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FORMAL COMPLAINTS AND DISCIPLINE POLICY

1. DEFINITIONS

The following terms have these meanings in this Policy:

- a) **Athlete** – An individual who is an Athlete Participant in WGB who is subject to the Organization’s policies, including its *Code of Conduct and Ethic* policy.
- b) **Case Manager** – An individual appointed to administer complaints that are assessed under Process #2 of this Policy. This individual must not be in a conflict of interest and, ideally, should be external to WGB (e.g., from Swim Yukon or Sport Yukon).
- 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 WGB’s *Code of Conduct and Ethic* policy, or any other WGB policy or bylaws.
- d) **External Discipline Panel** – A panel of three people who are appointed by the Case Manager to decide on complaints that are assessed under Process #2 of this Policy.
- e) **Internal Discipline Chair** – An individual appointed by the Organization 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 Organization but must not be in a conflict of interest.
- f) **Minor** – Any Participant under the age of 19 at the time of a suspected incident, who was participating within the jurisdiction of the Organization. Adults are responsible for knowing the age of a Minor.
- g) **Organization** – Whitehorse Glacier Bears Swim Club (WGB)



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- h) **Parties** – the groups involved in a dispute
- i) **Participants** – Refers to all categories of individual members and/or registrants 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.
- j) **Respondent** – The Party, or their representative counsel, responding to the complaint.

2. PURPOSE

Individuals are expected to fulfill certain responsibilities and obligations, including but not limited to complying with the Organization's policies—including the *Code of Conduct and Ethic* policy—bylaws, rules, and regulations. Non-compliance may result in sanctions pursuant to this Policy.

3. APPLICATION OF THIS POLICY

- a) This Policy applies to all Participants.
- b) This Policy applies to matters that may arise during the course of the Organization's business, activities, and events, including but not limited to competitions, practices, tryouts, training camps, travel associated with Organization activities, and any meetings.
- c) This Policy also applies to Participants' conduct outside of the Organization's business, activities, and events, when such conduct adversely affects relationships within the Organization (and its work and sport environment) and is detrimental to the image and reputation of the Organization. Such applicability will be determined by the Organization at its sole discretion.
- d) This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied



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according to this Policy. Any infractions or complaints occurring within competitions will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.

- e) An employee of the Organization who is a Respondent will be subject to appropriate disciplinary action per the Organization's *Human Resources Policy*, as well as the employee's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

4. MINORS

- a) 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.
- b) Communication from a Case Manager, Internal Discipline Chair, or External Discipline Panel (as applicable) must be directed to the Minor's representative.
- c) A Minor is not required to attend an oral hearing, if held.

5. REPORTING A COMPLAINT

- a) Any Individual may report a complaint to the Organization. A complaint must be in writing and must be filed within fourteen (14) days of the alleged incident.
- b) A Complainant wishing to file a complaint outside of the fourteen (14) day period must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the complaint outside of the fourteen (14) day period will be at the sole discretion of the Organization. This decision may not be appealed.
- c) At the Organization's discretion, the Organization may act as the



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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.

- d) Resignation or lapsing of membership after a complaint is filed does not preclude discipline being pursued under this Policy.

6. CASE MANAGER

- a) Upon the receipt of a complaint, the Organization will appoint a Case Manager to oversee management and administration of complaints submitted in accordance with this Policy. Case Manager appointments are not appealable.
- b) The Case Manager has a responsibility to:
 - i. Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
 - ii. Propose the use of the Organization's *Dispute Resolution Policy*
 - iii. Appoint the Discipline Panel, if necessary
 - iv. Coordinate all administrative aspects and set timelines
 - v. Provide administrative assistance and logistical support to the Discipline Panel as required
 - vi. Provide any other service or support that may be necessary to ensure a fair and timely proceeding

7. PROCEDURES

- a) If the Case Manager determines the complaint is:
 - i. frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately



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- ii. not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the complaint is accepted and communicate applicable next steps.
- b) The Case Manager's decision to accept or dismiss the complaint may not be appealed.
- c) The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
- d) Propose the use of alternative dispute resolution techniques
- e) Determine if the alleged incident should be investigated pursuant to Appendix A – Investigation Procedure; and/or
- f) 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 Case Manager 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 Ethic* policy

Process #2 - the Complainant alleges the following incidents:



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- 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 Ethic* policy
- k) Intentionally damaging the Organization's property or improperly handling its 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



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PROCESS #1: Handled by Internal Discipline Chair

Internal Discipline Chair

- a) Following the determination that the complaint or incident should be handled under Process #1, the Organization will appoint an Internal Discipline Chair who may:
 - i. Recommend mediation
 - ii. Make a decision
 - iii. Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident or
 - iv. Convene the parties to a meeting, either in person or by way of video or teleconference to ask the parties questions.
- b) Thereafter, the Internal Discipline Chair shall determine if a breach occurred and if sanctions should be applied.
- c) The Internal Discipline Chair will inform the Parties of the decision, which will take effect immediately.
- d) Records of all sanctions will be maintained by the Organization.

Request for Reconsideration

- a) If there is no sanction, the Complainant may contest the non-sanction by informing the Internal Discipline Chair, 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.
- b) If there is a sanction, the sanction may not be appealed until the completion of a Request for Reconsideration. However, the Respondent



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

- i. Why the sanction is inappropriate
- ii. Summary of evidence that the Respondent will provide to support the Respondent's position; and
- iii. What alternative penalty or sanction (if any) would be appropriate.

- c) Upon receiving a request for reconsideration, the Internal Discipline Chair may decide to accept or reject the Respondent's suggestion for an alternative sanction.
- d) Should the Internal Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
- e) Should the Internal Discipline Chair 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 Case Manager and External Discipline Panel

Case Manager

- a) Following the determination that the complaint or incident should be handled under Process #2, a Case Manager has a responsibility to:
 - i. Propose the use of alternative dispute resolution techniques
 - ii. Appoint the External Discipline Panel, if necessary
 - iii. Coordinate all administrative aspects of the process and set reasonable timelines
 - iv. Provide administrative assistance and logistical support to the External Discipline Panel as required



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- v. Provide any other service or support that may be necessary to ensure a fair and timely proceeding
- b) The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
- c) The Case Manager may propose using alternative dispute resolution methods, such as mediation or a negotiated settlement. If the dispute is not resolved using alternative methods, the Case Manager will appoint an External Discipline Panel of three (3) persons to hear the complaint. The Case Manager will appoint one of the External Discipline Panel's members to serve as the Chair.
- d) The Case Manager, in cooperation with the External Discipline Panel, 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.
- e) The hearing will be governed by the procedures that the Case Manager and the External Discipline Panel deem appropriate for the circumstances. The following guidelines will apply to the hearing:
 - i. The Parties will be given appropriate notice of the day, time, and place of the hearing
 - ii. Copies of any written documents which any of the Parties wishes to have the External Discipline Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing
 - iii. The Parties may engage a representative, advisor, or legal counsel at their own expense
 - iv. The External Discipline Panel may request that any other individual participate and give evidence at the hearing



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- v. 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
- vi. The decision will be by a majority vote of the External Discipline Panel.

f) If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the External Discipline Panel will determine the appropriate sanction. The External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.

g) The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.

h) In fulfilling its duties, the External Discipline Panel may obtain independent advice.

8. DECISION

After hearing and/or reviewing the matter, the Discipline 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 Discipline Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the Organization. In extraordinary circumstances, the Discipline 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 Discipline Panel.



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9. SANCTIONS

- a) The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:
 - i. Verbal or written reprimand
 - ii. Verbal or written apology
 - iii. Service or other contribution to the Organization
 - iv. Removal of certain privileges
 - v. Suspension from certain teams, events, and/or activities
 - vi. Suspension from all Organization activities for a designated period of time
 - vii. Withholding of prize money or awards
 - viii. Payment of the cost of repairs for property damage
 - ix. Suspension of funding from the Organization or from other sources
 - x. Expulsion from the Organization
 - xi. Any other sanction considered appropriate for the offense.
- b) Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.
- c) Infractions that result in discipline will be recorded and records will be maintained by the Organization.



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10. SUSPENSION PENDING A HEARING

The Organization may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of a criminal process, the hearing, or a decision of the Discipline Panel.

11. CRIMINAL CONVICTIONS

An Individual's conviction for a *Criminal Code* offense, as determined by the Organization, will be deemed an infraction under this Policy and will result in expulsion from the Organization. *Criminal Code* offences may include, but are not limited to any:

- a) child pornography offences
- b) sexual offences
- c) physical violence offences
- d) assault offences
- e) trafficking of illegal drugs offences.

12. CONFIDENTIALITY

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

13. TIMELINES

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



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Discipline Panel may direct that these timelines be revised.

14. RECORDS AND DISTRIBUTION OF DECISIONS

Other individuals or organizations, including but not limited to national sport organizations, territorial sport organizations, sport clubs, etc., may be advised of any decisions rendered in accordance with this Policy.

15. APPEALS PROCEDURE

The decision of the Discipline Panel may be appealed in accordance with the Organization's *Appeal Policy*.