

DISCIPLINARY



PURPOSE

The purpose of this policy is to establish and outline the process used by the Carstairs Minor Hockey Association for instances where a review is filed resulting from a breach of the CMHA Bylaws or Policies.

DEFINITIONS

- “Complainant”** shall mean the Member filing a complaint resulting from an alleged contravention of a CMHA Bylaw or Policy.
- “Formal Hearing”** shall mean the process initiated by the Board, either resulting from the Mediation Process or directly from submission of a complaint that requires a more in-depth investigation.
- “In-Closed Session”** shall mean a portion of a meeting closed to the public except the Committee or Board Members required and permitted to participate in accordance with this Policy.
- “Mediation Process”** shall mean the process initiated by the Board to obtain information from all parties in a more informal, or preliminary matter, with a desire to resolve the complaint without the necessity of a Formal Hearing.
- “Respondent”** shall mean the Member alleged to have contravened a CMHA Bylaw or Policy.

SECTION 1: GENERAL GUIDELINES

- 1.1 All Members are encouraged to resolve issues amongst themselves and/or at the team level prior to proceeding with a formal complaint.
- 1.2 With that being said, any Member of the CMHA may, with or without following the process in Section 1.1, file a complaint with the Association for an alleged contravention of any CMHA Bylaw or Policy by another Member, Volunteer or Board Member.
- 1.3 No complaint may be filed within twenty four (24) hours of the incident occurring to allow for a ‘cooling off’ period.
- 1.4 All complaints will be addressed to the Disciplinary Committee Chair as noted on the CMHA Website. In the event that the Disciplinary Committee Chair is the Respondent of the complaint, the complaint shall be addressed to the CMHA President who shall appoint a separate person to act as the Disciplinary Committee Chair for that respective complaint.

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- 1.5 All complaints are required to be submitted on the form provided in 'Schedule A' of this Policy. Complaints may be submitted via email, but shall contain all information required by Schedule A.
- a) Notwithstanding the above, the Disciplinary Committee Chair may, at their discretion, choose to proceed with the review process without all required information if it is deemed that all information that is necessary for their decision making has been received.
- 1.6 Members are hereby notified that all information submitted to the Disciplinary Committee Chair may be subject to release to all parties involved in the disciplinary process to allow all parties an opportunity to respond and provide clarity to the complaint.
- 1.7 All Members and their submissions as part of the Disciplinary Process will be protected as much as reasonably possible except as required to conduct a fair, equitable and effective hearing. The Chair, Committee and Board shall not provide any details on the complaint to any individual except as required by this Policy.
- 1.8 Once a complaint has been filed, all communication relative to the complaint shall be submitted through the Disciplinary Committee Chair.
- 1.9 The Board shall maintain a file on each matter referred to it which shall include the following:
- a) Submitted complaint and any correspondence received from the Parties;
 - b) Any correspondence from the Chair to the Parties;
 - c) Written recommendations of the Chair and/or Committee;
 - d) Written decision of the Board;
 - e) Any other documentation the Board deemed relevant to the matter.

SECTION 2: DISCIPLINARY COMMITTEE COMPOSITION

- 2.1 Annually, the CMHA Board shall establish a Disciplinary Committee that shall be composed of the following:
- a) A Disciplinary Committee Chair (the 'Chair')
 - b) Two (2) Board Members
 - c) Two (2) Non – Board Members

SECTION 3: REVIEW OF COMPLAINT

- 3.1 Upon receiving a complaint, the Chair shall within 24 hours, confirm receipt with the Complainant. The Chair shall review the complaint to ensure that all required information has been submitted. In the event that additional information is required, the Chair shall contact the Complainant to provide the necessary information.

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- 3.2 Once satisfied, the Chair shall notify the Respondent that a complaint was filed against them. The Respondent shall be provided with the complaint, including the Complainant's name and nature of complaint, and be given an opportunity to provide a response to the complaint, in writing, within 48 hours.
- 3.3 In the event that the Respondent confirms the information contained within the complaint and wishes to waive their right to a further review or hearing, they may request in writing for the Chair to proceed directly to Section 5.14 of this Policy.
- 3.4 Upon receipt of the Respondent's submission, or at the conclusion of the 48-hour period, the Chair shall provide a recommendation to the CMHA Board, in an in-camera session not involving any parties of the complaint, as to whether the disciplinary review process should proceed to a Mediation Process or Formal Hearing Process. In making that recommendation, the Chair shall take into account the:
- Nature and Severity of the complaint;
 - Desired outcome that the Complainant has for the complaint (formal sanctions vs discussion etc)
 - Historic number and result of complaints and/or sanctions filed against the Respondent;
 - Previous actions undertaken by the Respondent and/or Board to rectify the Respondent's behaviour associated with the complaint.
 - Any other considerations the Committee chooses to consider.
- 3.5 The Board shall have the final discretion as to whether the initial response to the complaint should be through the Chair Mediation Process or Formal Hearing Process.

SECTION 4: MEDIATION PROCESS

In the event that the Board decides to initiate the Mediation Process the following process shall be undertaken:

- 4.1 The Chair shall notify both the Complainant and the Respondent of the decision to undertake the Mediation Process.
- 4.2 The Chair shall establish a date, within 48 hours of the Board's decision, to convene a meeting of the Complainant and Respondent. The Chair may request any other Members they deem necessary to attend the meeting to provide information or to collaborate on a resolution for the complaint.
- 4.3 The Chair shall provide an opportunity for both parties to outline their position as it relates to the complaint and attempt to identify a resolution that would be suitable to each party.

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- 4.4 Within twenty four (24) hours of the conclusion of the Mediation Process meeting, the Chair shall provide one of the following recommendations to the Board:
- That the complaint has been resolved, with a summary of any steps agreed upon by the parties.
 - That the complaint should be escalated to a Formal Hearing Process.
 - That the complaint is unfounded and should be dismissed.

SECTION 5: FORMAL HEARING

In the event that the Board determines, either after the initial review of the complaint or after concluding the Mediation Process that a Formal Hearing is required, the Committee shall undertake the following process:

- 5.1 If the Respondent is performing a volunteer role with CMHA, such as Coach, Manager or Board Member, the Chair shall notify the Respondent that they are suspended temporarily until the Formal Hearing process is complete.
- 5.2 The Chair shall survey Committee Members to identify which are able to demonstrate neutrality to participate in the Formal Hearing process. The following are some reasons, but not a comprehensive list of reasons, as to why a Member should be disqualified from participating:
- They are the Complainant or the Respondent;
 - They may be called as a witness by either the Complainant or the Respondent;
 - They are related to the Complainant or the Respondent;
 - They deem they are unable to maintain a neutral position due to their relationship with either the Complainant or the Respondent.

A Member shall not be disqualified from participating simply due to their involvement on the team the complaint is filed against or due to their involvement on the CMHA Board for a complaint filed against a CMHA Board Member.

- 5.3 In the event that the Chair is unable to participate in the Formal Hearing process, the remaining Members shall elect a Member from amongst themselves to perform the role of the Chair for that respective hearing.
- 5.4 The minimum amount of Members for any Formal Hearing shall be three (3) Members in addition to the Chair. In the event that there are insufficient Members, the Chair shall notify the Board immediately for an additional appointment(s) to fill the additional position for that respective hearing

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- 5.5 The Committee shall establish a date and time for the Formal Hearing which shall be a maximum of seven (7) days after the determination to proceed with a Formal Hearing.
- 5.6 At least three (3) days prior to the Formal Hearing, the Committee shall provide notice to the Complainant, Respondent and any other individual that the Committee deems necessary to attend the Formal Hearing, which shall outline the following
- The date, time and location of the hearing;
 - The process that will be followed at the hearing;
 - The complaint that was filed;
 - The requirement for the parties to provide a list of any witnesses that they intend to have present at the hearing to provide information for the Committee at least one (1) day prior to the Formal Hearing;
 - Any other information that the Committee requires in preparation for, or at, the Formal Hearing.
- 5.7 If either the Complainant or the Respondent fail to appear at the Formal Hearing after being duly notified in accordance with Section 5.6, the Formal Hearing shall be conducted with the available parties and information available to the Committee.
- 5.8 The Chair of the Committee shall chair the Formal Hearing and be responsible for the orderly conduct of the process. The Chair shall only be involved in the management of the process and shall not be permitted to ask questions of parties, nor vote on the final recommendation of the Committee.
- 5.9 The order of the Formal Hearing agenda shall be as follows:
- Introduction of the Committee by the Chair;
 - Opportunity for any objections to the members of the Committee by either the Respondent or Complainant;
 - In the event that there is an objection, the Committee shall recess to discuss the objection and determine if the objection is valid. The Committee shall have the final discretion to determine if the objection is valid resulting in the dismissal of the Committee member from the Formal Hearing. In the event that this dismissal leaves the Committee with less than three (3) Members, the Formal Hearing shall be postponed until such time that another Member can be appointed.
 - Overview of the Formal Hearing Process which shall include:
 - Addressing all comments through the Chair only when requested;
 - The prohibition of cross examination;
 - The necessity for respect of all parties.
 - The process following the Formal Hearing
 - Complainant(s) Presentation
 - Any individuals in support of the Complainant
 - Respondent (s) Presentation
 - Any individuals in support of the Respondent
 - Committee requested witnesses

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- i) Final Rebuttal
 - a. Complainants Rebuttal
 - b. Respondents Rebuttal
- j) Final Questions of the Committee
- k) Dismissal and Deliberations

- 5.10 The Formal Hearing is not a legal proceeding, but instead an information gathering process for the Committee to receive all necessary information prior to deliberations. As such, no individuals will be sworn in, nor will there be a transcript taken of the proceedings. Further, neither the Respondent nor the Complainant may audio or video record the proceedings.
- a) In accordance with Section 5.10, no party may utilize legal counsel at the Formal Hearing.
- 5.11 The Respondent and the Complainant may only appear in person and may not be represented at the hearing by another individual except in instances where minors are involved. In these instances, the minors must be accompanied by a parent or guardian.
- 5.12 There shall be no cross examination of any party. The Committee shall be the only individuals permitted to ask questions of any presenter in an effort to obtain further information. The final rebuttal shall be used by the Complainant and/or Respondent to clarify any misinformation provided throughout the Formal Hearing.
- 5.13 The Committee shall make final deliberations independently In-Closed Session.
- 5.14 Within three (3) days of the close of the Formal Hearing, the Chair shall provide a written recommendation to the Board of the Committee's findings, a determination as to whether a breach of the CMHA Bylaws and/or Policies has occurred and the recommended sanctions resulting from the breach, if any.

SECTION 6: RECOMMENDATION TO THE BOARD

- 6.1 The Board shall, within three (3) days of receipt of the recommendation from the Committee, review the recommendation through either a Regular Meeting, emergent Regular Meeting or Special Meeting which shall be conducted in-closed session.
- 6.2 All members of the Board, shall be permitted to participate in the discussion except in the event that the Board Member is either the Complainant or the Respondent.
- 6.3 Following the review of the recommendation, the Board shall by majority vote either:
- a) Confirm the decision of the Committee;
 - b) Alter the decision of the Committee.

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- 6.4 Following the Board's deliberations, the Board shall notify the Respondent and Complainant of the decision in writing.

SECTION 7: GENERAL DISCIPLINE PRINCIPLES

- 7.1 In accordance with CMHA Bylaws, the Board reserves the right to discipline any Member of the Association who contravenes any Bylaw or Policy of the Association.
- 7.2 Any disciplinary sanction may be enforced independently or in conjunction with another disciplinary sanction.
- 7.3 Unless otherwise noted, all disciplinary sanctions become effective immediately at the time of sanction.
- 7.4 Failure to comply with a sanction shall result in an automatic suspension from membership in the CMHA until such time as the sanction is fulfilled. Failure to comply with suspension or expulsion from CMHA events and premises may result in further investigation by external law enforcement agencies.
- 7.5 In applying sanctions, the Board may have regard to the following circumstances:
- a) The nature and severity of the offence;
 - b) Whether the offender has previously been sanctioned;
 - c) Whether the offence was part of an isolated incident or part of an ongoing pattern;
 - d) The offender's acknowledgement of responsibility;
 - e) The offenders extent of remorse;
 - f) If the offender is a minor.
- 7.6 It shall be the offender's responsibility to ensure that they provide sufficient documentation to the CMHA Board to confirm that any sanctions applied have been completed appropriately.

SECTION 8: DISCIPLINARY OPTIONS

- 8.1 The Board may select from any of the following options as an appropriate sanction:
- a) Verbal apology;
 - b) Written apology;
 - c) Letter of reprimand from the CMHA;
 - d) Restitution;
 - e) Service or other voluntary contribution to CMHA;
 - f) Referral to Counselling;
 - g) Removal of some, or all, Membership Privileges;
 - h) Temporary Suspension;

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- i) Suspension of Membership;
- j) Expulsion from Membership;
- k) Publication of the details of the sanction;
- l) Payment of costs incurred due to damage;
- m) Completion of an applicable course or recertification at the offender's cost;
- n) Any other sanction deemed appropriate.

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SCHEDULE A "COMPLAINT FORM"

NAME OF MEMBER FILING COMPLAINT: _____

NAME OF MEMBER COMPLAINT IS FILED UPON: _____

CMHA BYLAW OR POLICY BREACHED: _____

RELEVANT SECTION OF BYLAW OR POLICY IF APPLICABLE: _____

DATE OF INCIDENT (OR ONGOING CONCERN): _____

SUMMARY OF INCIDENT (ATTACH EXTRA PAGES IF REQUIRED):

DESIRED RESOLUTION:

WITNESSES OF INCIDENT: _____

SIGNATURE

DATE