

# Clarington Swim Club Inc. Discipline and Complaints Policy

**“Organization” refers to: Clarington Swim Club**

## Definitions

1. The following terms have these meanings in this Policy:
  - a) *“Case Manager”* – An individual appointed by the Discipline Chair to administer certain complaints under this *Discipline and Complaints Policy*. The Case Manager does not need to be a member of, or affiliated with, the Organization
  - b) *“Discipline Panel”* – A panel of 3-5 individuals set by the Case Manager to review the case, determine its merits and proceed with the discipline and resolution of the case
  - c) *“Complainant”* – The Party making a complaint
  - d) *“Days”* – Days including weekends and holidays
  - e) *“Complaint Coordinator”* – An individual on the Board of Directors or a volunteer chosen by the Board of Directors who receives complaints and assigns it to the Discipline Chair.
  - f) *“Discipline Chair”* – An individual or individuals appointed by the Board to be the first point-of-contact for all discipline and complaint matters reported to the Organization
  - g) *“Individuals”* – All categories of membership defined in the Organization’s Bylaws, as well as all individuals employed by, or engaged in activities with, the Organization including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, Directors and Officers of the Organization, spectators, and parents/guardians of athletes
  - h) *“Respondent”* – The Party responding to the complaint

## Purpose

2. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the Organization’s policies, Bylaws, rules and regulations, and the *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

## Complaint Coordinator

3. Receiver of the complaint via written communication to the complaint email address [roccomplaintcoordinator@gmail.com](mailto:roccomplaintcoordinator@gmail.com) or written letter given to complaint coordinator in person. This person can be a director of the Board or a volunteer chosen by the Board of Directors.
4. The Complaint Coordinator will appoint a Discipline Chair and will be responsible for follow-up and management of the complaint, discipline and appeals processes.

## Discipline Chair

5. The Discipline Chair will be an individual appointed by the Board to handle the duties of the Discipline Chair. The Board may choose to appoint three (3) individuals to serve as Discipline Chair and, in this case, decisions of the Discipline Chair will be by majority vote.
6. The Discipline Chair appointed to handle a complaint or incident must be unbiased and not in a conflict of interest situation.

## Application of this Policy

7. This Policy applies to all Individuals.
8. This Policy applies to matters that may arise during the Organization’s business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with the Organization’s activities, and any meetings.

9. This Policy also applies to Individuals' conduct outside of the Organization's business, activities, and events when such conduct adversely affects relationships within the Organization (and its work and sport environment), is detrimental to the image and reputation of the Organization, or upon the acceptance of the Organization. Applicability will be determined by the Organization at its sole discretion.
10. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only. Any discipline that exceeds this will be decided by the Discipline Chair.
11. An employee of the Organization who is a Respondent will be subject to appropriate disciplinary action per the Organization's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

#### **Adult Representative**

12. Complaints may be brought for or against an Individual who is a minor. Minors must have a parent/guardian or other adult serve as their representative during this process. Adult representation is not required where immediate discipline or sanction is applied.
13. Communication from the Discipline Chair or Case Manager, as applicable, must be directed to the minor's representative.
14. A minor is not required to attend an oral hearing, if held. In the event a minor must be questioned by the Discipline Chair, the minor's Adult Representative must be present.

#### **Reporting a Complaint**

15. Any Individual may report an incident or complaint to the Complaint Coordinator in writing, within fourteen (14) days of the alleged incident, although this timeline can be waived or extended at the Board's discretion.
16. At the Organization's discretion, the Organization may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the Organization will identify an individual to represent the Organization.
17. The Board will appoint a Discipline Chair, as described in this Policy.

#### **Investigation – Abuse and Harassment Complaints**

18. The Discipline Chair may determine that the alleged incident may contain an element of discrimination, harassment, workplace harassment, workplace violence, sexual harassment, or abuse. In this case, the Discipline Chair will appoint an Investigator in accordance with the Organization's *Investigations Policy - Discrimination, Harassment, and Abuse* and the Organization, and the Investigator, will have additional responsibilities as described in that Policy.
19. Upon receipt of a complaint, the Discipline Chair has discretion to choose which process should be followed, and may use the following examples as a general guideline:

- a) Process #1 - the Complaint alleges the following incidents:
  - i. Disrespectful, abusive, racist, or sexist comments or behaviour
  - ii. Disrespectful conduct
  - iii. Minor incidents of violence (e.g., tripping, pushing, elbowing)
  - iv. Conduct contrary to the values of the Organization

- v. Non-compliance with the Organization's policies, procedures, rules, or regulations
  - vi. Minor violations of the Organization's *Code of Conduct and Ethics*
- b) Process #2 - the Complaint alleges the following incidents:
- i. Repeated minor incidents
  - ii. Any incident of hazing
  - iii. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
  - iv. Major incidents of violence (e.g., fighting, attacking, sucker punching)
  - v. Pranks, jokes, or other activities that endanger the safety of others
  - vi. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
  - vii. Conduct that intentionally damages the Organization's image, credibility, or reputation
  - viii. Consistent disregard for the Organization's bylaws, policies, rules, and regulations
  - ix. Major or repeated violations of the Organization's *Code of Conduct and Ethics*
  - x. Intentionally damaging the Organization's property or improperly handling the Organization's monies
  - xi. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
  - xii. A conviction for any *Criminal Code* offense
  - xiii. Any possession or use of banned performance enhancing drugs or methods

**Process #1: Handled by Discipline Chair**

Sanctions

20. Following the determination that the complaint or incident should be handled under Process #1, the Discipline Chair will review the submissions related to the complaint or incident and determine one or more of the following sanctions:
- a) Verbal or written reprimand
  - b) Verbal or written apology
  - c) Service or other contribution to the Organization
  - d) Removal of certain privileges
  - e) Suspension from certain teams, events, and/or activities
  - f) Suspension from all the Organization's activities for a designated period
  - g) Any other sanction considered appropriate for the offense
21. The Discipline Chair will inform the Respondent of the sanction, which will take effect immediately.
22. Records of all sanctions will be maintained by the Organization.

Request for Reconsideration

23. The sanction may not be appealed until the completion of a request for reconsideration. However, the Respondent may contest the sanction by submitting a Request for Reconsideration within four (4) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:
- a) Why the sanction is inappropriate;
  - b) All evidence to support the Respondent's position; and
  - c) What penalty or sanction (if any) would be appropriate
24. Upon receiving a Request for Reconsideration, the Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate sanction.

25. Should the Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
26. Should the Discipline Chair not accept the Respondent's suggestion for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Policy.

**Process #2: Handled by Case Manager**

Case Manager

27. Following the determination that the complaint or incident should be handled under Process #2, the Organization will appoint a Case Manager to oversee management and administration of the complaint or incident. The Case Manager should not be in a conflict of interest and should have expertise in dispute resolution matters. Such appointment is not appealable.
28. The Case Manager has a responsibility to:
  - a) Appoint a Discipline Panel
  - b) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
  - c) Propose the use of the Organization's *Dispute Resolution Policy*
  - d) Coordinate all administrative aspects and set timelines
  - e) Provide administrative assistance and logistical support to the Discipline Panel as required
  - f) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

Procedures

29. If the Discipline Panel determines the complaint is:
  - a) Frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately
  - b) Not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the complaint is accepted and of the applicable next steps
30. The Case Manager's decision to accept or dismiss the complaint may not be appealed.
31. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
32. After notifying the Parties that the complaint has been accepted, the Case Manager and the Discipline Panel may propose using the Organization's *Dispute Resolution Policy* with the objective of resolving the dispute.
  - a) The Case Manager, in cooperation with the Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed.
    - (a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
    - (b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Case Manager, 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
    - (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
    - (f) The decision will be by a majority vote of the Discipline Panel

33. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
34. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
35. If a 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.
36. In fulfilling its duties, the Discipline Panel may obtain independent advice.

#### Decision

37. After hearing and/or reviewing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the Organization. In extraordinary circumstances, the Discipline Panel 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. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

#### Sanctions

38. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:
  - a) Verbal or written reprimand
  - b) Verbal or written apology
  - c) Service or other contribution to the Organization
  - d) Removal of certain privileges
  - e) Suspension from certain teams, events, and/or activities
  - f) Suspension from all the Organization's activities for a designated period
  - g) Payment of the cost of repairs for property damage
  - h) Suspension of funding from the Organization or from other sources
  - i) Expulsion from the Organization
  - j) Any other sanction considered appropriate for the offense
39. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.
40. Records of all decisions will be maintained by the Organization.

#### Appeals

41. The decision of the Discipline Panel may be appealed in accordance with the Organization's *Appeal Policy*.

#### **Suspension Pending a Hearing**

42. The Organization may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of a criminal process, the hearing, or a decision of the Discipline Panel.

#### **Criminal Convictions**

43. An Individual's conviction for a *Criminal Code* offense, as determined by the Organization, will be deemed an infraction under this Policy and will result in expulsion from the Organization. *Criminal Code* offences may include, but are not limited to:
- a) Any child pornography offences
  - b) Any sexual offences
  - c) Any offence of physical violence
  - d) Any offence of assault
  - e) Any offence involving trafficking of illegal drugs

**Confidentiality**

44. The discipline and complaints process is confidential and involves only the Parties, the Case Manager, the Discipline Panel, and any independent advisors to the Discipline Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

**Timelines**

45. 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 Panel may direct that these timelines be revised.

**Records and Distribution of Decisions**

46. 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.

# Clarington Swim Club Inc. Dispute Resolution Policy

**“Organization” refers to: Clarington Swim Club**

## Definitions

1. The following term has this meaning in this Policy:
  - a) *“Individuals”* – All categories of membership defined in the Organization’s Bylaws, as well as all individuals employed by, or engaged in activities with, the Organization including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, and Directors and Officers of the Organization

## Purpose

2. The Organization supports the principles of Alternate Dispute Resolution (ADR) and is committed to the techniques of negotiation, facilitation, and mediation as effective ways to resolve disputes. Alternate Dispute Resolution also avoids the uncertainty, costs, and other negative effects associated with lengthy appeals or complaints, or with litigation.
3. The Organization encourages all Individuals to communicate openly, collaborate, and use problem-solving and negotiation techniques to resolve their differences. The Organization believes that negotiated settlements are usually preferable to outcomes resolved through other dispute resolution techniques. Negotiated resolutions to disputes with and among Individuals are strongly encouraged.

## Application of this Policy

4. This Policy applies to all Individuals.
5. Opportunities for Alternate Dispute Resolution may be pursued at any point in a dispute when all parties to the dispute agree that such a course of action would be mutually beneficial.

## Facilitation and Mediation

6. If all parties to a dispute agree to Alternate Dispute Resolution, a mediator or facilitator, acceptable to all parties, shall be appointed to mediate or facilitate the dispute.
7. The mediator or facilitator shall decide the format under which the dispute shall be mediated or facilitated and shall specify a deadline before which the parties must reach a negotiated decision.
8. Should a negotiated decision be reached, the decision shall be reported to, and approved by, the Organization. Any actions that are to take place as a result of the decision shall be enacted on the timelines specified by the negotiated decision, pending the Organization’s approval.
9. Should a negotiated decision not be reached by the deadline specified by the mediator or facilitator at the start of the process, or if the parties to the dispute do not agree to Alternate Dispute Resolution, the dispute shall be considered under the appropriate section of the Organization’s *Discipline and Complaints Policy* or *Appeal Policy*, as applicable.

## Final and Binding

10. Any negotiated decision will be binding on the parties. Negotiated decisions may not be appealed.

# Clarington Swim Club Inc. Investigations Policy – Discrimination, Harassment, and Abuse

**“Organization” refers to: Clarington Swim Club**

## Definitions

1. The following terms have these meanings in this Policy:
  - a) *“Discipline Chair”* – An individual or individuals appointed by the Board to be the first point-of-contact for all discipline and complaint matters reported to the Organization, per the *Discipline and Complaints Policy*
  - b) *“Individuals”* – All categories of membership defined in the Organization’s Bylaws, as well as all individuals employed by, or engaged in activities with, the Organization including, but not limited to, volunteers, managers, administrators, committee members, and Directors and Officers of the Organization
2. The following terms have the meanings as defined in the Organization’s *Code of Conduct and Ethics*:
  - a) Harassment
  - b) Discrimination
  - c) Workplace Harassment
  - d) Sexual Harassment
  - e) Workplace Violence
3. The following terms have the meanings as defined in the Organization’s *Abuse Policy*:
  - a) Abuse

## Purpose

4. The Organization is committed to eliminating all instances of Discrimination, Harassment, Workplace Harassment, Workplace Violence, Sexual Harassment, and Abuse within its operations and activities. This Policy describes how Individuals can report instances of Discrimination, Harassment, Workplace Harassment, Workplace Violence, Sexual Harassment, and Abuse and how the Organization will investigate those reports.

## Determination and Disclosure

5. When a complaint is submitted per the Organization’s *Discipline and Complaints Policy*, the Discipline Chair will determine if such complaint is related to an instance of Discrimination, Harassment, Workplace Harassment, Workplace Violence, Sexual Harassment, or Abuse.
6. The Organization will adhere to all disclosure and reporting responsibilities required by any government entity, local police service, or child protection agency.

## Investigation

7. Complaints that are determined to contain an element of Discrimination, Harassment, Workplace Harassment, Workplace Violence, Sexual Harassment, and Abuse will continue to be addressed by the process(es) described in the *Discipline and Complaints Policy*. However, the Discipline Chair will also appoint an Investigator to investigate the allegations.
8. The Investigator may be a representative of the Organization or a Director or may be an independent third-party skilled in investigating claims of harassment. The Investigator must not be in a conflict of interest situation and should have no connection to either party.

9. Federal and/or Provincial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a worker in a Workplace. The Investigator should review workplace safety legislation and/or consult independent experts to determine whether legislation applies to the complaint.
10. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial legislation. The investigation may include:
  - ) Complainant interviewed;
  - a) Witnesses interviewed;
  - b) Statement of facts (complainant's perspective) prepared by Investigator and acknowledged by Complainant;
  - c) Statement delivered to Respondent;
  - d) Respondent interviewed;
  - e) Witnesses interviewed; and
  - f) Statement of facts (respondent's perspective) prepared by Investigator and acknowledged by Respondent.

### **Investigator's Report**

11. Per timelines determined by the Discipline Chair, who may modify the timelines as described in the *Discipline and Complaints Policy*, the Investigator will prepare and submit a Report.
12. The Investigator's Report should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether or not, on a balance of probabilities, an incident occurred that could be considered Discrimination, Harassment, Workplace Harassment, Workplace Violence, Sexual Harassment, Abuse or breach of policy.
13. Should the Investigator find that there are possible instances of offence under the *Criminal Code*, particularly related to Criminal Harassment (or Stalking), Uttering Threats, Assault, Sexual Interference, or Sexual Exploitation, the Investigator shall advise the Complainant to refer the matter to police. The Investigator will further inform the Organization that the matter should be directed to the police.
14. The Investigator must also inform the Organization of any findings of criminal activity. The Organization may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of doping drugs or materials, any sexual crime involving minors, fraud against the Organization, or other offences where the lack of reporting would bring the Organization into disrepute.
15. The Discipline Chair or the Discipline Panel, as applicable, may consider the Investigator's Report, in addition to submissions from the parties, prior to deciding on the complaint.

### **Reprisal and Retaliation**

16. An individual who submits a complaint to the Organization, or who gives evidence in an investigation, may not be subject to reprisal or retaliation from any individual or group. Should anyone who participates in the process face reprisal or retaliation, that individual will have cause to submit a complaint.

### **False Allegations**

17. An individual who submits allegations that the Investigator determines to be false or without merit will be disciplined or sanctioned by the Discipline chair within the Discipline and Complaint Policy.

**Confidentiality**

18. The Investigator will make every effort to preserve the confidentiality of the complainant, respondent, and any other party. However, the Organization recognizes that maintaining anonymity of any party may be difficult for the Investigator during the investigation.

# Clarington Swim Club Inc. Appeal Policy

**“Organization” refers to: Clarington Swim Club**

## Definitions

1. The following terms have these meanings in this Policy:
  - a) *“Appellant”* – The Party appealing a decision
  - b) *“Case Manager”* – An individual appointed by the Organization who may be any staff member, committee member, volunteer, Director, or an independent third party, to oversee this Appeal Policy. The Case Manager will have responsibilities that include, but are not limited to:
    - i. Ensuring procedural fairness;
    - ii. Respecting the applicable timelines; and
    - iii. Using decision making authority empowered by this Policy.
  - c) *“Respondent”* – The body whose decision is being appealed
  - d) *“Parties”* – The Appellant, Respondent, and any other Individuals affected by the appeal
  - e) *“Days”* – Days including weekends and holidays
  - f) *“Individuals”* – All categories of membership defined in the Organization’s Bylaws, as well as all individuals employed by, or engaged in activities with, the Organization including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, Directors and Officers of the Organization, spectators at events, and parents/guardians of athletes

## Purpose

2. The Organization is committed to providing an environment in which all Individuals involved with the Organization are treated with respect and fairness. The Organization provides Individuals with this *Appeal Policy* to enable fair, affordable, and expedient appeals of certain decisions made by the Organization. Further, some decisions made by the process outlined in the Organization’s *Discipline and Complaints Policy* may be appealed under this Policy.

## Scope and Application of this Policy

3. This Policy applies to all Individuals. Any Individual who is directly affected by a decision by the Organization shall have the right to appeal that decision provided there are sufficient grounds for the appeal under the ‘Grounds for Appeal’ section of this Policy.
4. This Policy **will apply** to decisions relating to:
  - a) Eligibility
  - b) Selection
  - c) Conflict of Interest
  - d) Discipline
  - e) Membership
5. This Policy **will not apply** to decisions relating to:
  - a) Employment
  - b) Infractions for doping offenses
  - c) The rules of the sport
  - d) Substance, content and establishment of team selection criteria
  - e) Volunteer/coach appointments and the withdrawal or termination of those appointments
  - f) Budgeting and budget implementation
  - g) The Organization’s operational structure and committee appointments

- h) Decisions or discipline arising within the business, activities, or events organized by entities other than the Organization (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by the Organization at its sole discretion)
- i) Decisions made under this Policy

### **Timing of Appeal**

- 6. Individuals who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit, in writing to the Organization, the following:
  - a) Notice of the intention to appeal
  - b) Contact information and status of the appellant
  - c) Name of the respondent and any affected parties, when known to the Appellant
  - d) Date the appellant was advised of the decision being appealed
  - e) A copy of the decision being appealed, or description of decision if written document is not available
  - f) Grounds for the appeal
  - g) Detailed reasons for the appeal
  - h) All evidence that supports these grounds
  - i) Requested remedy or remedies
  - j) An administration fee of one hundred dollars (\$100), which will be refunded if the appeal is upheld
- 7. An Individual who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an exemption. The decision to allow, or not allow, an appeal outside of the seven (7) day period will be at the sole discretion of the Case Manager and may not be appealed.

### **Grounds for Appeal**

- 8. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
  - a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
  - b) Failed to follow its own procedures (as set out in the Respondent's governing documents)
  - c) Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views)
  - d) Failed to consider relevant information or took into account irrelevant information in making the decision
  - e) Made a decision that was grossly unreasonable
- 9. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

### **Screening of Appeal**

- 10. Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), the Organization and the Appellant may first determine the appeal to be considered under the Organization's *Dispute Resolution Policy*.
- 11. Appeals resolved by mediation under the Organization's *Dispute Resolution Policy* will cause the administration fee to be refunded to the Appellant.
- 12. Should the appeal not be resolved by using the *Dispute Resolution Policy*, the Organization will appoint an independent Case Manager (who must not be in a conflict of interest) who has the following responsibilities:
  - a) Determine if the appeal falls under the scope of this Policy

- b) Determine if the appeal was submitted in a timely manner
  - c) Decide whether there are sufficient grounds for the appeal
13. If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
14. If the Case Manager is satisfied there are sufficient grounds for an appeal, the Case Manager will appoint an Appeals Panel which shall consist of a single Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.

#### **Procedure for Appeal Hearing**

15. The Case Manager shall notify the Parties that the appeal will be heard. The Case Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.
16. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
17. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:
- a) The hearing will be held within a timeline determined by the Case Manager
  - b) The Parties will be given reasonable notice of the day, time and place of the hearing
  - c) Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
  - d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
  - e) The Panel may request that any other individual participate and give evidence at the hearing
  - f) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate
  - g) If a decision in the appeal may affect another party to the extent that the other party would have recourse to an appeal in their own right under this Policy, that party will become a party to the appeal in question and will be bound by its outcome
  - h) The decision to uphold or reject the appeal will be by a majority vote of Panel members
18. In fulfilling its duties, the Panel may obtain independent advice.

#### **Appeal Decision**

19. The Panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
- a) Reject the appeal and confirm the decision being appealed
  - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
  - c) Uphold the appeal and vary the decision
20. The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the Organization. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon

after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel.

**Timelines**

21. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Case Manager and/or Panel may direct that these timelines be revised.

**Confidentiality**

22. The appeals process is confidential and involves only the Parties, the Case Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

**Final and Binding**

23. No action or legal proceeding will be commenced against the Organization or Individuals in respect of a dispute, unless the Organization has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in the Organization's governing documents.

# Clarington Swim Club Inc. Abuse Policy

**“Organization” refers to: Clarington Swim Club**

## Definitions

1. The following terms have these meanings in this Policy:
  - a) *“Vulnerable Individuals”* – Includes Children / Youth (minors) and Vulnerable Adults (people who, because of age, disability or other circumstance, are in a position of dependence on others or are otherwise at a greater risk than the general population of being harmed by people in positions of trust or authority);
  - b) *“Individuals”* – All categories of membership defined in the Organization’s Bylaws, as well as all individuals employed by, or engaged in activities with, the Organization including, but not limited to, volunteers, managers, administrators, committee members, and Directors and Officers of the Organization; and
  - c) *“Abuse”* – Child/Youth Abuse or Vulnerable Adult Abuse as described in this Policy.

## Purpose

2. The Organization is committed to a sport environment free from abuse. The purpose of this Policy is to stress the importance of that commitment by educating Individuals about abuse, outlining how the Organization will work to prevent abuse, and how abuse or suspected abuse can be reported to and addressed by the Organization.

## Zero Tolerance Statement

3. The Organization has zero tolerance for any type of abuse. Individuals are required to report instances of abuse or suspected abuse to the Organization to be immediately addressed under the terms of the applicable policy.

## Education – What is Abuse

4. Vulnerable Individuals can be abused in different forms.
5. The following description of Child / Youth Abuse has been modified and adapted from Ecclesiastical’s *Guidelines for Developing a Safety & Protection Policy for Children / Youth / Vulnerable Adults* [1]:

### *Child / Youth Abuse*

6. “Child abuse” refers to the violence, mistreatment or neglect that a child or adolescent may experience while in the care of someone they depend on or trust. There are many different forms of abuse and a child may be subjected to more than one form:
  - a) **Physical abuse** involves single or repeated instances of deliberately using force against a child in such a way that the child is either injured or is at risk of being injured. Physical abuse includes beating, hitting, shaking, pushing, choking, biting, burning, kicking or assaulting a child with a weapon. It also includes holding a child under water, or any other dangerous or harmful use of force or restraint.
  - b) **Sexual abuse** and exploitation involve using a child for sexual purposes. Examples of child sexual abuse include fondling, inviting a child to touch or be touched sexually, intercourse, rape, incest, sodomy, exhibitionism, or involving a child in prostitution or pornography.
  - c) **Neglect** is often chronic, and it usually involves repeated incidents. It involves failing to provide what a child needs for his or her physical, psychological or emotional development and well being. For example, neglect includes failing to provide a dependent child with food, clothing, shelter, cleanliness, medical care, or protection from harm.

- d) **Emotional abuse** involves harming a child's sense of self-worth. It includes acts (or omissions) that result in, or place a child at risk of, serious behavioural, cognitive, emotional, or mental health problems. For example, emotional abuse may include aggressive verbal threats, social isolation, intimidation, exploitation, or routinely making unreasonable demands. It also includes exposing the child to violence.
7. An abuser may use a number of different tactics to gain access to children, exert power and control over them, and prevent them from telling anyone about the abuse or seeking support. The abuse may happen once, or it may occur in a repeated and escalating pattern over a period of months or years. The abuse may change form over time.
8. Abuse of children or youth in sport can include emotional maltreatment, neglect, and physical maltreatment.
- a) **Emotional Maltreatment** – A coach's failure to provide a developmentally-appropriate and supportive environment. Emotional abuse is at the foundation of all other forms of maltreatment (sexual, physical and neglect). In sports, this conduct has the potential to cause emotional or psychological harm to an athlete when it is persistent, pervasive or patterned acts (i.e., yelling at an athlete once does not constitute maltreatment). Examples of emotional maltreatment include:
- i. Refusal to recognize an athlete's worth or the legitimacy of an athlete's needs (including complaints of injury/pain, thirst or feeling unwell)
  - ii. Creating a culture of fear, or threatening, bullying or frightening an athlete
  - iii. Frequent name-calling or sarcasm that continually "beats down" an athlete's self-esteem
  - iv. Embarrassing or humiliating an athlete in front of peers
  - v. Excluding or isolating an athlete from the group
  - vi. Withholding attention
  - vii. Encouraging an athlete to engage in destructive and antisocial behaviour, reinforcing deviance, or impairing an athlete's ability to behave in socially appropriate ways
  - viii. Over-pressuring; whereby the coach imposes extreme pressure upon the athlete to behave and achieve in ways that are far beyond the athlete's capabilities
  - ix. Verbally attacking an athlete personally (e.g., belittling them or calling them worthless, lazy, useless, fat or disgusting).
  - x. Routinely or arbitrarily excluding athletes from practice
  - xi. Using conditioning as punishment
  - xii. Throwing sports equipment, water bottles or chairs at, or in the presence of, athletes
  - xiii. Body shaming – making disrespectful, hurtful or embarrassing comments about an athlete's physique
- b) **Neglect** - acts of omission (i.e., the coach should act to protect the health/well-being of an athlete but does not). Examples of neglect include:
- i. Isolating an athlete in a confined space or stranded on equipment, with no supervision, for an extended period
  - ii. Withholding, recommending against, or denying adequate hydration, nutrition, medical attention or sleep
  - iii. Ignoring an injury
  - iv. Knowing about sexual abuse of an athlete but failing to report it
- c) **Physical Maltreatment** - involves contact or non-contact behaviour that can cause physical harm to an athlete. It also includes any act or conduct described as physical abuse or misconduct (e.g., child abuse, child neglect and assault). Almost all sport involves strenuous physical activity. Athletes regularly push themselves to the point of exhaustion. However, any activity that physically harms an athlete—such as extreme disciplinary actions or punishment—is unacceptable. Physical

maltreatment can extend to seemingly unrelated areas including inadequate recovery times for injuries and restricted diet. Examples of physical maltreatment include:

- i. Punching, beating, biting, striking, choking or slapping an athlete
- ii. Intentionally hitting an athlete with objects or sporting equipment
- iii. Providing alcohol to an athlete under the legal drinking age
- iv. Providing illegal drugs or non-prescribed medications to any athlete
- v. Encouraging or permitting an athlete to return to play prematurely or without the clearance of a medical professional, following a serious injury (e.g., a concussion)
- vi. Prescribed dieting or other weight-control methods without regard for the nutritional well-being and health of an athlete
- vii. Forcing an athlete to assume a painful stance or position for no athletic purpose, or excessive repetition of a skill to the point of injury
- viii. Using excessive exercise as punishment (e.g., stretching to the point of causing the athlete to cry, endurance conditioning until the athlete vomits)

9. Importantly, emotional and physical maltreatment does not include professionally-accepted coaching methods (per the NCCP) of skill enhancement, physical conditioning, team building, discipline, or improving athletic performance.

10. Potential warning signs of abuse of children or youth can include[2][3]:

- a) Recurrent unexplained injuries
- b) Alert behaviour; child seems to always be expecting something bad to happen
- c) Often wears clothing that covers up their skin, even in warm weather
- d) Child startles easily, shies away from touch or shows other skittish behaviour
- e) Constantly seems fearful or anxious about doing something wrong
- f) Withdrawn from peers and adults
- g) Behavior fluctuates between extremes (e.g., extremely cooperative or extremely demanding)
- h) Acting either inappropriately beyond their age (like an adult; taking care of other children) or inappropriately younger than their age (like an infant; throwing tantrums)
- i) Acting out in an inappropriate sexual way with toys or objects
- j) New adult words for body parts and no obvious source
- k) Self-harm (e.g., cutting, burning or other harmful activities)
- l) Not wanting to be alone with a particular child or young person

#### *Vulnerable Adult Abuse*

11. Although individuals may be abused at virtually any life stage – childhood, adolescence, young adulthood, middle age, or old age – the nature and consequences of abuse may differ depending on an individual's situation, disability, or circumstance.

12. The following description of Vulnerable Adult Abuse has been modified and adapted from Ecclesiastical's *Guidelines for Developing a Safety & Protection Policy for Children / Youth / Vulnerable Adults* [1].

13. Abuse of vulnerable adults is often described as a misuse of power and a violation of trust. Abusers may use a number of different tactics to exert power and control over their victims. Abuse may happen once, or it may occur in a repeated and escalating pattern over months or years. The abuse may take many different forms, which may change over time:

- a) **Psychological abuse** includes attempts to dehumanize or intimidate vulnerable adults. Any verbal or non-verbal act that reduces their sense of self-worth or dignity and threatens their psychological and emotional integrity is abuse. This type of abuse may include, for example

- i. Threatening to use violence
  - ii. Threatening to abandon them
  - iii. Intentionally frightening them
  - iv. Making them fear that they will not receive the food or care they need
  - v. Lying to them
  - vi. Failing to check allegations of abuse against them
- b) **Financial abuse** encompasses financial manipulation or exploitation, including theft, fraud, forgery, or extortion. It includes using a vulnerable adult's money or property in a dishonest manner or failing to use a vulnerable adult's assets for their welfare. Abuse occurs any time someone acts without consent in a way that financially or personally benefits one person at the expense of another. This type of abuse against a vulnerable adult may include, for example:
- i. Stealing their money, disability cheques, or other possessions
  - ii. Wrongfully using a Power of Attorney
  - iii. Failing to pay back borrowed money when asked
- c) **Physical abuse** includes any act of violence – whether or not it results in physical injury. Intentionally inflicting pain or injury that results in either bodily harm or mental distress is abuse. Physical abuse may include, for example:
- i. Beating
  - ii. Burning or scalding
  - iii. Pushing or shoving
  - iv. Hitting or slapping
  - v. Rough handling
  - vi. Tripping
  - vii. Spitting
- d) All forms of sexual abuse are also applicable to vulnerable adults

14. Potential warning signs of abuse of vulnerable adults can include:

- a) Depression, fear, anxiety, passivity
- b) Unexplained physical injuries
- c) Dehydration, malnutrition, or lack of food
- d) Poor hygiene, rashes, pressure sores
- e) Over-sedation

### **Preventing Abuse**

15. The Organization will enact measures aimed at preventing abuse. These measures include screening, orientation, training, practice, and monitoring.

#### *Screening*

16. Individuals who coach, volunteer, officiate, deliver developmental programs, accompany a team to an event or competition, are paid staff, or otherwise engage with Vulnerable Individuals involved with the Organization will be screened according to the organization's *Screening Policy*.

17. The Organization will use the *Screening Policy* to determine the level of trust, authority, and access that each Individual has with Vulnerable Individuals. Each level of risk will be accompanied by increased screening procedures which may include the following, singularly or in combination:

- a) Completing an Application Form for the position sought (which includes alerting Individuals that they must agree to adhere with the organization’s policies and procedures (including this *Abuse Policy*))
- b) Completing a Screening Declaration Form
- c) Providing letters of reference
- d) Providing a Criminal Record Check (“CRC”) and/or Vulnerable Sector Check (“VSC”)
- e) Providing a driver’s abstract (for Individuals who transport Vulnerable Individuals)
- f) Other screening procedures, as required

18. An Individual’s failure to participate in the screening process or pass the screening requirements as determined by a Screening Committee, will result in the Individual’s ineligibility for the position sought.

*Practice*

19. When Individuals interact with Vulnerable Individuals, they are required to enact certain practical approaches to these interactions. These include, but are not limited to:

- a) Limiting physical interactions to non-threatening or non-sexual touching (e.g., high-fives, pats on the back or shoulder, handshakes, specific skill instruction, etc.)
- b) Ensuring that more than one person is responsible for team selection (thereby limiting the consolidation of power onto one Individual)
- c) Including parents/guardians in all communication (e.g., electronic, telephonic) with Vulnerable Individuals
- d) Ensuring that parents/guardians are aware that some non-personal communication between Individuals and Vulnerable Individuals (e.g., coaches and athletes) may take place electronically (e.g., by texting) and that this type of communication is now considered to be commonplace, especially with older Vulnerable Individuals (e.g., teenagers). Individuals are aware that such communication is subject to the Organization’s *Code of Conduct and Ethics* and *Social Media Policy*.

*Monitoring*

20. The Organization will regularly monitor those Individuals who have access to, or interact with, Vulnerable Individuals. The monitoring will be based on the level of risk, as described in the *Screening Policy*.

**Reporting Abuse**

21. Reports of abuse that are shared confidentially with an Individual by a Vulnerable Individual may require the Individual to report the incident to parents/guardians, the Organization or police. Individuals must respond to such reports in a non-judgemental, supportive and comforting manner but must also explain that the report may need to be escalated to the proper authority or to the Vulnerable Individual’s parent/guardian.

22. Complaints or reports that describe an element of **abuse** will be addressed by the process(es) described in the Organization’s *Discipline and Complaints Policy* and the *Investigations Policy - Discrimination, Harassment and Abuse*.

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 [1] Retrieved from: [https://www.ecclesiastical.ca/guidelines\\_developsafetyprotectionpolicy\\_children-youths-vulnerableadults\\_faith/](https://www.ecclesiastical.ca/guidelines_developsafetyprotectionpolicy_children-youths-vulnerableadults_faith/)

[2] Adapted from: <https://www.all4kids.org/2014/03/04/warning-signs-child-abuse-neglect/>

[3] Adapted from: [https://www.parentsprotect.co.uk/warning\\_signs.htm](https://www.parentsprotect.co.uk/warning_signs.htm)