
CHAPTER 9 – Discipline and Complaints

26. DISCIPLINE AND COMPLAINTS POLICY

26.1 DEFINITIONS

The following definitions shall apply in the context of the Discipline and Complaints Policy:

- a) **“Case Manager”** – The individual who is appointed to oversee the management of a complaint in accordance with these policies and who provides administrative support to a Discipline Chair and/or Discipline Panel. The Case Manager implements certain procedures described in this *Discipline and Complaints Policy* and ensures the Discipline Chair or Discipline Panel adhere to the timelines set out herein. The Case Manager does not need to be a member of, or affiliated with, BC Artistic Swimming.
- b) **“Complainant”** – The Party alleging an infraction
- c) **“Days”** – Days including weekends and holidays
- d) **“Discipline Chair”** – An individual who serves as the lead arbitrator for discipline and complaint matters reported to BC Artistic Swimming.
- e) **“Individuals”** – All categories of membership defined in BC Artistic Swimming’s Bylaws, as well as all individuals employed by, or engaged in activities with, BC Artistic Swimming including, but not limited to, athletes, coaches, conveners, officials, umpires, volunteers, managers, administrators, committee members, Directors and Officers of BC Artistic Swimming, spectators, and parents/guardians of athletes
- f) **“Respondent”** – The alleged infracting Party

26.2 PURPOSE

Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with BC Artistic Swimming’s policies, Bylaws, rules and regulations, and *Conduct Policy*. Non-compliance may result in sanctions pursuant to this Policy.

26.3 DISCIPLINE CHAIR

26.3.1 The Discipline Chair may be a Director of the Board, a volunteer associated with BC Artistic Swimming, an individual from the sport sector, or an individual appointed by ITP Sport or the Sport Law Connect Program. The Discipline Chair will be appointed to oversee the discipline process and serve as the lead arbitrator. The Case Manager may choose to appoint two (2) additional individuals to form a Discipline Panel and, in this case, decisions of the Discipline Panel will be by majority vote.

26.3.2 The Discipline Chair appointed to handle a complaint or incident must be unbiased and not in a conflict of interest situation.

26.4 APPLICATION OF THIS POLICY

26.4.1 This Policy applies to all Individuals.

26.4.2 This Policy applies to matters that may arise during the course of BC Artistic Swimming’s business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with BC Artistic Swimming activities, and any meetings.

- 26.4.3 This Policy also applies to Individuals' conduct outside of BC Artistic Swimming's business, activities, and events when such conduct adversely affects relationships within BC Artistic Swimming (and its work and sport environment) or is detrimental to the image and reputation of BC Artistic Swimming. This Policy may also apply to Individuals' conduct at the discretion of BC Artistic Swimming.
- 26.4.4 This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy. 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.
- 26.4.5 An employee of BC Artistic Swimming who is a Respondent will be subject to appropriate disciplinary action per BC Artistic Swimming's *Employee Procedures* as well as the employee's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

26.5 ALIGNMENT

- 26.5.1 BC Artistic Swimming recognizes that Individuals may also be registered with Member Clubs. BC Artistic Swimming requires Member Clubs to submit discipline decisions involving Individuals to BC Artistic Swimming and BC Artistic Swimming, at its discretion, may take further action.
- 26.5.2 If BC Artistic Swimming decides to take further action upon becoming aware of an Individual who has been disciplined by a Member Club, the Individual will be the Respondent to a complaint initiated under the terms of this Policy. BC Artistic Swimming may act as the Complainant if the original Complainant is unwilling or unavailable to participate in this process.
- 26.5.3 The Discipline Chair or Discipline Panel, as applicable, will review and consider the decision by the Member Club when making a decision on the complaint per the terms of this Policy.

26.6 ADULT REPRESENTATIVE

- 26.6.1 Complaints may be brought for or against an Individual who is a minor (younger than 19 years old). Minors must have a parent/guardian or other adult serve as their representative during this process.
- 26.6.2 Communication from the Discipline Chair or Case Manager, as applicable, must be directed to the minor's representative.
- 26.6.3 A minor is not required to attend an oral hearing, if held.

26.7 REPORTING A COMPLAINT

- 26.7.1 Any Individual may report an incident or complaint to the Executive Director in writing, within fourteen (14) days of the alleged incident, although this timeline can be waived or extended at the Executive Director's discretion. The complaint should include:
- a) the names of the parties involved
 - b) any witnesses to the incident(s)

- c) the location, date, and time of the incident(s)
- d) details about the incident(s) (behaviour and/or words used)

26.7.2 **Harassment** - the Discipline Chair may determine that the alleged incident may contain an element of discrimination, harassment, workplace harassment, workplace violence, sexual harassment, or abuse. In this case, the Discipline Chair will appoint an Investigator in accordance with BC Artistic Swimming's *Conduct Policy*.

26.7.3 At BC Artistic Swimming's discretion, BC Artistic Swimming may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, BC Artistic Swimming will identify an individual to represent BC Artistic Swimming.

26.8 **MANAGING A COMPLAINT**

26.8.1 Complaints will be managed following one of two processes:

a) Internal Review

The Complaint alleges the following incidents:

- i. Disrespectful, abusive, racist, or sexist comments or behaviour
- ii. Disrespectful conduct
- iii. Minor incidents of physical aggression (e.g., tripping, pushing, elbowing)
- iv. Conduct contrary to the values of BC Artistic Swimming
- v. Non-compliance with BC Artistic Swimming's policies, procedures, rules, or regulations
- vi. Minor violations of BC Artistic Swimming's *Code of Conduct and Ethics*

b) Discipline Panel

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 BC Artistic Swimming's image, credibility, or reputation
- viii. Consistent disregard for BC Artistic Swimming's bylaws, policies, rules, and regulations
- ix. Major or repeated violations of BC Artistic Swimming's *Code of Conduct and Ethics*
- x. Intentionally damaging Organization property or improperly handling BC Artistic Swimming 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

26.8.2 Upon review of a complaint and within five (5) days of receiving the complaint, the Executive Director will determine the appropriate process for managing the complaint.

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- 26.8.3 If deemed to be a matter for Internal Review, the Executive Director will appoint the Discipline Chair in accordance with paragraph 26.3 who will examine the matter in accordance with the timeline and process outlined herein. In such cases as the Executive Director is the Respondent, the Board will appoint a Discipline Chair in accordance with paragraph 26.3.
- 26.8.4 If deemed to be a matter for a Discipline Panel, unless there is a conflict of interest, the Executive Director will serve as the Case Manager and will appoint a Discipline Chair and, if/when appropriate, a Discipline Panel. If the Executive Director is the Respondent, the Board will appoint another Party as Case Manager. The Discipline Chair may be appointed as Case Manager.
- 26.8.5 At the discretion of the Executive Director, the Discipline Chair and/or Discipline Panel may be appointed through Sport Law Connect. In such cases as Sport Law Connect is appointed to manage a case, the rules and procedures of the Sport Law Connect program will apply.

26.9 *Managing an Internal Review Complaint*

- 26.9.1 A Discipline Chair will be appointed within ten (10) days of receiving the complaint. The Discipline Chair should not be in conflict of interest and should have experience in understanding and interpreting policies and procedures.
- 26.9.2 The Discipline Chair's initial responsibility is to determine whether the complaint is frivolous and/or within the jurisdiction of the *Discipline and Complaints Policy*. The Discipline Chair is required to provide a ruling in this regard within five (5) days of being appointed.
- 26.9.3 Based on the decision of the Discipline Chair, the following process will be followed:
- a) If the complaint is deemed to be unfounded or frivolous, no further action will be taken. A letter will be sent to the complainant advising them of the findings of the Discipline Chair within five (5) days of the ruling.
 - b) If the complaint is deemed to have merit and to fall within the jurisdiction of BC Artistic Swimming and its *Discipline and Complaints Policy*, the respondents will be advised of the complaint and the allegations made against them and ask asked to respond to the allegations, in writing, within ten (10) days of being notified of the complaint.
- 26.9.4 In such cases as the Respondent fails to submit their response in accordance with the established timelines, the Discipline Chair will proceed with rendering a decision based on the information available.
- 26.9.5 Within five (5) days of receiving the Respondent's response, the Discipline Chair will determine what, if any, sanctions are warranted and advise all parties of the decision.
- 26.9.6 Records of all sanctions will be maintained by BC Artistic Swimming.

26.10 *Managing a Discipline Panel Complaint*

- 26.10.1 If necessary, a Case Manager will be appointed within ten (10) days of receiving the complaint. The Case Manager should not be in conflict of interest and should have experience in understanding and interpreting policies and procedures. This is not appealable.

26.10.2 A Discipline Chair will be appointed within ten (10) days of receiving the complaint. The Discipline Chair should not be in conflict of interest and should have experience in dispute resolution and understanding and interpreting policies and procedures. This is not appealable.

26.10.3 The Discipline Chair's initial responsibility is to determine whether the complaint is frivolous and/or within the jurisdiction of the *Discipline and Complaints Policy*. The Discipline Chair is required to provide a ruling to the Case Manager within five (5) days of being appointed.

26.10.4 The Discipline Chair's ruling must also include a recommendation whether to manage the case using a dispute resolution process (see *BC Artistic Swimming Dispute Resolution Policy*), a Discipline Panel consisting of a single arbitrator, or a Discipline Panel of three arbitrators. This is not appealable.

26.10.5 Based on the decision of the Discipline Chair, the following process will be followed:

- a) If the complaint is deemed to be unfounded or frivolous, no further action will be taken. The Case Manager will send a letter to the complainant advising them of the findings of the Discipline Chair within five (5) days of the ruling.
- b) If the complaint is deemed to have merit and to fall within the jurisdiction of BC Artistic Swimming and its *Discipline and Complaints Policy*, the Case Manager will advise the parties of the ruling and the proposed procedures for managing the case within five (5) days of receiving the Discipline Chair's ruling.

26.10.6 In such cases as the Discipline Chair recommends managing the case through a dispute resolution process, all parties must confirm their consent to participate in the dispute resolution process, in writing, within five (5) days of receiving the notice.

26.10.7 In such cases as the parties refuse dispute resolution or the Discipline Chair recommends the matter be managed by a Discipline Panel, the format under which the complaint will be heard must be determined within five (5) days of the Discipline Chair's ruling. 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 Case Manager will advise all parties of the format under which the complaint will be heard within two (2) days of the ruling. This is not appealable.

26.10.8 All parties are expected to make themselves available for the complaint to be heard through Dispute Resolution or by a Discipline Panel within thirty (30) days of the Discipline Chair's ruling on the format under which the complaint will be heard.

26.10.9 All parties shall be given no less than five (5) days' notice of any hearings or meetings related to the complaint. The hearing will follow the procedures outlined herein.

26.10.10 Upon hearing the complaint, the Discipline Chair is to report the outcome of the Dispute Resolution process or the findings of the Discipline Panel to the Case Manager within fourteen (14) days of the decision being made.

26.10.11 The Case Manager will advise all parties of the findings within sixteen (16) days of the hearing.

26.10.12 Records of all sanctions will be maintained by BC Artistic Swimming.

26.11 **Decision**

26.11.1 After hearing and/or reviewing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, sanctions to be imposed. The Discipline Panel's written decision, with reasons, will be distributed by the Case Manager to all Parties and BC Artistic Swimming in accordance with the timeline set out herein. In extraordinary circumstances, the Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued with the established timelines. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

26.11.2 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.

26.11.3 Records of all decisions will be maintained by BC Artistic Swimming.

26.12 **Sanctions**

26.12.1 Internal Review

26.12.1.1 Recommended Sanctions

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

26.12.1.2 Request for Reconsideration

26.12.1.2.1 Sanctions rendered through the Internal Review process may not be appealed until the completion of a Request for Reconsideration.

26.12.1.2.2 The Respondent may contest the sanction by submitting a Request for Reconsideration within ten (10) 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.

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

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

26.12.1.2.5 Should the Discipline Chair not accept the Respondent's suggestion of an appropriate sanction, the Respondent may request that the initial complaint or incident be handled under the Discipline Panel Process of this Policy.

26.12.2 Discipline Panel

26.12.2.1 Recommended Sanctions

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 BC Artistic Swimming
- d) Removal of certain privileges
- e) Suspension from certain teams, events, and/or activities
- f) Suspension from all BC Artistic Swimming activities for a designated period of time
- g) Payment of the cost of repairs for property damage
- h) Suspension of funding from BC Artistic Swimming or from other sources
- i) Expulsion from BC Artistic Swimming
- j) Any other sanction considered appropriate for the offense

26.12.3 Appeals

The decision of a Discipline Panel may be appealed in accordance with BC Artistic Swimming's *Appeal Policy*.

26.13 ***Discipline Panel Procedures***

26.13.1 The Case Manager has a responsibility to:

- a) Appoint a Discipline Chair and a Discipline Panel, if necessary
- b) Coordinate all administrative aspects and ensure the parties adhere to set timelines
- c) Serve as the liaison and communicate with all Parties, as required
- d) Provide administrative assistance and logistical support to the Discipline Panel as required
- e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

26.13.2 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 BC Artistic Swimming's *Dispute Resolution Policy*
- c) Work with the Case Manager to appoint a Discipline Panel, if necessary
- d) Adhere to the set timelines
- e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

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- f) Following a hearing or decision, provide a clearly written report outlining the Discipline Panel's decision and the rationale for the decision as well as the sanctions to be imposed

26.13.3 The hearing will be governed by the procedures that the Discipline Chair and/or Discipline Panel deem appropriate in the circumstances, provided that:

- a) In the case of an oral in-person hearing or an oral hearing by telephone or other communication medium, the Parties are given notice of the day, time, and place of the hearing as prescribed herein
- 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, no less than two (2) days 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
- 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
- f) The decision will be by a majority vote of the Discipline Panel

26.13.4 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.

26.13.5 The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.

26.13.6 A Party that fails to attend a hearing after receiving notice of the hearing in accordance with these policies, shall be deemed not in good standing with BC Artistic Swimming until such time as the matter is resolved in a subsequent hearing. In such cases, it is the Party's responsibility to request a subsequent hearing.

26.13.7 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.

26.13.8 In fulfilling its duties, the Discipline Panel may obtain independent advice.

26.14 ***Suspension Pending a Hearing***

BC Artistic Swimming may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of a criminal process, a hearing, or a decision of the Discipline Panel.

26.15 ***Criminal Convictions***

An Individual's conviction for a *Criminal Code* offense, as determined by BC Artistic Swimming, will be deemed an infraction under this Policy and will result in expulsion from BC Artistic Swimming. *Criminal Code* offences may include, but are not limited to:

- a) Any child pornography offences

- b) Any sexual offences
- c) Any offence of physical violence
- d) Any offence of assault
- e) Any offence involving trafficking of illegal drugs

26.16 Confidentiality

The discipline and complaints process is confidential and involves only the Parties, the Case Manager, the Discipline Panel, and any independent advisors to the Discipline Panel. 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.

26.17 Retaliation

No person may engage in retaliation, intimidation or any other form of punishment against individuals who raise good faith concerns about an offence or who assist in an investigation. Retaliation may be grounds for a complaint under this Policy.

26.18 Timelines

The table below outlines the recommended timelines for managing disciplinary proceedings. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely or effective resolution to the complaint, the Discipline Chair or Case Manager, in consultation with the Discipline Chair, may direct that these timelines be revised.

Internal Review		Discipline Panel	
Day 0	Complaint received	Day 0	Complaint received
+ 5 days	ED determines process	+ 5 days	ED determines process
+ 5 days	DC appointed	+ 5 days	DC and CM appointed
+ 5 days	DC determines if frivolous or to proceed	+ 5 days	DC determines if frivolous or to proceed
+ 5 days	Notice that case is closed OR request for Respondent’s response		DC determines recommended format – ADR/1 person or ADR/Discipline Pane;
+ 10 days	Respondent’s response arrives	+ 5 days	CM distributes decision to parties
+ 5 days	DC renders decision and notifies parties	+ 5 days	Parties consent to ADR
35 days		+ 5 days	DC determines format for hearing the complaint (in person, by phone, etc.)
		+ 2 days	CM distributes format for hearing the complaint to parties
		w/in 30 days	Hearing is convened
		+ 14 days	DC provides CM with written decision, including rationale and sanctions
		+ 2 days	CM distributes notice of decision
		78 days	

26.19 Records and Distribution of Decisions

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