhibitors
- Overt demonstration of dissatisfaction with judges' decisions
- Refusal to follow judges' directions or instructions
- Favoritism or prejudice toward a particular dog by a judge, steward, other test committee member or other participant
- Failure to follow NCA regulations

This does not constitute a complete list. Other Grievances will be considered if they are deemed prejudicial to the sport.

## II. Types of Grievance Procedures

- Grievance against an exhibitor
- Grievance against a judge, test-giving committee or member of the test-giving committee

### Grievance Against an Exhibitor Procedure

#### I) Duties of the Working Test Committee

The Working Test Committee (WTC) shall act as the official representative of the NCA and must see to the enforcement of this procedure. The WTC has the responsibility to investigate any alleged infraction and to deal initially with any alleged infraction which occurs at or in conjunction with a regional club's event.

The WTC should be prepared to carry out the duties prescribed in a fair, firm and impartial manner. When an incident occurs at or in conjunction with a test, the first duty of the WTC is to investigate it immediately. This investigation should be conducted on the site and in the manner outlined in this document.

#### II) Filing a Grievance

The investigation is initiated by the filing of a completed Report of Alleged Infraction (ROAI) form by an individual or group of individuals who have been in attendance at the test in question.

- The ROAI forms will be available at the Test Secretary's table throughout the test and for a period of 25 minutes following the completion of judging of the last dog at a water test or a period of 25 minutes following the completion of the last freight haul at a draft test.
- The ROAI form must be completely and legibly filled out. The alleged infraction must be described in as much detail as possible by the Complainants.
- The \$15.00 non-refundable filing fee must accompany the completed ROAI form.
- The completed form must be given to the Test Chairperson no later than 30 minutes after the completion of judging, as described above.

- Those filing an ROAI form are urged to have available witnesses who can substantiate the alleged infraction.

No report of alleged infraction (ROAI) form will be considered by the WTC, the NCA WDC or the NCA Board of Directors which does not meet the aforementioned criteria.

### III. The Grievance Committee

Upon receipt of a properly completed ROAI form and the required fee within 30 minutes of the completion of judging, the Test Chairperson will immediately call the WTC together to address the allegations. It is the responsibility of the WTC to make certain that there are a minimum of three of its members available after each test to handle this procedure.

- The WTC Chairperson will lead the Grievance Committee proceedings. In the unusual case of the absence of the Chairperson, the leadership role will be assumed by the Test Secretary.
- The Grievance Committee shall consist of a minimum of three members of the WTC of that particular test. If more than three members are present, all available members should participate in the Grievance Committee.
- The Chairperson will obtain written statements for the record from all principals including the Complainant, the Respondent, and the witnesses of the alleged infraction.
- The Chairperson will call the Grievance Committee members to convene a hearing in order to consider if the complaint, should it be proved, would be an infraction of the regulations or prejudicial to the interest of the sport.
- At the hearing, all witnesses will be sworn and the Chairperson will call upon each one at a time to report.

### IV. The Hearing

It is preferred that the hearing occur within one hour of the conclusion of the test on the test site or at a location very near to it. All individuals involved should be notified by the Chairperson of the alleged problem and of the time of the hearing. The Respondent (individual accused of the alleged infraction) does not have the right to have the hearing changed to another date. If for some reason the Respondent or other persons have already left the test site, then they must be notified by the Chairperson via Certified Mail with Return Receipt Requested at their last known address. In the unusual event that this hearing cannot take place on the day of the test, the hearing shall be conducted as described in the Grievance Against a Judge procedure.

### V. Decisions

The purpose of the hearing shall be for presentation of evidence to the Grievance Committee and for the Grievance Committee decision related to that evidence. Before hearing the evidence, the committee shall determine by a majority vote:

- If the charged conduct, should it be proved, is an infraction of the Working Test Regulations or is prejudicial to the sport. If the Grievance Committee decides that the charged conduct, should it be proved, would not be an infraction of the regulations, nor prejudicial to the sport, then the charges shall be dismissed, and no further action shall be taken by the WTC, the NCA WDC or the NCA Board.

If the majority vote indicates that the charged conduct could be deemed an infraction of the regulations or prejudicial to the sport, the evidence shall be heard. After hearing the evidence, the Committee shall determine by a majority vote:

- If the charged conduct has been proven to have occurred
- If the charged conduct was an infraction of the Working Test Regulations or if it was prejudicial to the sport
- If the charged conduct occurred at or in conjunction with the NCA Working Test

Should the Grievance Committee decide that all three elements have been proved, the Respondent and the Complainant shall be informed of the decision. A complete report of the hearing and its outcome shall be sent to the NCA WDC within seven (7) days of the hearing.

Should the Grievance Committee decide that any of the three elements have not been proved, then it shall dismiss the charges and inform the Respondent and the Complainant. However, a full report of the hearing and its outcome shall be sent to the NCA WDC within fourteen (14) days.

The NCA WDC is prepared to support the decision of the Grievance Committee provided that the rights of all parties were not abridged, the hearing was conducted properly, and that the recorded evidence substantiates the findings of the Grievance Committee.

### Grievance Against a Judge Procedure

#### I) Judges' Grievance Procedure

The Judges' Grievance Procedure is to be used in instances of alleged judging infractions or procedure, as well as in the case of a grievance against the test-giving Working Test Committee or one or more of its members. The NCA Working Dog Committee is the committee in charge of these grievances.

#### II) Filing a Grievance

The investigation is initiated by the filing of a completed Report of Alleged Infraction (ROAI) form by an individual or group of individuals who are at the test site. The NCA WDC will only accept completed ROAI forms from individuals who have been in attendance at the test in question.

- The ROAI forms will be available at the Test Secretary's table throughout the test and for a period of 25 minutes following the completion of judging of the last dog at a water test or a period of 25 minutes following the completion of the last freight haul at a draft test.

- The ROAI form must be completely and legibly filled out. The alleged infraction must be described in as much detail as possible by the Complainants.
- Witnesses must completed the Witness Statement form. Only those individuals who have been in attendance at the event in question are allowed to completed the Witness Statement form.
- The \$15.00 non-refundable filing fee must accompany the complete ROAI and Witness Statement forms.
- The completed forms and fee must be sent to the NCA WDC Chairperson by Certified Mail with Return Receipt Request and must be postmarked within three (3) days of the date of the test in question. Items which are not postmarked within three (3) days of the test will not be considered.

No Grievance which does not meet the specifications above will be considered by the NCA WDC.

### III. The Grievance Committee

Upon receipt of a properly completed Grievance packet, the NCA WDC Chairperson will convene a WDC Hearing or a WDC Mail Hearing depending on the availability of the WDC to meet in person.

When the grievance is directed to the WDC by the above procedure, the complaint shall be heard by all members of the WDC, with the following exception: If any members of the WDC are parties to the alleged infraction, they will not be allowed to rule on the matter, but will only be allowed to participate in the manner specified by their role in the proceedings as Complainant, Respondent, or Witness.

### IV. Purpose of the Hearing

The purpose of the hearing shall be for presentation of evidence to the WDC and for the WDC decision related to that evidence. After reviewing the evidence, the WDC shall determine by a majority vote:

- If the charged conduct, should it be proved, is an infraction of the Working Test Regulations or is prejudicial to the sport. If the WDC decides that the charged conduct, should it be proved, would not be an infraction of the regulations, nor prejudicial to the sport, then the charges shall be dismissed and no further action shall be taken by the NCA WDC or the NCA Board.

If the majority vote indicates that the charged conduct could be deemed an infraction of the regulations or prejudicial to the sport, the evidence shall be heard. After hearing the evidence, the WDC shall determine by a majority vote:

- If the charged conduct has been proven to have occurred
- If the charged conduct was an infraction of the Working Test Regulations

- or if it was prejudicial to the sport
- If the charged conduct occurred at or in conjunction with the NCA Working Test

#### V. The Hearing Process

Unlike a WTC convened hearing, the WDC Chairperson will not collect additional Witness Statements. The WDC Chairperson or another WDC member appointed by the Chairperson to act in that capacity, will immediately contact the Respondent by Certified Mail with Return Receipt Requested. This contact will include the following:

- A cover letter describing the hearing process which will occur
- Photocopies of the complaint against him
- Photocopies of all Witness Statements

The distribution of the above material to the Respondent must be postmarked within five (5) days of receipt by the WDC Chairperson.

The Respondent has five (5) days from receipt of the Chairperson's letter and accompanying materials to formulate a written reply to the accusations. The written reply must be sent to the Chairperson by Certified Mail with Return Receipt Requested and must be postmarked within five (5) days of receipt from the Chairperson.

Upon receipt of the Respondent's written response, the WDC Chairperson will photocopy and distribute the response to all members of the WDC (who are not otherwise involved in the complaint as Complainant, Respondent or Witness). The distribution of the complaint materials and the response of the Respondent must be postmarked within seven (7) days of the Chairperson's receipt of the Respondent's response.

NCA WDC members will have ten (10) days to consider the complaint and to formulate their opinions in writing. Additional written or telephone correspondence between WDC members is to be encouraged in order to more fully understand the incident. The members of the WDC shall consider evidence as it relates to the three listed purposes of the hearing. Their replies to the Chairperson shall include their individual responses to each of the three listed purposes, plus any other statements they wish to add. Each member will postmark his reply to the Chairperson within ten (10) days of receipt of the material.

Upon receipt of the opinions of the WDC members, the Chairperson shall summarize their responses. Should the majority of the WDC decide that all three elements have been proved, the Respondent and the Complainant will be informed of the decision by Certified Mail With Return Receipt Requested. This response may also include suggestions from the WDC for improvement at future events. The Chairpersons shall keep copies of the written evidence and the WDC member votes as part of the permanent record.

Should a majority of the WDC members decide that any of the three elements have



not been proved, then it shall dismiss the charges. The WDC Chairperson will inform the Respondent and the Complainant in writing by Certified Mail With Return Receipt Requested. The Chairperson shall keep the written evidence and the WDC member votes as part of the permanent record.

Discipline

I) Grievance Against an Exhibitor

If the alleged infraction has been substantiated by the decision of the WTC Hearing Committee, the NCA WDC shall then turn their findings and recommendations over to the NCA Board to be handled in accordance to the NCA Constitution.

II) Grievance Against a Judge, Working Test Committee or its Members

If the alleged infraction has been substantiated by the decision of the NCA WDC Hearing Committee, the WDC shall then turn their findings and recommendations over to the NCA Board to be handled in accordance to the NCA Constitution.

The Official Code of Ethics for Judges are as follows:

- 1) Working Test Judges will bring the highest degree of professionalism to every test, whether acting as judge of that test, exhibitor, test committee, steward or spectator. We will remember that other judges, other exhibitors and spectators will look up to us to set an example in how we conduct ourselves. If we set a high standard for our own conduct, others will do likewise.
- 2) We will provide impartial judging to all exhibitors. We will never show favoritism to those exhibitors whom we know personally, nor will we judge dogs exhibited by other judges according to a higher standard than we use for the others entered.
- 3) We are the mentors of this sport and we will judge all exhibitors by the high standard that has been set in the appropriate Regulations. We are conscious that we are looked up to by others who are in attendance at working tests.
- 4) It sends the wrong message to other exhibitors to bring our list of “what ifs” to a test where we will be handling a dog. We know the rules already. Therefore, we should confine our questions to a few areas of clarification. We will not subject another judge to harassment during the question and answer period or during any other portion of a working test.
- 5) If we observe situations where hostility or anger is directed towards another judge, an exhibitor or others, we will support any efforts made to diffuse the situation.
- 6) We will refrain from “Back seat driving” or tactics that “judge” those who were approved to judge a given working test. If asked whether we would have made the same decision on a given call, we should remind fellow exhibitors and spectators that ours was not the opinion paid for that day. We might impress upon others that close calls are made by judges from the angle they are observing the exercise or from the vantage point of their combined expertise.
- 7) If we disagree with a judgment call made concerning our own dog, we will maintain the demeanor that will set an example for others. Whether asking the judges to review a given rule or whether we totally disagree with a ruling, we will remain as courteous with one another as possible. Official avenues for disagreement remain open to us, whether formal Grievance, exhibitor comment sheets, etc., without compromising our standard of professionalism.

8) When we accept a judging assignment, we are at the disposal of the test giving club for the duration of the test giving weekend. We will not accept judging assignments where giving the test club our total attention is interfered with by personal commitments or other time constraints for that weekend. We will make time to meet with the other judge to fully discuss rules and procedures prior to testing time. We will make time to be completely familiar with the test grounds in enough time prior to the testing time to make any changes called for in the Regulations or by the premium list sent to exhibitors. If we are assigned an observer for a given test, we will make time to discuss rules and procedures with him/her ahead of the test and will answer and ask questions of the observer after the test is completed to be able to fairly evaluate his/her readiness to judge on the provided evaluation sheets.

9) It is important to clearly communicate with the other judge, stewards and exhibitors. We will take enough time to make certain our directions are understood before proceeding on a given exercise. If an exhibitor fails, we will take a moment to explain the reason for the decision, citing the appropriate regulation to provide clarity. We will attempt to use a positive attitude in our explanations, mentioning portions of the exercise that were performed correctly, with flair or enthusiasm by the dog. When possible, we will encourage the handler to remain positive about the performance his/her dog has given, even if an exercise was failed.

10) We will treat all exhibitors equally, whether novice or experienced, giving the same degree of encouragement, courtesy, empathy, sympathy and impartial judging according to the Regulations to the best of our ability. This is especially true when there is an additional connection between ourselves and individual exhibitors, such as the breeder of our dog, good friend, host during the test weekend, etc.

**NOMINATING COMMITTEE** (modified 04/07/98\*)

**Nominating Committee Guidelines** (Modified 11/22/97)

- I) The Board shall appoint a Nominating Committee with Regional distribution in mind, considering people who are active in Regional Clubs or the National Club who will presumably know the candidates. The Nominating Committee shall, pursuant to the By-Laws, Article IV, Section 4(a), “nominate from among the eligible members of the Club six (6) candidates for the position of Director to replace those six (6) Directors whose terms will expire at the next Annual Meeting and shall procure the acceptance of each such nominee so chosen.”
- II) To increase the time that the Committee has to select a slate of nominees and to conform to restraints written into the NCA By-Laws, the Board has adopted a two stage procedure in appointing a Nominating Committee. At the Fall meeting of the Board a pro-tem committee is selected. Usually then, the pro-tem committee is officially appointed as the Nominating Committee at the annual meeting of the Board in the Spring. As soon as the Board appoints the pro tem committee, the appointed Chair should be given a copy of these Guidelines. The Chair should make contact with the other committee members and outline the proposed sequence of communications which will lead to the selection of a slate of candidates for the NCA Board of Directors. This first contact should include a copy of these Guidelines. The Alternates on the committee will be included in all deliberations with all privileges except voting.
- III) The new Chair should immediately send notices to *Newf Tide* requesting that the names of prospective nominees be submitted to him/her. Also, the new Chair should immediately write to the secretaries of all of the Regional Clubs soliciting suggested nominees. All members of the Nominating Committee are encouraged to suggest qualified nominees. A deadline for acceptance of nominees should be established as approximately thirty (30) days after publication in the Spring issue of *Newf Tide* and thirty (30) days after the postmark of written requests to Regional Club secretaries. The following criteria should be stressed:
  - A. Time and interest to contribute to the orderly progress of the National Club.
  - B. Wide range of talents, interests
  - C. Regional distribution
- IV) The Chair should contact current Board members whose terms of service are ending and inquire whether they are interested in being considered again for nomination. Those answering in the affirmative should be considered with all other suggested persons. The Nominating Committee Chairperson shall contact the Recording Secretary to obtain the attendance record of those Board members who would be prospective nominees for re-election.
- V) A biographical sketch should be requested from all prospective nominees for the perusal of Committee members. The sketch should be promptly submitted, should be concise and factual and should include the following:
  - A. Length of time the candidate has been a Newfoundland owner, breeder,

- and/or exhibitor
  - B. Contributions to the sport of dogs
  - C. Contributions to the Newfoundland breed and to Regional and/or National Club
  - D. Special contributions which could be made to the National Club by virtue of talent, education, training or professional endeavor
- VI) Each potential nominee shall given written assurance of his/her willingness to:
- A. Run for office
  - B. Attend meetings, contribute to mail meetings, and serve on committees and be an active and contributing member of the Board, if elected
- VII) The Chair shall send a list of all potential nominees to all Committee members with the information outlined in V (above) and solicit comments. Said list should be posted no more than ten (10) days after the deadline for receipt of nominations. Comments, if any, should be returned within twenty (20) days of receipt by committee member. Committee members are encouraged to discuss potential nominees and to share their knowledge of special talents and qualifications, including any knowledge of past performance on NCA committees or Regional Club activities.
- VIII) Within ten (10) days of receipt by Chair, a report including comments (VII) should be sent to the full committee for a first written ballot. All voting will be done by secret ballot. All members, including the Chair, will vote for six (6) candidates. Ballots should be returned within ten (10) days of postmark. A tally of the results will be returned to the Committee. Any candidates receiving three (3) votes will be considered nominated.
- IX) A second ballot, if necessary, will be sent out approximately seven (7) days of receipt of information in VIII. If a second ballot is necessary to complete the slate, the ballot will be a weighted ballot. The candidate of first choice will receive six (6) points, second choice five (5) points, third choice four (4) points, etc. The candidates receiving the greatest number of points will fill the additional vacancies on the slate.
- X) A report of the tally will be sent to each committee member and the names of the nominees selected will be sent to the Recording Secretary. In order that the final slate of nominees can be distributed by the NCA Recording Secretary to the membership via *Newf Tide* by September 15, the Nominating Committee must provide the final slate to the NCA Recording Secretary by August 1.
- XI) The selected nominees will be notified by the Nominating Committee Chair who will request that they send a personal profile to the Recording Secretary, including the information requested in V (above), written in the candidate's own words. The word limit for published candidate biographies will be up to 300 words, strictly enforced.
- XII) All candidates, those nominated by the Committee and those nominated by petition, shall be listed alphabetically on the ballot along with their personal profiles.
- XIII) The Nominating Committee's deliberations and individual voting records will be

considered confidential. After the official election results have been announced, the voting records of the Nominating Committee should be destroyed.

- XIV) Removal and replacement of non-participating committee members will be addressed in accordance with the NCA Committee Guidelines and Policies.

## **REGIONAL CLUB GOVERNING POLICY**

### **Article I - Philosophy And Responsibilities**

The Newfoundland Club of America, Inc. (NCA) encourages the formation of Regional Clubs whose activities further the welfare of the Newfoundland breed and fancy. The NCA believes that an organizational structure of multiple Regional Clubs is healthy because it represents the diverse interests of Newfoundland dog owners.

The NCA benefits from recognizing Regional Clubs through NCA events hosted by Regional Clubs, through increased exposure of the breed through Regional Club activities, through increased potential NCA membership, through contributions of ideas and leaders to the NCA from Regional Club, through communication to non-NCA members who are Regional Club members, and through cooperation between the NCA and Regional Clubs on Newfoundland rescue. Regional Clubs benefit from NCA recognition through hosting NCA events, through access to the American Kennel Club through the NCA, through breed and educational information provided by the NCA, through exposure in *Newf Tide* of Regional Club events, and through cooperation between the NCA and its Regional Clubs on Newfoundland rescue.

Through cooperation, the NCA and its Regional Clubs make greater contributions to the Newfoundland breed and fancy than each can individually. To achieve this cooperation, the NCA and its Regional Clubs understand that formal association obliges all parties to accept certain responsibilities. By formally associating with a Regional Club (through approval of a Club's petition to become an NCA Regional Club), the NCA agrees to provide clear direction to the Regional Club on how to sponsor/host NCA events and to provide help with conducting those events, to make available educational materials on the breed, to provide a mechanism for recognizing accomplishments in conformation, obedience, and working events, and to make available information about Club insurance, taxes, and other administrative issues. By formally associating with the NCA, a Regional Club agrees to follow NCA or AKC regulations and guidelines in hosting NCA or AKC events, to host two or more events (e.g. water test, draft test, obedience trial, specialty show or match show, educational program, community service function, and so forth) annually, to provide information about its membership to the NCA as requested, and to engage in activities that protect, promote and improve the breed.

### **Article II - Recognition Of NCA Regional Clubs**

#### *Section I - Procedures and requirements for recognition*

A group of fanciers, organized as a local Newfoundland breed club, may seek formal association with the NCA as a recognized NCA Regional Club. The club must communicate with the NCA Regional Club Liaison who will advise and assist the club on how to meet the following requirements, and will submit the club's application to the NCA Board of Directors for their consideration and approval when appropriate.

- 1) The club must demonstrate stable membership for a sufficient period of time to assure future life.
- 2) The club must demonstrate adequate fiscal resources to sustain club activity.

- 3) The club must demonstrate that a reasonable percentage of its members are also members of the NCA. A reasonable percentage is considered to be: (i) enough NCA members to conduct NCA events, in order that the same members do not continually take official responsibility and sign required forms; and (ii) enough NCA members to make it clear that the club wishes to help the NCA as well as gain benefits from the NCA.
- 4) The club must submit for approval a Constitution and By-Laws, and Code of Ethics if it exists, to the NCA Board of Directors that are consistent with the principles of orderly, lawful and democratic operation and that were consistent with sound fiscal management. The club may adopt the model Constitution and By-Laws available from the NCA Regional Club Liaison. Modifications of the sample Constitution and By-Laws are permitted with NCA Board approval.
- 5) The club must submit minutes of general and Board meetings held during (at least) the prior year to the NCA Board of Directors. The minutes must describe the deliberations, business and activities of the club.
- 6) The club must have well-defined regional or local boundaries such that they conform to state, county, city or other well-defined boundaries. A club existing prior to the adopting of this policy may deviate from this requirement if its original, approved application lacked such boundaries and the club has not since then made its boundaries conform to this requirement. All club meetings must be held within these boundaries. The club is encouraged to restrict voting membership to persons residing within its boundaries. It should be evident that the club exists mainly to serve its recognized region.
- 7) If the proposed boundaries of the applying club overlap those of one or more existing NCA Regional Clubs, the club seeking recognition must submit a written agreement approved by all clubs that defines clearly and in detail their relationship, and shows the intent that direct and indirect interactions between the clubs will not be a significant detriment to either the Regional Clubs or the NCA.
- 8) Once recognized by the NCA as a Regional Club, the club must agree to submit to the NCA, through the Regional Club Liaison, the following:
  - Proposed changes to the club's Constitution, By-Laws and Code of Ethics, if it exists. Such changes must be ratified by the NCA Board of Directors
  - Annual membership roster, denoting NCA members
  - Annual officers roster, including addresses and telephone numbers
  - Newsletters
  - Minutes of club meetings, as requested by the NCA Board
9. The goal of the club, as defined in its Constitution, must be to preserve, protect and improve the Newfoundland breed and to do all possible to bring

the breed's natural qualities to perfection; and to encourage and to promote cooperation, camaraderie and good sportsmanship among its members.

10. In its Constitution, the club must urge all of its members to accept the standard of the Newfoundland breed approved by the AKC as the only standard of excellence by which Newfoundlands will be judged.
11. The club must promote among its members dedication to high quality care for Newfoundlands.
12. The club must promote all aspects of the fancy by annually sponsoring two or more events such as a water test, draft test, obedience trial, specialty show, match show, educational program, community service program, and so forth.

*Section 2 - Procedures and requirements for discontinuing formal association between the NCA and an NCA Regional Club*

Formal association between the NCA and an NCA Regional Club can be discontinued in any of four ways.

- 1) If a Regional Club ceases to maintain membership, to have meetings, or to elect officers for a period exceeding two (2) years, it shall be considered no longer to exist and the NCA shall no longer acknowledge formal association with such club.
- 2) If a Regional Club wishes to discontinue formal association with the NCA it shall notify the Regional Club Liaison and document the intentions of the club. The Regional Club Liaison shall notify the NCA Board of Directors, and formal association shall then be discontinued.
- 3) If a Regional Club fails to comply with any part of this policy, the NCA may discontinue the formal association. The Regional Club Liaison will provide, if requested, advice and assistance to any Regional Club that is unable to comply with any provisions of this policy. The process to discontinue formal association between the NCA and an NCA Regional Club shall be initiated by the Regional Club Liaison.
- 4) A petition signed by at least ten (10) NCA members may be submitted to the Regional Club Liaison, requesting that formal association be discontinued between the NCA and an NCA Regional Club, and stating the reasons why such action should be taken and providing supporting documentation.

The process for formal discontinuation shall be as follows:

- 1) The Regional Club Liaison will notify the Regional Club of its alleged failure to comply with this policy. A copy of this notice will be sent to the NCA Board of Directors.
- 2) The NCA Regional Club Liaison will discuss the alleged failure to comply with this policy to the accused Regional Club's President, either face-to-face



or by telephone, requesting evidence that the accusation lacks merit.

- 3) If the NCA Regional Club Liaison finds the evidence insufficient, objectives and a schedule for correcting the problem(s) may be established by the Regional Club President and the NCA Regional Club Liaison. If the Regional Club President does not supply evidence that the accusation lacks merit, the NCA Regional Club Liaison will advise the NCA Board. The NCA board, depending upon the nature of the problem, may schedule a hearing to consider discontinuing the formal association with the Regional Club.
  - 4) If the objectives and schedule for complying with this policy as described above are not met, the NCA Regional Club Liaison will ask the NCA Board to consider discontinuing formal association with the Regional Club and to schedule a hearing at a face-to-face meeting to address the issue.
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- 5) The process for scheduling and conducting a Board hearing, and the subsequent appeal procedure, is described in a separate policy entitled NCA HEARING PROCEDURES FOR REVOKING NCA RECOGNITION OF A REGIONAL CLUB.