

Complaints Process #2 (Hard Stuff)

1. Club appoints their Discipline Chair - someone to be the first point-of-contact for all discipline and complaint matters, who is unbiased and has no conflict of interest.

2. Club receives a complaint or the Organization may initiate the complaint process under the terms of this Policy. The Organization will then identify an individual to represent the Organization.

3. Discipline Chair - determines if the complaint is valid. To do so they refer to the application section of the Complaint and Discipline Policy. They will then determine whether Process 1 or 2 is applicable.

4. A minor involved in a complaint, either as the complainant or respondent, must have adult representation. Communication from the Discipline Chair/Case Manager must be directed to the minor's representative. Minor is not required to attend any oral hearing.

5. Investigation - The Discipline Chair may determine that the complaint received requires the appointment of an independent individual to conduct an investigation. The roles and responsibilities of the investigator shall be determined by the Discipline Chair.

The Discipline Chair may determine that an alleged incident is serious enough to warrant immediate suspension of an individual pending completion of a criminal process, the hearing, or a decision of the Discipline Panel.

An Individual's conviction for a *Criminal Code* offense, will be deemed an infraction under this Policy and will result in discipline up to and including expulsion from the Organization.

6. The Discipline Chair appoints a Case Manager to administer certain complaints under this *Discipline and Complaints Policy*. They do not need to be a member of, or affiliated with, the Organization. The Case Manager should not have a conflict of interest and should have expertise in dispute resolution matters.

Process 2, handled by by Case Manager, applicable if complaint alleges the following:

- Repeated minor incidents
- Any incident of hazing
- Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- Major incidents of violence (e.g., fighting, attacking, sucker punching)
- Pranks, jokes, or other activities that endanger the safety of others
- Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- Conduct that intentionally damages the Organization's image, credibility, or reputation
- Consistent disregard for the Organization's bylaws, policies, rules, and regulations
- Major or repeated violations of the Organization's *Code of Conduct and Ethics*
- Intentionally damaging the Organization's property or improperly handling the Organization's monies
- Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
- A conviction for any *Criminal Code* offense
- Any possession or use of banned performance enhancing drugs or methods

The Case Manager has a responsibility to:

- determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
- propose the use of the Organization's *Alternate Dispute Resolution Policy*
- appoint the Discipline Panel, if necessary
- coordinate all administrative aspects and set timelines
- provide administrative assistance and logistical support to the Discipline Panel as required, and
- provide any other service or support that may be necessary to ensure a fair and timely proceeding.

7. If the Case Manager determines the complaint is not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the complaint is accepted and of the applicable next steps. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy is not appropriate, The Discipline Chair, Case Manager or, the Discipline Panel may direct that these timelines be revised.

8. The Case Manager will then decide the format under which the complaint will be heard. The hearing will be governed by the procedures that the Case Manager deems appropriate in the circumstances, *provided that it adheres to sections 32-36 of the Discipline and Complaints Policy*.

If the dispute can not be resolved by Alternate Dispute Resolution, the Case Manager will appoint a Discipline Panel, which shall consist of a single Arbitrator to hear the complaint.

See Alternate Dispute Resolution Flow Chart

After hearing and/or reviewing the matter, the Discipline Panel will determine any sanctions to be imposed within fourteen (14) days of the hearing's conclusion. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately.

The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:

- verbal or written reprimand;
- verbal or written apology;
- service or other contribution to the Organization;
- removal of certain membership or registration privileges;
- suspension from certain teams, events, and/or activities;
- suspension from all the Organization's activities for a designated period;
- payment of the cost of repairs for property damage;
- suspension of funding from the Organization;
- expulsion from the Organization; and,
- any other sanction considered appropriate for the offense.

Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs

Records of all decisions will be maintained by the Organization and a copy of the decision shall be provided to Swim Ontario.

The decision of the Discipline Panel may be appealed in accordance with the Organization's *Appeal Policy*.

The complaints process is confidential. The Parties will not disclose any information relating to the discipline or complaint to any person not involved in the proceedings. Swim Ontario and other governing bodies and sport clubs, may be advised of any decisions rendered in accordance with this Policy.