

SASKATCHEWAN ROWING ASSOCIATION
DISCIPLINE AND COMPLAINTS POLICY

Effective date	October 26, 2022
Archived date	
Date last reviewed	Annually
Scheduled review date	
Replaces and/or amends	Replaces Discipline & Complaints Policy 2020;
Approved by and date	SRA Board of Directors October 25, 2022
Appendix(-ces) to this Policy	Investigations Policy 2022; Privacy Policy 2022

Purpose

1. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the policies, Bylaws, rules and regulations of Rowing Canada Aviron (RCA), the SRA and any other RCA Member. Non-compliance may result in the imposition of sanctions pursuant to this Policy.

Application of this Policy

2. This Policy applies to all Individuals.
3. This Policy applies to matters that may arise during the business, activities, and Events of the SRA including, but not limited to, competitions, on and off water training, evaluations (including time trials or any other form of testing), treatment or consultations (i.e., massage therapy), training camps, travel associated with SRA activities, and any meetings.
4. This Policy also applies to Individuals' conduct outside of the business, activities, and Events of SRA when such conduct adversely affects SRA's relationships (and the work and sport environment) or is detrimental to the image and reputation of SRA, or upon the acceptance of SRA.
5. Without limiting the generality of the foregoing, this Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Individuals who have retired from the sport of rowing where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Individual was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Individuals involved interacted due to their mutual involvement in the sport of rowing or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Individual(s).

If an Individual makes a complaint or Reports an incident that occurred at a time during which a different SRA policy was in force (i.e., Code of Conduct and Ethics, Discipline and Complaints Policy), the matter will be governed by the substantive rules in the policy in force at the time that the incident occurred to determine whether an offense or breach of the policy has occurred, unless the panel hearing the matter determines that the principle of *lex mitior* applies to the circumstances of the case; however, for such cases, this *Discipline and Complaints Policy* will apply retroactively, prior to its approval date, as it relates to procedural matters.

Applicability of this Policy will be determined by the Independent Third Party at their sole discretion and shall not be subject to appeal.

6. In the event that it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of an interim suspension or sanction may be applied by SRA's Executive Director, after which further discipline or sanctions may be applied according to this Policy. Any infractions 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.
7. In addition to being subject to disciplinary action pursuant to this *Discipline and Complaints Policy*, an employee of SRA who is a Respondent to a Report may also be subject to consequences in accordance with the employee's employment agreement, if applicable, or SRA's human resources or other applicable policies.
8. SRA will adhere to all disclosure and reporting responsibilities required by any government entity, local police force, or child protection agency.

Minors

9. Complaints may be brought for or against an Individual who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process. Any Individual who Reports or brings a complaint involving known or suspected abuse, neglect or Maltreatment of a Minor on behalf of the Minor must Report this to local child welfare services, the applicable provincial or territorial social service ministries or departments, or local police.
10. Communication from the Independent Third Party, Case Manager, Complaint Resolution Officer or discipline panel, as applicable, must be directed to the Minor's representative.
11. If the Minor's representative is not their parent/guardian, the representative must have written permission to act in such a capacity from the Minor's parent/guardian.
12. A Minor is not required to attend an oral hearing, if held.

Reporting a Complaint

13. All complaints must be Reported in writing by an Individual (or Individuals) to RCA's identified Independent Third Party¹ within fourteen (14) days of the occurrence of the incident. This timeline may be waived at the Independent Third Party's sole discretion if they consider that there were extenuating circumstances that prevented the Individual from Reporting their complaint within fourteen (14) days of the occurrence of the incident.
14. A Complainant who fears retribution or reprisal or who otherwise considers that their identity must remain confidential may Report a complaint to the Independent Third Party and request that their identity be kept confidential. If the Independent Third Party considers that the Complainant's identity must remain confidential, the Independent Third Party may ask that SRA take carriage of the complaint and act as the Complainant pursuant to Section 20 below.

¹ The Independent Third Party's contact information can be found on RCA's website: <https://rowingcanada.org/safe-sport/>

15. If the Independent Third Party considers that it is unnecessary to keep the Complainant's identity confidential, they shall inform the Complainant, who may decide whether or not to pursue the Reported complaint. However, the Independent Third Party may not reveal the identity of the Complainant unless the Complainant expressly informs them of their desire to pursue the complaint and has indicated, in writing, their approval to have their identity divulged.

Independent Third Party Responsibilities

16. Upon receipt of a Reported complaint from an Individual (or Individuals), the Independent Third Party shall:
- determine whether the complaint falls within the jurisdiction of this Policy;
 - if it can be accepted pursuant to Section 13 above; and
 - whether it is either a frivolous or vexatious complaint, or if it has been made in bad faith.²

If the Reported complaint is not accepted by the Independent Third Party for any of the aforementioned reasons, the Independent Third Party shall inform the Complainant and provide the reasons for which the complaint was not accepted. If the Reported complaint is accepted by the Independent Third Party, the Independent Third Party shall proceed to make the determinations indicated in Sections 18 and 19 below and notify the Parties accordingly that the Reported complaint has been accepted.

17. In cases where the Independent Third Party receives a complaint or Report involving known or suspected abuse, neglect or Maltreatment of a Minor, they shall report this to local child welfare services, the applicable provincial or territorial social service ministries or departments, or local police. The Independent Third Party shall not be responsible for fulfilling the aforementioned obligation if the Individual making the complaint or filing the Report confirms in writing that they have already reported to any such authorities.
18. If a Reported complaint has been accepted by the Independent Third Party pursuant to Section 16, the Independent Third Party shall determine whether the Reported incident has occurred within the Club, SRA or RCA's business, activities or Events as described in Section 3. If the incident has occurred outside of the business, activities or Events of any of these organizations, the Independent Third Party will determine which organization's relationships are adversely affected or which organization's image or reputation will be detrimentally affected by the incident as described in Section 4, or if the breach has had a serious and detrimental impact on the Individual(s), as described in Section 5 above.
19. Except for when the Independent Third Party directs a Reported complaint to be managed by RCA pursuant to Section 18 and the RCA Safe Sport Policy Suite, the Independent Third Party shall direct a Reported complaint to be managed by the Case Manager appointed by the SRA:
- if the Reported incident occurred within the business, activities or Events of the SRA or one of its clubs, as described in Section 3; or
 - if the incident has occurred outside of the business, activities or Events of SRA or one of its clubs, but the Independent Third Party determines that one of these organization's relationships would be adversely affected or that one of these organization's image or reputation will be detrimentally affected by the incident as described in Section 4, or if the breach has had a serious and detrimental impact on the Individual(s) from SRA or one of its clubs, as described in Section 5.

² As indicated in the Sport Dispute Resolution Centre of Canada's Investigation Guidelines, a Reported complaint shall not be characterized as vexatious if the evidence demonstrates that there was a reasonable basis for filing and pursuing it. For a complaint to be considered to have been made in bad faith, the Independent Third Party must consider that it was filed consciously for a dishonest purpose or due to the moral underhandedness of the Complainant and that there was an intention to mislead.

20. In exceptional circumstances, the Independent Third Party may direct a Reported complaint to be managed by RCA if the SRA is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest or due to a lack of capacity.
21. Notwithstanding any provision in this Policy, the SRA may, at its discretion, or upon request by the Independent Third Party in accordance with Section 14, act as the Complainant and initiate the complaint Reporting process under the terms of this Policy. In such cases, the SRA will identify an individual to represent the organization, unless the SRA is acting as the Complainant pursuant to Section 14.

Investigations

22. In exceptional circumstances, and only when the Independent Third Party considers that the conditions indicated in this section have been satisfied, the Independent Third Party may determine that a Reported incident requires further investigation by an independent third-party investigator. The Independent Third Party may direct that an investigation be conducted:
- Only if one of the following incidents has occurred:³
 - i. Abusive, racist, or sexist comments, conduct or behaviour
 - ii. Any incident of hazing
 - iii. Behaviour that constitutes abuse, Maltreatment, Harassment, Sexual Harassment, or Sexual Misconduct
 - iv. Major incidents of physical violence (e.g., fighting, attacking)
 - 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 the SRA's image, credibility, or reputation
 - viii. Consistent disregard for the SRA's bylaws, policies, rules, and regulations
 - ix. Major or repeated violations of the *Code of Conduct and Ethics*, *Social Media Policy*, *Athlete Protection Policy* or the Rules of Racing
 - x. Intentionally damaging the SRA's property or improperly handling the organization's monies
 - xi. Abusive use of alcohol or any other intoxicating substance, any use or possession of alcohol or any other intoxicating substance by Minors, or use or possession of illicit drugs and narcotics
 - xii. A conviction for any *Criminal Code* offense
 - In accordance with and by an independent investigator appointed pursuant to the *Investigations Policy – Discrimination, Harassment and Maltreatment*;
 - Where the Independent Third Party considers that there is a need for an independent assessment to determine whether an allegation or, where there are several allegations, which allegations, should be heard by a discipline panel pursuant to this Policy because they constitute a likely breach of the *Code of Conduct and Ethics*, the *Social Media Policy*, the *Athlete Protection Policy*, or any other relevant and applicable SRA policy, or whether the allegations frivolous, vexatious or made in bad faith;⁴ and

³ The Independent Third Party may also direct that an investigation be conducted if the following incidents have repeatedly occurred:

- i. Disrespectful conduct or behaviour
- ii. Minor acts of physical violence, unless the physical violence is between a Person in Authority and a Vulnerable Individual, in which case the matter will fall within the enumerated list in the first bullet point of Section 22
- iii. Conduct contrary to the values of the SRA
- iv. Non-compliance with the SRA's policies, procedures, rules, or regulations
- v. Minor violations of the *Code of Conduct and Ethics*, *Social Media Policy*, *Athlete Protection Policy* or the Rules of Racing

⁴ Please see footnote 2, modified accordingly for the circumstances of an investigation.

- For the purpose of making non-binding recommendations to the Independent Third Party so that they may discharge their responsibilities pursuant to this Policy.

If the Independent Third Party considers that an independent investigation must be conducted for the reasons mentioned above, the investigation shall be conducted before any disciplinary procedures are commenced pursuant to this Policy; however, when an investigation is conducted and where it is necessary in the circumstances, interim measures may be imposed in accordance with Section 6.

Upon receipt of the investigator's report, the Independent Third Party shall determine whether the matter will proceed pursuant to Sections 23 and below and shall inform the Parties and the SRA.

If the Independent Third Party does not consider that an independent investigation is necessary and the Reported complaint has been accepted pursuant to Section 16, the matter shall proceed pursuant to Sections 23 and following below.

Case Manager

23. If the Independent Third Party determines that the Reported complaint or incident should be referred to a Case Manager appointed by SRA pursuant to Section 19 above, the SRA shall appoint a Case Manager to fulfil the responsibilities listed in Sections 24 and following. Any determinations made by the Case Manager must be followed by the SRA and/or the relevant club(s), as applicable.
24. The Case Manager appointed by the SRA will have the responsibility to:
 - a) Propose the use of the *Dispute Resolution Policy* (if considered appropriate in the circumstances);
 - b) Appoint the discipline panel, if necessary;
 - c) Coordinate all administrative aspects and set timelines;
 - d) Provide administrative assistance and logistical support to the discipline panel as required, including providing the discipline panel with any information related to previously established infractions committed by the Respondent(s) of the policies of RCA, the SRA or any other Member or any other sport organization that had authority over the Respondent;
 - e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding;
 - f) Liaise with the RCA's Independent Third Party and to Sask Sport to communicate outcomes of complaints for record keeping purposes.

Procedures

25. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
26. If appropriate in the circumstances, the Case Manager will propose that the Parties use 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, which shall consist of a single Arbitrator, to hear the Reported complaint. In extraordinary circumstances, and at the discretion of the Case Manager, a discipline panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the discipline panel's members to serve as the Chair.
27. The Case Manager, in cooperation with the discipline panel, will then decide the format under which the Reported complaint will be heard. This decision may not be appealed.

28. 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 discipline panel determines procedures and timelines, as well as a hearing duration, that is as expedient and cost-efficient as possible in order to ensure that costs to the Parties and the SRA are reasonable
 - b) 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
 - c) 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
 - d) The Parties may engage a representative, advisor, translator, transcription services, or legal counsel at their own expense
 - e) The discipline panel may request that any other individual participate and give evidence at the hearing
 - f) If not a Party, the SRA and the club(s) of the Respondent(s) shall be allowed to attend the hearing as an observer and will be provided with access to any documents submitted. With the permission of the discipline panel, the SRA and the relevant club(s) may make submissions at the hearing or may provide the discipline panel with clarifying information that may be required for the panel to render its decision⁵
 - g) The discipline panel may allow as evidence at the hearing any oral evidence and document or item relevant to the subject matter of the Reported complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
 - h) Where a discipline panel composed of three members is appointed, the decision will be by a majority vote
29. 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.
30. The hearing may proceed even if a Party chooses not to participate in the hearing.
31. 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 a Party to the complaint and will be bound by the decision.
32. In fulfilling its duties, the discipline panel may obtain independent expert advice.

Decision

33. 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. If the discipline panel considers that an infraction has not occurred, the Reported complaint will be dismissed.
34. 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, to RCA, to SaskSport, and the SRA (including the

⁵ The purpose of this provision is not to provide the SRA or the relevant club(s) with the possibility to try to influence whether a sanction is imposed and, if so, the duration or nature of the sanction. Instead, this provision is intended to provide the SRA and/or the relevant club(s) with the possibility to provide the discipline panel with clarifying information when the parties have sought a particular sanction against an Individual, but they have misunderstood or misrepresented fundamental elements of the programming or membership structure (or other similar issues) and, if left unaddressed, could result in the discipline panel imposing a sanction that is unenforceable.

Respondent's Club). 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.

35. Subject to Section 36 below, the discipline panel's decision will be considered a matter of public record unless decided otherwise by the discipline panel. However, the Parties may request that the discipline panel redact all or part of the decision. This decision shall be at the discipline panel's sole discretion and may not be appealed.
36. If the discipline panel dismisses the Reported complaint, its decision may only be published with the Respondent's consent. If the Respondent does not provide such consent, the decision will be kept confidential by the parties, the Case Manager, RCA, SaskSport, and the SRA (including the Respondent's Club) and shall be retained and discarded in accordance with the relevant and applicable privacy legislation.

Sanctions

37. The discipline panel may apply the following disciplinary sanctions, singularly or in combination:
 - a) Verbal or written reprimand
 - b) Verbal or written apology
 - c) Service or other contribution to the SRA
 - d) Removal of certain privileges
 - e) Suspension from certain teams, Events, and/or activities
 - f) Payment of the cost of repairs for property damage
 - g) Suspension of funding from the organization or from other sources
 - h) Expulsion from the SRA or the Respondent's club
 - i) Any other sanction considered appropriate for the offense

Where the discipline panel imposes a sanction, its order shall include, at a minimum, the following details:

- which Party is responsible for the costs of implementing any sanction, unless otherwise addressed within RCA or SRA policy guidance;
- which organization is responsible for monitoring that the sanctioned Individual respects the terms of the sanction imposed against them;
- if applicable, any reinstatement conditions that the sanctioned Individual must satisfy and which organization is responsible for ensuring that the conditions have been satisfied; and
- any other guidance that will assist the Parties to implement the panel's decision.

If necessary, a Party – or the organization that is responsible for implementing or monitoring a sanction – may seek clarifications from the panel regarding the order so that it can be implemented or monitored appropriately.

38. The following sanctions are presumed to be fair and appropriate for the Maltreatment listed below, although the Respondent may rebut these presumptions:
 - a) Sexual Maltreatment involving a Minor shall carry a presumptive sanction of a lifetime suspension;
 - b) Sexual Maltreatment, Physical Maltreatment with contact and Maltreatment related to Process shall carry a presumptive sanction of either a suspension or eligibility restrictions;
 - c) While a Respondent has pending charges or dispositions in violation of criminal law, the presumptive sanction shall be a period of suspension.

39. When determining an appropriate sanction in cases of Maltreatment, the discipline panel may consider the following factors:

- 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;
- 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 investigation and disciplinary process;
- f) Real or perceived impact of the incident on the Complainant, RCA or the SRA or the rowing community;
- g) Circumstances specific to the Respondent being sanctioned (i.e., lack of appropriate knowledge or training regarding the requirements in RCA or the SRA's policies, addiction, illness, disability);
- 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;
- j) Other mitigating or aggravating circumstances.

Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.

40. When imposing sanctions under this Policy, the discipline panel may take into account any previously established infractions committed by the Respondent(s) of the disciplinary policies of RCA, the SRA or any other Member or any other sport organization that had authority over the Respondent.

41. 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 participation in the activities of RCA, the SRA and all other Members until such time as compliance occurs.

42. Records of all decisions will be maintained by RCA and the SRA. The SRA will submit all records to RCA. Such records shall be retained and discarded in accordance with the relevant and applicable privacy legislation.

Appeals

43. The decision of the discipline panel may be appealed in accordance with the *Appeal Policy*.

Suspension Pending a Hearing

44. The SRA may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of an investigation, criminal process, the hearing, or a decision of the discipline panel.

Criminal Convictions

45. An Individual's conviction for a *Criminal Code* offense will be deemed an infraction under this Policy and may, if justified by the seriousness of the criminal conviction, result in a suspension from the sport of rowing at all levels in Canada.

Confidentiality

46. The discipline and complaints process is confidential and involves only the SRA (Executive Director and relevant staff as determined by the CEO), the Parties, the Case Manager, the Complaint Resolution Officer, the discipline panel, and any independent advisors to the discipline panel. Once initiated and until a decision is rendered, none of the Parties will disclose confidential information relating to the discipline or Reported complaint to any person not involved in the proceedings.

47. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Complaint Resolution Officer or discipline panel (as applicable) against the Party(ies) in breach.

Timelines

48. If the circumstances of the Reported 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

49. Other individuals or organizations, including but not limited to, national sport organizations, Provincial/Territorial sport organizations, local sport organizations, etc., may be advised by RCA or the SRA of any decisions rendered in accordance with this Policy.

Privacy

50. The collection, use and disclosure of any personal information pursuant to this Policy is subject to the SRA's [Privacy Policy](#).

51. The SRA or any of its delegates pursuant to this Policy (i.e., Independent Third Party, Case Manager, discipline panel), shall comply with the SRA's Privacy Policy in the performance of their services under this Policy.

Discipline and Complaints Policy Flowchart

Complainant files complaint to Independent Third Party (ITP)

The Independent Third Party's contact information can be found on RCA's website:
<https://rowingcanada.org/safe-sport/>

Screening of Complaint

The ITP shall:

- determine whether the complaint falls within the jurisdiction of this Policy;
- if it can be accepted pursuant to Section 13; and
- whether it is either a frivolous or vexatious complaint, or if it has been made in bad faith.

Case Dismissed

The case is dismissed if the ITP determines the case is frivolous or falls outside of policy jurisdiction. Complainant will be advised of reasons for dismissal.

Case Accepted

- The Case Manager will propose to the parties the Alternate Dispute Resolution Policy with the objective of resolving the dispute.

Alternate Dispute Resolution Policy

1. SRA supports Individuals in seeking to resolve their own conflicts and recognize that, in many cases, disputes can be resolved directly and quickly in an informal way.
2. If all Parties to a dispute agree to ADR, a mediator or facilitator, acceptable to all Parties, shall be appointed to mediate or facilitate the dispute.
3. The mediator or facilitator shall decide the format under which the dispute shall be mediated or facilitated and may, if they consider it appropriate, specify a deadline before which the Parties must reach a negotiated decision.
4. If a negotiated decision is reached, the decision will be reported to the SRA.
5. If a negotiated decision is not reached, the complaint will be referred back to the Discipline and Complaints Policy for a Formal Hearing Procedure.
6. Any negotiated decision will be binding on the parties and not subject to appeal.

Formal Hearing Procedure (Alternate Dispute Resolution Unsuccessful or Denied)

1. The Case Manager appointed by SRA:
 - a) Appoint a Discipline Panel
 - b) Coordinate all administrative aspects and set timelines
 - c) Provide administrative assistance and logistical support to discipline panel
 - d) Ensure all evidence and submissions are disclosed to all parties and the Panel
 - e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding;
 - f) Liaise with the RCA's Independent Third Party and to Sask Sport to communicate outcomes of complaints for record keeping purposes as provided for in the Discipline and Complaints Policy.
2. The Panel:
 - a) May request other Individuals participate in the hearing
 - b) will determine what is or is not evidence
 - c) will render a written decision within 14 days of the completion of the hearing
 - d) Distribute the decision to the Case Manager who will distribute the decision in accordance with the Discipline and Complaints Policy
3. Decisions may be appealed in accordance with the Association's Appeal Policy