



Dispute Resolution Policy

(Revision Date: April 22nd, 2011)

Introduction

Section 119 of *The Non-Profit Corporations Act* provides:

119 The articles or bylaws may provide that the directors, members or any committee of directors or members of a corporation have power to discipline a member or to terminate the membership interest of a member and, where the articles or bylaws do, the circumstances in which that power may be exercised and the manner of its exercise is to be set out in the articles or bylaws of the corporation.

A person is entitled to a fair hearing before a corporation may discipline him or her. This policy provides a guide to suitable bylaws for discipline procedure. Each organization should ensure that its bylaws provide for a fair hearing in the event that discipline is necessary.

This policy calls for two committees to be established:

The responsibilities of the **Investigation Committee** are:

- (a) To gather information relating to disputes;
- (b) To take any practical steps that may resolve disputes without the need for a hearing; and,
- (c) When a hearing is necessary, to fairly present all relevant information to a hearing committee by means of evidence acceptable to the hearing committee. The responsibility of the **Hearing Committee** is to provide a fair hearing.

Characteristics of a fair hearing 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 arbitrator;
- (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) Unbiased arbitrators who will hear and consider all relevant information.

Organizations should consider the need to obtain legal advice in preparing bylaws suitable for their needs.

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1. Dispute Resolution Bodies

Two bodies will be appointed to resolve disputes, whether arising from allegations of harassment or other misconduct, team selection, employment or other issues.

1.1 Investigation Committee

- 1) The investigation committee is established consisting of a chairperson and such other persons as the chairperson may appoint.
- 2) The board shall appoint the chairperson of the investigation committee.
- 3) The chairperson may appoint members to the committee from time to time for the purpose of that appointee serving as investigator of a specific complaint.
- 4) Members of the hearing committee and members of the board are not eligible to be a member of the investigation committee.

1.2 Hearing Committee

- 1) The Executive Director, upon receipt of a report from the investigation committee, which recommends that a hearing be conducted, shall appoint a hearing committee consisting of one or three persons.
- 2) Members of the investigation committee and members of the board are not eligible to be appointed as a member of the hearing committee.
- 3) If the Executive Director considers it appropriate to do so, the Executive Director shall appoint to the hearing committee a person nominated by each party to the dispute.

2. Misconduct

2.1 Any matter, conduct or thing, whether or not disgraceful or dishonourable, is misconduct if:

- 1) It is contrary to the best interests of Saskatchewan Cheerleading Association or of any participant (athlete, coach, advisor, judge or spectator).
- 2) It is contrary to the bylaws of Saskatchewan Cheerleading Association.

- 3) It is contrary to any Code of Conduct established by Saskatchewan Cheerleading Association.
- 4) It is a failure to comply with an order pursuant to this dispute resolution policy by the Executive Director, the board or a hearing committee.

3. Referral and review of complaints and incidents

- 3.1 Complaints must be made to the Executive Director promptly and within the time guidelines set by policy of the board.
- 3.2 The Executive Director may extend the time for submission of a complaint notwithstanding the expiration of the time set by board guidelines.
- 3.3 The Executive Director shall refer the following matters to the chairperson of the investigation committee:
 - 1) A complaint alleging that an athlete, team, coach, advisor, judge, parent/guardian or spectator is guilty of misconduct.
 - 2) On the request of the board, any incident in which misconduct may have occurred.
 - 3) A complaint relating to team selection.
 - 4) Any other request for resolution of a dispute arising from or relating to the activities of the organization.
- 3.4 The chairperson of the investigation committee may require that a complaint be stated in writing.
- 3.5 If the chairperson of the investigation committee is satisfied that the complaint is not valid or does not raise an issue of misconduct or is trivial, frivolous or vexatious in nature, the chairperson shall advise the complainant and thereafter shall take no further action in relation to that complaint.
- 3.6 Where the chairperson has not dismissed a complaint pursuant to 3.5, the chairperson shall appoint one or more members of the investigation committee as investigator of the complaint or incident.
- 3.7 The chairperson may appoint himself or herself as the investigator or as one of the investigators.

4. Investigation

- 4.1 The investigator shall:
 - 1) Review the complaint or the request
 - 2) Make such inquiries as necessary to determine the circumstances of the complaint or incident, which may include:
 - a) sending a copy of summary of the complaint to those named in the complaint, those making the complaint or to any witnesses with a request that they respond in writing to the allegations by a date set by the investigator;
 - b) communicating with or interviewing persons involved in the incident or whose conduct is the subject of the complaint; and
 - c) communicating with or interviewing other persons who may have relevant information.
 - 3) Extend the investigation to include misconduct in any other incident that comes to the attention of the investigator in the course of the investigation.
 - 4) When practical to do so, encourage the parties to resolve the dispute directly.
 - 5) With the agreement of the parties, arrange mediation of the dispute.
- 4.2 On completion of the investigation, the investigator shall make a written report to the Executive Director recommending:

- 1) That the Executive Director appoint a hearing committee to hear and resolve the dispute or to hear the charges, as the case may be; or.
 - 2) That no further action be taken with respect to the matter investigated because:
 - a) the matter has been resolved between the parties,
 - b) no further action is warranted on the facts of the case.
- 4.3 The charge set out in a written report may relate to any matter disclosed during the investigation.
- 4.4 A report signed by a majority of the investigation committee is a decision of investigators

5. Interim suspension of member

- 5.1 In cases of alleged serious misconduct or if there is a risk of physical or emotional harm to other persons, the investigator may submit written reasons to the Executive Director recommending that, pending the outcome of an investigation, as athlete, team, coach, advisor, judge, parent/guardian or spectator under investigation:
- 1) be suspended from participation or
 - 2) be allowed to continue participation subject to conditions or restrictions.
- 5.2 Upon receiving the written recommendations of the investigator, the Executive Director shall:
- 1) If satisfied that continued participation is inappropriate in the circumstances, may order suspension of involvement in organization activities or impose other less restrictive conditions pending the recommendations of the hearing committee.
 - 2) If satisfied that continued participation is appropriate in the circumstances, decline the recommendation of the investigator.
- 5.3 An order of suspension or the imposition of conditions on a member, pending the recommendations of the hearing committee, shall:
- 1) terminate 30 days after the date of the suspension or imposition of conditions, unless renewed or revised by the Executive Director upon a further written recommendation by the investigator.
 - 2) be superseded by the recommendations of the hearing committee.

6. Acting upon the Investigator's report

- 6.1 If the investigation committee recommends no further action on a complaint, the Executive Director shall provide a copy of the investigation committee's reasons for that recommendation to the person or person(s):
- 1) whose conduct is the subject of the complaint.
 - 2) who initiated the complaint.
- 6.2 If the investigation committee is of the opinion that a hearing committee should be appointed, the Executive Director shall appoint a hearing committee.
- 6.3 The Executive Director shall report a decision not to appoint a hearing committee to the next meeting of the board.

7. Hearings

- 7.1 The hearing committee shall conduct a fair hearing of the charge or dispute reported in the investigation committee's report.
- 7.2 At the request of the hearing committee, the Executive Director shall communicate the time and place of the hearing and any other pertinent information to the parties.

8. Hearing Procedure

- 8.1 In disputes of a nature that the hearing committee considers to be minor, the hearing may be conducted in writing. The parties shall be:
- (a) informed that a hearing committee has been established;
 - (b) informed of the charge or dispute to be heard;
 - (c) provided with a copies of the dispute resolution policy;
 - (d) invited, within a time specified by the committee, to make written submissions of any information or arguments relevant to the deliberations of the committee;
 - (e) informed of the findings of the hearing committee.
- 8.2 If the hearing committee does not consider the dispute to be minor, the parties shall have a right to be heard in person:
- 1) At least 3 days before the date of the hearing the parties shall be:
 - (a) informed that a hearing committee has been established;
 - (b) informed of the charge or dispute to be heard;
 - (c) provided with a copy of the dispute resolution policy.
 - 2) The hearing committee shall hear the charge or dispute and shall determine whether or not the accused is guilty of misconduct or rule on the issues in dispute.
 - 3) Parties may be represented by legal counsel at their own expense.
 - 4) There is to be full right:
 - a) to examine, cross-examine and re-examine all witnesses,
 - b) to present evidence in defence and reply.
 - 5) Where a party fails to attend the hearing, the hearing committee may proceed in his or her absence.
 - 6) If, during the course of a hearing, the evidence shows that the accused may be guilty of misconduct different from or in addition to any misconduct specified in the charge, the hearing committee shall adjourn the hearing for any period that the committee considers sufficient to give the accused an opportunity to prepare a defence to the amended charge, unless the respondent consents to continue the hearing.
 - 7) The hearing committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.
 - 8) The hearing committee may accept a record of a criminal conviction or the written reasons for a decision imposing discipline by any other organization as evidence of the conduct, giving rise to the conviction or discipline.
 - 9) On its own initiative or at the request of any party, the hearing committee may restrict the public from the hearing. The hearing committee shall exclude the public if the committee is of the opinion that an open hearing will unduly violate the privacy of any person.
 - 10) The deliberations of the hearing committee shall be conducted in private, and no person who is not a member of the committee shall be present.
- 8.3 The hearing committee shall give written reasons for its decisions and for any discipline imposed. Copies shall be provided to the parties and to the board.

9. Disciplinary Powers

- 9.1 Where the hearing committee finds a person guilty of misconduct, it may make one or more of the following orders, in writing:
- 1) An order that the person(s) be expelled from the Saskatchewan Cheerleading Association

- 2) An order that the person(s) be suspended from the Saskatchewan Cheerleading Association for a specified period
- 3) An order that the person(s) be suspended pending the satisfaction and completion of any conditions specified in the order
- 4) An order that the respondent may continue to participate only under conditions specified in the order
- 5) An order reprimanding the respondent
- 6) Any other order that the hearing committee considers just.

9.2 In making an order the hearing committee shall take into consideration:

- 1) The age, experience and maturity of the person(s)
- 2) The nature of the misconduct;
- 3) Any information, which in the opinion of the committee is reliable and relevant to the determination of an appropriate order, including:
 - a) previous misconduct of the respondent, regardless of whether or not that misconduct was the subject of discipline,
 - b) the character of the respondent.

10. Deference to Other Authorities

10.1 Where the Executive Director, chairperson of the investigation committee or the chairperson of the hearing committee believes that the person(s) whose conduct is being investigated may be guilty of a criminal offence, that person may refer the matter to an appropriate authority.

11. Time for Completion

- 11.1 The investigation, hearing and decision of the hearing committee shall be completed as soon as practical in the circumstances of the complaint.
- 11.2 The board may set time guidelines for any matters that the board considers appropriate, including the time for complaints to be made to the Executive Director, and the time for completion of steps in the hearing process.
- 11.3 In deciding an appeal from a decision of the hearing committee, the board may consider the failure to comply with time guidelines.

12. Appeal to the Board

- 12.1 A person(s) may appeal the decision or any order of the investigation committee or the hearing committee to the organization board by serving a written notice of appeal within 14 days of receipt of the decision or order where:
 - 1) The member has been found guilty of misconduct by the hearing committee;
 - 2) The person is subject to a discipline order;
 - 3) The person(s) who initiated the complaint was advised that no further action would be taken.
- 12.2 The written notice shall state the grounds of appeal.
- 12.3 The Executive Director shall not participate in the hearing of an appeal.
- 12.4 No board member shall participate in the hearing of an appeal if:
 - 1) The board member has a conflict of interest or is biased
 - 2) If there is any reasonable basis on which it may appear that the board member may have a conflict of interest or may be biased.

- 12.5 The participation by a board member in any step of the investigation process prior to the hearing of the appeal shall be deemed to create the appearance of a bias.
- 12.6 The participation by a board member in any step of the investigation or hearing process prior to the hearing of the appeal shall be deemed to create the appearance of a bias.
- 12.7 If all board members are unable to participate in the hearing, the board shall appoint a committee of not more than three persons to hear the appeal.
- 12.8 On hearing an appeal the board or the appointed committee may:
 - 1) Dismiss the appeal
 - 2) Quash the finding of guilt
 - 3) Direct further inquiries by the investigation committee or appoint a new investigation committee to reinvestigate the matter
 - 4) Direct a new hearing or further inquiries by the hearing committee or appoint a new hearing committee to rehear the matter
 - 5) Vary the order of the hearing committee.

13. Effect of Expulsion or Suspension

- 13.1 When a person(s) is expelled or suspended from the organization pursuant to the policy, that person(s) is not eligible to serve any function within the organization or attend any Saskatchewan Cheerleading Association activities.

14. Reinstatement

- 14.1 A person who has been expelled may apply to the board for reinstatement.
- 14.2 Subject to the bylaws, on receipt of an application of reinstatement the board shall review the application and, if in the opinion of the board the application disclosed information that may justify reinstatement, the board may investigate the application by taking any steps it considers necessary.
- 14.3 On completion of its review, the board may:
 - 1) Where it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, direct that the person be reinstated under any terms and conditions that the board considers appropriate.
 - 2) Refuse to reinstate the person.

15. Conflict of Interest or Bias

- 15.1 In the event that any member of either the investigation committee or the hearing committee, other than one nominated by the parties, has a conflict of interest or is biased, that person shall declare the conflict or bias and the Executive Director shall appoint a replacement.
- 15.2 In the event of a conflict of interest on the part of a board member, that member shall not participate in the decision of the board.

16. Records and Use of Decisions

- 16.1 The organization shall maintain a record of all decisions of hearing committees and of all decisions of the board on appeal.
- 16.2 The hearing committee and board may consider the decisions of previous hearing committees and boards, but are not bound by the precedent.

- 16.3 Decisions of a hearing committee and decisions of the board on appeal are matters of public interest and shall be publicly available without disclosing the names of the individuals involved. Names of persons disciplined may be disclosed to the extent necessary to give effect to any sanction imposed.
- 16.4 If the committee or board decides that making the decision publicly available will unduly violate the privacy of any person, the committee or board may direct that the decision or part of the decision should be kept confidential.
- 16.5 Decisions resulting in termination of membership or in a suspension of membership rights for one year or longer shall be reported to the Dispute Management Office of Sask Sport Inc. who may provide information from the decisions to its membership, including the names of persons who have been the subject of the discipline.