

Discipline and Complaints Policy

Definitions

1. The following terms have these meanings in this Policy:
 - a. “Affected Party” – Any individual or entity, as determined by the Case Manager, who may be affected by a decision rendered under this Policy and who may have recourse to an appeal in their own right under this Policy.
 - b. “Case Manager” - Refers to the person designated by Pentathlon Canada to administer this Policy as described herein.
 - c. “Complainant” – The Party alleging an infraction
 - d. “Days” – Days including weekend and holidays
 - e. “Frivolous” – Having no sound basis in fact or law
 - f. “Incident” – Matters giving rise to the complaint
 - g. “Member” - All categories of membership defined in the Pentathlon Canada Constitution and Bylaws as well as all individuals employed by, or engaged in activities with, Pentathlon Canada including, but not limited to, clubs, athletes, coaches, officials, volunteers, managers, administrators, directors and officers of Pentathlon Canada, and parents/guardians of athletes
 - h. “Minor Infractions” – Single incidents of failing to achieve expected standards of conduct that generally do not result in harm to others, Pentathlon Canada, or the sport of swimming. Examples of minor infractions can include, but are not limited to, a single incident of:
 - i. Disrespectful, offensive, abusive, racist, or sexist comments or behaviour
 - ii. Disrespectful conduct such as outbursts of anger or argument
 - iii. Conduct contrary to the values of Pentathlon Canada
 - iv. Being late for, or absent from, Pentathlon Canada events and activities at which attendance is expected or required
 - v. Non-compliance with Pentathlon Canada’s policies, procedures, rules or regulations
 - i. “Major Infractions” – Instances of failing to achieve the expected standards of conduct that result, or have the potential to result, in harm to other persons, to Pentathlon Canada, or to the sport of swimming. Examples of major infractions include, but are not limited to:
 - i. Repeated minor infractions
 - ii. Any incident of hazing
 - iii. Incidents of physical abuse
 - iv. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
 - 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 Pentathlon Canada’s image, credibility, or reputation
 - viii. Disregard for Pentathlon Canada’s bylaws, policies, rules, and regulations
 - ix. Intentionally damaging Pentathlon Canada property or improperly handling Pentathlon Canada monies
 - x. Abusive use of alcohol or marijuana, any use or possession of alcohol or marijuana by minors, or use or possession of illicit drugs and narcotics
 - xi. Any possession or use of banned performance enhancing drugs or methods
 - j. “Parties” – The Complainant, Respondent, Affected Party and Pentathlon Canada.
 - k. “Respondent” – The alleged infracting Party
 - l. “Vexatious” – The act of bringing a complaint without merit, including but not limited to, a complaint solely to harass or subdue a Respondent.

Purpose

2. Pentathlon Canada is committed to providing an environment in which all Pentathlon Canada Members are treated with respect characterized by the values of fairness, integrity, and open communication. Membership in Pentathlon Canada, as well as participation in its activities, brings many benefits and privileges. At the same time, Members and participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Pentathlon Canada's policies, bylaws, rules and regulations, including the *Code of Conduct and Ethics*. Irresponsible behaviour by Members can result in severe damage to the integrity of Pentathlon Canada. Conduct that violates these values may be subject to sanctions pursuant to this Policy. Since discipline may be applied, Pentathlon Canada provides Members with the mechanism outlined in this Policy so that complaints are handled fairly, expeditiously, and affordably.

Application of this Policy

3. This Policy applies to all Members and discipline matters that may arise during the course of Pentathlon Canada's business, activities, and events including, but not limited to, competitions, practices, training camps, travel associated with Pentathlon Canada activities, and any meetings.
4. Discipline matters and complaints arising within the business, activities, or events organized by entities other than Pentathlon Canada will be dealt with pursuant to the policies of these other entities unless requested and accepted by Pentathlon Canada at its sole discretion.

Alternate Dispute Resolution

5. Pentathlon Canada supports the options of mediation and facilitation as provided by Alternate Dispute Resolution (ADR). Upon receipt of a complaint or at any time in the Discipline and Complaints process, the Parties, by mutual agreement, may decide to pursue alternate dispute resolution as described in Pentathlon Canada's *Alternate Dispute Resolution Policy*. Failing the resolution of the complaint through that process, or if either Party chooses to forego alternate dispute resolution, the complaint shall continue to be addressed under this Policy.

Reporting a Complaint

6. Any Member may report any complaint to the Pentathlon Canada Head Office. Such complaint must be in writing and signed. Anonymous complaints may be accepted at the sole discretion of Pentathlon Canada.
7. Upon accepting a complaint, Pentathlon Canada will appoint an independent Case Manager who will first determine if the complaint should be referred to Pentathlon Canada's Dispute Resolution Policy. If the complaint is not resolved using the Alternate Dispute Resolution Policy, the Case Manager has sole discretion to determine whether the complaint is frivolous or vexatious, or if the complaint is potentially legitimate and involves either an incident classified as a minor infraction or an incident classified as a major infraction. The Case Manager maintains the decision-making authority to reclassify a complaint as a minor or major infraction at any time. The appointment of the Case Manager, the Case Manager's determination of the legitimacy of the complaint, and the Case Manager's classification of the incident are all not appealable.
8. The Case Manager shall decide one of the following:
 - a. The complaint should be referred to Pentathlon Canada's Dispute Resolution Policy
 - b. The complaint is frivolous or vexatious and shall be immediately dismissed
 - c. The complaint is potentially legitimate and the incident shall be dealt with as a minor infraction
 - d. The complaint is potentially legitimate and the incident shall be dealt with as a major infraction
9. The Case Manager will inform the Parties if the incident is to be dealt with as a minor or major infraction and the matter will be dealt with according to the applicable sections of this Policy relating to minor or major infractions.
10. This Policy does not prevent an appropriate person having authority from taking immediate, informal, or corrective action in response to behaviour that constitutes either a minor or major infraction. Any infraction and resulting corrective action must be reported to Pentathlon Canada. Further sanctions may be applied in accordance with the procedures set out in this Policy.

Determination of Affected Parties

11. In order to ensure the identification of any Affected Parties, the Case Manager will engage Pentathlon Canada, the Complainant and the Respondent for their input on whether a party is an Affected Party. The Case Manager will determine whether a party is an Affected Party in their sole discretion.

Procedure for Minor Infraction Hearing

12. The appropriate person who has authority over both the situation and the individual involved will deal with all disciplinary situations involving minor infractions. The person in authority can be, but is not restricted to being, staff, officials, coaches, organizers, or Pentathlon Canada decision-makers.
13. Provided that the Respondent 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 at the discretion of the person responsible for discipline of such infractions (as noted above).
14. Penalties for minor infractions, which may be applied singularly or in combination, include the following:
 - a. Verbal or written reprimand from Pentathlon Canada to one of the Parties
 - b. Verbal or written apology from one Party to the other Party
 - c. Service or other voluntary contribution to Pentathlon Canada
 - d. Removal of certain privileges of membership for a designated period of time
 - e. Suspension from the current competition, activity, or event
 - f. Any other sanction considered appropriate for the offense
15. Minor infractions that result in discipline will be recorded and records will be maintained by Pentathlon Canada. Repeat minor infractions may result in further such incidents being considered a major infraction.

Procedure for Major Infraction Hearing

16. An appropriate person having authority may deal with major infractions occurring within competition immediately, if necessary. 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.
17. 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 shall then decide the format under which the complaint will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.
18. The Case Manager will appoint a Discipline Panel ("Panel"), which shall consist of a single Adjudicator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.
19. 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.
20. If a Party chooses not to participate in the hearing, the hearing will proceed in any event and all parties will be bound by the decisions.
21. The Case Manager will determine the format of the hearing, which may involve an oral in-person hearing, an oral hearing by telephone or electronic communications, a hearing based on a review of documentary evidence, 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 Parties will be given appropriate notice of the day, time, and place of an oral in-person hearing or oral hearing by telephone or electronic communications.
 - 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 by a representative, advisor, or legal counsel at their own expense
 - d. The Panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
 - e. The decision will be by a majority vote of Panel members
22. 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 an Affected Party to the complaint in question and will be bound by the decision. Accidental omission of an Affected Party will not affect the outcome.
23. In fulfilling its duties, the Panel may obtain independent advice.

Decision

24. After hearing the matter, the Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Pentathlon Canada. 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 fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Panel.

Sanctions

25. The Panel may apply the following disciplinary sanctions, singularly or in combination, for major infractions:
- a. Verbal or written reprimand from Pentathlon Canada to one of the Parties
 - b. Verbal or written apology from one Party to the other Party
 - c. Service or other voluntary contribution to Pentathlon Canada
 - d. Expulsion from Pentathlon Canada
 - e. Removal of certain membership privileges
 - f. Suspension from certain Pentathlon Canada teams, events, and/or activities
 - g. Suspension from all Pentathlon Canada activities for a designated period of time
 - h. Withholding of prize money or awards
 - i. Payment of the cost of repairs for property damage
 - j. Suspension of funding from Pentathlon Canada or from other sources
 - k. Any other sanction considered appropriate for the offense
26. 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.
27. Major infractions that result in discipline will be recorded and records will be maintained by Pentathlon Canada in perpetuity, unless the Panel determines otherwise.
28. All sanctions rendered under this Policy will be recognized, respected and adhered to by all Pentathlon Canada Members.

Suspension Pending a Hearing

29. Pentathlon Canada may determine that an alleged incident or complaint is of such seriousness as to warrant suspension of a Member pending an internal hearing, a decision of the Panel, completion of a police investigation or completion of a criminal process.

Reintegration

30. Upon the conclusion of a major infraction hearing and upon the request of Pentathlon Canada, the Respondent will meet with Pentathlon Canada in a forum determined by Pentathlon Canada, in order to establish the Respondent's reintegration in Pentathlon Canada activities and events.

Criminal Convictions

31. A Member's conviction for any of the following *Criminal Code* offenses will be deemed a major infraction under this Policy and will result in expulsion from Pentathlon Canada and/or removal from Pentathlon Canada competitions, programs, activities and events upon the sole discretion of Pentathlon Canada:
- a. Any child pornography offences
 - b. Any sexual offences
 - c. Any offence of physical or psychological violence
 - d. Any offence of assault
 - e. Any offence involving trafficking of illegal drugs

Confidentiality

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

33. The decision of the Panel may be appealed in accordance with Pentathlon Canada's *Appeal Policy*.

Approved Pentathlon Canada Board of Directors June 2020