

EKSC Disciplinary Policy & Procedure



BACKGROUND

1. This disciplinary policy is aimed at ensuring that issues of misconduct are managed and dealt with in a fair, consistent and timely manner.
2. EKSC promotes high standards of behaviour and conduct for all employees and takes appropriate corrective action where those standards are not met. Disciplinary rules and procedures are designed to assist in the standard setting for conduct and behaviour. It is important that managers and employees understand them.
3. The disciplinary process is not intended to be punitive in nature. The procedure therefore describes the steps to be taken to deal with each situation reasonably and, wherever possible, help the person concerned to improve their standards of conduct of behaviour to reach acceptable standards

PURPOSE

4. The purpose of this document is to outline the policy and procedure that Edmonton Keyano Swim Club ("EKSC") will follow when standards of conduct give rise to problems which cannot be resolved by advice and encouragement, training or increased support.
5. EKSC is committed to addressing problems as soon as they arise. This procedure is intended to provide consistency in the treatment of coaches and staff and, to ensure matters are dealt with promptly.
6. EKSC is committed to providing an environment in which all coaches and staff are treated with respect characterized by the values of fairness, integrity, and open communication. Employees are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with EKSC policies, bylaws, rules and regulations, and EKSC *Code of Conduct and Ethics*. Conduct that violates these values may be subject to sanctions pursuant to this Policy.

SCOPE

7. This document will cover all employees – both coaches and staff; employed in some form of contractual capacity, by EKSC.
8. This Policy applies to all disciplinary matters that may arise during the course of EKSC business, activities, and events including, but not limited to, competitions, practices, training camps, travel associated with EKSC activities, and any meetings.

DEFINITIONS

9. The following terms have these meanings in this Policy:
 - a. "Appointee" - appointed by the Head Coach or General Manager in conjunction with a representative of the HR & Legal Committee. The Appointee will not normally be the employee's line manager or the line manager of any person making a complaint that led to the disciplinary action, or someone who works closely with the individual concerned.

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- b. *“Companion”* – a chosen work colleague or representative selected by the employee to accompany them at each stage of the formal procedure.
- c. *“Complainant”* – The Party alleging an infraction.
- d. *“Days”* – Days irrespective of weekend and holidays.
- e. *“EKSC Management”* – Head Coach, General Manager, or member of the Board of Directors.
- f. *“Employee”* – coaches or staff who are directly employed by EKSC and have some form of contractual agreement.
- g. *“Line Manager”* – direct coach or manager to whom the employee reports on a daily basis.
- h. *“Member”* - All categories of membership defined in EKSC Handbook and documented in the Bylaws as well as all individuals employed by, or engaged in activities with, EKSC including, but not limited to, clubs, athletes, coaches, officials, volunteers, managers, administrators, directors and officers of EKSC, and parents/guardians of athletes.
- i. *“Parties”* – The Complainant, Respondent, and any other persons affected by the complaint.
- j. *“Respondent”* – The alleged infracting Party.

POLICY

10. General Principles

- **Fairness**: The application of this procedure should be consistent, prompt, impartial, reasonable and applied without discrimination.
- **Confidentiality**: Information relating to an allegation of misconduct should not be divulged to any parties not involved in the disciplinary process. Statements, letters and other communications will be strictly confidential to those involved in the disciplinary procedure and records will be kept in accordance with the statutory requirements. However, general notification will be made to the Board of Directors if the circumstances justify this to be the case, and it may be appropriate in rare instances, to inform the Club members.
- **Disputes or Complaints**: Where there are disputes or complaints raised, the disciplinary policy should be applied in accordance with the ‘EKSC Resolution of Disputes and Complaints Policy & Procedure’.
- **Natural justice**: At every formal stage of the disciplinary procedure, the employee should be advised of the nature of the complaint and given the opportunity to state his / her case. Where a warning is given, the employee should be provided with appropriate support to improve his / her conduct.
- **Equal opportunities**: This policy should be applied with impartiality and EKSC will ensure appropriate monitoring of its disciplinary procedure to ensure that its implementation does not impact unfairly on any one group.
- **Representation**: The employee has the right to be accompanied by a companion who is a work colleague or representative at every stage of the formal procedure.

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The companion does not have the right to answer questions on the employee's behalf, address the interview if the employee does not wish it, or prevent management from explaining the case.

Any request to be accompanied at a meeting must be reasonable i.e. the companion should not be someone who may have a conflict of interest or who may prejudice the interview.

The employee should notify who their chosen companion will be prior to any meeting.

- **Right of appeal:** An employee has a right of appeal against any formal disciplinary sanction, except an oral warning, and appeals may be heard by a representative of the Club (Head Coach, General Manager, member of the Board of Directors) who has not previously been involved in the case. Details of the appeal process will be outlined to the employee. At the appeal interview, this may also include a representative from the HR & Legal Committee.
- **Discipline and Grievance:** Any concerns that an employee has regarding disciplinary action being taken against her or him should be raised as part of his / her response to the disciplinary action and will normally be considered within this procedure. Any grievance raised by an employee relating to the disciplinary process or the reasons for the disciplinary interview, should normally be investigated concurrently with the disciplinary process and heard on completion of the disciplinary procedure.

DISCIPLINARY PROCEDURE AND PROCESS

11. Informal Action

- a. Informal action is generally taken in **single incidents** of failing to achieve expected standards of conduct that generally do not result in harm to others, EKSC, or the sport of swimming. Referred to as 'minor misconduct'; examples can include, but are not limited to, a single incident of:
 - Disrespectful, offensive, abusive, racist, or sexist comments or behaviour;
 - Disrespectful conduct such as outbursts of anger or argument;
 - Conduct contrary to the values of EKSC;
 - Being late for, or absent from, EKSC events and activities at which attendance is expected or required; and/or,
 - Non-compliance with EKSC policies, procedures, rules or regulations.
- b. Informal action should be taken in cases of minor misconduct. A one-to-one confidential discussion between the Head Coach or General Manager and the employee should be held with the intention of gaining sustained improvement in the employee's conduct.
- c. This discussion should enable the manager to provide constructive feedback and the employee to express views on the issue. It is important for both parties to understand that informal action is not formal disciplinary action and employees are not entitled to representation at this stage. Where the need for improvement is identified, the Head Coach or General Manager should explain to the employee what needs to be done and how the conduct will be reviewed in a given period.

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- d. It is essential that brief confidential notes of the discussion(s) with the employee are kept by the Head Coach or General Manager on any agreed informal action. The Head Coach or General Manager should also write to the employee (a letter or email) to confirm what was agreed during the meeting within 2 working days.
- **Note:** where there is no evidence that a minor misconduct has been managed informally, this may prevent the Head Coach or General Manager from proceeding to the formal stage of the process. This does not apply for matters which are considered as serious or gross misconduct.
- e. Penalties for minor misconduct, which may be applied singularly or in combination, include the following:
- Verbal or written reprimand from EKSC to one of the Parties;
 - Verbal or written apology from one Party to the other Party;
 - Suspension from the current competition, activity, or event; or,
 - Any other sanction considered appropriate for the offense.

12. Formal Action

- a. Formal action is usually taken when:
- An allegation is made that an employee has demonstrated unacceptable behaviour / conduct (including gross misconduct);
 - A minor misconduct issue managed informally – has not improved;
 - The Head Coach or General Manager has witnessed unacceptable behaviour / conduct.
- b. Major misconduct constituting formal action 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 EKSC, or to the sport of swimming.
- c. Examples of major misconduct include, but are not limited to:
- Repeated minor infractions;
 - Any incident of hazing;
 - Incidents of physical abuse;
 - Behaviour that constitutes bullying, harassment, sexual harassment, or sexual misconduct;
 - Pranks, jokes, or other activities that endanger the safety of others;
 - Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition;
 - Conduct that intentionally damages EKSC's image, credibility, or reputation;
 - Disregard for EKSC's bylaws, policies, rules, and regulations;
 - Intentionally damaging EKSC property or improperly handling EKSC monies;
 - Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics; and/or,
 - Any possession or use of banned performance enhancing drugs or methods.

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d. Formal Action: Investigation

- Prior to formal disciplinary procedures being invoked, an employee may have received from the Head Coach or General Manager some informal indication that his / her conduct or behaviour is unsatisfactory. For more serious incidents of misconduct, it will be appropriate for this to be dealt with under the formal process in the first instance.
- Disciplinary action should not be undertaken until the necessary facts have been established. An 'Appointee may be nominated by the Head Coach or General Manager in conjunction with a representative of the HR & Legal Committee to investigate. The Appointee should not normally be the employee's line manager or the line manager of any person making a complaint that led to the disciplinary action, or someone who works closely with the individual concerned. The Appointee may liaise with the HR & Legal Committee throughout the investigation.

e. Suspension on full pay

- There may be occasions where suspension is necessary, and this is usually where the allegation made, if proven, would be gross misconduct. Where suspension is invoked, it may be on full pay and only for such time as is necessary to permit proper investigation or to arrange an interview date. Careful consideration must be given before a decision to suspend is taken.
- Suspension is not an assumption of guilt. An employee may be suspended by the Head Coach or General Manager, and only when approved by a member of the HR & Legal Committee. Where suspension is approved a meeting should be arranged with the employee and either the Head Coach or General Manager, and a representative from the HR & Legal Committee. The employee should be advised of the reason(s) for the suspension, the terms of the suspension, and handed a letter to confirm the discussion during the suspension meeting.
- The period of suspension should be kept under regular review. The fact and conditions of the suspension should be confirmed in a letter to the employee immediately. Where it becomes evident that the period of suspension may be long term then the suspension should be reviewed every 4 weeks and confirmed in writing.
- Exceptionally, it may be necessary for the Head Coach or General Manager to send an employee home before being able to consult with a representative of the HR & Legal Committee. In such a case, formal written confirmation of the suspension and the reasons for it should be confirmed by either the Head Coach or General Manager as soon as a representative of the HR & Legal Committee has been informed of the circumstances and confirmed that suspension is appropriate. This should be done within 2 days.

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f. Redeployment as an alternative to suspension

- During the initial stages the facts may not be clear and therefore the Head Coach or General Manager should consider – where possible – redeploying the individual to another area of the Club until such time that the facts are established. The Appointee may arrange a meeting with the employee, and a representative from the HR & Legal Committee to outline the details of the redeployment and the terms. The employee should be provided with a letter confirming the details of the redeployment during the meeting. If it is not possible to provide a letter during the meeting, the Head Coach or General Manager should send a letter to the employee, within 2 working days of the suspension meeting taking place.

g. Conducting an investigation

- The Appointee may conduct an investigation which is confined to establishing the facts of the case and should include all aspects of the allegation.
- The nature and extent of the investigation may depend on the seriousness of the matter. The Appointee will advise the employee who is the subject of the allegation of the details in writing and invite his / her response. An investigatory interview with the employee may be appropriate in most cases. The employee will be notified in writing of the meeting at least 2 working days before it takes place, so she / he has reasonable time to prepare.
- The investigation may also include the collation of evidence, taking statements from, and usually meeting with relevant parties, including where appropriate any witness(es) to the alleged incident(s) of misconduct. Any witness to the alleged misconduct may be asked to sign their written statement for accuracy as soon as possible after the investigation meeting.
- The Appointee may be accompanied by a representative from the HR & Legal Committee at such meeting(s) to provide advice and guidance. The employee concerned may be accompanied at such meeting(s) by a companion (as defined in Section 9b).
- The Appointee will prepare a report based on the findings of his / her investigation, including the allegations made and the evidence found. The Head Coach or General Manager will determine whether or not a disciplinary interview is required based upon the findings of the investigation. If it is not appropriate to convene a formal disciplinary interview, but that informal advice or guidance is appropriate, any resulting discussion will be in private and the employee will be informed that no disciplinary action is being taken.

h. The Disciplinary Procedure

- Where there is believed to be a need for a disciplinary interview, the Head Coach or General Manager will consult with the HR & Legal Committee before arranging a disciplinary interview.
- The Head Coach or General Manager will advise the employee, in writing (providing the appropriate notice) that she / he is required to attend a disciplinary interview at a specified place and time. The letter will outline the details of the allegations that have been made against him / her with sufficient information about the alleged misconduct

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and its possible consequences, to enable him / her to prepare to answer to the case at a disciplinary interview.

- The employee will be advised that she / he has the right to be accompanied at the interview and will be provided with a copy of this policy and procedure. The employee will be given all relevant documentation gathered in relation to the alleged misconduct and names of any witnesses who will be called at the interview to enable him / her to prepare.
- The employee should inform the Head Coach or General Manager in writing (an email is acceptable) of the names of witnesses she / he would wish to call with brief reasons for each request.
- The Head Coach or General Manager may be entitled to query the purpose of any witness being called and the potential for new, relevant information that the witness can offer. In such circumstances, and following consultation with the relevant parties, the Head Coach or General Manager may decide which witnesses will be called at the interview.
- In exceptional circumstances where it is not practical for witnesses to attend, the Head Coach or General Manager may continue to proceed with the interview if she / he is of the view that verbal evidence from the witnesses will not affect the consideration of the complaint.
- If the employee wishes to present any additional documentation in response to the allegation, it should be presented to the Head Coach or General Manager in order that it can be distributed to all parties.
- The employee and his / her companion must make every effort to attend the interview.
- If, without good reason, an employee does not attend the disciplinary interview, the interview may proceed in his / her absence and a decision will be made on the evidence available. The employee will be informed in writing.

i. Disciplinary interview

- The Head Coach or General Manager will ensure equal treatment of all parties and ensure they have received copies of all relevant papers. The Head Coach or General Manager will also ensure that all aspects of the case are considered and may seek further clarification of the written submissions from whomsoever they feel appropriate. The Head Coach or General Manager may decide if the interview needs to be adjourned if new facts emerge that require further investigation.
- The employee shall attend throughout the interview and may call witnesses. The Head Coach or General Manager shall be empowered to call witnesses who have been identified to the employee prior to the interview.
- The order of the interview will be as follows:
 - I. Introductions as appropriate
 - II. Head Coach or General Manager will explain the complaint / allegations

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- III. Presentation of findings
 - The Appointee may present the findings of their report and present any witnesses and explain the evidence supporting the charges to the Head Coach or General Manager.
 - The Head Coach or General Manager shall have the opportunity to ask questions of the Appointee and any witnesses.
 - The employee (or his / her chosen companion) shall have the opportunity to ask questions of the Appointee and witnesses and raise points about information provided by them.

- IV. Employee presents their case
 - The employee or his/her chosen companion may then set out his / her case and present any witnesses in response to the charges.
 - The Head Coach or General Manager shall have the opportunity to ask questions of the employee and any witnesses.
 - The Appointee shall have the opportunity to ask questions of the employee and witnesses and raise points about information provided by them.
 - The Head Coach or General Manager shall have the opportunity to ask any final questions of the employee, Appointee or witnesses.

- V. Summing up the case
 - The Appointee shall have the opportunity to sum up his / her case.
 - The employee (or his / her chosen companion) shall have the opportunity to sum up his / her case.
 - The Head Coach or General Manager shall sum up the main points of the evidence put forward.

- VI. Case Adjournment
 - The meeting shall be adjourned by the Head Coach or General Manager to allow further investigation into the matters raised or to ask questions of any witnesses who were unable to attend the interview.
 - If further evidence or witnesses are sought, and the Head Coach or General Manager relies on this evidence to form a decision, they may reconvene the interview to allow consideration of the evidence by both parties and / or cross-examination of witnesses.
 - The Head Coach or General Manager reviews the case and makes a decision.

- VII. Case Decision
 - The Head Coach or General Manager may reconvene the interview and confirm the decision to the employee, the sanctions to be imposed (if applicable), and that this will be confirmed in writing to the employee within 2 days.
 - The Head Coach or General Manager will ask the employee if they have anything further to say and the response recorded.

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VIII. Interview Closed

j. Confirmation of decision

- Confirmation of the decision will be made in writing to the employee within 2 days.
- Where disciplinary action is taken, the confirmation will include the following:
 - The nature of the misconduct.
 - The process that has been adopted.
 - The disciplinary sanction awarded including the level of any warning given.
 - The reasons why the disciplinary action was taken.
 - The consequences of any further failure to adhere to acceptable standards of conduct. In cases where a final written warning is given it should be made clear that further formal disciplinary action may result in dismissal.
 - The provision of any support, counselling or corrective action that is required and if not immediate, the time within which improvement will be expected.
 - The period given for improvement and the improvement expected.
 - The time period within which the warning will be considered to have lapsed
 - The fact that a record of warnings will be kept.
 - The right of appeal, advising that this should be formally submitted in writing to the Head Coach or General Manager within 2 days, and the right to representation at any future appeal interview.
- Notes will be taken of all disciplinary interviews which will be typed as soon as possible after the interview. The typed notes will always be made available to all parties in advance of an appeal interview. The Parties should raise any factual inaccuracies of notes with the Head Coach or General Manager within 2 working days of receipt.
- Where an employee is dismissed from the employment of EKSC, notification to Swim Alberta will be made and details provided of the circumstances.

k. Disciplinary sanctions

- The following disciplinary sanctions, singularly or in combination, may be applied for major misconduct:
 - Verbal or formal written warning from EKSC to one of the Parties;
 - Verbal or written apology from one Party to the other Party;
 - Suspension from certain EKSC teams, events, and/or activities;
 - Suspension from all EKSC activities for a designated period of time;
 - Suspension of pay for a designated period of time;
 - Repayment of any monies if deemed applicable;
 - Payment of the cost of repairs for property damage;
 - Termination of employment from EKSC; and/or,
 - Any other sanction considered appropriate for the offence.

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I. Progression of disciplinary sanctions

- EKSC generally follows a system of progressive discipline, however, this does not prevent the Club from foregoing any step in the chain of progressive discipline as may be warranted by the circumstances.

- The usual process for applying disciplinary sanctions – for the majority of major infractions, will be as follows:
 - Verbal warning
 - Written warning
 - Final written warning
 - Termination for just cause without the provision of notice or pay in lieu thereof

However, where gross misconduct is found, or the severity and complexity of the infraction justifies an alternative course of action to be taken, EKSC reserves the right to apply necessary sanctions.

CRIMINAL CONVICTIONS

13. An employee's conviction for any of the following *Criminal Code* offenses will be deemed a major infraction under this Policy and will result in termination from EKSC:

- Any child pornography offences;
- Any sexual offences;
- Any offence of physical or psychological violence;
- Any offence of assault; and/or,
- Any offence involving trafficking of illegal drugs.

APPEAL PROCEDURE

14. Where an employee is notified that a disciplinary sanction has been awarded against him/her, she / he will also be notified of the right of appeal. Where an employee feels the decision taken against him / her is wrong or unjust, she / he may appeal against the decision within 5 days of the decision being confirmed in writing.

CONFIDENTIALITY

15. **Important:** In the event of any disciplinary matter regarding a member of staff or coach, only those involved in the investigation will be advised of the disciplinary outcome. Parties involved will be interviewed individually by the person leading the investigation, along with anyone else who may be able to provide relevant information. The Board of Directors may be briefed on the nature of the complaint and those involved along with external bodies, ie. Swim Alberta, and others.

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16. All those involved, will be requested to adhere to the guidelines within the EKSC Code of Conduct & Ethics and asked to maintain confidentiality to minimize gossip, hearsay or the spread of misinformation within the sporting community. It should be however noted, that there are exceptions to confidentiality reasonably sufficient to permit the Club, employees, board, and members to comply with all other duties owed to the Club and its members, and all legal requirements.
17. As a result of any complaint raised:
- Retaliation against any individual for reporting a disciplinary offence under this Code is a violation of this policy and will not be tolerated. Any retaliatory action should be reported immediately to the Board of Directors.
 - Similarly, a false accusation is a serious matter. A person making a false statement may be subject to a separate investigation under this policy.
 - If an incident of high severity occurs, it is up to the Board of Directors and the Head Coach as to whether steps can be skipped and/or an individual may be removed immediately from the organization. Incidents of high severity would include: breaking the law, inflicting physical injury, sharing of sexual images on-line, exploitation of a minor, issuing a communication to a group of members with emotive and accusatory language likely to cause offence, and others.
 - At any point in the process of a disciplinary investigation, the police may become involved depending on the severity and/or nature of the matter.

VARIATIONS TO REPORTING PROCEDURE

18. For the majority of instances, the above procedure steps will apply. However, the following specifically addresses instances which may vary from this and what the appropriate reporting procedure should then be:
- If the concern relates to the Head Coach, concerns should be brought to the attention of the Club President.
 - If the concern relates to the General Manager, concerns should be brought to the attention of the Club President.