

DISCIPLINE AND COMPLAINTS POLICY

Type: Governance

Policy Number: 24

Authority: Board of Directors

Date Approved: April 2024

24.1 Purpose and Application

24.1.1 This policy applies to all persons who are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the MWPA's policies, By-laws, rules, regulations, and Code of Conduct. Non-compliance may result in sanctions pursuant to this Policy.

24.1.2 This policy is designed to provide the process to be followed in situations where there is non-compliance with MWPA policies, by-laws, rules and regulations.

24.1.3 In addition to being subject to disciplinary action pursuant to this Policy, an employee of the MWPA who is the subject of a complaint may also be subject to consequences in accordance with their employment agreement and/or human resources policies, if applicable.

24.2 Guidelines and Procedures

24.3 Definitions

24.3.1 "*Complainant*" – The party alleging an infraction.

24.3.2 "*Respondent*" – The party responding to the complaint/allegation.

24.3.3 "*Members*" – All categories of membership as defined in the MWPA's Bylaws, who are subject to the policies, rules and regulations of

the MWPA, as well as persons employed by, contracted by or engaged in activities with the MWPA.

- 24.3.4** *“Individuals”* – persons who are not Registrants, including, but not limited to: spectators at events and parents/guardians of athletes who are not Registrants.
- 24.3.5** *“Parties”* – includes the Complainant, Respondent and any other person who may be affected by the decision.
- 24.3.6** *“Person in Authority”* – a Registrant who holds a position of authority, including but not limited to, coaches, instructors, officials, managers, chaperones, committee members or directors.
- 24.3.7** *“Vulnerable Participant”* – a minor, as defined by the age of majority of Manitoba.
- 24.3.8** *“Discipline Chair”* – the Vice President of the MWPA Board of Directors who is the decision maker under Process #1, as outlined below.
- 24.3.9** *“Deputy Discipline Chairs”* – Up to three (3) persons named by the MWPA Board to act as Discipline Chair should the Discipline Chair not be available.
- 24.3.10** *“Alternate Discipline Chair”* – An individual or individuals appointed by the MWPA Board of Directors if the Discipline Chair is in a conflict of interest, or in the circumstance where a Request for Reconsideration is filed under 24.10.
- 24.3.11** *“Case Manager”* – A person appointed by the Discipline Chair to be the first point of contact for the administration and investigation of a complaint under Process #2. The Case Manager does not need to be a member of, or affiliated with, the MWPA.
- 24.3.12** *“Adjudicator”* – the person appointed by the Case Manager to hear and

determine a complaint under Process #2, as defined below. In extraordinary circumstances, and at the discretion of the Case Manager, a panel of three (3) persons (“Discipline Panel”) may be appointed to hear and determine a case under Process #2.

24.3.13 *“Conflict of Interest”*- A situation in which a person is involved in multiple interests and serving one interest could involve working against another.

24.3.14 *“Days”* – when counting days, use calendar days.

24.3.15 *“Maltreatment” and “Prohibited Behaviour”* – are defined by the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (“UCCMS”).

24.4 Conflict of Interest

24.4.1 The Discipline Chair, Deputy Discipline Chair, Alternate Discipline Chair, Case Manager and Adjudicator must be unbiased and not in a conflict of interest situation.

24.4.2 Should a Complainant or Respondent believe that any of the persons listed under 7.4.1 are in a conflict of interest, the Complainant or Respondent must inform the MWPA Board of Directors in writing along with a reasonable assessment of why they believe there is a conflict of interest within 48 hours of the person being named in the role listed at 7.4.1. Should the disciplinary process take less than 48 hours, the MWPA Board must be informed of any alleged conflict of interest before a final determination is made.

24.5 Application of this Policy

24.5.1 This Policy applies to all Members and Individuals where complaints

arise in the course of:

- 24.5.2** MWPA's business and MWPA sanctioned activities and events including, but not limited to, competitions and training camps;
- 24.5.3** conduct outside of MWPA business and MWPA sanctioned activities and events, where such conduct is detrimental to the image and reputation of the MWPA.
- 24.5.4** Applicability will be determined by the Discipline Chair at its sole discretion. A decision as to the applicability of this Policy is not appealable.
- 24.5.5** Immediate disciplinary actions that are imposed during a competition do not limit the ability to impose further sanctions.
- 24.5.6** For certainty, allegations that arise during a national competition or other events sanctioned by Water Polo Canada, these fall under an independent third-party process through the Office of the Sport Integrity Commissioner ("OSIC"). The reporting process is found on the Water Polo Canada website. If OSIC determines that a complaint falls under the jurisdiction of the MWPA, then this Policy will be followed.

24.6 Process

24.6.1 Any Member or Individual may report an incident or complaint to the Discipline Chair in writing on the form found at Appendix "A", within fourteen (14) days of the alleged incident. At the MWPA's discretion, the MWPA (as a corporation) may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the MWPA will identify an individual to represent the MWPA.

24.6.2 Complaints may be brought by or against a Vulnerable Participant,

however they must engage a parent/guardian or other adult as their representative during this process. All communication will be directed to the Vulnerable Participant's representative.

24.6.3 The Discipline Chair must first determine:

24.6.3.1 Whether the complaint falls within the jurisdiction of this Policy;

24.6.3.2 Whether the complaint has been submitted within fourteen days in accordance with this Policy; or

24.6.3.3 Whether the complaint is frivolous, vexatious or if it has been made in bad faith and ought not be heard.

24.6.3.4 The Discipline Chair's decision to reject the complaint on this basis is final and may not be appealed.

24.6.4 If the Discipline Chair determines that the complaint may proceed, the Discipline Chair has the sole discretion to determine whether the matter ought to be adjudicated following Process #1 or Process #2, as outlined below, taking into consideration the severity of the alleged infraction.

24.6.4.1 The Discipline Chair's decision on the adjudication process is also final and may not be appealed.

24.6.5 Process #1 is usually reserved for minor allegations¹, including but not limited to:

24.6.5.1 Disrespectful conduct, including but not limited to, racist or sexist comments or behaviour.

24.6.5.2 Minor incidents of violence unless the violence is being

¹ see Appendix "C": Level 1 – Minor Infraction

alleged against a Person in Authority by a Vulnerable Participant.

24.6.5.3 Conduct contrary to the values of the MWPA.

24.6.5.4 Non-compliance with MWPA policies, procedures, rules, regulations, or Code of Conduct.

24.6.6 Process #2 is usually reserved for serious allegations or repeated minor allegations², including but not limited to:

24.1.1.0 Hazing.

24.1.1.1 Behaviour that constitutes harassment or discrimination on the basis of a protected personal characteristic as defined in Manitoba Human Rights Code - Province of Manitoba.

24.1.1.2 Maltreatment as defined by UCCMS.

24.1.1.3 Major incidents of violence (e.g., fighting, attacking, sucker punching).

24.1.1.4 Pranks, jokes, or other activities that endanger the safety of others.

24.1.1.5 Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition.

24.1.1.6 Conduct that intentionally damages the image, credibility, or reputation of the MWPA or one of its affiliated organizations.

24.1.1.7 Consistent disregard for the by-laws, policies, rules, and regulations of the MWPA.

24.1.1.8 Major or repeated violations of the MWPA Code of Conduct or any other policies, by-laws, rules or regulations that designate this

² see Appendix "C": Level 2 - Major Infractions

Discipline and Complaints Policy as applicable to address such alleged breaches.

24.1.1.9 Intentionally damaging MWPA property or improperly handling MWPA monies.

24.1.1.10 Any use or possession of alcohol, cannabis, illicit drugs or narcotics by minors.

24.1.1.11 Abusive use of alcohol or cannabis or any use or possession of illicit drugs, and narcotics by adults.

24.1.1.12 Any possession or use of banned performance enhancing drugs or methods.

24.7 Suspension Pending a Hearing

24.7.1 The Discipline Chair may determine that an alleged incident is of such seriousness as to warrant suspension of a Member pending the outcome of a decision.

24.7.2 The decision to suspend a Member pending the outcome of a disciplinary process is not appealable.

24.8 Criminal Convictions

24.8.1 If the allegation made in a Complaint is also subject to criminal charges, upon conviction the Registrant will be deemed to have breached this Policy which will result in expulsion from the MWPA.

24.9 Process #1

24.9.1 Process #1 is handled by the Discipline Chair and consists only of written submissions.

24.9.2 Following a determination that the complaint should proceed, the

following steps shall be taken:

24.9.2.1 the Discipline Chair will provide to the Respondent a copy of the written submissions of the Complainant.

24.9.2.2 The Respondent then has fourteen (14) days to provide any response on the form at Appendix "B". If no response is received, it will be assumed that the Respondent does not wish to participate.

24.9.2.3 A copy of the response will be provided to the Complainant who has the ability to submit any rebuttal within seven (7) days.

24.10 Process #2

24.10.1 If the Discipline Chair determines that Process #2 is to be followed, the matter will be referred to an independent Case Manager to oversee the investigation and administration of the complaint.

24.10.2 The Case manager **will** notify the Complainant and the Respondent that the complaint has been accepted and will advise of the applicable next steps.

24.10.2.1 If the hearing or the 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 current complaint and will be bound by the decision.

24.10.3 The Case Manager will consider whether the use of alternative dispute resolution is appropriate. If so, the Complainant and Respondent must participate fully in any alternative dispute resolution session(s).

24.10.3.1 No appeal may be made of the decision to engage in

alternative dispute resolution.

24.10.4 The Case Manager will appoint an Adjudicator.

24.10.5 The Case Manager will provide administrative assistance, logistical support any other service or support that may be necessary, to the Adjudicator as required to ensure a fair and timely proceeding.

24.10.6 The Case Manager, in cooperation with the Adjudicator, will then decide the format under which the complaint will be heard.

24.10.6.1 The format of the hearing under Process #2 may be an oral in-person hearing, an oral hearing by telephone or other electronic communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods.

24.10.6.2 Any decision with respect to the format of the hearing may not be appealed.

24.10.7 The hearing will be governed by the procedures that the Case Manager and the Adjudicator deem appropriate in the circumstances, provided that:

24.10.7.1 The Parties are given appropriate notice of the day, time, place and method (teleconference or electronic communication medium) of the hearing.

24.10.7.2 Copies of any written documents which the Parties wish to have the Adjudicator consider will be provided to all Parties, through

the Case Manager, in advance of the hearing.

- 24.10.8** The Adjudicator may request that any other individual participate and give evidence at the hearing.
- 24.10.9** The Adjudicator 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.
- 24.10.10** The Parties may engage a representative, advisor, or legal counsel at their own expense.
- 24.10.11** If a Discipline Panel is used, the decision will be by a majority vote.
- 24.10.12** If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Adjudicator will move to a determination of the appropriate sanction.
- 24.10.13** The Respondent may choose to not to participate in the hearing. An adverse inference may be made due to the lack of the Respondent's participation.
- 24.10.14** In fulfilling its duties, the Adjudicator may obtain independent legal advice.

24.11 Decision

- 24.11.1** Under Process #1, following the review of the submissions and evidence related to the complaint, the Discipline Chair shall, within 14 days, determine whether the incident occurred as alleged and if so, determine whether to impose a Sanction.
- 24.11.2** Under Process #2, following a hearing of the matter, the Adjudicator will determine whether the incident occurred as alleged, and if so,

determine whether to impose a Sanction. Within fourteen (14) days of the hearing's conclusion, the Adjudicator will provide a written decision, with reasons to all Parties, the Case Manager, and the MWPA.

24.11.2.1 In extraordinary circumstances, the Adjudicator 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.

24.11.3 The decision of the Discipline Chair or the Adjudicator will be considered a matter of public record unless decided otherwise by the Discipline Chair or Adjudicator.

24.11.4 Records of all sanctions will be maintained by the MWPA for 7 years.

24.12 Sanctions

24.12.1 Sanctions will be applied using Appendix "C" as a guide.

24.12.2 Under Process #1, the Discipline Chair will determine the Sanction to be imposed and will inform the Complainant and the Respondent of the sanction at the time that the decision is rendered. Any disciplinary sanctions will begin immediately following the issuance of a decision, notwithstanding any Request for Reconsideration that may be made.

24.12.3 Under Process #2, the Adjudicator may hold an additional hearing for the purpose of determining an appropriate sanction.

24.12.4 Under Process #2, the Adjudicator will determine the Sanction to be imposed and will inform the Complainant and the Respondent of the sanction at the time that the decision is rendered. Any disciplinary sanctions will begin immediately following the issuance

of a decision, notwithstanding an any appeal that may be made.

24.12.5 Unless a decision is made otherwise, any disciplinary sanctions will begin immediately following the issuance of a decision, notwithstanding an appeal. Failure to comply with a sanction will result in an automatic suspension until such time as compliance occurs.

24.12.6 Sanctions may be one or more of the following³:

- 24.12.6.1** Verbal or written reprimand.
- 24.12.6.2** Verbal or written apology.
- 24.12.6.3** Service or other contribution to the MWPA.
- 24.12.6.4** Removal of certain privileges.
- 24.12.6.5** Suspension from certain teams, events, and/or activities.
- 24.12.6.6** Suspension from all MWPA activities for a designated period.
- 24.12.6.7** restitution.
- 24.12.6.8** suspension of funding from the MWPA
- 24.12.6.9** expulsion from the MWPA.
- 24.12.6.10** Any other sanction considered appropriate.

24.13 Request for Reconsideration of Sanction under Process #1

24.13.1 Under Process #1, the Sanction may be appealed by completing a

³ See Appendix "C" for examples of possible sanctions.

Request for Reconsideration.

24.13.2 The Respondent or the Complainant may contest the Sanction imposed by submitting a written Request for Reconsideration to the Discipline Chair within two (2) days of receiving the Sanction.

24.13.3 In the Request for Reconsideration, the requesting party must indicate why the sanction is too harsh/insufficient and what an appropriate sanction might be. It must include evidence to support the position for reconsideration.

24.13.4 Upon the Discipline Chair receiving a Request for Reconsideration, they will advise the MWPA Board of Directors who will assign an Alternate Discipline Chair to review the case along with the Request for Reconsideration. The Alternate Discipline Chair may decide to accept or reject the suggested sanction.

24.13.5 Should the Alternate Discipline Chair accept the suggested sanction in the Request for Reconsideration, that sanction will take effect immediately.

24.14 Appeal of Decision under Process #2

24.14.1 The decision of the Adjudicator maybe appealed in accordance with the MWPA's *Appeal Policy*.

24.15 Confidentiality

24.15.1 The discipline and complaints process is confidential and involves only the Parties, the decision makers and any independent advisors to the decision makers.

24.15.2 Once a complaint is initiated and until a decision is released, none of the Parties can disclose any information relating to the complaint

to any person not involved in the proceedings.

24.15.3 Any breach of confidentiality may result in consequences following the process as outlined under Process #1.

24.16 Timelines

24.16.1 If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Discipline Chair or Case Manager may direct that these timelines be revised.

24.16.2 If a Member is under police investigation or charged criminally as a result of the same incident being considered under this Policy, then the complaint ought to be filed, but the MWPA process will be suspended until the conclusion of the criminal investigation and any court proceedings.

24.17 Records and Distribution of Decision

24.17.1 Other individuals or organizations, including but not limited to, national sport organizations, provincial sport organizations, sport Clubs, etc., may be advised of any decisions rendered in accordance with this Policy.

24.17.2 Records may be shared with Clubs within Manitoba, provided that such Clubs have agreed the terms of this Policy.

24.17.3 Records may be shared with other PSOs outside of Manitoba, provided they are Members of Water Polo Canada.

APPENDIX A – COMPLAINT FORM

Date: _____

Name of Complainant: _____ Age: _____

Address: _____

Telephone: _____ Email: _____

Name of Adult Representative if the Complainant is a Vulnerable Participant: _____

Telephone: _____ Email: _____

Names and contact information of any other Member who might be potentially affected by the decision, if known.

Date and location of alleged incident: _____

Witnesses [name and contact info]

Details of complaint [be specific in referencing 24.6.4]:

Summary of the evidence. Any documents relied upon must be attached to this form.

Remedy Sought [be specific in referencing 24.9]:

Signature:

Complainant name (or adult representative): _____

Complainant (or adult representative) signature: _____

APPENDIX B – RESPONSE to COMPLAINT

Date: _____

Name of Respondent: _____ Age: _____

Address of Respondent: _____

Telephone: _____ Email: _____

Name of Representative if the Respondent is a Vulnerable Participant: _____

Telephone: _____ Email: _____

Names and contact information of any Member who might be potentially affected by the decision if not already identified by the Complainant:

Provide the names and contact information of any witnesses not already identified by the Complainant:

Summary of evidence in defense of the allegation [any documents wished to be relied upon must be attached]:

Signature:

Respondent's Name (or adult representative) _____

Respondent (or adult representative) Signature: _____

APPENDIX C

Level 1	
Description	Discipline
Verbal abuse or disrespect of a player or any referee or game official	Head referee to issue verbal warning and record incident on game sheet.
Disrespectful conduct during a game resulting in a red card	Ejection from game Incident recorded on Water Polo Canada database.
Non-compliance with bylaws, policies, procedures, rules, regulations and directives of the MWPA	<p><u>First Offence</u></p> <p>Written warning or 1-3 game suspension and/or a fine of up to \$500 per incident</p> <p><u>Second Offence</u></p> <p>Written warning or 4-7 game suspension and/or a fine of \$1000 per incident</p> <p><u>Third Offence</u></p> <p>Written warning or 8-10 game suspension and/or a fine of \$5000 per incident</p>

Level 2

Description	Discipline
a. repeated Minor Infractions	1-10 game suspension and/or fine up to \$5000 and/or expulsion from the MWPA
b. pranks, jokes or other activities that endanger the safety of others, including hazing	
c. disregard for the bylaws, policies, rules, regulations and directives of the MWPA	
d. conduct that intentionally damages the image, credibility or reputation of the MWPA	
e. repeated Major infractions	
f. maltreatment	
g. in game brutality (FINA)	
h. intentionally damaging MWPA property	
i. improperly handling MWPA monies	
j. abusive use of alcohol or cannabis	
k. any use or possession of alcohol or cannabis by minors	

