

Discipline & Complaints Policy

In this document “Organization” refers to the Medicine Hat Waves Swim Club

Definitions

1. Terms in this Policy are defined as follows:
 - a. Athlete – An individual who is an Athlete Participant in the Organization who is subject to the policies of the Organization and to the Code of Conduct and Ethics.
 - b. Complainant – A Participant or observer who makes a report of an incident, or a suspected incident, of maltreatment or other behaviour that is a violation of the standards described in the Code of Conduct and Ethics.
 - c. Minor – Any Participant who is under the age of 19 years old at the time and in the jurisdiction where the alleged maltreatment has occurred. Adults are responsible for knowing the age of a Minor.
 - d. Parties – the groups involved with a dispute.
 - e. Participants – Refers to all categories of individual members and/or registrants defined in the By-laws of the Organization who are subject to the policies of the Organization, as well as all people employed by, contracted by, or engaged in activities with, the Organization including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, volunteers, managers, administrators, committee members, parents or guardians, spectators, committee members, and Directors and Officers.
 - f. Respondent – The Party responding to the complaint.

Purpose

2. Participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the policies, By-laws, rules, and regulations of the Organization. Non-compliance may result in the imposition of sanctions pursuant to this Policy.

Application of this Policy

3. This Policy applies to all Participants.
4. This Policy applies to matters that may arise during the business, activities, and events of the Organization including, but not limited to, competitions, training sessions, treatment or consultations (e.g., massage therapy), camps and clinics, travel associated with the activities of the Organization, and any meetings.
5. This Policy also applies to Participants’ conduct outside of the business, activities, and events of the Organization when such conduct adversely affects the relationships (or the work and sport environment) of the Organization, is detrimental to the image and reputation of the Organization, or upon the acceptance of the Organization. Accordingly, applicability of this Policy will be determined by the Organization upon its sole discretion.
6. This Policy applies to alleged breaches of the Code of Conduct and Ethics by Participants who have retired from the sport where any claim regarding a potential breach of the Code of Conduct and Ethics occurred when the Participant was active in the sport. In addition,

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this Policy will apply to breaches of the Code of Conduct and Ethics that occurred when the Participants involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Participant(s).

7. If it is considered appropriate or necessary based on the circumstances, immediate discipline or the imposition of a sanction may be applied, after which further discipline or sanctions 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 may be for the duration of the competition, training, activity, or event only.
8. In addition to being subject to disciplinary action pursuant to this Discipline and Complaints Policy, an employee of the Organization who is a Respondent to a complaint may also be subject to consequences in accordance with the employee's Employment Agreement or policies for human resources, if applicable.
9. The Organization may, at its discretion, ask Swim AB to take jurisdiction of a complaint that was submitted to the Organization. In such cases, Swim AB's Case Manager will determine whether the complaint process should be re-started or resumed pursuant to the applicable section of Swim AB's policies. Swim AB will accept jurisdiction of a complaint only if the Organization has exhausted all attempts to manage the complaint according to this policy.

Minors

10. Complaints may be brought by or against a Participant who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
11. Communication from the Organization or Swim AB (as applicable) must be directed to the Minor's representative.
12. A Minor is not required to attend an oral hearing, if held.

Reporting a Complaint

13. Any person may report a complaint to the Head Coach and/or directly to the Organization.
14. At its discretion, the Organization may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the Organization will identify an individual to represent the organization.
15. Complaints or incident reports should be made in writing for the discipline and complaints procedure to be initiated. The Head Coach and/or the Organization may accept any formal complaint, in writing or not, at their sole discretion.

Head Coach & Organizations Responsibilities

16. Upon receipt of a complaint, the Head Coach and/or the Organization has a responsibility to:

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- a. Determine the appropriate jurisdiction to manage the complaint and consider the following:
 - i. Whether the complaint should be handled by the Organization or by Swim AB. In making this decision, the Head Coach and/or Organization will consider:
 - a) whether the incident has occurred within the business, activities or events of the Organization, or Swim AB; and
 - b) if the Organization is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest or due to a lack of capacity
 - ii. If the Head Coach and/or Organization determine that the complaint or incident should be handled by the Organization, the Head Coach and/or Organization will fulfil the responsibilities listed below.
 - a) Determine whether the complaint is frivolous and/or outside of the jurisdiction of this Policy and, if so, the complaint will be dismissed immediately and the Head Coach and/or the Organization decision to dismiss the complaint may not be appealed
 - b) Propose the use of alternative dispute resolution techniques
 - c) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and/or
 - d) Choose which process (Process #1 or Process #2, as outlined below) should be followed to hear and adjudicate the complaint.

There are two different processes that may be used to hear and adjudicate complaints. The Head Coach and/or the Organization will decide which process should be followed based on the nature of the complaint.

Process #1 - the Complainant alleges the following incidents:

- a. Disrespectful conduct or comments
- b. Minor incidents of physical violence outside of competition or training (e.g., tripping, pushing, elbowing)
- c. Conduct contrary to the values of the Organization
- d. Non-compliance with the organization's policies, procedures, rules, or regulations
- e. Minor violations of the **Code of Conduct and Ethics, Social Media Policy, or Athlete Protection Policy**

Process #2 - the Complainant alleges the following incidents:

- a. Repeated minor incidents
- b. Hazing
- c. Abusive, racist, or sexist comments or behaviour

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- d. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- e. Major incidents of violence outside of competition or training (e.g., fighting, attacking, sucker punching)
- f. Pranks, jokes, or other activities that endanger the safety of others
- g. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- h. Conduct that intentionally damages the organization's image, credibility, or reputation
- i. Consistent disregard for the by-laws, policies, rules, and regulations
- j. Major or repeated violations of the **Code of Conduct and Ethics**
- k. Intentionally damaging the organization's property or improperly handling the organization's monies
- l. Abusive use of alcohol, any use or possession of alcohol by Minors, or use or possession of illicit drugs and narcotics
- m. A conviction for any Criminal Code offense
- n. Any possession or use of banned performance enhancing drugs or methods

PROCESS #1: Handled by Head Coach and/or Organization

- 17. Following the determination that the complaint or incident should be handled under Process #1, Head Coach and/or the Organization may:
 - a. Recommend mediation
 - b. Make a decision
 - c. Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident; or
 - d. Convene the parties to a meeting, either in person or by way of video or teleconference in order to ask the parties questions.
- 18. Thereafter, Head Coach and/or the Organization shall determine if a breach occurred and if sanctions should be applied (see: **Sanctions**).
- 19. The Head Coach and/or the Organization will inform the Parties of the decision, which will take effect immediately.
- 20. Records of all sanctions will be maintained by the Organization.

Request for Reconsideration

- 21. If there is no sanction, the Complainant may contest the non-sanction by informing Organization, within five (5) 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.
- 22. 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

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Request for Reconsideration within five (5) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:

- a. Why the sanction is inappropriate
 - b. Summary of evidence that the Respondent will provide to support the Respondent's position; and
 - c. What alternative penalty or sanction (if any) would be appropriate.
23. Upon receiving a request for reconsideration, the Internal Discipline Chair may decide to accept or reject the Respondent's suggestion for an alternative sanction.
24. Should the Organization accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
25. Should the Organization 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 Organization

26. Following the determination that the complaint or incident should be handled under Process #2, the Case Manager has a responsibility to:
- a. Propose the use of alternative dispute resolution techniques
 - b. Contact Swim Alberta as an External Discipline Panel, if necessary
 - c. Coordinate all administrative aspects of the process and set reasonable timelines
 - d. Provide administrative assistance and logistical support to Swim AB as the External Discipline Panel as required
 - e. Provide any other service or support that may be necessary to ensure a fair and timely proceeding
27. The Organization and Swim AB will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
28. The Organization may propose using alternative dispute resolution methods, such as mediation or a negotiated settlement.
29. If the dispute is not resolved using alternative methods, the Organization will contact Swim AB as an External Discipline Panel depending on the severity of the allegations and at the Organization's discretion
30. Swim AB, 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.
31. The hearing will be governed by the procedures that Swim AB deem appropriate for the circumstances.
32. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case Swim AB will determine the appropriate sanction. Swim AB may still hold a hearing for the purpose of determining an appropriate sanction.

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Decision

33. After hearing the matter, Swim Alberta will determine whether an infraction has occurred and, if so, the sanctions to be imposed.

Sanctions

34. Prior to determining sanctions, the Head Coach and/or the Organization or Swim AB, as applicable, will consider factors relevant to determining appropriate sanctions which include:
- a. The nature and duration of the Respondent's relationship with the Complainant, including whether there is a power imbalance
 - b. The Respondent's prior history and any pattern of inappropriate behaviour or maltreatment
 - c. The ages of the individuals involved
 - d. Whether the Respondent poses an ongoing and/or potential threat to the safety of others
 - e. The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the maltreatment, and/or cooperation in the process of the Organization
 - f. Real or perceived impact of the incident on the Complainant, Organization, or the sporting community
 - g. Circumstances specific to the Respondent being sanctioned (e.g., lack of appropriate knowledge or training regarding the requirements in the Code of Conduct and Ethics; addiction; disability; illness)
 - h. Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate
 - i. A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or
 - j. Other mitigating and aggravating circumstances.
35. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required, and a single incident of maltreatment or other prohibited behaviour may justify elevated or combined sanctions.
36. , the Head Coach and/or the Organization or Swim AB, as applicable, may apply the following disciplinary sanctions, singularly or in combination:
- a. **Verbal or Written Warning** - A verbal reprimand or an official, written notice and formal admonition that a Participant has violated ***the Code of Conduct and Ethics*** and that more severe sanctions will result should the Participant be involved in other violations

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e. Any offence involving trafficking of illegal drugs

39. Unless Swim AB decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by Swim AB will result in an automatic suspension until such time as compliance occurs.
40. Records of all decisions will be maintained by the Organization.

Appeals

41. The decision of the External Discipline Panel may be appealed in accordance with the Appeal Policy.

Suspension Pending a Hearing

42. The Organization may determine that an alleged incident is of such seriousness as to warrant suspension of a Participant pending completion of an investigation, criminal process, the hearing, or a decision of Swim AB

Confidentiality

43. The discipline and complaint process is confidential and involves only the Organization, the Parties, Swim AB and any independent advisors to Swim AB. 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.
44. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Organization and/or Swim AB (as applicable).

Timelines

45. 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 Organization and/or Swim AB may direct that these timelines be revised.

Records and Distribution of Decisions

46. Other individuals or organizations, including but not limited to, Swim AB, Swimming Canada, other swim clubs, etc., may be advised of any decisions rendered in accordance with this Policy

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Appendix A – Investigation Procedure

Determination

1. When a complaint is submitted pursuant to the Discipline and Complaints Policy, the Organization will determine if the incident should be investigated.

Investigation

2. The Organization will contact Swim AB who will appoint an independent third-party skilled in investigating. The Investigator must not be in a conflict of interest situation and should have no connection to either party.
3. The Organization will then follow procedures of Swim AB policies regarding legislation procedures. Will assist as per instructions from Swim AB and their appointed investigator.

Voted by Board of Directors at AGM June 20th , 2024