



**SWIM
MANITOBA**

SWIM NATATION MANITOBA

Discipline and Complaints Policy

Approved May 14, 2012

Definitions

The following terms have these meanings in this Policy:

- i. "SMB" – Swim Natation Manitoba
- ii. "Complainant" – The party alleging an infraction.
- iii. "Days" – Days irrespective of weekend and holidays.
- a) "Individuals"- All categories of membership defined in the SMB Bylaws (category 1, 2, and 3 members and category 1, 2 and 3 Director or Officer), as well as all individuals employed by or engaged in activities with SMB, including but not limited to, club directors, club officers, SMB committee members, athletes, coaches, officials, and volunteers.
- iv. "Respondent" – The alleged infracting party.

Purpose

Membership in SMB, as well as participation in its activities, brings with it many benefits and privileges. At the same time, Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the SMB Constitution, Bylaws, policies, procedures, rules and regulations, Conflict of Interest Policy and Code of Conduct. Irresponsible behavior by Individuals can result in severe damage to the integrity of SMB and the sport of swimming. Conduct that violates these values may be subject to sanctions pursuant to this policy.

Application of this Policy

1. This Policy applies to all Individuals as defined in the Definitions.
2. This Policy only applies to discipline matters that may arise during the course of SMB business, activities and events, including but not limited to, competitions, practices, training camps, travel associated with SMB activities, and any meetings.
3. Discipline matters and complaints arising within the business, activities or events organized by entities other than SMB will be dealt with pursuant to the policies of these other entities unless accepted by SMB at its sole discretion or such discipline matters and complaints adversely affect relationships within SMB's work and sport environment and is detrimental to the image and reputation of SMB.

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Reporting a Complaint

1. Individuals may report to SMB's head office any complaint of infractions by other Individuals. Such a complaint must be signed and in writing, and must be filed within fourteen (14) days of the alleged incident. Anonymous complaints may be accepted upon the sole discretion of SMB.
2. A Complainant wishing to file a complaint beyond the fourteen (14) days must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the notice of complaint outside the fourteen (14) day period will be at the sole discretion of SMB. This decision may not be appealed.

Case Manager

1. Upon receipt of a complaint, SMB 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 the acceptance or dismissal of the complaint may not be appealed.
 - b. Determine if the complaint is a minor or major infraction;
 - c. Appoint a Panel in accordance with this Policy;
 - d. Determine the format of the hearing;
 - e. Coordinate all administrative aspects of the complaint;
 - f. Provide administrative assistance and logistical support to the Panel as required; and
 - g. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.
2. 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.
3. 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.

Minor Infractions

1. Minor infractions are single incidents of failing to achieve the expected standards of conduct that generally do not result in harm to others, SMB or to the sport of swimming. Examples of minor infractions include, but are not limited to, a single incident of:
 - a. Un-sportsmanlike conduct;
 - b. Disrespectful comments or behavior directed towards others; and
 - c. Non-compliance with the bylaws, policies, procedures, rules, regulations and directives of SMB.

2. All disciplinary situations involving minor infractions will be dealt with by the appropriate person having authority over the situation and the individual involved (the person in authority may include, but is not restricted to, officials, meet management, team management, team head coach, organizers, or SMB decision makers).
3. Procedures for dealing with minor infractions will be informal as compared to those for major infractions and will be determined at the discretion of the person responsible for discipline of such infractions (as noted above in point 2). The Respondent being disciplined must be told the nature of the infraction and have an opportunity to provide information concerning the incident.
4. Penalties for minor infractions, which may be applied singly or in combination, include the following:
 - a. Verbal or written warning;
 - b. Verbal or written apology;
 - c. Service or other voluntary contribution to SMB;
 - d. Removal of certain privileges of membership for a designated period of time;
 - e. Suspension from the current competition, activity or event; or
 - f. Any other sanction considered appropriate for the offense.
5. Minor infractions that result in discipline will be recorded and maintained by SMB. Repeat minor infractions may result in further such incidents being considered a major infraction.

Major Infractions

1. Major infractions are instances of failing to achieve the expected standards of conduct that result, or have the potential to result, in harm to other persons, to SMB or to the sport of swimming. Examples of major infractions include, but are not limited to:
 - a. Repeated Minor Infractions;
 - b. Intentionally damaging SMB property or improperly handling SMB monies;
 - c. Incidents of physical abuse;
 - d. Pranks, jokes or other activities that endanger the safety of others, including hazing;
 - e. Deliberate disregard for the bylaws, policies, rules, regulations and directives of the SMB;
 - f. Conduct that intentionally damages the image, credibility or reputation of the SMB;
 - g. Behavior that constitutes harassment, sexual harassment or sexual misconduct; or
 - h. Abusive use of alcohol, any use or possession of alcohol by minors, use or possession of illicit drugs and narcotics.
2. Major infractions will be decided using the disciplinary procedures set out in this policy, except where a dispute resolution procedure contained within a contract or other formal written agreement takes precedence.
3. Major infractions occurring within competition may be dealt with immediately, if necessary, by an appropriate person having authority. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity or event only. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this Policy. This review does not replace the appeal provisions of this Policy.

Procedure for Major Infraction Hearing

1. If the Case Manager is satisfied that the complaint is a major infraction, the Case Manager will establish a Panel consisting of a single Adjudicator to hear the complaint. At the discretion of the Case Manager, a Panel of three persons may be appointed to hear and decide a complaint. In this event, the Case Manager will appoint one of the Panel members to serve as the Chair. The person(s) hearing the complaint shall not be members or employees of SMB nor associated with the sport of swimming in any capacity.
2. The Case Manager will determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by telephone, a hearing based on written submissions or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:
 - a. The hearing will be held within the appropriate timeline determined by the Case Manager.
 - b. The Parties will be given appropriate notice of the day, time and place of the hearing.
 - c. 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 in accordance with the appropriate timeline.
 - d. Both Parties may be accompanied by a representative or adviser, including legal counsel.
 - e. The Panel may request that any other individual participate and give evidence at the hearing.
 - f. If a decision in the appeal may affect another party to the extent that the other party would have recourse to an appeal in their own right under this Policy, that party will become a party to the appeal in question and will be bound by its outcome.
 - g. The hearing will be conducted in English.
 - h. In the situation where the hearing is conducted by a Panel consisting of three persons, a quorum will be all three and decisions will be by majority vote.

Decision

1. After hearing the matter, the Panel will determine whether an infraction has occurred and if so what appropriate sanction will be imposed. The Panel's written decision, with reasons, will be distributed to all parties, the Case Manager and SMB within fourteen (14) days of the conclusion of the hearing. The decision will be considered a matter of public record unless decided otherwise by the Panel.
2. Where the Respondent acknowledges the facts of the incident, he or she may waive the hearing, in which case the Panel will determine the appropriate disciplinary sanction. The Panel may hold a hearing for the purpose of determining an appropriate sanction.
3. If the Respondent chooses not to participate in the hearing, the hearing may proceed in any event.
4. In fulfilling its duties the Panel may obtain independent advice.

Sanctions

1. The Panel may apply the following disciplinary sanctions alone or in combination, for major infractions:
 - a. Verbal or written warning;
 - b. Verbal or written apology;
 - c. Removal of certain privileges of membership;
 - d. Suspension from certain SMB teams, events and/or activities;

- e. Suspension from all SMB activities for a designated period of time;
- f. Suspension from SMB;
- g. Expulsion from SMB;
- h. Other sanctions as may be considered appropriate for the offense.

2. Unless the Panel decides otherwise, any disciplinary sanctions will commence immediately. Failure to comply with a sanction as determined by the Panel will result in automatic suspension of membership in SMB until such time as compliance occurs.

3. A written record will be maintained by SMB at their head office for major infractions that result in a sanction.

Serious Infractions

1. SMB may determine that an alleged incident is of such seriousness as to warrant suspension of the Respondent pending a hearing and a decision of the Panel.

Criminal Convictions

1. A Member's conviction for Criminal Code offenses will be deemed a major infraction under this Policy and will result in expulsion from SMB and/or removal from SMB competitions, programs, activities and events upon the sole discretion of the SMB.

Timelines

1. If the circumstances of the complaint are such that this policy will not allow a timely conclusion, or if the circumstances of the complaint are such the complaint cannot be concluded within the timelines dictated in this Policy, the Panel may direct that these timelines be revised.

Confidentiality

1. The discipline and complaints process is confidential involving only the Parties, the Case Manager and the 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.

Appeals Procedure

1. The decision of the Panel may be appealed in accordance with SMB's Appeal Policy.

Review and Approval

This policy was approved by the Board on July 14, 2010 and shall be reviewed every two years by the Board.