

SPECIAL OLYMPICS CANADA AND SPECIAL OLYMPICS NOVA SCOTIA
DISCIPLINE AND COMPLAINTS POLICY

This Policy has been prepared by Special Olympics Canada and is a Pan-Canadian Policy applicable to Special Olympics Canada and its Chapters. This document cannot be modified by a Chapter without consultation and approval from Special Olympics Canada.

EFFECTIVE DATE: DECEMBER 6, 2017

LAST REVISED: MAY 3, 2014

Definitions

1. The following terms have these meanings in this Policy:
 - a) *“Board”* – The board of directors of Special Olympics Canada or a Chapter.
 - b) *“Case Manager”* – An individual appointed by the Discipline Chair to implement complaints under this *Discipline and Complaints Policy*. The Case Manager does not need to be a member of, or affiliated with, Special Olympics Canada or a Chapter. The Case Manager will not sit on the Discipline Panel.
 - c) *“Complainant”* – The Party alleging an infraction.
 - d) *“Days”* – Days including weekends and holidays.
 - e) *“Discipline Chair(s)”* – An individual or individuals appointed by the applicable Board or the Executive Director to be the first point-of-contact for all discipline and complaint matters reported to Special Olympics Canada or its Chapters.
 - f) *“Discipline Panel”* – A single person to hear and decide the complaint or at the discretion of the Case Manager, three persons may be appointed to hear and decide the complaint.
 - g) *“Executive Director”* – The most senior staff person with Special Olympics Canada or a Chapter.
 - h) *“Governing Documents”* – Special Olympics Canada or a Chapter’s bylaws, policies, procedures, rules or regulations.
 - i) *“Individuals”* – All categories of membership defined in Special Olympics Canada or Chapter Bylaws, as well as all individuals engaged in activities with Special Olympics Canada or its Chapters including, but not limited to, athletes, coaches, mission staff, chefs de missions, officials, volunteers, committee members, parents or guardians, and directors and officers.
 - j) *“Party”* – The Complainant or Respondent of a complaint.
 - k) *“Respondent”* – The alleged infracting Party.

Purpose

2. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with, as applicable, Special Olympics Canada and Chapter policies, Bylaws, rules and regulations, and *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

Application of this Policy

3. This Policy applies to all Individuals.
4. This Policy applies to matters that may arise during the course of Special Olympics Canada or Chapter business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Special Olympics Canada or Chapter activities, and any meetings.
5. This Policy also applies to Individuals’ conduct outside of Special Olympics Canada or Chapter business, activities, and events when such conduct adversely affects relationships within Special Olympics Canada or the Chapter (and its work and sport environment), is detrimental to the image and reputation of Special Olympics Canada or the Chapter, or upon the acceptance of Special Olympics Canada or the Chapter in its sole discretion.
6. Jurisdiction of complaints within Special Olympics Canada and its applicable Chapter will be determined based upon where and when the conduct occurred, as determined by Special Olympics Canada and the applicable Chapter.
7. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy. Any infractions or complaints occurring within competition will be dealt with by the procedures specific

PAN-CANADIAN POLICY

to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.

8. This Policy does not apply to any Special Olympics Canada or Chapter employees or contractors as such matters are governed by policies that expressly apply to employees, such as an applicable organization's human resources policy or employment/contractor agreements.

Process

9. Any Individual may report an incident or complaint, alleging a breach of Special Olympics Canada or a Chapter's Governing Documents, in writing within fourteen (14) days of the alleged incident to Special Olympics Canada or the applicable Chapter who will forward the complaint to the Discipline Chair, although this timeline can be waived or extended at the Discipline Chair's discretion. At Special Olympics Canada's or the Chapter's discretion, the organization may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the organization will identify an individual to represent Special Olympics Canada or the Chapter.
10. Upon receipt of a written complaint, the Discipline Chair will review the submissions related to the complaint, the applicable Governing Documents and determine one or more of the following outcomes or sanctions:
 - a) The complaint is not filed within the correct applicable jurisdiction and inform the Complainant of the correct jurisdiction
 - b) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
 - c) The complaint is not substantiated and no sanction
 - d) Verbal or written reprimand
 - e) Verbal or written apology
 - f) Service or other contribution
 - g) Removal of certain privileges
 - h) Suspension from certain teams, events, and/or activities
 - i) Suspension from all activities for a designated period of time
 - j) Payment of the cost of repairs for property damage
 - k) Suspension of funding
 - l) Expulsion
 - m) Any other sanction considered appropriate for the offense
11. The Discipline Chair will promptly inform the Complainant and the Respondent in writing of the sanction, if any.
12. Records of all decisions and sanctions, if any, will be maintained by the organization maintaining jurisdiction.

Request for Reconsideration

13. Notwithstanding Sections 10 - 12, the Complainant or the Respondent may contest the sanction by submitting a Request for Reconsideration within five (5) days of receiving the decision of the Discipline Chair. In the Request for Reconsideration, the Complainant or Respondent must indicate:
 - a) Why the sanction is inappropriate;
 - b) All evidence to support the party's position; and
 - c) What penalty or sanction (if any) would be appropriate
14. The sanction may not be appealed until the completion of a Request for Reconsideration.
15. Upon receiving a Request for Reconsideration, the Discipline Chair will appoint a Case Manager to oversee management and administration of the complaint or incident. Such appointment is not appealable.
16. The Case Manager has a responsibility to:
 - a) Propose the use of the *Dispute Resolution Policy*
 - b) Appoint the Discipline Panel, if necessary
 - c) Coordinate all administrative aspects and set timelines (Questions was posed as to who is providing legal advice on admin law? The intent of this section is to indicate the Case Manager will simply set timelines or document exchange and administrative work relating to notice of deadline, hearings, etc.)
 - d) Provide administrative assistance and logistical support to the Discipline Panel as required
 - e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

PAN-CANADIAN POLICY

Procedures

17. If the Case Manager determines the complaint is:
 - a) Frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately
 - b) Not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the complaint is accepted and of the applicable next steps
18. The Case Manager's decision to accept or dismiss the complaint may not be appealed.
19. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
20. After notifying the Parties that the complaint has been accepted, the Case Manager may propose using the *Dispute Resolution Policy* with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the parties refuse to use the *Dispute Resolution Policy*, the Case Manager will appoint a Discipline Panel. QUESTION: Can the case manager sit on the panel – No – updated in definition.
21. The Case Manager, in cooperation with the 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. The hearing will be governed by the procedures that the Case Manager and the Discipline Panel deem appropriate in the circumstances, provided that:
 - a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
 - b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing
 - c) The Parties may engage a representative, advisor, or legal counsel at their own expense
 - d) The Discipline Panel may request that any other individual participate and give evidence at the hearing
 - e) The 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
 - f) The decision will be made by a majority vote of the Discipline Panel
22. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
23. Subject to Section 22, the hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
24. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal (question – what does this mean? This means that a party affected by a decision would file their own appeal based on the findings of the Discipline Panel) in their own right, that party will become a Party to the current complaint and will be bound by the decision.
25. In fulfilling its duties, the Discipline Panel may obtain independent legal advice. (Question: who pays – SOC or the Chapter)

Decision

26. 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 applicable 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.

Sanctions

27. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:
 - a) Verbal or written reprimand

PAN-CANADIAN POLICY

- b) Verbal or written apology
 - c) Service or other contribution
 - d) Removal of certain privileges
 - e) Suspension from certain teams, events, and/or activities
 - f) Suspension from all Special Olympics Canada or Chapter activities for a designated period of time
 - g) Payment of the cost of repairs for property damage
 - h) Suspension of funding
 - i) Expulsion
 - j) Any other sanction considered appropriate for the offense
28. 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 from Special Olympics Canada or the applicable Chapter until such time as compliance occurs.
29. Records of all decisions will be maintained by the applicable organization in compliance with applicable law.

Appeals

30. The decision of the Discipline Panel may be appealed in accordance with Special Olympics Canada's *Appeal Policy*.

Suspension Pending a Hearing

31. Special Olympics Canada or the applicable Chapter may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual from Special Olympics Canada or its applicable Chapter pending completion of a criminal process, the hearing, or a decision of the Discipline Panel.

Criminal Convictions

32. An Individual's conviction for a *Criminal Code* offense, as determined by Special Olympics Canada or the applicable Chapter, will be deemed an infraction under this Policy and may result in expulsion from Special Olympics Canada and its Chapters. *Criminal Code* offences may include (question – wouldn't it be any conviction under the criminal code or other conviction per Section 5? My thoughts are that I have no issue with it being a conviction under the Code all together, but I think a Section 5 violation could be managed under Section 31) , but are not limited to:
- a) Any child pornography offences
 - b) Any sexual offences
 - c) Any offence of physical violence
 - d) Any offence of assault
 - e) Any offence involving trafficking of illegal drugs

Confidentiality

33. 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 and at the time of such decision, the only confidential information that may be disclosed is the result of such decision.

Timelines

34. 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 Discipline Panel may direct that these timelines be revised.

Records and Distribution of Decisions

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