

Discipline and Complaints Policy

“Organization” refers to: _____ Kirkland Lake Aquatic Club _____

Definitions

1. The following terms have these meanings in this Policy:
 - a) “*Case Manager*” – An individual appointed by the Discipline Chair to administer certain complaints under this Policy. The Case Manager does not need to be a member of, or affiliated with, the Organization. The Case Manager should not be in a conflict of interest and should have expertise in dispute resolution matters.
 - b) “*Complainant*” – The Party making a complaint
 - c) “*Days*” – Calendar Days (including weekends and holidays)
 - d) “*Discipline Chair*” – An individual or individuals appointed by the Board to be the first point-of-contact for all discipline and complaint matters reported to the Organization
 - e) “*Individuals*” – All categories of membership defined in the Organization’s Bylaws, as well as all individuals employed by, or engaged in activities with, the Organization including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, Directors and Officers of the Organization, and parents/guardians of athletes
 - f) “*Respondent*” – The Party responding to the complaint

Purpose

2. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the Organization’s policies, Bylaws, rules and regulations, and the *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

Discipline Chair

3. The Discipline Chair will be an individual(s) appointed by the Board to handle a complaint or incident. The Discipline Chair must be unbiased and not in a conflict of interest situation.

Application of this Policy

4. This Policy applies to all Individuals.
5. This Policy applies to matters that may arise during the Organization’s business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with the Organization’s activities, and any meetings.
6. This Policy may also apply to Individuals’ conduct outside of the Organization’s business, activities, and events when such conduct adversely affects relationships within the Organization and its work and sport environment or when it is detrimental to the image and reputation of the Organization. Applicability will be determined by the Organization at its sole discretion.
7. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Any infractions or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only. Further discipline may be applied according to this Policy.
8. An employee of the Organization who is a Respondent will be subject to appropriate disciplinary action per the Organization’s policies for human resources and Employment Agreement, if applicable.

Adult Representative

9. Complaints may be brought for or against an Individual who is a minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
10. Communication from the Discipline Chair and Case Manager must be directed to the minor's representative.
11. A minor is not required to attend any oral hearing.

Reporting a Complaint

12. Any Individual may report an incident or complaint to the Discipline Chair in writing, within fourteen (14) days of the alleged incident, although this timeline can be waived or extended at the Discipline Chair's discretion.
13. The Organization, at its discretion, may act as the Complainant and initiate the complaint process under the terms of this Policy. The Organization will identify an individual to represent the Organization.

Receiving a Complaint - Process

14. Upon receipt of a complaint, the Discipline Chair has a responsibility to:
 - a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
 - b) Propose the use of the Organization's ***Alternate Dispute Resolution Policy***
 - c) Determine if 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
 - d) Determine if an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of a criminal process or the discipline process
 - e) Coordinate all administrative aspects and set timelines
 - f) Provide any other service or support that may be necessary to ensure a fair and timely proceeding
 - g) Choose which process should be followed, and may use the following examples as a guide:
 - a) Process #1 - the Complaint alleges the following incidents:
 - i. Disrespectful conduct
 - ii. Minor incidents (e.g., tripping, pushing, elbowing)
 - iii. Conduct contrary to the values of the Organization
 - iv. Non-compliance with the Organization's policies, procedures, rules, or regulations
 - v. Minor violations of the Organization's *Code of Conduct and Ethics*
 - b) Process #2 - the Complaint alleges the following incidents:
 - i. Repeated minor incidents
 - ii. Any incident of hazing
 - iii. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
 - iv. Major incidents of violence (e.g., fighting, attacking, sucker punching)
 - v. Pranks, jokes, or other activities that endanger the safety of others
 - vi. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
 - vii. Conduct that intentionally damages the Organization's image, credibility, or reputation
 - viii. Consistent disregard for the Organization's bylaws, policies, rules, and regulations
 - ix. Major or repeated violations of the Organization's *Code of Conduct and Ethics*
 - x. Intentionally damaging the Organization's property or improperly handling the Organization's monies

- xi. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
- xii. A conviction for any *Criminal Code* offense
- xiii. Any possession or use of banned performance enhancing drugs or methods

Process #1: Handled by Discipline Chair

15. Following the determination that the complaint should be handled under Process #1, the Discipline Chair will review the submissions related to the complaint or incident and determine one or more of the following sanctions:

- a) Verbal or written reprimand
- b) Verbal or written apology
- c) Service or other contribution to the Organization
- d) Removal of certain privileges
- e) Suspension from certain teams, events, and/or activities
- f) Suspension from all the Organization's activities for a designated period
- g) Any other sanction considered appropriate for the offense

16. The Discipline Chair will inform the Respondent of the sanction imposed. This sanction take effect immediately.

17. Record of all sanctions will be maintained by the Organization and reported to Swim Ontario. Swim Ontario, at its discretion, may choose to report the sanction to other individuals or groups.

Request for Reconsideration

18. If there is no sanction, the Complainant may contest the non-sanction by informing the Discipline Chair, within four (4) days of receiving the decision, that the Complainant is not satisfied with the decision. The initial complaint or incident will then be handled under Process #2 of this Policy.

19. If there is a sanction, the sanction may not be appealed until the completion of a request for reconsideration. However, the Respondent may contest the sanction by submitting a Request for Reconsideration within four (4) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:

- a) Why the sanction is inappropriate;
- b) All evidence to support the Respondent's position; and
- c) What penalty or sanction (if any) would be appropriate.

20. Upon receiving a Request for Reconsideration, the Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate sanction.

21. Should the Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.

22. Should the Discipline Chair not accept the Respondent's suggestion for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Policy.

Process #2: Handled by Case Manager

Case Manager

23. Following the determination that the complaint will be handled under Process #2, the Organization will appoint a Case Manager to oversee management and administration of the complaint or incident. Such appointment is not appealable.

24. The Case Manager has a responsibility to:
- a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
 - b) Propose the use of the Organization's **Alternate Dispute Resolution Policy**
 - c) Appoint the Discipline Panel, if necessary
 - d) Coordinate all administrative aspects and set timelines
 - e) Provide administrative assistance and logistical support to the Discipline Panel as required, and
 - f) Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

Procedures

25. If the Case Manager determines the complaint is:
- a) Frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately
 - b) 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
26. The Case Manager's decision to accept or dismiss the complaint may not be appealed.
27. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
28. After notifying the Parties that the complaint has been accepted, the Case Manager may propose using the Organization's **Alternate Dispute Resolution Policy**. If the dispute is not resolved, the Case Manager will appoint a Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint.
29. The Case Manager will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager deems appropriate in the circumstances, provided that:
- a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium;
 - b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing;
 - c) The Parties may engage a representative, advisor, or legal counsel at their own expense;
 - d) The Discipline Panel may request that any other individual participate and give evidence at the hearing; and,
 - e) The Discipline Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate.
30. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
31. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
32. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in their own right, that party will become a Party to the current complaint and will be bound by the decision.
33. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

34. After hearing and/or reviewing the matter, the Discipline Panel will determine whether an infraction has occurred and, any sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision with reasons, will be distributed to the Parties, the Case Manager, the Organization and Swim Ontario. In extraordinary circumstances, the Discipline Panel may first issue a verbal or summary decision upon the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

Sanctions

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

- a) Verbal or written reprimand;
- b) Verbal or written apology;
- c) Service or other contribution to the Organization;
- d) Removal of certain membership or registration privileges;
- e) Suspension from certain teams, events, and/or activities;
- f) Suspension from all the Organization's activities for a designated period;
- g) Payment of the cost of repairs for property damage;
- h) Suspension of funding from the Organization;
- i) Expulsion from the Organization; and,
- j) Any other sanction considered appropriate for the offense.

36. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.

37. Records of all decisions will be maintained by the Organization and a copy of the decision shall be provided to Swim Ontario. Swim Ontario, at its discretion, may choose to report the decision to other individuals or groups

Appeals

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

Criminal Convictions

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

Confidentiality

40. The complaints process is confidential and involves only the Parties, the Case Manager, the Discipline Panel, any independent advisors to the Discipline Panel, and Swim Ontario. The Parties will not disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

Timelines

41. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Discipline Chair or Case Manager, as applicable, may direct that these timelines be revised.

Records and Distribution of Decisions

42. Other individuals or organizations, including but not limited to, national sport organizations, provincial sport organizations, other governing bodies and sport clubs may be advised of any decisions rendered in accordance with this Policy.