

# Manitoba Wheelchair Sports Association (MWSA)

## DISCIPLINE AND COMPLAINTS POLICY

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**Office line: (204) 925-5790**

**Office e-mail: [office@mwsa.ca](mailto:office@mwsa.ca)**

# Manitoba Wheelchair Sport Association (MWSA) DISCIPLINES AND COMPLAINTS POLICY

## Definitions

The following terms have these meanings in this Policy:

- **Case Manager:** An individual appointed by the MWSA to administer this Discipline and Complaints Policy. The Case Manager does not need to be a member of, or affiliated with, the MWSA.
- **Complainant:** The Party alleging an infraction.
- **Respondent:** The alleged infracting Party.
- **Days:** Days including weekends and holidays.
- **Individuals:** All categories of membership defined in the MWSA's Bylaws, as well as all individuals employed by, or engaged in activities with, the MWSA including, but not limited to, athletes, coaches, convenors, referees, officials, volunteers, managers, administrators, committee members, Directors and Officers of the MWSA, spectators at events, and parents/guardians of athletes.
- **In writing:** A letter, fax, or email.

## Purpose

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

## Application of this Policy

This Policy applies to all Individuals.

This Policy applies to matters that may arise during the course of MWSA's business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with MWSA activities, and any meetings.

This Policy also applies to Individuals' conduct outside of the MWSA's business, activities, and events when such conduct adversely affects relationships within the MWSA (and its work and sport

environment) and is detrimental to the image and reputation of the MWSA. Such applicability will be determined by the MWSA at its sole discretion.

This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy. Any infractions or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.

An employee of the MWSA who is a Respondent will be subject to appropriate disciplinary action per the MWSA's policies for human resources as well as the employee'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.

### **Reporting a Complaint**

Any Individual may report any complaint to the MWSA. A complaint must be in writing and must be filed within fourteen (14) days of the alleged incident.

A Complainant wishing to file a complaint outside of the fourteen (14) day period must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the complaint outside of the fourteen (14) day period will be at the sole discretion of the MWSA. This decision may not be appealed.

At the MWSA's discretion, the MWSA may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the MWSA will identify an individual to represent the MWSA.

Resignation or lapsing of membership after a complaint is filed does not preclude discipline being pursued under this Policy.

### **Case Manager**

Upon the receipt of a complaint, the MWSA will appoint a Case Manager to oversee management and administration of complaints submitted in accordance with this Policy. Such appointment is not appealable.

The Case Manager has a responsibility to:

1. Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy;
2. Determine if mediation to resolve the dispute is possible;
3. Appoint the Discipline Panel, if necessary;
4. Coordinate all administrative aspects and set timelines;

5. Provide administrative assistance and logistical support to the Discipline Panel as required;
6. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

## **Procedures**

If the Case Manager determines the complaint is:

1. Frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately.
2. 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.

The Case Manager's decision to accept or dismiss the complaint may not be appealed.

The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

After notifying the Parties that the complaint has been accepted, the Case Manager will first propose using mediation with the objective of resolving the dispute. Mediation may involve the use of an independent mediator who will work with both parties to resolve the dispute via a negotiated decision. If the dispute is not resolved by mediation or if the parties refuse to attempt mediation, the Case Manager will appoint a Discipline Panel, which shall consist of a single Adjudicator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Case Manager, a Discipline Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Discipline Panel's members to serve as the Chair.

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. The format of the hearing, which may involve direct communication with the Parties, an oral in-person hearing, an oral hearing by telephone or other communication medium, 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 Discipline Panel deem appropriate in the circumstances, provided that:

1. 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;
2. 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;
3. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense;
4. The Discipline Panel may request that any other individual participate and give evidence at the hearing;
5. 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;

6. The decision will be by a majority vote of the Discipline Panel.

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.

The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.

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.

In fulfilling its duties, the Discipline Panel may obtain independent advice.

## **Decision**

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 MWSA. 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**

The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:

1. Verbal or written reprimand;
2. Verbal or written apology;
3. Service or other contribution to the MWSA;
4. Removal of certain privileges;
5. Suspension from certain teams, events, and/or activities;
6. Suspension from all MWSA activities for a designated period of time;
7. Withholding of prize money or awards;
8. Payment of the cost of repairs for property damage;
9. Suspension of funding from the MWSA or from other sources;
10. Expulsion from the MWSA k) Any other sanction considered appropriate for the offense.

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.

Infractions that result in discipline will be recorded and records will be maintained by the MWSA.

### **Suspension Pending a Hearing**

The MWSA 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**

An Individual's conviction for a Criminal Code offense, as determined by the MWSA, will be deemed an infraction under this Policy and will result in expulsion from the MWSA. Criminal Code offences may include, but are not limited to:

1. Any child pornography offences;
2. Any sexual offences;
3. Any offence of physical violence;
4. Any offence of assault;
5. Any offence involving trafficking of illegal drugs.

### **Confidentiality**

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**

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**

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.

## **Appeals Procedure**

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

## **Approval of Policy**

This policy was approved by MWSA's Board of Directors on September 26, 2016.