



Title: Swim BC Discipline and Complaints Policy

Section: Swim BC Social Policies
Approved by: SBC Board of Directors

Date of Approval: April 23, 2019
Next Review: April 23, 2021

Definitions

1. The following terms have these meanings in this Policy:
 - a) *“Case Manager”* - An individual appointed as required by Executive Director of Swim BC, including but not limited to, any Swim BC Staff, Committee Member, Volunteer or Director; or any independent third party, to oversee this policy. The Case Manager will be responsible for, but not limited to:
 - i. The overall responsibility to ensure procedural fairness and the applicable timelines are respected; and
 - ii. The decision-making authority described in this Policy.
 - b) *“Complainant”* - The Party alleging an infraction
 - c) *“Respondent”* - The alleged infracting Party
 - d) *“Parties”* - The Complainant, Respondent, and any other Individuals, persons, or organizations affected by the complaint.
 - e) *“Panel”* - persons appointed to hear the complaint in a major infraction hearing
 - f) *“Days”* - Days irrespective of weekend and holidays
 - g) *“Individuals”* – All categories of membership defined in the Swim BC’s Bylaws, as well as all individuals employed by, or engaged in activities with, Swim BC including, but not limited to, athletes, coaches, officials, volunteers, managers, administrators, committee members, and directors and officers of the Swim BC;
 - a) *“Sport Environment”* – Any place where Swim BC business or activities are conducted, including but not limited to:
 - i. The Swim BC office;
 - ii. Any meetings in which the members represent the interests of Swim BC;
 - iii. Work-related social functions, assignments, travel, and conferences or training sessions;
 - iv. Competitions, practices, tryouts, sport testing, training camps, speaking engagements and travel to and from those events.

Purpose

2. Swim BC is committed to providing an environment in which all individuals involved in Swim BC are treated with fairness and mutual respect. These ideals are defined in the *Swim BC Code of Conduct and Ethics Policy*.
3. Membership in, and association with Swim BC, as well as participation in its activities, brings many benefits and privileges. At the same time, Individuals and participants are expected to fulfill certain responsibilities and obligations including complying with Swim BC’s policies, bylaws, rules and regulations, and *Code of Conduct and Ethics Policy*. Irresponsible behavior by Individuals can result in severe damage to the integrity of Swim BC. Conduct that violates these values may be subject to sanctions pursuant to this Policy. Since discipline may be applied, Swim BC provides individuals with the mechanism outlined in this Policy so that complaints are handled fairly, expeditiously, and affordably.

Application

4. This Policy applies to all Individuals. Any individual legally defined as a minor shall be required to have a parent or guardian present during all proceedings on their behalf.
5. This Policy applies to discipline matters that may arise within the Swim BC sport environment.
6. Discipline matters and complaints arising beyond the Swim BC sport environment will be dealt with pursuant to the policies of other entities unless accepted by the Swim BC at its sole discretion.



7. This Policy does not supersede club policies in sanctioned meet packages and the FINA rulebook

Related Documents

8. The following documents are related to this policy:
 - a. Code of Conduct and Ethics Policy
 - b. Appeals Policy
 - c. Dispute Resolution Policy

Reporting a Complaint

9. Any Individual may report any complaint to the Swim BC office. Such a complaint must be in writing and signed (or e-signed) and must be filed within fifteen (15) days of the alleged incident. Anonymous complaints may be accepted at the sole discretion of Swim BC.
10. A Complainant wishing to file a complaint outside of the fifteen (15) day period must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the complaint outside of the fifteen (15) day period will be at the sole discretion of the Case Manager. This decision may not be appealed.
11. In matters related to harassment, bullying and abuse, Swim BC recognizes that it can be extremely difficult to come forward with a complaint, and likewise that it can be devastating to be wrongly accused. Swim BC recognizes the interests of both the complainant and the respondent in keeping the matter confidential, except where such disclosure is required by law. This shall not preclude publication of the outcome of the matter.

Dispute Resolution and Mediation

12. Before any complaint proceeds to the formal stage, the dispute will first be referred to Swim BC's Executive Director (or designate) for review, with the objective of resolving the dispute via alternate dispute resolution (ADR) and/or mediation.
13. Swim BC's Executive Director (or designate) shall first use Swim BC's *Dispute Resolution Policy* to attempt to resolve the dispute.

Case Manager

14. Should the engagement by Swim BC's Executive Director (or designate) not resolve the dispute, the Executive Director in consultation with the President and/or board of Directors, will appoint a Case Manager to oversee management and administration of complaints submitted in accordance with this Policy, and such appointment is not appealable. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner. More specifically, the Case Manager has a responsibility to:
 - a. Determine whether the complaint is frivolous or vexatious and within the jurisdiction of this Policy. If the Case Manager determines the complaint is frivolous or vexatious or outside the jurisdiction of this Policy, the complaint will be dismissed immediately. The Case Manager's decision to accept or dismiss the complaint may not be appealed.
 - b. Determine if the complaint is a minor or major infraction
 - c. Appoint the Panel, if necessary, in accordance with this Policy
 - d. Coordinate all administrative aspects of the complaint
 - e. Provide administrative assistance and logistical support to the Panel as required
 - f. Provide any other service or support that may be necessary to ensure a fair and timely proceeding



15. The Case Manager will inform the Parties if the incident is to be dealt with as a minor infraction or major infraction and the matter will be dealt with according to the applicable section relating to the minor or major infraction.
16. This Policy does not prevent an appropriate person having authority from taking immediate, informal or corrective action in response to behavior that constitutes either a minor or major infraction. Further sanctions may be applied in accordance with the procedures set out in this Policy.
17. Any infractions or complaints occurring within competition will be dealt with pursuant to the appropriate procedures at that competition. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.

Minor Infractions

18. Minor infractions are single incidents of failing to achieve expected standards of conduct that generally do not result in harm to others or to Swim BC. Examples of minor infractions can include, but are not limited to a single incident of:
 - a. Disrespectful, offensive, abusive, racist, or sexist comments or behaviour
 - b. Disrespectful conduct such as outbursts of anger or argument
 - c. Conduct contrary to the values of Swim BC
 - d. Being late for, or absent from, Swim BC events and activities at which attendance is expected or required
 - e. Non-compliance with Swim BC's policies, procedures, rules, or regulations
 - f. Other violations of Swim BC's Code of Conduct and Ethics Policy deemed to be minor
 - g. Tampering
19. All disciplinary situations involving minor infractions will be dealt with by the Case Manager.
20. Provided that the Individual being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident, procedures for dealing with minor infractions will be informal (compared to the procedures for major infractions) and will be determined by the Case Manager.
21. Penalties for minor infractions, which may be applied singularly or in combination, include the following:
 - a. Verbal or written reprimand from Swim BC to one of the Parties
 - b. Verbal or written apology from one Party to the other Party
 - c. Service or other voluntary contribution to Swim BC
 - d. Removal of certain privileges of membership for a designated period of time
 - e. Suspension from any competitions, activities, or events
 - f. Restriction of activities related to the privilege of Swim BC membership
 - g. Any other sanction considered appropriate for the offense
22. Repeat minor infractions may result in further such incidents being considered a major infraction.

Major Infractions

23. Major infractions are instances of failing to achieve the expected standards of conduct that result, or have the potential to result, in harm to an individual or group of individuals, to Swim BC, or to the sport of swimming. Examples of major infractions include, but are not limited to:
 - a. Repeated minor infractions
 - b. Any incident of hazing
 - c. Incidents of physical abuse
 - d. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
 - e. Pranks, jokes, or other activities that endanger the safety of others



- f. Conduct that intentionally interferes with a competition or an athlete's performance
- g. Conduct that intentionally damages Swim BC's image, credibility, or reputation
- h. Blatant disregard for Swim BC's bylaws, policies, rules, and regulations
- i. Major or repeated violations of Swim BC's Code of Conduct and Ethics
- j. Intentionally damaging Swim BC property or improperly handling Swim BC monies
- k. Abusive use of any substance as outlined in the code of conduct, any use or possession of alcohol and/or cannabis by minors, or use or possession of illicit drugs and narcotics
- l. Any possession or use of banned performance enhancing drugs or methods
- m. Any conduct that results in a criminal conviction

Procedure for Major Infraction Hearing

- 24. In all major infractions the Case Manager shall notify the Parties that the complaint is potentially legitimate, and the incident shall be dealt with as a major infraction. The Case Manager will appoint a Panel, the Panel will independently appoint one of the Panel's members to serve as the Chair.
- 25. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Panel will determine the appropriate disciplinary sanction. The Panel may still hold a hearing for the purpose of determining an appropriate sanction.
- 26. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
- 27. The Panel will determine the format of the hearing, which may involve an oral in-person hearing, an oral hearing by telephone, 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 Panel deems appropriate in the circumstances, provided that:
 - a. Once a Panel is appointed, as determined by the Panel, all parties will be given appropriate notice of the day, time and place of hearing
 - b. Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
 - c. The Parties may be accompanied or supported by an advocate, advisor, or legal counsel at their own expense
 - d. The Panel may request that any other individual participate and give evidence at the hearing
 - e. The Panel may allow as evidence at the hearing any oral evidence and/or relevant documents pertaining 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

Decision

- 28. After hearing the matter, the Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. The decision will be by a majority vote of Panel members. Within fifteen (15) days of the hearing's conclusion, the Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Swim BC. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fifteen (15) day period.
- 29. 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 complaint in question and will be bound by the decision.

Sanctions

- 30. The Panel may apply the following disciplinary sanctions, singularly or in combination, for major infractions:
 - a. Verbal or written reprimand from Swim BC to one of the Parties



- b. Verbal or written apology from one Party to the other Party
 - c. Service or other voluntary contribution to Swim BC
 - d. Suspension from certain Swim BC teams, competitions, activities, or events
 - e. Suspension from all Swim BC activities for a designated period of time
 - f. Expulsion or dismissal from Swim BC
 - g. Removal of certain membership privileges
 - h. Withholding of prize money or awards
 - i. Payment of the cost of repairs for property damage
 - j. Suspension of funding from Swim BC or from other sources
 - k. Any other sanction considered appropriate for the offense
31. Unless the Panel decides otherwise, any disciplinary sanctions will begin immediately. Failure to comply with a sanction as determined by the Panel will result in automatic suspension until such time as compliance occurs.
32. Major infractions that result in discipline will be recorded and records will be maintained by Swim BC.

Suspension Pending a Hearing

33. Swim BC may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending a hearing or a decision of the Panel or the completion of any criminal investigation or the completion of the criminal process.

Procedure for Infractions Occurring during Swim BC Team Tours (competition and training)

34. Any dispute (minor or major) arising during a Swim BC Team Tour, competition or training, where there is a critical lack of time to deal with a dispute, and where an incidence requires resolution for the purposes of continuance in tour activities, the Executive Director will be notified immediately of the dispute and will act as the Case Manager.

Confidentiality

1. The discipline and complaints process are confidential. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

Records and Distribution of Decisions

2. Minor and major infractions that result in discipline, as well as decisions of any appeals, shall be recorded and maintained by Swim BC.
3. Decisions and appeals that put a member not in good standing with swim BC may be disclosed publicly by Swim BC, as determined on a case by case basis. Swimming Canada and other provincial / territorial swimming associations may be advised of any decisions and, if there was an appeal, the appeal decision.

Appeals Procedure

4. The decision of the Panel may be appealed in accordance with Swim BC's *Appeal Policy*.