



Policy title:	Discipline and Complaints Policy	
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<p>This Policy has been prepared by Canada Artistic Swimming (CAS) and is applicable to CAS, its Members, Affiliated Organizations and Registrants. 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 Safe Sport Officer or Organization, as applicable, 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. "Discrimination, harassment or violence" – Behaviour that constitutes discrimination, harassment or violence as defined in the *CAS Conduct Policy*;
 - k. "Including" – Including but not limited to;
 - l. "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*;
 - m. "Maltreatment" – Prohibited behaviour and conduct as described in the UCCMS;
 - n. "Member" – Any PTSO registered with CAS;
 - o. "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;
 - p. "Organization" – The organization to which this Policy applies and includes CAS and its Members and Affiliated Organizations;
 - q. "Party or Parties" – The Complainant, Respondent and any other Individuals or persons affected by the complaint;
 - r. "Person in Leadership" – The CEO, Chief Sport Officer, Executive Director or any board member of CAS or a PTSO;
 - s. "President" – The President of CAS, a PTSO or an Affiliated Organization, as applicable;
 - t. "PTSO" – A Provincial or Territorial Sport Organization that is responsible for the management of artistic swimming within its provincial or territorial boundaries;
 - u. "Respondent" – The Party or Parties responding to the Complaint;

- v. "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*;
- w. "UCCMS" – The Universal Code of Conduct to Prevent and Address Maltreatment in Sport; and
- x. "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. To ensure compliance with an Organization's by-laws, policies and rules including the CAS *Conduct Policy* and to identify and provide the procedures for addressing complaints and non-compliance with same.

Application

- 3. This Policy applies to all Individuals as defined in this Policy and applies to any Activity that takes place whether at the Organization's offices or any other location within 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 group travel; and
 - d. All selection and assessment processes and training or practice time, whether inside or outside Canada.
- 4. 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.
- 5. A CAS, PTSO or Affiliated Organization employee or contractor who is a Respondent under this Policy may be subject to additional sanctions pursuant to the Organization's Human Resources Policies or employment agreement, as applicable. Nothing in this Policy shall be taken to restrict the Organization's ability to impose such discipline as it deems appropriate with respect to its employee or contractor.

Organizational Commitment

- 6. CAS, CAS Members and Affiliated Organizations endorse the [Universal Code of Conduct to Prevent and Address Maltreatment in Sport, as it may be amended from time to time \(the "UCCMS"\)](#).

7. Individuals will cooperate with any investigation of concerns of alleged maltreatment, misconduct, or non-compliance with an Organizations by-laws, policies or rules by providing honest, accurate, complete and timely information.
8. 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.
9. 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 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 and Territorial Exceptions

10. 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

Procedure and Time Limits

11. Any Individual may:
 - a. Contact the designated Safe Sport Officer at safesportofficer@safesportagency.ca for information or to initiate a complaint relating to alleged maltreatment, or 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 maltreatment, misconduct, or non-compliance with an Organization's by-laws, policies or rules to CAS, a CAS Member or Affiliated Organization, as applicable. Any allegation that contains an element of maltreatment, or discrimination, harassment or violence will be referred by the Organization to the designated Safe Sport Officer.
12. Barring exceptional circumstances, reports must be submitted in writing within fourteen (14) days of the alleged incident, identifying the Respondent(s) and setting out the relevant information or evidence. The Individual making the report may contact the designated Safe Sport Officer or Organization for direction and support.
13. Any reports or complaints submitted after the expiry of the fourteen (14) day period must be accompanied by an explanation or reasons as to why an exemption should be made to the strict application of the time limit. Generally speaking, only serious misconduct, including maltreatment, discrimination, harassment or violence will be considered after the limitation

period has lapsed, considering any power imbalances between the complainant and the respondent, the length of time that has lapsed, and whether there is any prejudice caused by the delay. The decision to accept or refuse a report or complaint outside the fourteen (14) day period is at the sole discretion of the Organization and may not be appealed.

Anonymous Reports

14. Reports may be made anonymously, however an anonymous report may limit the ability of the Safe Sport Officer or Organization to investigate and respond appropriately to the report.

Jurisdiction

15. Subject to paragraph 14, the Safe Sport Officer has jurisdiction to receive any report that alleges maltreatment, or misconduct that contains an element of discrimination, harassment or violence by an Individual who is subject to this Policy.
16. Unless otherwise agreed, where the Individual wishes to report or complain about maltreatment, misconduct, or non-compliance with an Organization's bylaws, rules and policies, the Individual must first have exhausted any internal complaint resolution process provided by the policies of the PTSO or Affiliated Organization, as the case may be, before submitting a report to CAS. For the avoidance of doubt, an Organization's internal complaint resolution process is deemed exhausted where:
 - a. The Organization has rendered a final decision, with no further right of appeal;
 - b. The Organization has failed to apply its complaint resolution process; or
 - c. The Organization is in a conflict of interest.
17. The Safe Sport Officer will refer any allegation that does not contain an element of maltreatment, or misconduct that relates to discrimination, harassment or violence, to CAS, the PTSO or Affiliated Organization, as applicable.

Organization as Complainant

18. The Organization may act as the Complainant and initiate a complaint or report under the terms of this Policy. In such cases, the Organization will identify an individual to serve as the contact person for the Organization.

Resolution Procedures

19. The Safe Sport Officer will manage all reports that contain an element of maltreatment, or discrimination, harassment or violence and will assume the responsibilities described below.
20. Where a report is to be managed by an Organization, the Organization will appoint a Case Manager who will assume the responsibilities described below.

Safe Sport Officer Responsibilities

21. 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 contacting the Complainant, Respondent and any witnesses;
 - c. Determine the nature of the complaint and explore whether informal resolution is appropriate;
 - d. Determine whether the alleged misconduct contravenes a policy or rule of the Organization and whether it represents maltreatment or misconduct that involves discrimination, harassment or violence;
 - e. Determine whether the alleged misconduct falls within the jurisdiction of the Safe Sport Officer, or rather whether it should be referred to CAS, the PTSO or Affiliated Organization for resolution; and
 - f. Determine whether to accept the complaint and, if so, whether they will perform the role of Case Manager or appoint a Case Manager to administer the complaint process.
22. 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.
23. 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 maltreatment, or discrimination, harassment or violence, the matter will be redirected to the appropriate Organization for resolution.
24. 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

25. The Safe Sport Officer or Organization, as appropriate, 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 complaint or otherwise have a real or perceived conflict of interest.
26. The Safe Sport Officer may, in their discretion, choose to perform the role of Case Manager for complaints that contain an element of maltreatment or misconduct involving discrimination, harassment or violence.
27. 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 mediator or a third-party Investigator that meets minimum accreditation requirements set by CAS and is from a list approved by CAS or the Organization, as amended from time to time;

- 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.
28. 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

29. 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 by the Organization on the recommendation of the Case Manager based on the severity of the allegation(s), the evidentiary support for the allegation, and the perceived risk to the Complainant, the Organization, or the sport community.
30. 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.
31. 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.
32. 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

33. 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.
34. 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

35. 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

36. A Respondent may choose to acknowledge the facts of the complaint and accept responsibility for non-compliance with an Organization's by-laws, policies or rules. In doing so, the Respondent provides for the opportunity to resolve the matter informally.
37. The Case Manager may choose to recommend sanction(s) rather than appointing a Discipline Panel in any case addressed through informal resolution.

Alternate Dispute Resolution

38. 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

39. The Case Manager may propose referring the matter to a third-party Investigator. If appointed, an Investigator shall ordinarily:
 - a. Obtain a written response to the allegations and evidence from the Respondent;
 - b. Interview the Complainant, Respondent and any witnesses deemed necessary by the Investigator;
 - 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.
40. At the conclusion of the investigation, the Investigator shall prepare and submit in writing to the Case Manager an investigation report in which the Investigator shall determine whether the factual allegations in the complaint have been established on a balance of probabilities.

Discipline Panel

41. 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).
42. The Discipline Panel will consist of one (1) or three (3) persons to hear the complaint. A three (3) person Discipline Panel should be appointed for all serious misconduct, including maltreatment, discrimination, harassment or violence. 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.
43. 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.
44. The Discipline Panel may request administrative support from the Case Manager.

45. 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.
46. Should a Party choose not to participate in the hearing, the hearing will proceed in any event.
47. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

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

Sanctions

49. Any sanction imposed against an Individual must be proportionate and reasonable, relative to the misconduct that has occurred, considering any prior warnings or discipline previously imposed, and with regard to consistency with similar cases. However, progressive discipline is not required as a single occurrence of serious misconduct can lead to a very significant sanction.
50. 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 Organization's by-laws, policies or rules 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. Expulsion from the Organization and permanent ineligibility to participate in any capacity in Activity;
 - j. Publication of the decision; and
 - k. Any other sanction considered appropriate for the offence.
51. Barring exceptional circumstances, the Discipline Panel will endeavor to distribute its written decision to the Complainant, Respondent and Organization within fourteen (14) days of the hearing's conclusion. 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.
52. Failure to comply with sanctions as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.

Considerations

53. Factors relevant to determining appropriate sanctions include:
- a. The Respondent's voluntary admission of the maltreatment, misconduct, or non-compliance with an Organization's by-laws, policies or rules, acceptance of responsibility and cooperation in the complaint process;
 - b. The ages of the individuals involved;
 - c. The Respondent's prior history and any pattern of maltreatment, misconduct, or inappropriate behaviour;
 - 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 sport community;
 - f. Whether the Respondent holds a position of trust, one that involves contact with minors or vulnerable persons, or is involved in high-impact decision-making; and
 - g. Other mitigating and aggravating circumstances.
54. 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

55. A Complainant has the right to withdraw from any further action in connection with a complaint at any stage, but the Organization may nonetheless pursue the investigation and impose disciplinary actions, as appropriate.
56. A Respondent may not avoid an investigation or disciplinary action by resigning or withdrawing from registration or membership in the Organization.

Appeals

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

Adult Representative

58. 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.
59. Communication from the Safe Sport Officer, Case Manager, Investigator, or Discipline Panel, as applicable, will include the adult representative.
60. A minor or other vulnerable person is not required to attend an oral in-person or electronic hearing, if held.

Confidentiality

61. 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 maltreatment or misconduct. The Organization will endeavour to keep all complaints under this Policy confidential, except as required to investigate and respond to the complaint, or as may be required by law or where such disclosure is necessary to protect the public.
62. Once initiated and until a decision is released, none of the Parties involved in a complaint will discuss any information related to the complaint with any person other than those appointed as Safe Sport Officer, Case Manager, Mediator, Investigator, or Discipline Panel, and the Party's immediate family members or legal advisors, provided such family members or legal advisors also agree to maintain strict confidentiality of same. Non-compliance may result in sanctions under this Policy.
63. When required, the CEO, Executive Director, or President (or their designate) will act as the sole spokesperson for the Organization.

Suspension Pending Other Proceedings

64. 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.
65. 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

66. An Individual's conviction for one or more of the following *Criminal Code* offences will be deemed an infraction under this Policy and will result in immediate expulsion from the Organization without any requirement for a hearing or decision of a Discipline Panel:
 - 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

67. Records of all decisions and sanctions will be maintained by the Organization with jurisdiction over the complaint for at least ten (10) years from the date of the written decision, or for ten (10) years from the Complainant's 18th birthday, whichever is later.
68. PTSOs and Affiliated Organizations will disclose all decisions and sanctions to CAS.
69. The Organization may advise other individuals or organizations, including national sport organizations, PTSOs, or the Coaching Association of Canada (CAC) where the infraction involves a coach, of any decisions and sanctions rendered in accordance with this Policy.
70. CAS will maintain a Canadian, publicly-available, searchable database of Individuals who have been expelled from the Organization including for Criminal Code offences described in section 67., or whose eligibility to participate in any capacity in Activity has been restricted for more than one calendar year due to a finding of maltreatment, or misconduct that contains an element of discrimination, harassment or violence..
71. 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

72. Affiliated Organizations will disclose all decisions and sanctions to their PTSO and CAS. Similarly, PTSOs will disclose all decisions and sanctions to CAS. CAS or the applicable PTSO may take further action in their sole discretion.
73. 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.
74. The Case Manager and Discipline Panel, as applicable, will review and consider the decision and sanction(s) of the PTSO or Affiliated Organization, as applicable, when deciding any further complaint under this Policy.

Communication

75. 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.
76. CAS, its Members, and Affiliated Organizations will ensure that this Policy is communicated to those who will be subject to it as well as those who will be responsible for its implementation.

Review

77. 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 sought and considered.