



Policy title:	Discipline and Complaints Policy: Discrimination, Harassment or Violence	
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<p>This Policy has been prepared by Canada Artistic Swimming (CAS) and is applicable to CAS, its Members and Affiliated Organizations. This document cannot be modified without consultation with and approval by CAS.</p>		

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Definitions

1. The following terms have these meanings in this Policy:
 - a. "Activity" – All business and activities of the Organization;
 - b. "Affiliated Organization" – Any recreational or competitive club or league that delivers artistic swimming programs and has fulfilled the requirements of registration as required by CAS or the PTSO and has paid any associated registration fees to CAS or the PTSO;
 - c. "Board" – The Board of Directors of CAS, a CAS Member or Affiliated Organization, as applicable;
 - d. "CAS" – Canada Artistic Swimming;
 - e. "Case Manager" – An individual appointed by the Organization to administer certain complaints under this *Discipline and Complaints Policy*;
 - f. "CEO" – the CAS Chief Executive Officer;
 - g. "Complainant" – The Party reporting possible misconduct, or making a complaint;
 - h. "Days" – Days including weekends and holidays;
 - i. "Discipline Panel" – An individual or individuals appointed to handle the duties of the Discipline Panel as described in this Policy;
 - j. "Including" – Including but not limited to;
 - k. "Individuals" – Any organization or individual that has fulfilled the requirements of registration as required by CAS as well as all individuals engaged in Activity with CAS or its Members or Affiliated Organizations. A complete list of Registrant categories can be found in the CAS *Registration Policy*;
 - a. "Member" – Any PTSO registered with CAS;
 - b. "Minor" – A person under the age of 18 years or, where applicable, a person who is under the age of majority and meets the definition of a child for the purposes of protection in the province or territory where the alleged misconduct occurred;
 - c. "Organization" – The organization to which this Policy applies and includes CAS and its Members and Affiliated Organizations;
 - d. "Party or Parties" – The Complainant, Respondent and any other Individuals or persons affected by the complaint;
 - e. "Person in Leadership" – The CEO, Chief Sport Officer or any CAS board member or Executive Director or any PTSO board member;
 - f. "President" – The President of CAS or a CAS Member or Affiliated Organization, as applicable;
 - g. "PTSO" – A Provincial or Territorial Sport Organization that is responsible for the management of artistic swimming within its provincial or territorial boundaries;
 - h. "Respondent" – The Party or Parties responding to the Complaint;
 - i. "Safe Sport Officer" – An individual or individuals appointed by an Organization to serve as an independent third-party to receive and review certain complaints under this *Discipline and Complaints Policy*; and
 - j. "Vulnerable person" – Persons who, because of age, disability, or other circumstances, whether temporary or permanent are in a position of dependence on others or are otherwise

at a greater risk than the general population of being harmed by a person in a position of authority or trust relative to them including minors and people with physical, developmental, or other disabilities.

Purpose

2. Individuals are expected to fulfill certain responsibilities and obligations including complying with the Organizations by-laws, policies and rules including the *CAS Conduct Policy*. Non-compliance may result in sanctions under this Policy.
3. This Policy sets out the discipline and complaint process for complaints relating to an alleged misconduct that contains an element of discrimination, harassment or violence, as defined in the *CAS Conduct Policy*.

Application

4. This Policy applies to all Individuals.
5. This Policy applies at all times, wherever an Activity takes place, which includes the Organization's offices as well as external locations in Canada and abroad. Activity includes:
 - a. Meetings of the Organization's board of directors and all committee or coach meetings;
 - b. Annual Meetings, Special Meetings, hosted conferences or clinics;
 - c. Participation in sanctioned competitions including related training and organized group travel; and
 - d. All selection and assessment processes and regular training or practice time, whether inside or outside Canada.
6. This Policy also applies to Individuals' conduct outside of the Organization's Activity when such conduct adversely affects relationships within the Organization and its work and sport environment or is detrimental to the integrity, image and reputation of the Organization. Such applicability will be determined by the Organization at its sole discretion.
7. A CAS, CAS Member or Affiliated Organization employee who is a Respondent under this Policy is also subject to provincial or territorial employment standards and sanctions under the Organization's Human Resources Policy and Employment Agreement, as applicable. Violations may result in a warning or reprimand, restrictions, demotion, suspension, or other disciplinary action up to and including termination of employment.

Organizational Commitment

8. Individuals will cooperate with any investigation of concerns of alleged misconduct under this Policy by providing honest, accurate, complete and timely information.

9. CAS expects all CAS Members, Affiliated Organizations, Persons in Leadership and employees to understand the Organization's complaint process and to assist Individuals who wish to make a report.
10. CAS, its Members and Affiliated Organizations are committed to providing a safe work and sport environment to all Individuals, which includes providing access to an independent, third party Safe Sport Officer whose role is to guide Individuals through the complaint process or explore other options. Complaints may be shared by the Safe Sport Officer with other designated third-party case managers who form part of the Safe Sport triage team.

Provincial Exceptions

11. This Policy recognizes that jurisdictions across Canada may have legislation that governs the management of certain complaints within their jurisdiction. Government legislation may supersede aspects of this Policy.

Reporting

12. Any Individual may:
 - a. Contact the designated Safe Sport Officer at safesportofficer@safesportagency.ca for information or to initiate a complaint relating to alleged misconduct that contains an element of discrimination, harassment or violence. This person is an independent third party who can guide an Individual through the complaint process or explore other options for resolution. Contact with the Safe Sport Officer is confidential, subject to certain legal limits that will be explained by the Safe Sport Officer; or
 - b. Report possible misconduct to CAS, a CAS Member or Affiliated Organization, as applicable. Any allegation that contains an element of discrimination, harassment or violence will be referred by the Organization to the designated Safe Sport Officer.
13. Unless otherwise agreed, where an Individual reports possible misconduct to CAS or a CAS Member, the Individual must first have exhausted any internal complaint resolution process provided by the policies of the Affiliated Organization. Similarly, where an individual reports possible misconduct to CAS, the Individual must first have exhausted any internal complaint resolution process provided by the policies of the CAS Member. For the avoidance of doubt, an Organization's internal complaint resolution process is deemed exhausted when:
 - a. The Organization has rendered a final decision; or
 - b. The Organization has failed to apply the complaint resolution process.
14. In the event the Safe Sport Officer receives a report and believes the internal complaint resolution process provided by the policies of the Affiliated Organization or CAS Member has not been exhausted, the Safe Sport Officer may redirect the matter to be addressed by the appropriate Organization.

15. Reports should be made in writing and should identify the Respondent and set out the relevant information or evidence. The Individual making the report may contact the designated Safe Sport Officer or Organization for direction and support.
16. The Safe Sport Officer may accept any report of alleged misconduct that contains an element of discrimination, harassment or violence, in writing or not, at their sole discretion.
17. Reports may be made anonymously, however an anonymous report may limit the Organization's ability to investigate and respond appropriately to the report.
18. The Organization may act as the Complainant and initiate the reporting process under the terms of this Policy. In such cases, the Organization will identify an individual to represent the Organization.

Resolution Procedures

Safe Sport Officer Responsibilities

19. The Safe Sport Officer has the following responsibilities:
 - a. Receive and acknowledge receipt of the report to the Complainant;
 - b. Conduct a preliminary inquiry, which may include interviewing the Complainant, Respondent and any witnesses;
 - c. Produce a written summary of interviews, if any;
 - d. Determine whether the alleged misconduct is within the jurisdiction of the policies and rules of the Organization and contains an element of discrimination, harassment or violence as defined in the *CAS Conduct Policy*;
 - e. Determine the jurisdiction between CAS, the CAS Member, or Affiliated Organization; and
 - f. Determine whether to accept the complaint and, if so, whether they will perform the role of Case Manager or appoint another Case Manager to administer the complaint process.
20. If the Safe Sport Officer determines the report does not contain sufficient information or evidence, is frivolous or vexatious, or is outside the jurisdiction of the policies and rules of the Organization, the matter will be dismissed immediately, and the Safe Sport Officer will advise the Complainant and Organization of the decision.
21. If the Safe Sport Officer determines the alleged misconduct is within the jurisdiction of the policies and rules of the Organization but does not contain an element of discrimination, harassment or violence, the matter will be redirected to the Organization for resolution.
22. The Safe Sport Officer's decision to accept the complaint, redirect, or dismiss the matter is final and may not be appealed.

Case Manager Responsibilities

23. Following the decision to accept the complaint, the Safe Sport Officer will appoint a Case Manager to administer the complaint process. The Case Manager must not have a significant relationship with any of the Parties to the appeal or otherwise have a real or perceived conflict

of interest. The Safe Sport Officer may, in their discretion, choose to perform the role of Case Manager.

24. The Case Manager has the following responsibilities:
- a. Coordinate all administrative aspects and set timelines that ensure procedural fairness;
 - b. Inform the Complainant of the decision to accept the complaint;
 - c. Recommend to the Organization any interim measures that may be appropriate during the complaint process;
 - d. Inform the Respondent in writing of the complaint;
 - e. Propose the use of alternate dispute resolution techniques, if applicable;
 - f. Appoint a third-party Investigator, if necessary;
 - g. Appoint a Discipline Panel, if necessary;
 - h. Provide administrative support to the Discipline Panel as required;
 - i. Inform the Complainant, Respondent and Organization of the final decision and any sanctions; and
 - j. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.
25. All costs associated with management of complaints including the use of alternate dispute resolution techniques or third-party investigation are to be borne by the Organization maintaining jurisdiction.

Interim Measures

26. This Policy allows for interim measures to be applied at any time pending completion of the complaint process. Further discipline and sanctions may be applied according to this Policy. Generally, interim measures are applied based on the severity of the allegation(s), the evidentiary support for the allegation, or the perceived risk to the Complainant, the Organization, or the sport community.
27. Interim measures may include altering training schedules, requiring chaperones, implementing contact limitations, and suspensions from participation in some or all aspects of sport Activity. If measures require monitoring or chaperoning, the Respondent who is subject to the interim measure may be required to locate, arrange and pay for some or all of those services as a condition of continued participation pending completion of the complaint process.
28. Interim measures shall be effective immediately upon notice to the Respondent, unless stated otherwise. Interim measures will remain in effect until the Organization expressly modifies or removes the interim measures.
29. In instances where an interim measure materially affects the right to participate in sport Activity (e.g., a suspension), the Respondent who is subject to the interim measure may challenge the measure in accordance with the *CAS Appeal Policy*.

Notice to the Respondent

30. The Case Manager will notify the Respondent in writing of the complaint including a summary of the allegations, any relevant documents submitted as part of the complaint and any interim measures required during the complaint process.
31. The Respondent will be given an opportunity to provide information and relevant evidence, to identify witnesses who may have relevant information, and to submit a written response to the allegations.

Consolidation

32. Complaints that involve more than one Complainant, or more than one Respondent may, in the Case Manager's discretion, be consolidated into a single matter.

Informal Resolution

33. A Respondent may elect to resolve an allegation of misconduct by acknowledging the facts of the complaint and accepting responsibility for a policy violation. By doing so, the Respondent provides for the opportunity to resolve the matter informally, and a Discipline Panel will determine the appropriate sanction.

Alternate Dispute Resolution

34. The Case Manager may propose using alternate dispute resolution techniques such as mediation or a negotiated settlement with the objective of resolving the dispute. If the dispute is not resolved, or if the Parties refuse to attempt alternate dispute resolution, the Case Manager will appoint a Discipline Panel.

Third-party Investigation

35. The Case Manager may propose referring the matter to a third-party Investigator. The Investigator shall ordinarily:
 - a. Obtain a written response to the allegations and evidence from the Respondent;
 - b. Interview the Complainant, Respondent and any witnesses identified by either the Complainant or Respondent;
 - c. Produce a written summary of the interviews (e.g., produce witness statements);
 - d. Gather additional relevant information or evidence; and
 - e. Produce a written investigation report.
36. At the conclusion of the investigation, the Investigator shall prepare an investigation report in which the Investigator shall review the complaint and determine whether the factual allegations in the complaint have been established on a balance of probabilities.

Discipline Panel

37. The Case Manager may appoint a Discipline Panel who will review the written submissions and any relevant evidence including the investigation report, if applicable, and determine whether a policy violation occurred and, if so, the appropriate sanction(s).

38. The Discipline Panel will consist of one (1) or three (3) persons to hear the complaint. None of the persons hearing the complaint may have been previously involved in the matter, have a significant relationship with any of the Parties to the complaint or otherwise have a real or perceived conflict of interest.
39. In the case of a three (3) person Discipline Panel:
- a. The Panel's members shall select a Chair;
 - b. A quorum will be all three (3) Panel members; and
 - c. Decisions will be by majority vote, where the Chair carries a vote.
40. The Discipline Panel may request administrative support from the Case Manager.
41. The Discipline Panel, in cooperation with the Case Manager, will determine the format of the disciplinary process, which may involve a hearing based on written submissions, an oral in-person hearing, an oral electronic hearing, or a combination of these methods. This decision may not be appealed. The hearing will be governed by the procedures that 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 oral in-person or electronic hearing;
 - b. Copies of any written documents the Parties wish to have the Discipline Panel consider will be provided to all Parties 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; and
 - 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.
42. Should a Party choose not to participate in the hearing, the hearing will proceed in any event.
43. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

44. After hearing the matter, the Discipline Panel will reach a decision on whether a policy violation has occurred and if it has, what the sanction should be. The Discipline Panel will issue a written decision, including reasons, for distribution to the Complainant, Defendant and Organization.

Sanctions

45. Any sanction imposed against an Individual must be proportionate and reasonable, relative to the misconduct that has occurred, considering any previous disciplinary actions. However, progressive discipline is not required as a single occurrence of misconduct can lead to a very significant sanction.
46. The Discipline Panel may apply one or more of the following sanctions:

- a. Verbal or written reprimand, or an official, written notice that an Individual has violated the CAS *Conduct Policy* and that more severe sanctions will result should the Individual be involved in other violations;
 - b. Educational sanctions such as a requirement for a verbal or written apology or completion of an educational or other program;
 - c. Service or other voluntary contribution to CAS, the CAS Member or Affiliated Organization;
 - d. Payment of the cost of repairs for property damage;
 - e. Suspension of funding from the Organization or from other sources;
 - f. Removal of certain privileges or other conditions, restrictions, or requirements for a specified period of time;
 - g. Probation for a specified period of time during which, should any further policy violations occur, additional sanctions will be applied likely including a period of suspension or permanent ineligibility;
 - h. Suspension, either for a specified period of time or until further notice, from participation in Activity in any capacity, in any program, practice, or competition;
 - i. Demotion;
 - j. Termination of employment or contract;
 - k. Expulsion from the Organization and permanent ineligibility to participate in any capacity in Activity;
 - l. Publication of the decision; and
 - m. Any other sanction considered appropriate for the offence.
47. Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision will be distributed to the Complainant, Respondent and Organization. In extraordinary circumstances, the Discipline Panel may 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. Any sanctions will take effect immediately notwithstanding a request for appeal.
48. Failure to comply with sanctions as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.

Considerations

49. Factors relevant to determining appropriate sanctions include:
- a. The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the misconduct and cooperation in the complaint process;
 - b. The ages of the individuals involved;
 - c. The Respondent's prior history and any pattern of inappropriate behaviour or misconduct;
 - d. Whether the Respondent poses an ongoing or potential threat to the safety of others;
 - e. Real or perceived impact of the incident on the Complainant, the Organization or the sporting community;
 - f. A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and
 - g. Other mitigating and aggravating circumstances.

50. 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.

Right to Withdraw from Further Action

51. A Complainant has the right to withdraw from any further action in connection with a complaint at any stage, even though the Organization might continue to investigate a complaint of a serious nature.

Appeals

52. The decision of the Discipline Panel may be appealed in accordance with the *CAS Appeal Policy*.

Adult Representative

53. Complaints may be brought for or against an Individual who is a minor or other vulnerable person. Such individuals may have a parent or other responsible adult serve as their representative during the complaint process.

54. Communication from the Safe Sport Officer, Case Manager or Discipline Panel, as applicable, will include the adult representative.

55. A minor or other vulnerable person may not be required to attend an oral in-person or electronic hearing, if held.

Confidentiality

56. CAS, its Members and Affiliated Organizations recognize that it may be extremely difficult for a person to come forward with a complaint, and also that it may be devastating for a person to be accused wrongly of misconduct. The Organization will endeavor to keep all complaints under this Policy confidential, except where disclosure is required by law or is in the best interests of the public.

57. Once initiated and until a decision is released, none of the Parties to a complaint will disclose confidential information about a complaint to any person not involved in the proceedings. Non-compliance may result in sanctions under this Policy.

58. When required, the CEO, Executive Director, or in the case of an Affiliated Organization, President will act as the sole spokesperson for the Organization.

Suspension Pending Other Proceedings

59. If the circumstances giving rise to a complaint under this Policy independently give rise to proceedings before a Human Rights Tribunal or to proceedings in the courts or to the laying of a

criminal charge, the Organization may suspend any action under this Policy until such proceedings are concluded.

60. While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive sanction shall be a period of suspension.

Criminal Convictions

61. An Individual's conviction for a *Criminal Code* offense will be deemed an infraction under this Policy and will result in immediate expulsion from the Organization. *Criminal Code* offences include:
- a. Any child pornography offences;
 - b. Any sexual offences;
 - c. Any offence of physical or psychological violence;
 - d. Any offence of assault; and
 - e. Any offence involving trafficking of illegal drugs or substances listed on the Canadian Anti-Doping Program's Prohibited List.

Records and Distribution of Decisions

62. Records of all decisions and sanctions will be maintained by the Organization maintaining jurisdiction.
63. CAS Members and Affiliated Organizations will disclose all decisions and sanctions to CAS.
64. The Organization may advise other individuals or organizations, including national sport organizations, PTSOs, the Coaching Association of Canada (CAC) where the infraction involves a coach, etc., of any decisions and sanctions rendered in accordance with this Policy.
65. CAS will maintain a Canadian, publicly-available, searchable database of Individuals who have been sanctioned by or whose eligibility has in some way been restricted by the Organization.
66. Decisions on how and when to disclose will be made on a case-by-case basis and will be in the best interest of the Organization.

Alignment

67. CAS Members and Affiliated Organizations will disclose all decisions and sanctions to CAS. Affiliated Organizations will also disclose all decisions and sanctions to the applicable PTSO. CAS or the PTSO may choose to take further action at its sole discretion.
68. Where CAS or the PTSO decides to take further action upon becoming aware of an Individual who has been disciplined under this Policy, the Individual will be the Respondent to this new complaint. CAS or the PTSO may act as the Complainant if the original Complainant is unwilling or unavailable to participate in this process.

69. The Case Manager and Discipline Panel, as applicable, will review and consider the decision by the CAS Member or Affiliated Organization, as applicable, when deciding on the further complaint under the terms of this Policy.

Communication

70. CAS, its Members and Affiliated Organizations will ensure that information about how and where complaints may be made is well publicized, including on Organization websites.

71. CAS, its Members and Affiliated Organizations will ensure that this Policy is communicated to those who will be responsible for upholding it as well as those who will be responsible for its implementation.

Review

72. CAS will conduct a review of this Policy every two (2) years or as decided by the CEO or CAS Board. Every time the Policy is reviewed or amended, CAS shall ensure CAS Member input is considered.