



SAFSA
SOUTH AFRICAN
FIGURE SKATING
ASSOCIATION

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DISCIPLINARY CODE

Prepared by
THE GUARDIAN | SAFERTOGETHER
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APPLICATION OF THIS CODE

This code applies to all those that work/volunteer within the Federation and serves as a guide to all members.

Members shall include any person representing or associated with the Federation and/or representing or associated with affiliated clubs which include but not limited to the following

- 1) Club Owners
- 2) Board members
- 3) Employers
- 4) Managers
- 5) Supervisors
- 6) Volunteers in Official Capacity
- 7) Coaches (Independent Contractors/Volunteers/Members)
- 8) Medical staff
- 9) Technical Assistants; Judges, Referees or Umpires
- 10) Contractors
- 11) DSO
- 12) SSO
- 13) Others having dealings with the Federation/Club

DEFINITIONS

Employee = means any person, excluding an independent contractor, who is entitled to receive any remuneration for work done for the Employer as per a Contract of Employment. An employee may be subjected to disciplinary action in relation to his/her contract of employment (refer to HR Disciplinary Procedure) and/or disciplinary action in relation to his/her ability to represent the Federation in any capacity.

Safeguarding Committee = A Safeguarding Committee is a minimum of 3 persons who are independent and cannot be influenced by the Exco of the Federation. The safeguarding Committee are responsible for deciding if evidence which has been gathered in an investigation, and has been presented to them by the Senior Safeguarding Officer is severe enough to warrant it being tested in a disciplinary hearing, with an understanding that a sanction in that hearing could result in the expulsion of the respondent from the Federation.

Note: A minimum of one member of any Safeguarding Committee must be on the same or higher level as the respondent and have experience in the same field as the respondent (eg: If the respondent is a club coach the committee must have at least another club coach or a provincial coach or someone who has served in that position or higher.)

Designated Safeguarding Officer (DSO) = As defined in the Safeguarding Policy

Senior Safeguarding Officer (SSO) = As defined in the Safeguarding Policy

Discipline = means the action/s taken by management in terms of this procedure, against any member or group of members in order to correct unacceptable behaviour or to effect compliance with the governing rules and regulations and/or statutory requirements.

This procedure shall not apply to instances of misconduct, poor performance or illness, which shall be dealt with in accordance with Schedule 8 of the Labour Relations Act of 1995.

Minor Transgression = means those minor or less serious transgressions/offences which, when committed by a member or group of members, and do not require the conducting of a disciplinary hearing and, as a result, permits management to decide what level of formal disciplinary action to institute in terms of this procedure. Examples of minor transgressions are detailed as **'Verbal'** and **'Written Warning'** transgressions' in the Federation's Rules and Regulations.

Major Transgression = means those major or serious transgressions/offences which, when

committed by a member or group of members, may require the conducting of a disciplinary hearing in terms of this procedure. Examples of major transgressions are detailed as '**Final Written**' and '**Expulsion**' transgressions in the Federation's Rules and Regulations.

Collective Misconduct = means major transgressions committed by a group of members engaged in collective action.

Intermediary = A person who handle all communication with the witness during a hearing which may be through closed circuit television or similar electronic media. They will also assist children when testifying.

FAIRNESS

The Federation uses the Labour Relations Act as a guideline on fairness and works on the premise that any disciplinary action must be substantively and procedurally fair.

Substantive fairness means there is a fair or valid reason for the Federation to expel a member.

Procedural fairness refers to the procedures followed in notifying the member of the disciplinary hearing and the procedures followed at the hearing itself.

PURPOSE

The purpose of this procedure is to promote the smooth and co-operative functioning of the Federation. For this to be achieved this procedure: -

- Requires that members must observe the Federation's Disciplinary Rules and Regulations and all statutory requirements.
- Makes provisions for the steps which must be followed by Management when it is dissatisfied with the behaviour of a member or members.
- Requires that Management gives fair and just treatment to any member against whom disciplinary action is taken.
- Attempts to ensure that, wherever possible, unsatisfactory behaviour of members is corrected.

FEDERATION'S ASSURANCE

No member or his/her representative shall be victimised because of his participation in terms of this procedure.

While the Federation gives its assurance that the primary purpose of this procedure is the constructive corrections of unsatisfactory behaviour, it must be noted that where certain major transgressions occur the disciplinary action taken against members may include expulsion.

The Federation shall undertake to ensure that all members will be made familiar with this procedure and the Federation's Disciplinary Rules and Regulations at the time of joining and periodically thereafter.

REPRESENTATION

The Federation recognises the right of members to be represented during the stages of this procedure. These rights are defined differently depending on the employment status of the member.

A member undergoing disciplinary action shall have the right to be represented during the stages of this procedure on the understanding that he/she may: -

- Elect not to be represented; or
- Select one **current** member of the Federation/Club to be his/her chosen representative in terms of this procedure. This representative must not have a conflict of interest and/or be facing disciplinary action themselves.

Responsibility for requesting representation shall lie with the member undergoing disciplinary action and not with the Federation/Club.

Representation by an attorney

Representation by an attorney is not an automatic right and is ordinarily not permitted.

Should the member wish to be represented by an attorney he/she must make written application to the appointed chairperson of the disciplinary hearing at least 48 hours before the commencement of the hearing.

When considering the request, the chairperson will consider the following

- The nature of the charges brought.
- The degree of factual or legal complexity pertaining to the charges.
- The potential seriousness of the consequences of an adverse finding.
- The nature of prejudice to the employer/federation should legal representation be allowed.
- The comparative abilities of the parties to deal with the issues at the hearing

A decision in this regard will be sent to the member by the chairperson at least 24 hours before the commencement of the hearing.

Note: If the member and the federation representative agree that either party may have a legal representation, then the chairperson will not refuse it. It must be noted however that the chairperson must be sufficiently qualified to chair proceedings of this nature.

NOTE: Employees undergoing disciplinary action in terms of this Code are not entitled to the same rights as afforded by the Labour Relations Act. It is imperative that the employee establish whether they are being disciplined in terms of their contract of employment or as a member of the federation.

Child Witnesses

If a person, under the age of 18 years old, is to give evidence in any hearing, whether as the applicant or the respondent, the parent or legal guardian of the child must be present during the entire proceedings. If the parent / legal guardian cannot be present at the time when the child is to testify, then the matter must be adjourned to a time when the parent / legal guardian is present.

If the child is the respondent and the parent / legal guardian, in the opinion of the SSO, is being intentionally obstructive with regard to availing themselves for the hearing, the SSO is to suspend the child from the federation until such time as the parent/legal guardian can make themselves available.

Any child under the age of 13 years old must testify through the intermediary system.

A person over the age of 13 may apply to use the intermediary system. The application to the chairperson must be made within 48 hours of the start of the enquiry and a copy of the application must be forwarded to the opposing party at the same time. The opposing party has 24 hours to lodge any objections and then the chairperson will have sole rights to decide on this application. The chairperson must consider certain factors when deciding on this application:

1. Nature of the evidence to be given;
2. The age of the witness;
3. The relationship between the opposing party and the child;
4. Considerations submitted in the application and opposition.

GENERAL MATTERS RELATING TO THIS PROCEDURE

Some transgressions of rules by members are considered more serious than others.

In the event of an incident involving a major transgression, the member may be issued with a Final Written Warning by a SSO for any misconduct regarded sufficiently serious without convening a formal disciplinary hearing, provided that the misconduct does not warrant more serious action such as expulsion. Care must be taken not to set unacceptable precedents.

If a formal disciplinary hearing is to be convened, the SSO must ensure that the affected member(s) is given **at least 72 hours'** notice of the disciplinary hearing. Such notice shall be in writing on the prescribed form which shall include: -

- The date, time and venue for the hearing;
- The allegation(s) being made;
- The member's rights.

Where a member is given such notice and refuses or fails to attend the member will be deemed to have waived his/her rights to present his/her case and the hearing may be conducted in his/her absence.

Where a group of members take part in collective misconduct, then this may be dealt with via a Collective Disciplinary Hearing.

If the Collective hearing includes individual members who are alleged to have been involved in an incident of misconduct, and such members do not fall under the same club of governing entity, the Federation may appoint an impartial member of similar or greater seniority to investigate and/or initiate the hearing into the incident. Alternatively, the Federation has the right to appoint an external consultant to chair/initiate the hearing.

LEVELS OF DISCIPLINE

Minor Transgressions

- The member's immediate DSO, through counselling and or progressive discipline, should normally handle breaches of these rules.
- Where an individual commits a minor transgression, then after investigation, the DSO concerned, may decide to take one of the following forms of corrective/disciplinary action: -
 - Counselling/guidance/coaching/training;
 - Verbal reprimand which shall be recorded on the individual's personal file. Such **verbal reprimands shall remain valid for six (6) months**;
 - Written warnings may be issued in the event of an individual failing to respond to other forms of corrective action.
- Any decisions to take corrective action must be agreed to, in writing, by the Club Chairperson, before being issued to the member. If the Club Chair and DSO cannot agree on the sanction the difference of opinions must be decided by the SSO.
- **Written warnings shall remain valid for a period of nine (9) months from date of issue.** Where a written warning is issued, the DSO issuing the warning shall complete the Written Warning Form and parties present shall sign the form to witness that the warning has been issued.
- The original form shall be forwarded for filing on the member's file, a copy of the completed form will be given to the individual and a copy will be filed at the National office via the SSO.
- Should the member refuse to sign acceptance of the written warning then the DSO issuing the warning shall call upon an independent witness to sign and confirm that the warning has been issued.

Major Transgressions

- Breaches of these rules are considered serious. In the event of a major transgression being discovered or reported, a hearing may be convened.
- In the event that a major transgression is discovered by a DSO he/she must report this immediately or within 24 hours to the SSO.
- Failure by any DSO or SSO to attend to a major transgression that has been brought to his/her attention is in itself a major transgression.
- The Safeguarding Committee must be notified of all major transgressions and may override the decision by the SSO to not convene a disciplinary hearing which may result in a more severe sanction.
- Where an individual is alleged to have committed a major transgression or has failed to respond to a written warning(s) and corrective action, then the SSO may request the ~~safeguarding commttie~~ Judicial Panel to consider a formal disciplinary hearing.
- If as a result of a disciplinary hearing, a member is found guilty of committing a major transgression, although a lesser penalty such as a written warning may be imposed, the penalty could include: -
 - A final written warning which shall remain valid for **nine (9) months**;
 - Demotion
 - Fine
 - Suspension
 - Expulsion

Criminal offences

- Where an member(s) is alleged to have committed a criminal offence, which affects his/her good standing with the Federation and criminal charges have been laid against him/her, the offence may be treated as a major transgression in terms of this procedure.
- A disciplinary hearing as provided for in this procedure shall be convened and the chairperson shall be required to make a finding and penalty decision independently of any criminal proceedings.

DISCIPLINARY HEARINGS

Where a major transgression is to be investigated a disciplinary hearing may be convened and conducted according to the principles of natural justice: -

- Management shall appoint an independent chairperson. The Federation has the right to appoint an external consultant/person to chair the hearing.
- The individual shall have the right of representation in terms of this procedure.
- The hearing shall normally consist of a chairperson, the initiator of the allegations, the member, his/her representative, an interpreter, if necessary and any other persons such as witnesses as may be required.
- Where a witness is unable to attend, the disciplinary hearing may be adjourned or a written statement from such persons could be accepted.
- A member may be suspended pending a disciplinary hearing.
- In the event of a member being suspended the member is to be advised of the reasons for suspension.
- A disciplinary hearing may be conducted in the absence of a member should he/she fail to attend after due notification or should he/she misbehave or become disruptive during the hearing.
- The member shall have the right to state his/her case and present documentary and other evidence in support thereof. He/she shall also have the right to cross-question his/her accusers and witnesses and bring his/her own witnesses.
- With exception of the time during cross-examination, requests to adjourn proceedings for caucus by the individual or his/her representative shall not be unreasonably withheld.
- The individual and his/her representative shall be informed of the charges that will be brought against him/her and be given the details of such charges. All supporting evidence will be presented when giving evidence.
- Recording of the proceedings is at the discretion of each party present and transcription of that recording shall be the responsibility of the party requiring the transcription. All recordings

made by the chairperson are for the chairperson's notes only and create no obligation for the chairperson to provide a copy of such recording to either party.

- The chairperson may adjourn the hearing to make a finding on the individual's guilt/innocence based on the evidence presented. This finding and the reasons thereof shall be communicated to the member in writing timeously.
- Where the member is found guilty of the transgression(s) then the chairperson shall call for the member's transgression record to assess any relevant previous history. The chairperson shall also investigate as to whether there are any mitigating and aggravating factors, which should be taken into account before a penalty decision is taken.
- Although the validity of warnings may have expired the presiding chairperson may consider them if they indicate an ongoing propensity or trend towards a line of misconduct which has bearing on the case at hand.
- The chairperson may adjourn the hearing, in order to decide upon a suitable action/penalty. Upon reconvening the hearing, the chairperson shall communicate the action/penalty and the reasons thereof to the member.
- Where the penalty imposed is a verbal, written or final warning, then, the warning form shall be completed as prescribed in this procedure.
- Where the penalty is expulsion or demotion then a letter to this effect shall be prepared and be given to the member. All documents or copies thereof shall thereafter be filed on the member's file.

DISCIPLINARY APPEALS

If an individual is dissatisfied with any disciplinary action taken in terms of this procedure, then he/she may appeal against such disciplinary action. In such event the following procedure shall apply: -

Minor Transgressions

- The appellant shall be required to complete a Disciplinary Appeal Form stating the grounds for appeal and submit this to the SSO within **three (3) working days** of the disciplinary penalty being made known to him/her.
- The SSO or an external consultant shall review the appeal within **ten (10) working days** of the appeal being lodged.

A fellow member from within the Federation may assist the appellant with the appeal review.

Within the appeal review the appellant and/or his/her representative will be afforded the opportunity to motivate the grounds of appeal put forward. ***New evidence shall not be accepted as grounds for appeal unless there are good reasons why it was not put forward during the disciplinary hearing.***

Should the appellant not accept the outcome of the appeal then he/she may appeal the decision to the Safeguarding Committee for final decision.

Major Transgressions

- The appellant shall be required to complete a Disciplinary Appeal Form stating the grounds for appeal and submit this to the SSO within **three (3) working days** of the disciplinary penalty being made known to him/her.
- The SSO must arrange for the appeal to be reviewed by an appeals committee of the Federation within **ten (10) working days** of the appeal being lodged. The appeals committee must include at least three (3) impartial people, two of which must have at least 5 years' experience within the Federation.
- The appellant shall be entitled to a copy of the finding and sanction of the disciplinary hearing, which should be obtained from the chairperson.

A fellow member from within the Federation may represent the appellant at the appeal review or hearing.

At the appeal review/hearing the appellant and/or his/her representative will be afforded the opportunity to motivate the grounds of appeal put forward. ***New evidence shall not be accepted as grounds for appeal unless there are good reasons why it was not put forward during the disciplinary hearing.***

The decision of the Appeals committee shall be final.