



DISCIPLINE AND CONDUCT COMPLAINT POLICY

VERSION 1.0

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TABLE OF CONTENTS

INTRODUCTION.....	PG. 3
DEFINITIONS.....	PG. 3
APPLICATIONS OF THE POLICY.....	PG. 4
COMPLAINT REVIEW PROCEDURE.....	PG. 5
Reporting a Complaint.....	PG. 5
Case Manager Responsibilities.....	PG. 5
Process #1 - Handled by Internal Discipline Chair when the Complainant alleges the following incidents.....	PG. 5
Process #2 - Handled by the Case Manager and the Internal Discipline Panel when the Complainant alleges the following incidents.....	PG. 6
INVESTIGATION PROCEDURE.....	PG. 7
Investigation Process.....	PG. 8
Investigator's Report.....	PG. 8
SANCTIONS AND PROGRESSIVE DISCIPLINE.....	PG. 9
Progressive Discipline.....	PG. 9
Elevated Sanctions and Criminal Offenses.....	PG. 10
Suspension Pending a Hearing.....	PG. 11
REPRISAL AND RETALIATION.....	PG. 11
False Allegations.....	PG. 11
CONFIDENTIALITY.....	PG. 11

INTRODUCTION

The Kitimat Marlin Swim Club (the 'Club') will uphold the Code of Conduct Policy through a fair and equitable investigation, reserving the right to proceed with progressive discipline when appropriate. This policy serves as a description of the investigation and disciplinary processes as well as a tool to ensure that members receive a consistent quality of service when a complaint is addressed.

The Club expects participants to fulfill certain responsibilities and obligations including, but not limited to, complying with the policies, rules, and regulations of the Club. Non-compliance may result in disciplinary action pursuant to this Policy.

DEFINITIONS

Terms in this Policy are defined as follows:

- a) **Athlete** – An individual who is an Athlete Participant in the Club who is subject to the Code of Conduct Policy.
- b) **Case Manager** – An individual appointed to administer complaints that are assessed under Process #2 of this Policy. This individual must either;
 - i) not be in a Conflict of Interest (COI) or
 - ii) have declared the Conflict of Interest to the Club President and have created a COI Management Plan.
- c) **Complainant** – A Participant or observer, or representative counsel, 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, or any other Club policy.
- d) **Internal Discipline Panel** – A Panel of one or three people who are appointed by the Case Manager to decide on complaints that are assessed under Process #2 of this Policy. These individuals must either;
 - i) not be in a COI or
 - ii) have declared the Conflict of Interest to the Club President and have created a COI Management Plan.
- e) **Internal Discipline Chair** – An individual appointed by the Club to decide on complaints that are assessed under Process #1 of this Policy. The Internal Discipline Chair may be a Director, staff member, or other individual affiliated with the Club but must either;
 - i) not be in a COI or
 - ii) have declared the Conflict of Interest to the Club President and have created a COI Management Plan
- f) **Minor** – Any Participant under the age of 19 years old at the time of a suspected incident and was participating within the jurisdiction of the Club. Adults are responsible for knowing the age of a Minor.
- g) **Parties** – All groups involved with a dispute.

- h) **Participants** – Refers to all categories of individual members and/or registrants of the Club who are subject to the Club’s policies, as well as all people employed by, contracted by, or engaged in activities with the Club 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.
 - i) **Respondent** – The Party responding to the complaint, or their representative counsel.
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APPLICATIONS OF THE POLICY

- a) This Policy applies to all Participants.
 - b) This Policy applies to matters that may arise during the business, activities, and events of the Club 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 Club, fundraising or community events, and any meetings.
 - c) This Policy also applies to Participants’ conduct outside of the business, activities, and events of the Club when such conduct adversely affects the relationships (or the work and sport environment) of the Club, is detrimental to the image and reputation of the Club, or upon the acceptance of the Club. Accordingly, applicability of this Policy will be determined by the Club upon its sole discretion.
 - d) This Policy applies to alleged breaches of the Code of Conduct 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, 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).
 - e) If it is considered appropriate or necessary based on the circumstances, immediate discipline or sanctions 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.
 - f) In addition to being subject to disciplinary action pursuant to this Discipline and Complaints Policy, an employee of the Club 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.
 - g) 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.
 - h) Communication from a Case Manager, Internal Discipline Chair or Internal Discipline Panel (as applicable) must be directed to the Minor’s representative.
 - i) A Minor is not required to attend an oral hearing, if held.
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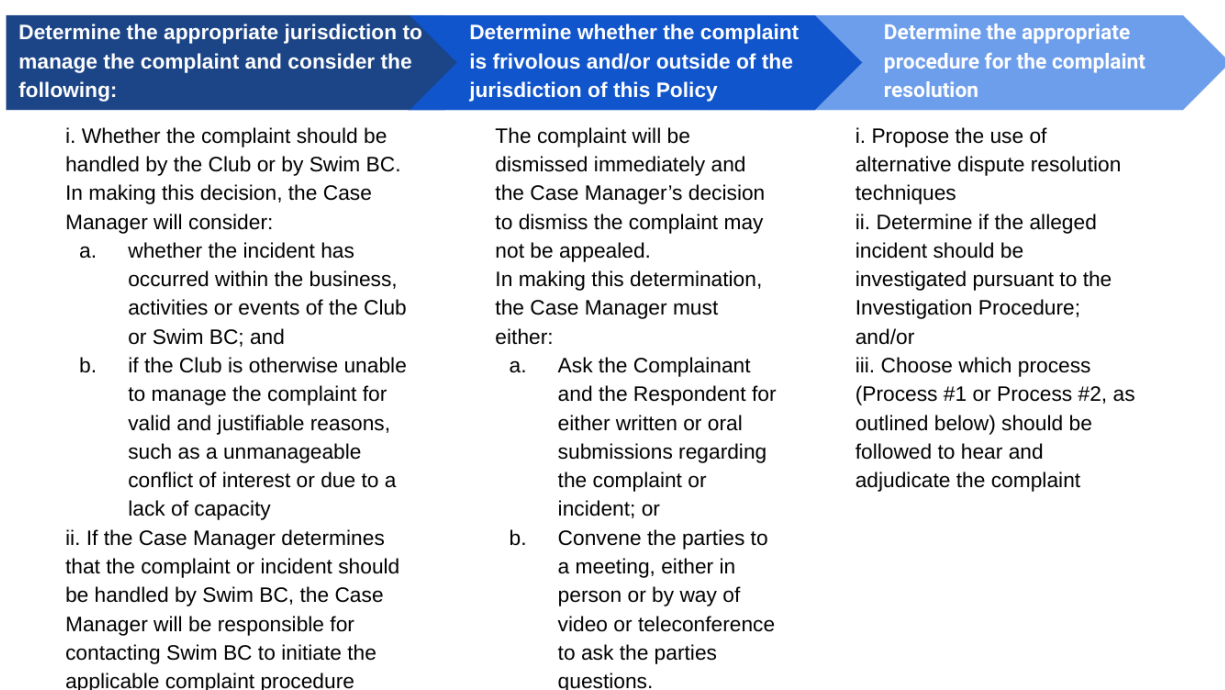
COMPLAINT REVIEW PROCEDURE

Reporting a Complaint

- a) Any person may report a complaint directly to the Club Executive, which will then appoint a Case Manager.
- b) At its discretion, the Club may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the Club will identify an individual to represent the organization.
- c) Complaints or incident reports should be made in writing for the discipline and complaints procedure to be initiated. The Club may accept any formal complaint, in writing or not, at their sole discretion.

Case Manager Responsibilities

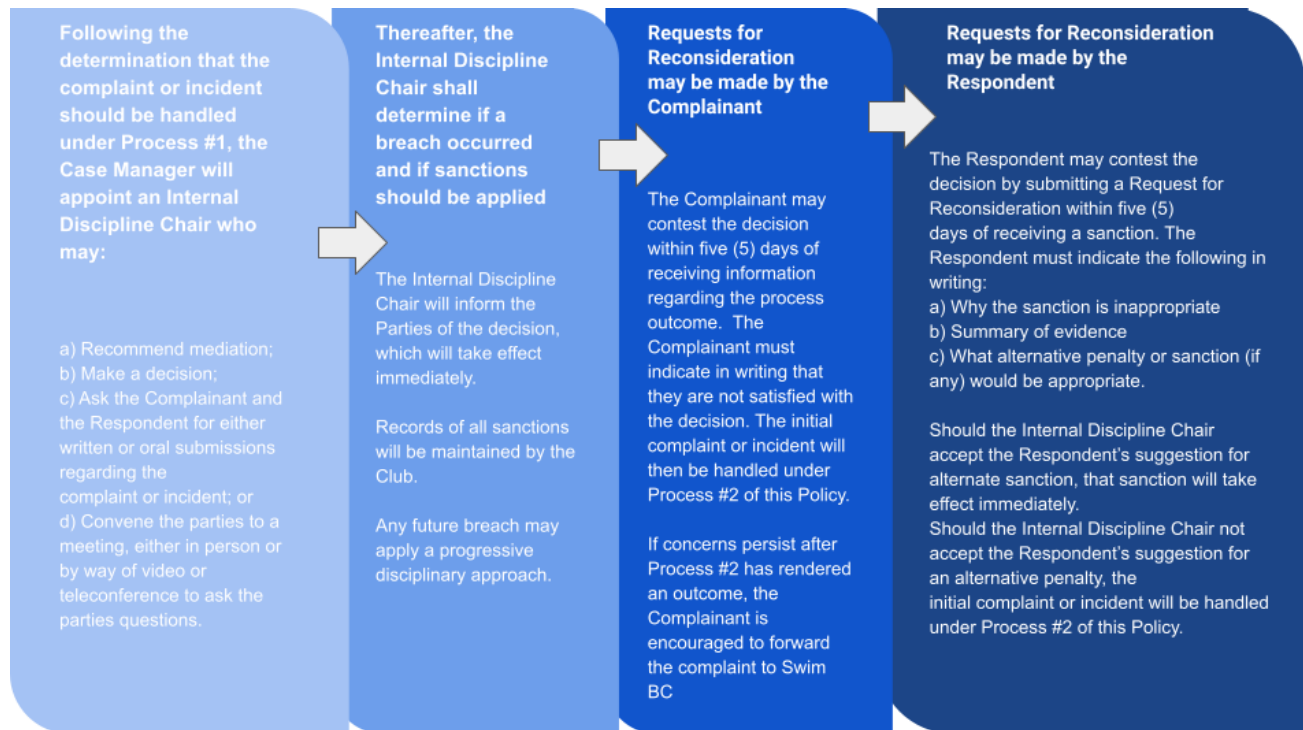
Upon receipt of a complaint, the Case Manager has a responsibility to:



Process #1 - Handled by Internal Discipline Chair when 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 Club
- d) Non-compliance with the organization's policies, procedures, rules, or regulations
- e) Minor violations of the Code of Conduct

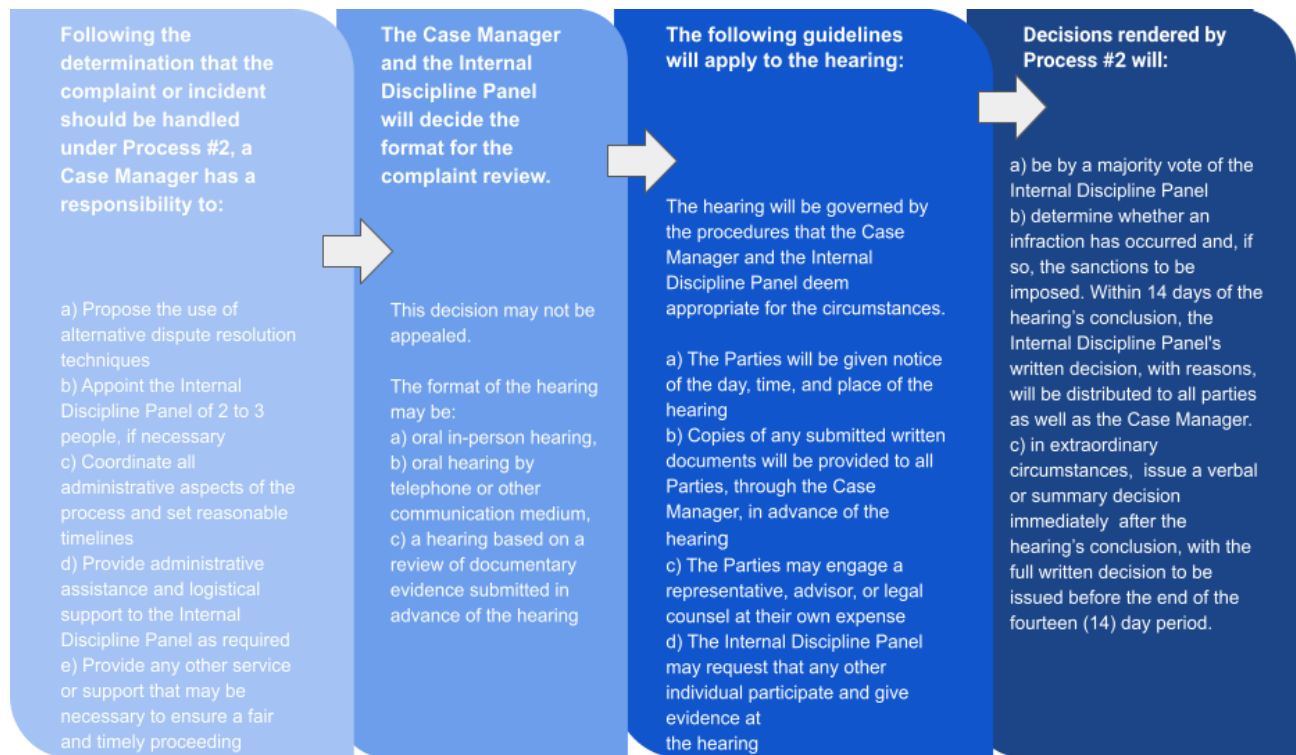
PROCESS #1 OUTLINE



Process #2 - Handled by the Case Manager and the Internal Discipline Panel when the Complainant alleges the following incidents:

- a) Repeated minor incidents
- b) Hazing
- c) Abusive, racist, or sexist comments or behaviour
- 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 #2 OUTLINE



The following procedures may be applied to Process #2:

- a) The External 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
- b) If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Internal Discipline Panel will determine the appropriate sanction. The External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
- c) The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
- d) In fulfilling its duties, the External Discipline Panel may obtain independent advice.
- e) 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 Case Manager may direct that these timelines be revised.

INVESTIGATION PROCEDURE

When a complaint is submitted pursuant to the Discipline and Conduct Complaint Policy, the Case Manager will determine if the incident should be investigated.

Investigation Process

1. The Case Manager will appoint an Investigator. The Investigator must be 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.
2. Federal and/or Provincial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a worker in a Workplace. The Investigator should review workplace safety legislation, the organization's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
3. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial legislation. The investigation may include:
 - a. Interviews with the Complainant
 - b. Witness interviews
 - c. Statement of facts (Complainant's perspective) prepared by Investigator, acknowledged by the Complainant and provided to the Respondent
 - d. Interviews with the Respondent
 - e. Statement of facts (Respondent's perspective) prepared by Investigator, acknowledged by the Respondent and provided to the Complainant

Investigator's Report

Upon completion of their investigation, the Investigator shall prepare a report that should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether, on a balance of probabilities, a breach of the Code of Conduct occurred.

The Investigator must be aware that sport-specific differences exist with respect to such aspects as acceptable levels of touch, physical contact, and aggression during training or competition and will consider such differences during the investigative process.

The Investigator's Report will be provided to the Case Manager who will disclose it to the Club Executive.

Should the Investigator find that there are possible instances of offense under the Criminal Code, particularly related to Criminal Harassment (or Stalking), Uttering Threats, Assault, Sexual Interference, or Sexual Exploitation, the Investigator shall advise the Complainant and the Club Executive to refer the matter to police.

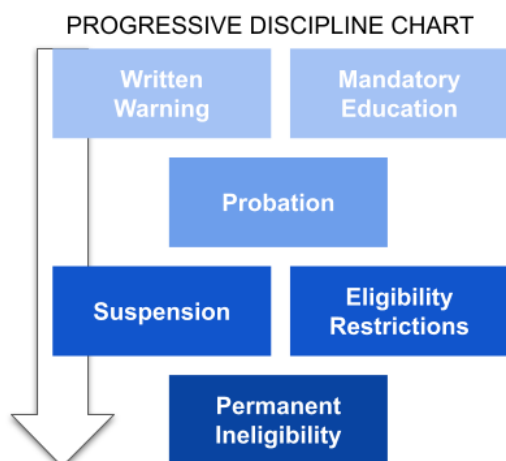
The Investigator must also inform Swim BC of any findings of criminal activity. Swim BC may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of prohibited substances or methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any sexual crime involving Minors, fraud against Swim BC, or other offenses where the lack of reporting would bring Swim BC into disrepute.

SANCTIONS AND PROGRESSIVE DISCIPLINE

Progressive Discipline

Prior to determining sanctions, the Internal Discipline Chair or Internal Discipline Panel, 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 that has warranted previous sanctions
- 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 under this Policy
- f) Real or perceived impact of the incident on the Complainant, sport 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; 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 such as employment agreements and or specific legislation.



Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required when the seriousness of an incident warrants elevated or combined sanctions.

The Internal Discipline Chair or the Internal Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly, in combination or as a part of progressive discipline:

Written Warning - 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

Education - The requirement that a Participant undertake

specified educational or similar remedial measures to address the violation(s) of the Code of Conduct

Probation - Should any further violations of the Code of Conduct occur during the probationary period, will result in additional disciplinary measures, likely including a period of

suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period

Suspension - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, activity, event, or competition in which the participant is a representative of the Club. A suspended Participant is eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Participant satisfying specific conditions noted at the time of suspension

Eligibility Restrictions - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions

Permanent Ineligibility - Ineligibility to participate in any capacity in any program, activity, event, or competition sponsored by or organized by the Club

Other Discretionary Sanctions - Other sanctions may be imposed, including, but not limited to, other loss of privileges or no contact directives

Elevated Sanctions and Criminal Offenses

The Internal Discipline Chair or Internal Discipline Panel, as applicable, may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed maltreatment:

- a) Sexual maltreatment involving a Minor Complainant shall carry a presumptive sanction of permanent ineligibility
- b) Sexual maltreatment, physical maltreatment with contact, and maltreatment related to interference or manipulation of process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions
- c) While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive sanction shall be a period of suspension

A Participant's conviction for a Criminal Code offense shall carry a presumptive sanction of permanent ineligibility from participating with the Club. Criminal Code offenses may include, but are not limited to:

- a) Any child pornography offenses
- b) Any sexual offenses
- c) Any offense of physical violence
- d) Any offense of assault
- e) Any offense involving trafficking of illegal drugs

Unless the External Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Internal Discipline Panel will result in an automatic suspension until such time as compliance occurs.

Records of all decisions will be maintained by the Club.

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

Suspension Pending a Hearing

The Club 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 the Internal Discipline Panel.

REPRISAL AND RETALIATION

A Participant who submits a complaint to Swim BC or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute maltreatment and will be subject to disciplinary proceedings pursuant to the Discipline and Conduct Complaint Policy.

False Allegations

A Participant who submits allegations that the Investigator determines to be malicious, false, or for the purpose of retribution, retaliation or vengeance may be subject to a complaint under the terms of the Discipline and Conduct Complaint Policy and may be required to pay for the costs of any investigation that comes to this conclusion and be considered for further discipline. The Club or the Participant against whom the allegations were submitted, may act as the Complainant.

CONFIDENTIALITY

The discipline and complaints process is confidential and involves only the Club, the Parties, the Case Manager, the Internal Discipline Chair and/or the Internal 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.

Any failure to respect the confidentiality requirement may result in further sanctions or discipline by the Internal Discipline Chair or Internal Discipline Panel (as applicable).

The Investigator will make reasonable efforts to preserve the anonymity of the complainant, respondent, and any other party. However, the Club recognizes that maintaining full anonymity during an investigation may not be feasible.

Swim BC or other Provincial Swim Authorities may be advised of any decisions rendered in accordance with this Policy.