



Dispute Resolution

Policy Section: Board
Policy Subsection: Business and Risk Management
Policy Title: Disputes

Policy Statement

Swimming Canada Natation (SNC) believes in the fair and equitable treatment of all members, athletes, staff and volunteers and non-adversarial dispute resolution. And, in cases where mediation is unsuccessful, supported complaints, disagreements or challenges between athletes, staff and volunteers must be settled through a fair, effective and peaceful dispute resolution.

Purpose

Disputes between members, staff and volunteers will be unavoidable over the course of the direction, administration and management of the SNC Program. Decisions, judgements and actions, and their consequences, are complex and involve athletes, coaches, staff and volunteers throughout the swimming community. It is critical that there are procedures in place that encourage open, prompt discussion of any such dispute so as to lead to effective resolution.

Application

SNC encourages all parties to a dispute or complaint to seek non-adversarial consensual resolution. In such circumstances, the CEO or designate can act as a mediator working to mutual agreement on resolution. Should a consensual resolution not be reached within a reasonable time, the CEO or his designate may impose a resolution upon the parties. Arbitration will not be a part of the Dispute Resolution Procedure. Any party affected by the resolution may pursue an appeal in accordance with the Appeal Procedure.

Responsibility

Body

Action

Board of Directors

1. Ensure the CEO has appropriate training in mediation, alternate dispute resolution and dispute resolution.
2. Develop specific Purpose and Terms of Reference for Independent Dispute Resolution Committee as needed.

CEO

1. Act as mediator, or designate alternative, in non-adversarial disputes.
2. Seek Alternative Dispute Resolution processes as warranted by circumstance.
3. Review and research Operations: Dispute Resolution



Procedure to maintain consistency with legal position and processes on dispute resolution.

4. Communication of Disputes Policy and Procedure as needed.

Limitations

Neither the CEO nor alternate shall act as mediator or facilitator, if he/she has, or may have, a vested interest in the outcome of the mediation.

Neither the CEO nor designate can agree to a settlement that places SNC in a deficit position without Board approval.

References

SNC By-Law 9.03, Independent Committees
Operations: Dispute Resolution Procedure

Review and Approval

Approved: September 11, 2006
Review: March 2008
Revision Approved: April 7, 2008

Procedure follows:



SNC COMPLAINT & DISPUTE RESOLUTION PROCEDURE

PART ONE

1. DEFINITIONS

- a) For purposes of this Procedure:
 - i) “CEO” means Chief Executive Officer or a substitute as appointed from time to time by the board of directors of SNC;
 - ii) “Days” means days, irrespective of weekends or holidays;
 - iii) “SNC” means the body duly incorporated under the name Swimming/Natation Canada and any members of SNC as well as all individuals engaged in activities with or employed by SNC, including but not limited to, Athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel);
 - iv) “Code of Conduct” means any code of conduct document, signed or to be signed by any SNC member, whether under the SNC Athletes Agreement or otherwise;
 - v) “Panel” means the Panel appointed pursuant to Part III of this Procedure;
 - vi) “Major Infractions” or “Minor Infractions” include those matters described in Appendix A of this Procedure.

2. SCOPE AND APPLICATION OF THE PROCEDURE

- a) This Procedure applies to complaints from, or disputes between, SNC’s membership, its staff and volunteers arising from or pertaining to the business of SNC. Disputes involving the decisions of provincial sections ought to be pursued through the appropriate provincial sections;
- b) Subject to those matters addressed in Parts III and IV hereof, Part II of the Procedure shall apply to all complaints and disputes, including Major Infractions;
- c) Any dispute arising outside of Canada and where there is a critical lack of time, shall be governed by Part III of this Procedure;
- d) Any dispute involving a Minor Infraction shall be governed by Part IV of this Procedure.

PART TWO

3. INITIATION OF COMPLAINTS



- a) Any complaint must be made in writing with a brief summary of the matter in dispute and sent to the CEO.
- b) Upon receipt, the CEO will acknowledge receipt of the complaint to the complainant and will provide notice to any other affected parties that a complaint has been received.
- c) Depending on the nature of the reported complaint, the CEO may investigate personally or appoint an independent individual to conduct an investigation. If this is the case, the investigator shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to the CEO. The investigator shall have no power to render any decision against the applicant or the complainant under this Procedure.
- d) Upon completion of the investigation, or receipt of a report from the investigator appointed, the CEO may seek to resolve the dispute to the mutual satisfaction of the involved parties.
- e) In the event the parties, with the assistance of the CEO, are unable to resolve the dispute, the CEO may do one of the following:
 - i) confirm the decision or action under review;
 - ii) alter, vary, or otherwise amend the decision or action under review; or
 - iii) recommend the matter be pursued in accordance with the SNC Appeal Procedure.

4. TIMELINES

- a) The CEO shall render a decision in accordance with Section 3, paragraph e) above within 21 days of the receipt of the complaint. The CEO has the authority to extend or abridge this timeline where appropriate or required in the circumstances.

PART THREE

5. DISPUTES ARISING OUTSIDE CANADA AND WHERE THERE IS A CRITICAL LACK OF TIME

Any dispute between SNC's membership arising outside of Canada and where there is a critical lack of time resulting from a breach of SNC Policies, Procedures, rules and contracts shall be governed by these provisions.

The term «outside Canada» shall mean any period of time where the SNC member is out of Canada under the auspices of SNC, including traveling to competitive events, participating in or training for such events and traveling home after the events.

- a) Whenever possible, disputes under this Part shall be heard and determined by an ad hoc panel;



- b) The ad hoc Panel shall be comprised of the following three persons: SNC Head Coach or his representative, the Team Manager or his representative and the Team Captain or his representative;
- c) Notwithstanding any other process contained in this Procedure, nothing shall prevent the Panel from assuming jurisdiction when the complaint, dispute or the breach of any policy, rules or contract arises outside Canada and when there is a critical lack of time to respond to a complaint or the breach and to impose, in a reasonable and fair manner, sanctions or disciplinary action against an SNC member;
- d) Any sanction, discipline or remedy imposed upon the SNC member by the Panel shall:
 - i) be reasonable and proportionate to the conduct complained of after reasonably investigating the manner and hearing the SNC member's version of events in a procedurally fair manner; and
 - ii) where a decision is made by the Panel that results in the removal of an SNC member from a competition, such a decision may only be implemented by the Panel after the Event Panel consults and obtains written approval from the CEO and the president of SNC or their representatives. The SNC members shall have the right to request a meeting with the CEO and the president before such a decision be rendered.
- e) The decisions of the Panel shall be binding on all parties. Failure by an SNC member to comply with a decision and remedy properly imposed by the Panel shall result in an automatic suspension of all the SNC member's privileges and there shall be no further right to participate at such event or competition, until such time as the sanctions, discipline or other remedies are complied with;
- f) Where a dispute is of a highly sensitive nature, SNC shall keep all proceedings under Part III of this Policy confidential, except where disclosure is directed by the Panel as part of the remedy to resolve the dispute, is required by law, by order of a Court of competent jurisdiction, pursuant to the Canadian Anti-Doping Policy or is in the best interests of the public;
- g) If a party believes the decision of the Panel rendered pursuant to this section of the Policy has violated the rule of natural justice, the decision of the Panel may be appealed according to the SNC Appeal Procedure.

PART FOUR

DISPUTES INVOLVING MINOR INFRACTIONS

6. APPLICATION

- a) This part of the policy applies to minor infractions which may arise during the course of all SNC business, activities and events, including but not limited to, swim meets, training camps, meetings and travel associated with these activities.



- b) Disciplinary matters arising within the business, activities or events of provincial/territorial swimming associations, clubs, or affiliated organizations of SNC shall be dealt with using the discipline policies and mechanisms of such organizations.

7. DISCIPLINARY PROCEDURES

- a) Disciplinary situations involving Minor Infractions occurring within the jurisdiction of SNC shall be dealt with by the appropriate person having authority over the situation and the individual involved (this person may include, but is not restricted to, a board member, committee arbitrator, swim meet chairperson, official, coach, team manager, team captain or head of delegation).
- b) Procedures may be informal and shall be determined at the discretion of the person responsible for discipline of such infractions, provided the individual being disciplined is informed of the details of the alleged infraction and has an opportunity to provide information concerning the incident.
- c) The following disciplinary sanctions may be applied, singularly or in combination, for Minor Infractions:
 - i) verbal reprimand;
 - ii) written reprimand to be placed in individual's file;
 - iii) verbal apology;
 - iv) hand-delivered written apology; or
 - v) team service or other voluntary contribution to SNC.
- d) Minor Infractions shall be recorded by the CEO. Repeat minor offences may result in a further such incident being referred to as a major infraction.
- e) If a party believes the decision of the person having taken the decision has violated rules of natural justice, the decision may be appealed according to the SNC Appeal Procedure.

APPENDIX A

8. Examples of minor infractions:

- a) a single incident of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, spectators and sponsors;
- b) a single incident of being absent from SNC events and activities at which attendance is expected or required;
- c) breach of curfew as designated by the SNC Coach or Team Leader; and



- d) non-compliance with the rules and regulations under which SNC events are conducted, whether at the local, provincial, national or international level.

9. Examples of major infractions:

- a) an egregious or repeated incidents of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, spectators and sponsors;
- b) repeated incidents of being late for or absent from SNC events and activities at which attendance is expected or required;
- c) any action or conduct that would, in the discretion of the SNC Coach or Team Leader, be detrimental to the reputation or image of SNC;
- d) the wilful abuse of property owned, rented, borrowed or leased by SNC including but not limited to vehicles, hotel rooms and team equipment;
- e) serious breach of curfew as designated by the SNC Coach or Team Leader;
- f) activities or behaviour which interfere with a competition or with any athlete's preparation for a competition;
- g) Hazing, pranks, jokes or other activities, which may be construed as harassing, abusive, humiliating; or having the potential to endanger the safety of others (including coercive activities such as pressure, physical or psychological, to participate in a specific initiation rite);
- h) deliberate disregard for the rules and regulations under which SNC events are conducted, whether at the local, provincial, national or international level;
- i) abusive use of alcohol where abuse means a level of consumption which impairs the individual's ability to speak, walk or drive; causes the individual to behave in a disruptive manner; or interferes with the individual's ability to perform effectively and safely;
- j) any use of alcohol by athletes under the age of 18 or where prohibited by law;
- k) use of illicit drugs and narcotics;
- l) use of banned performance enhancing drugs or methods.

Review and Approval by CEO:

1 November 2008
19 February 2009
1 November 2010
11 August 2011