



## Membership Complaints, Investigation and Hearing Procedures

*Note: The attached policy is a Skate Canada policy that is followed by member Sections of Skate Canada. The Board of Skate Ontario has reviewed and approved the content*

**Effective Date: August 20, 2015**

**Revised Date: July 15, 2015**

### APPLICATION OF PROCEDURE

1. These procedures apply to the initiation and conduct of proceedings taken under the Membership Complaints Policy (“Complaints Policy”).
2. These procedures may be modified by Skate Canada or the Hearing Panel in whole or in part to suit the circumstances of a particular case.

### COMPLAINTS

3. A complaint can only be made against a registrant of Skate Canada. For the purposes of this procedure “registrant” includes anyone that:
  - (a) was a registrant at the time of the conduct that is the subject of the complaint; or,
  - (b) was a registrant during the 12 month period preceding delivery of the complaint.
4. A complaint may be initiated by:
  - (a) Skate Canada;
  - (b) any registrant of Skate Canada;
  - (c) any person who was a registrant of Skate Canada within 12 months preceding delivery of the complaint;
5. Complaints must be in writing, dated and signed by the complainant.
6. Complaints should contain as much information as possible about the conduct which is the subject of the complaint.
7. An individual who files a complaint has the responsibility to:
  - (a) provide details of the dates, times, and locations of the incident(s), names of any witnesses to the incident(s), and a detailed description of the offensive behaviour or misconduct; and

(b) refrain from discussing the fact that a complaint has been filed, or the allegations contained in the complaint, except with his or her representative or legal counsel, or except as directed by Skate Canada.

(c) deliver the complaint as soon as reasonably possible following the incident(s) or conduct which are the subject matter of the Complaint.

8. Complaints shall be delivered by e-mail to the Safe Sport department at safesport@skatecanada.ca

9. Where the above requirements of the procedure and policy are met, Skate Canada may refer the complaint to a Hearing Panel.

10. Alternatively, Skate Canada may refer the complaint to be investigated where it considers that an investigation is warranted.

11. Both the Complainant and the person who is the subject of the complaint (the "Respondent") will be notified by Skate Canada in writing that the complaint will proceed. The Respondent will be provided with a copy of the complaint.

#### CONFIDENTIALITY

12. No person is permitted to disclose either the existence of a complaint or information or records that form part of the investigation of the complaint, except for the purposes of complying with the objectives of the Complaints Policy and these procedures.

13. Section 12 does not apply to final determinations of the Hearing Panel and the Appeal Panel.

#### SUSPENSION PENDING INVESTIGATION OR HEARING

14. Pending an investigation or hearing, if Skate Canada considers the action necessary to protect the registrants of Skate Canada or to otherwise fulfill the purposes of the Complaints Policy, or to ensure the integrity of any investigation or hearing process, it may, with or without notice to the Respondent:

(a) set limits or conditions on the Respondent's membership; or,

(b) suspend the membership of the Respondent.

#### DISPUTE RESOLUTION BODIES

15. Two bodies may be appointed to resolve disputes under the Complaints Policy: an Investigator and/or a Hearing Panel.

#### Investigator

16. Where warranted, investigations will be conducted by an investigator/s appointed by Skate Canada. The investigator/s may be retained from outside Skate Canada. The responsibilities of the Investigator are:

(a) to gather information relating to disputes; and

(b) to prepare a report on the investigation for Skate Canada.

17. All registrants of Skate Canada, including the Respondent, must cooperate with an investigation under this section. Failure to cooperate with an investigation may result in a complaint against the registrant.

18. Skate Canada shall determine whether a hearing is required, based on the Investigator's report.

#### Hearing Panel

19. The Hearing Panel shall be composed of a member or members appointed by Skate Canada. Skate Canada may retain panel members from outside of Skate Canada, including professional arbitrators, to conduct a hearing.

20. The Hearing Panel shall consist of one or three persons. In the case of a three-person Panel, the Panel shall select one of its members to be the Chairperson.

21. In the case of a three-person Hearing Panel, the Panel shall render, at a minimum, a majority decision.

22. Should a hearing be required, the responsibility of the Hearing Panel is to provide a fair hearing. Characteristics of a fair hearing may include:

(a) Notice of the hearing;

(b) Knowledge of the case to be met;

(c) A right to hear or see all information provided to and considered by the Hearing Panel;

(d) An opportunity to provide information and arguments;

(e) If an oral hearing is conducted (rather than a hearing based solely on written submissions and documents), the right to question witnesses;

(f) An unbiased panel who will hear and consider all relevant information;

(g) Written reasons for the Hearing Panel's decision.

23. The Hearing Panel shall have the power to establish its own procedures. The Panel may take such steps and conduct the proceedings as considered necessary or desirable by the Panel to avoid delay and achieve a just, speedy and cost-effective resolution of the dispute.

#### SELECTION OF HEARING PROCEDURE

24. Skate Canada shall determine whether a hearing is required. If Skate Canada determines that a hearing is not required, the matter shall be considered resolved and the Respondent shall not be subject to any penalty.

#### Documentary Hearing

25. A documentary hearing may be held in cases where the misconduct would result in disciplinary consequences other than suspension or expulsion of the registrant from Skate Canada or any other penalty listed in section 47 of these procedures.

26. Where the case is appropriate for a documentary hearing and meets the criteria in section 25, the parties shall be:

(a) informed that a Hearing Panel has been established;

(b) informed of the complaint to be heard;

(c) provided with copies of the Complaints Policy and these procedures;

(d) invited, within a time specified by the Hearing Panel, to provide documentary evidence and make written submissions on information or arguments relevant to the Panel's deliberations;

(e) informed of the decision of the Hearing Panel.

#### Oral Hearing for Major Misconduct

27. If the Hearing Panel considers the alleged misconduct to be major misconduct which could result in the registrant being suspended or expelled from Skate Canada, or subject to any other penalty listed in section 52 of these procedures, the parties shall have the right to be heard in person.

#### Reassessment of Process

28. If, during the course of a documentary hearing, the evidence shows that the Respondent may be guilty of misconduct different from or in addition to any misconduct specified in the Complaint or Notice of Hearing, the Hearing Panel may reassess the hearing process and elect to continue by way of an oral hearing.

29. The Hearing Panel may adjourn the hearing for any period that the Panel considers sufficient to give the Respondent an opportunity to prepare a defence to the amended complaint.

#### Respondent's Election

30. In every case, the Respondent may elect for the proceedings to be conducted in writing. The Respondent must give notice of his or her election within 7 days of receiving the notice of oral hearing.

#### Legal Counsel

31. Parties may be represented by legal counsel at their own expense.

### PROCEDURES FOR ORAL HEARING

#### Time, Place and Date of Hearing

32. The time, place and date of hearing shall be determined by the Hearing Panel.

33. A Notice of Hearing shall be delivered to the Respondent no less than 14 days before the commencement of the hearing. The Notice of Hearing shall include a statement of the matters to be inquired into and a copy of these procedures and the Complaints Policy.

34. The date of the hearing may be adjourned prior to the commencement of the hearing, from time to time, by the Chair of the Hearing Panel on application of either of the parties.

#### Conduct of the Hearing

35. Unless otherwise directed by the Hearing Panel, the hearing will be in camera.
36. Skate Canada or the Complainant, and the Respondent may, at their own expense, call witnesses to testify. Witnesses shall be truthful in their testimony and may be subject to examination and cross-examination.
37. The Hearing Panel may:
- (a) Accept any written statement of agreed facts as executed by both the Respondent or Respondent's counsel; and by Skate Canada or Skate Canada's counsel;
  - (b) Admit evidence tendered in a form which is agreed to by both the Respondent or Respondent's counsel and by Skate Canada or Skate Canada's counsel;
  - (c) Admit evidence in any other manner it considers appropriate; and
  - (d) Receive submissions in writing either at the request of the Panel or by agreement of the parties.

#### Experts

38. The Hearing Panel may retain an individual who is an expert on matters at issue in the hearing to advise the Hearing Panel. The expert's advice and any report the expert may create shall be disclosed to the parties.
39. Parties shall be given an opportunity to respond to an expert's evidence.

#### Attendance at the Hearing

40. If the Respondent fails to attend at the hearing, the Hearing Panel may proceed with the hearing of the matter on the date and time specified in the Notice of Hearing without further notice to the Respondent and may make any determination and impose any penalty available to the Hearing Panel, which decision will be final and not subject to appeal.
41. Any registrant of Skate Canada may be required by a Hearing Panel to:
- (a) attend before it at the hearing and give evidence respecting any matter involved in the proceeding; and
  - (b) produce any documents or other thing relevant to the matters being considered.
42. Failure of a registrant to attend a hearing as required by the Hearing Panel may result in disciplinary action against the registrant.
43. Following completion of the evidence, the Respondent and Skate Canada or their counsel may make submissions on the matters inquired into.

#### ACTION FOLLOWING HEARING

##### Decision

44. After a documentary or oral hearing, the Hearing Panel will prepare a written report of its decision and determination regarding penalty (the "Decision"):

45. The Hearing Panel may:
- (a) Dismiss the complaint or any part of it;
  - (b) Determine that the Respondent has committed an offence(s) described under the Complaints Policy.
46. A copy of the Decision shall be delivered to the parties or their counsel and to the Complainant.

#### Penalty

47. Where the Hearing Panel determines that a documentary hearing is appropriate, the penalty may include one or more of the following, on such terms and conditions, if any, as the Hearing Panel considers appropriate. The Hearing Panel may order:
- (a) a verbal apology;
  - (b) a written apology;
  - (c) that a letter of reprimand be placed on the Respondent's membership file;
  - (d) payment of a fine or levy (in money or in volunteer hours);
  - (e) that the Respondent participate in counselling or training.
48. In the case of major misconduct, the Hearing Panel may order:
- (a) that the Respondent's membership in Skate Canada or any one or more of the Respondent's privileges of membership be temporarily suspended or permanently revoked;
  - (b) that the registrant's participation in any Skate Canada Committee, business, skating activity or event (including Committees, business or skating activities or events of registrant organizations) be suspended or cancelled;
  - (c) that the Respondent be granted a right to apply for reinstatement of membership in Skate Canada or on any Committee of Skate Canada on terms and conditions (including but not limited to temporarily suspending any right granted, or requiring the registrant to fulfill certain terms and conditions as a prerequisite to any right granted); and
  - (d) any other penalty that the Panel deems just, including those set out in section 51.

#### APPEAL PROCEDURES

##### Deadline for Notice of Appeal

49. Skate Canada or a registrant who has been found guilty of misconduct may appeal the Decision of the Hearing Panel by delivering a written Appeal Notice addressed to Skate Canada within 14 days of the date of the Decision.

##### Contents of Appeal Notice

50. The Appeal Notice must be dated and signed and must include the specific ground(s) which the Appellant relies upon in the appeal;

#### Appointment of Appeal Panel

51. Upon receiving an Appeal Notice, Skate Canada shall appoint a three person Appeal Panel consisting of at least one registrant of Skate Canada.

#### Scheduling of Appeal

52. Appeals will be in writing. At the discretion of the Appeal Panel, appeals may be done orally or by teleconference.

#### Appeal Procedure

53. For regular Appeals, the written brief of the Appellant must be delivered to the Appeal Panel, care of Skate Canada, no later than 21 days after the Notice of Appeal.

54. The written brief of the Respondent to the Appeal must be delivered to the Appellant and to the Appeal Panel, care of Skate Canada, within 14 days of receipt of the Appellant's brief.

55. The Appellant may deliver a reply submission within 7 days of receipt of the Respondent's brief.

56. The Appeal Panel can vary any of the times set out in this section as required or on application by either party.

#### Decision of Appeal Panel

57. The Appeal Panel has the authority to uphold, set aside, or vary the Decision and/or the penalty and/or any costs assessed by the Hearing Panel.

58. The Appeal Panel shall deliver its decision and reasons to the Appellant and Skate Canada, in writing, as soon as practicable. The Appeal Panel may give its decision orally to be followed by a written decision.

59. Subject to section 63, below, decisions of the Appeal Panel shall be final and binding and shall not be subject to further appeal and shall not be altered or set aside in an application for judicial review or in any other proceeding.

60. Decisions of the Appeal Panel concerning matters that are within the jurisdiction of the Sport Dispute Resolution Centre of Canada ("SDRCC") may be appealed or otherwise referred to the SDRCC for resolution.

#### MEMBERSHIP RECORDS

61. Decisions of the Hearing Panel shall be placed in the membership file of the person against whom the complaint was made.

62. Where there is an Appeal, both the Panel Decision and the Appeal Decision will be placed in the membership file of the Respondent.

#### REINSTATEMENT APPLICATION PROCESS

##### Application

63. Where a registrant has been granted a right to apply for reinstatement of membership in Skate Canada, the following process for application will apply:

(a) The applicant will deliver a written application for reinstatement to the Chair of the Rules/Membership Committee setting out the facts in support of the application.

(b) The Committee will review the application and will deliver its decision (“Reinstatement Decision”), in writing, to the registrant within 14 days of receiving the application. The Reinstatement Decision of the Committee will be final, and there will be no right of appeal.

#### Re-Application

64. A registrant whose previous application for reinstatement has been denied may, after 6 months, re-apply by following the process set out under section 66, if there are new facts or circumstances which support the re-application.