

**FREDERICTON ROWING CLUB
INFRACTIONS AND SANCTIONS POLICY
AUGUST 2018**

Membership in Fredericton Rowing Club (FRC), and participation in its activities, brings with it many benefits and privileges that are balanced by member and participant responsibilities and obligations. The Member Code of Conduct defines the parameters for these responsibilities and obligations, and thus identifies a standard for behavior that is expected of all FRC members and participants. This document identifies the procedures to be followed when this standard is not achieved.

TYPES OF INFRACTIONS

- 1) Failure by a Member or Participant to comply with the expected standard set out above may result in discipline and the imposition of a sanction. Infractions are divided into two types, minor infractions and major infractions, which are dealt with using different procedures.
- 2) Minor infractions are single incidents of failing to comply with the expected standards of conduct that generally do not result in harm to others, to the FRC or to sport. Examples of minor infractions include, but are not limited to:
 - Single instances of un-sportsmanlike conduct;
 - Single instances of disrespectful comments or behaviour directed towards others;
 - Single instances of non-compliance with the bylaws, policies, rules, regulations and directives of the FRC.
- 3) All disciplinary situations involving minor infractions will be dealt with by the appropriate person having authority over the Member or Participant involved: this person may include, but is not restricted to, a coach, official, director, officer, volunteer or staff member. Penalties for minor infractions may include a verbal warning, written warning, request for an apology, service or other voluntary contribution to the FRC, removal of certain privileges of membership for a designated period of time, and/or removal from the current activity.
- 4) Major infractions are instances of failing to achieve the expected standards of conduct that result, or have the potential to result, in harm to other persons, to the FRC or to sport. Examples of major infractions include, but are not limited to:
 - Repeated minor infractions;
 - Intentionally damaging FRC property or improperly handling FRC monies;
 - Pranks, jokes or other activities that endanger the safety of others;
 - Deliberate disregard for the bylaws, policies, rules, regulations and directives of the FRC;
 - Conduct that intentionally damages the image, credibility or reputation of the FRC;
 - Behaviour that constitutes harassment, sexual harassment or sexual misconduct;
 - Abusive use of alcohol, any use of alcohol by minors, use of illicit drugs and narcotics.
- 5) A Member or Participant's conviction for any of the following Criminal Code offenses will be deemed a major infraction under this Policy and will result in expulsion from FRC (if the Participant is a Member) and/or removal from FRC programs, activities and events (Including but not limited to):
 - Child pornography offences;
 - Any sexual offences involving a minor;
 - Any offence of assault involving a minor;
 - Any offence of physical or psychological violence involving a minor; or
 - Any offence involving trafficking of illegal drugs or substances

- 6) Major infractions will be reviewed and decided using the disciplinary procedures set out in this policy, except where a dispute resolution procedure contained within a contract or other formal written agreement takes precedence.

REPORTING AN INFRACTION

- 7) Any individual may report to a Representative of FRC a complaint of an infraction by a Member or Participant. Such complaint must be in writing and must be made within 14 days of the alleged infraction. For the purposes of this Section, a 'Representative' is any person in a responsible volunteer or staff position within FRC.
- 8) Upon receiving a complaint, the Representative will provide it immediately to the President of FRC, or designate, if the President is not available or not able to act in this capacity.
- 9) FRC may determine that an alleged infraction is of such seriousness as to warrant suspension of the Member, or removal of the Participant, pending investigation, a hearing and a disciplinary decision.
- 10) Upon receiving a complaint of a major infraction, the President (or designate) will review the complaint and may:
 - Dismiss the complaint if he or she considers it to be trivial or vexatious;
 - Determine that the complaint does not fall within the jurisdiction of this policy, and refer it to the appropriate body having jurisdiction;
 - Direct that the infraction be dealt with informally as a minor infraction; or
 - Refer the matter to the Discipline Committee to deal with as a major infraction.

DISCIPLINARY PROCEDURES

- 11) The Discipline Committee is an FRC committee composed of three persons, who are appointed by FRC to deal with the complaint. The Discipline Committee has an overall responsibility to ensure procedural fairness is respected at all times during the disciplinary process, and to carry out this process in a timely manner.
- 12) Depending on the circumstances of the complaint, the Discipline Committee may authorize an investigation into the alleged infraction.
- 13) The Discipline Committee will determine the format of the disciplinary process, which may involve an oral hearing in person, a hearing based on written submissions, or a combination of these methods.
- 14) The Member or Participant will be given reasonable notice of the format as well as day, time and place of the hearing; will receive a copy of the Investigation Report if an investigation was carried out; may be accompanied by a representative; and will have the right to present evidence and argument before the Discipline Committee.
- 15) After hearing the matter, the Discipline Committee will reach a decision as to whether an infraction has occurred and if it has, what the sanction should be. The Discipline Committee will issue a written decision, including reasons, for distribution to the Member or Participant, the complainant and the President.
- 16) Where the conduct being reviewed by this policy is of a sensitive nature, the Discipline Committee and FRC will keep all proceedings under the policy confidential, except where publication is ordered

as part of the sanction, is required by law, or is in the best interests of the public.

17) In fulfilling its duties, and with the approval of the FRC, the Discipline Committee may obtain independent advice.

DISCIPLINARY SANCTIONS

18) The following are examples of disciplinary sanctions that may be applied where it is found that a major infraction has occurred:

- Verbal or written warning;
- Require a verbal or written apology;
- Service or other voluntary contribution to FRC;
- Removal of certain privileges of membership;
- Suspension from certain FRC events or activities;
- Suspension from all FRC activities for a designated period of time;
- Recommend expulsion from membership at the next AGM or Special General Meeting; and/or
- Publication of the disciplinary sanction.

19) It is understood that the above are representative penalties only, that they may be modified to fit the circumstances of the infraction, and that they are presented generally in order of severity.

CRIMINAL CONVICTIONS

20) A Member or Participant's conviction for any of the following Criminal Code offenses will be deemed an infraction under this Policy and will result in expulsion from FRC (if the Participant is a Member) and/or removal from FRC programs, activities and events (Including but not limited to):

- Child pornography offences;
- Any sexual offences involving a minor;
- Any offence of assault involving a minor;
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**FREDERICTON ROWING CLUB
APPEALS PROCESS
AUGUST 2018**

PURPOSE

1. The purpose of this appeals policy is to enable disputes with members and participants to be dealt with fairly, expeditiously and affordably, within Fredericton Rowing Club, without recourse to external legal procedures.

DEFINITIONS

2. These terms will have these meanings in this policy:
 - a) *Days* -- will mean total days, irrespective of weekends or holidays.
 - b) *Member* -- refers to all categories of members in the Fredericton Rowing Club, as well as to all individuals engaged in activities with or employed by the Fredericton Rowing Club, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel)
 - c) *Appellant* -- refers to the Member appealing a decision
 - d) *Respondent* -- refers to the body whose decision is being appealed.

SCOPE OF APPEAL

3. Any Member of Fredericton Rowing Club who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of the Board of Directors, will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Paragraph 7 of this policy. Examples of decisions that may be appealed include but are not limited to those relating to eligibility, carding nomination, team selection, discipline and entitlements and obligations under the Code of Conduct or national team agreement.
4. This policy will not apply to decisions relating to:
 - a) Matters of employment;
 - b) Infractions for doping offences, which are dealt with pursuant to the *Canadian Policy on Doping in Sport* and the *Canadian Doping Control Regulations*;
 - c) The rules of racing, which may not be appealed;
 - d) Discipline matters arising during events organized by entities other than Fredericton Rowing Club, which are dealt with pursuant to the policies of these other entities; and
 - e) Any decisions made under Paragraphs 6 and 9 of this policy.

TIMING OF APPEAL

5. Members who wish to appeal a decision will have 7 days from the date on which they received notice of the decision, to submit in writing notice of their intention to appeal, grounds for the appeal and a summary of the evidence that supports these grounds, to the President of the Fredericton Rowing Club (hereafter referred to as "Official"). In Team Selection appeals must be made in writing within 3 days.
6. Any party wishing to initiate an appeal beyond the 7-day period must provide a written request stating reasons for an exemption to the requirement of Paragraph 5. The decision to allow, or not allow an appeal outside the 7 day period will be at the sole discretion of the Official, and may not be appealed.

GROUNDINGS FOR APPEAL

7. Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:
 - a) Making a decision for which it did not have authority or jurisdiction as set out in Fredericton Rowing Club's governing documents;
 - b) Failing to follow procedures as laid out in the bylaws or approved policies of Fredericton Rowing Club; or
 - c) Making a decision that was influenced by bias.

SCREENING OF APPEAL

8. Within 3 days of receiving the notice and grounds of an appeal, the Official will determine whether there are appropriate grounds for the appeal to proceed as set out in Paragraph 7. In the absence of the Official, a designate will perform this function.
9. If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the Official, or designate, and may not be appealed.

APPEALS PANEL

10. If the Official, or designate, is satisfied that there are sufficient grounds for an appeal, within 7 days of having received the original notice of appeal the Official will establish an Appeals Panel (hereafter referred to as the "Panel") as follows:
 - a) The Panel will be comprised of three individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived bias or conflict.
 - b) The Official may designate one of the Panel members to serve as chairperson of the Panel. In the event the Official does not designate a Chairperson, the members of the Panel will select from themselves a Chairperson.

PRELIMINARY CONFERENCE

11. The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:
 - a) Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both);
 - b) Timelines for exchange of documents;
 - c) Clarification of issues in dispute;
 - d) Clarification of evidence to be presented to the Panel; order and procedure of hearing;
 - e) Location of hearing, where the hearing is an oral hearing;
 - f) Identification of witnesses; and
 - g) Any other procedural matter that may assist in expediting the appeal proceedings.
12. The Panel may delegate to its Chairperson the authority to deal with these preliminary matters on behalf of the Panel.

PROCEDURE FOR THE HEARING

13. Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:
 - a) The hearing will be held within 7 days of the Panel's appointment.
 - b) The Appellant and Respondent will be given reasonable written notice of the date, time and

place of the hearing.

c) A quorum will be all three Panel members. Decisions will be by majority vote, where the Chairperson carries a vote.

d) If the decision of the Panel 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.

e) Any of the parties may be accompanied by a representative or advisor, including legal counsel at own expense.

f) The Panel may direct that any other person participate in the appeal.

14. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone conference.

PROCEDURE FOR DOCUMENTARY APPEAL

15. Where the Panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures as it deems appropriate provided that:

a) All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument.

b) The applicable principles and timelines set out in Paragraph 13 are respected.

APPEAL DECISION

16. Within 7 days of concluding the appeal, the Panel will issue its written decision, with reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:

a) To reject the appeal and confirm the decision being appealed; or

b) To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or

c) To uphold the appeal and vary the decision but only where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time, or lack of neutrality; and

d) To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.

17. A copy of this decision will be provided to each of the parties and to the Official.

18. In extraordinary circumstances, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision with reasons is rendered within the timelines specified in Paragraph 16.

TIMELINES

19. If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

LOCATION

20. The appeal will take place in the location designated by the Official, unless the Panel decides the appeal is to be held by way of telephone conference, or unless, at the specific request of a party, a different location is mandated by the Panel as a preliminary matter.

FINAL AND BINDING DECISION

21. The decision of the Panel will be final and binding on the parties and on all members of Fredericton Rowing Club, subject only to the provisions of Fredericton Rowing Club's policies relating to Alternative Dispute Resolution.

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.