

Michigan Sailing Club
Disciplinary Hearing and Appeal Policy

Adopted September 5, 2011

Article I

Preamble

1. This policy shall govern disciplinary hearings and appeals conducted under Article XII of the club constitution.
2. Definitions
 - (a) Member, Officer, Executive Board, Authorized Signer, and Faculty Advisor mean the same things they mean in the club Constitution.
 - (b) A Subject Member is a Member whose actions are under scrutiny and who may be sanctioned in consequence.
 - (c) An Appellant is a Member who has been sanctioned by the Executive Board and who seeks to have that decision overturned.
 - (d) An Appeal Panel is a group of Members that reviews a disciplinary decision by the Executive Board.
 - (e) A Convening Body (CB) is a group that investigates or reviews a disciplinary decision.
 - i. If a hearing or investigation is conducted by the Board, then the Board is the CB;
 - ii. If an appeal is considered by an Appeal Panel, then the Panel is the CB.

Article II

Purpose of a Hearing

1. A hearing provides an opportunity for a Subject Member to address the Convening Body (CB) directly, to draw the CB's attention to any facts in his or her favor, and make sure that the CB has heard his or her side of the story.
2. A hearing before the Board may also provide an opportunity for the Board to explain its views to the Subject Member for the purpose of preventing a problem from recurring.
3. A hearing will not necessarily result in a meeting of minds; a Member may be sanctioned even if he or she does not accept the CB's interpretation of a situation.
4. A hearing is not a court of law;
 - (a) The hearing will be informal, and neither side should worry about minor procedural issues;
 - (b) Expectations should be consistent with the club's status as a volunteer-run community organization, not a branch of government staffed by legal professionals.

Article III

Reasons for Convening a Hearing

1. The Executive Board shall convene a hearing when it believes that the interests of the club may require that a Member be sanctioned as described in Article XII of the club constitution.
2. An Appeal Panel may convene a hearing if it finds that doing so is warranted in the process of considering an appeal.

Article IV

Focus of a Hearing

1. A hearing may be convened to consider any occurrence at the club, at a club-sponsored event, or any circumstance involving the club's name, reputation, or interests.
2. A hearing may focus on a single incident, consider several related incidents, or examine an ongoing pattern of behavior.
3. If more than one Member is involved in the issue being considered, the Executive Board or Appeal Panel may hold a joint hearing or separate hearings as they deem advisable.

Article V

Right to a Hearing

1. The Board must conduct a hearing as described in Article XII of the constitution before sanctioning a Member.
2. An Appeal Panel is not required to convene a hearing.
3. A Subject Member may waive his or her right to a hearing; in that case, the Board shall gather information as best it can and may impose such sanctions as it finds appropriate.
4. The Board may interpret actions such as these as waiving the right to a hearing:
 - (a) Failing to respond to written notice of a hearing within five business days;
 - (b) Taking evasive actions to avoid receiving notice of a hearing;
 - (c) Failing to appear at a hearing without good reason;
 - (d) Unreasonable lack of cooperation in scheduling a hearing;
 - (e) Disruptive behavior at a hearing.

Article VI

Convening and Conducting a Hearing

1. A Convening Body (CB) shall convene a hearing by notifying the Subject Member in writing of the time, date, and location of the hearing.
 - (a) The Subject Member shall be given at least five business days' advance notice of the hearing.
 - (b) The notice of hearing shall summarize the actions or incidents that the CB is investigating and shall warn the Subject Member that he or she may face sanctions.
 - (c) The notice of hearing shall be accompanied by written copies of the club constitution and this policy.
2. In order for a hearing to be conducted:
 - (a) For a hearing before the Executive Board, a quorum must be present.
 - (b) For a hearing before an Appeal Panel, the entire Panel must be present.
3. A hearing shall be open for attendance by all club Members except by mutual agreement of the CB and the Subject Member.
4. The CB and Subject Member may each invite one individual to be present as counsel. The CB and Subject Member may take time out to deliberate with their counselors at any time, but the counselors may not speak on behalf of the CB or Subject Member.
5. The CB and Subject Member may each invite individuals to share information relevant to the issue being investigated.
 - (a) Such individuals should not be regarded as witnesses as in a court of law.
 - (b) Both the CB and Subject Member shall provide the other party written notice of all individuals that will be asked to speak no later than 48 hours prior to the hearing.
6. Non-Members, other than individuals allowed under paragraphs 4 and 5 above, may attend a hearing only at the express invitation and by mutual consent of the CB and Subject Member.
7. The basic format of a hearing, subject to changes agreed to by the CB and Subject Member, shall be as follows:
 - (a) The CB shall explain its reasons for convening the hearing, including the actions of the Subject Member that are under scrutiny and its basis for concluding that the actions in question are against club policy or contrary to club interests.
 - (b) The Subject Member may answer as he or she finds appropriate.
 - (c) The CB may invite individuals other than the Subject Member to speak.
 - (d) The Subject Member may invite individuals to speak.
 - (e) Closing comments from the CB.
 - (f) Closing comments from the Subject Member.

Article VII

Statements by a Subject Member at a Hearing

1. A Member who is the subject of a hearing may decline to answer any question or to provide information to the Board.
2. A Subject Member who does answer a question or provide information is expected to tell the truth and to furnish correct information. Deliberately providing false or misleading information may result in an unfavorable decision or more serious sanctions.

Article VIII

Rights and Duties of Other Members

1. A Member who is not the subject of a hearing shall not be required:
 - (a) To attend any hearing;
 - (b) To provide any statement, verbal or written, on any subject;
 - (c) After making a statement, to answer further questions or submit to cross-examination.
2. Members who choose to make a statement are expected to tell the truth. Supplying false or misleading information might itself be considered grounds for a disciplinary hearing.

Article IX

Deliberations after a Hearing

1. After the conclusion of a hearing, the Convening Body (CB) shall discuss the hearing and reach its decisions in private.
2. The CB may consult with others in the course of its deliberations.
3. The CB may hold its discussion and announce its decision immediately or it may do so at a later time and date.

Article X

Basis For Decision Making

1. After a hearing, or if the Subject Member waives his or her right to a hearing, or if an Appeal Panel reaches a decision without holding a hearing, the Convening Body (CB) may impose (Executive Board) or uphold (Appeal Panel) sanctions if it agrees, by majority vote:
 - (a) That a preponderance of the evidence shows that the Subject Member acted contrary to club policy or club interests; and
 - (b) That the sanctions imposed are in the best interest of the club.
2. The CB may consider a Member's past behavior in determining whether to impose

sanctions and the appropriate level of sanction.

Article XI

Posting Results

1. When a Convening Body (CB) comes to a decision after holding a hearing or in the absence of a hearing due to a Subject Member waiving his or her right to a hearing or the Appeal Panel declining to hold a hearing:
 - (a) The CB shall post its written decision on a bulletin board at the clubhouse except by mutual agreement with the Subject Member.
 - (b) The CB's decision not to publish its decision may be overridden by the membership at a business meeting.
 - (c) If the CB is an Appeal Panel, its decision not to publish its decision may be overridden by the Executive Board.

Article XII

Request for Appeal

1. An Appellant may appeal a disciplinary decision of the Executive Board by delivering a written request to the Faculty Advisor within five business days of being advised of:
 - (a) the Board's decision after a hearing;
 - (b) the Board's decision that the Subject Member, through his or her actions, waived his or her right to a hearing.
2. In the request for appeal, the Appellant must state the reason(s) that he or she feels that the Board's decision was unjust or inappropriate.

Article XIII

Who May Appeal

1. A Member who is sanctioned by the Executive Board may appeal the Board's decision to impose sanctions or the severity of the sanctions imposed.
2. A Member who feels that the Board unjustly interpreted his or her actions as waiving his or her right to a hearing may appeal the Board's interpretation.
3. No Member may appeal a disciplinary decision sanctioning or declining to sanction another Member.
4. The decision of an Appeal Panel may not be appealed except to the membership at a Business Meeting.

Article XIV

Appeal Panel

1. An Appeal Panel shall consist of the three Authorized Signers other than the Faculty Advisor.
2. If any Authorized Signer declines to serve on an Appeal Panel, a replacement shall be appointed by the Faculty Advisor from the club membership, subject to the following:
 - (a) No member of an Appeal Panel shall be the Appellant, a club Officer, or have taken part in a hearing before the Board involving the Subject Member in any capacity other than as a spectator in the last twelve months;
 - (b) Any club Member may decline to serve on an Appeal Panel.

Article XV

Conduct of an Appeal

1. The Appeal Panel shall review the information presented by the Appellant and the Executive Board. After reviewing the information the Panel may:
 - (a) issue an immediate decision; or
 - (b) conduct its own investigation, in whatever depth it deems appropriate. It may but is not required to conduct a hearing.
2. When reviewing a disciplinary decision, the Appeal Panel shall either
 - (a) Uphold the Executive Board's decision and let any sanctions imposed stand; or
 - (b) Reject the Executive Board's decision and cancel any sanctions imposed; or
 - (c) Modify the sanctions imposed, with or without explicitly upholding or rejecting the Board's decision; or
 - (d) Refer the issue, in whole or in part, back to the Executive Board for reconsideration or for re-hearing.
3. When reviewing a decision that a Member has waived his or her right to a hearing, the Appeal Panel shall either:
 - (a) Uphold the Executive Board's decision; in that case, no hearing need be held before the Board and any sanctions imposed stand pending further appeal;
 - (b) Direct the Executive Board to conduct a hearing. The panel may optionally suspend any sanction until the Board considers the result of the hearing.
4. An Appeal Panel should reject an appeal and allow a decision by the Executive Board to stand if:
 - (a) The appeal appears to be an attempt to waste time or prolong the disciplinary process without good purpose;
 - (b) The appeal is based upon new information that the appellant could reasonably have been expected to present to the Executive Board.