

## REGULATION 5 – DISCIPLINARY PROCEDURES AND APPEALS

### 5.1 PURPOSE

The purpose of this Regulation is to outline the process for disciplinary action by Little Athletics NSW Ltd. (the Organisation) and the process for appeal in relation to such action. This Regulation is made under clauses 11 and 40 and will be interpreted in accordance with the Constitution.

### 5.2 DEFINITION

The term “subject” under this Regulation shall include affiliated Little Athletics Centre’s, Zones, Zone Coordinators, Directors, Life Members and members identified in Section 5 of the Constitution.

### 5.3 OVERVIEW

Any sanction recommended under this Regulation must:

- a) Observe any contractual and employment rules and requirements;
- b) Conform to the principles of natural justice;
- c) Be fair and reasonable;
- d) Be based on the evidence and information presented; and
- e) Be within the powers of the Board, Judiciary Committee or external independent party to impose the measure.

### 5.4 JUDICIARY COMMITTEE

- a) The Judiciary Committee shall operate in accordance with the procedures expressed in the Regulations but subject always to the Constitution and the Act.
- b) The Judiciary Committee will be appointed from an independent panel consisting of up to ten persons, who may be either Organisation members or external personnel, with appropriate skills.
- c) Any Judiciary Committee convened under this Regulation will consist of at least three members, one of who shall be appointed as chairperson.
- d) A Director shall be appointed as the Judiciary Committee Coordinator. The Judiciary Committee Coordinator will appoint the Judiciary Committee members to:
  - i) investigate the disciplinary matter and
  - ii) make a determination in relation to the alleged breach.
- e) Judiciary members will:
  - i) not include members who have any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the matter; and
  - ii) comprise of at least one person who has the knowledge and, preferably experience, of any relevant rules or laws relating to the complaint.
- f) The Judiciary Committee Coordinator may be present at a hearing but cannot vote on any decision.
- f) The decision of the Judiciary Committee is final, except when an appeal to the Board is lodged in accordance with clause 5.9. In this case, the decision of the Board shall be final.

## **5.5 NOTICE OF ALLEGATION**

Where the Judiciary Committee Coordinator appoints a Judiciary Committee to deal with a disciplinary matter, the Chief Executive Officer shall, as soon as practicable, serve on the subject a notice in writing:

- a) Setting out the alleged breach by the subject and the grounds on which it is based;
- b) Stating that the subject may address the Judiciary Committee at a hearing to be held not earlier than fourteen (14) and not later than twenty-eight (28) days after service of the notice;
- c) Stating the date, place and time of that hearing; and
- d) Informing the subject that he, she or it may do one or more of the following:
  - i) attend that hearing; and/or
  - ii) give the Organisation, at least three (3) days before the date of that hearing, a written statement regarding the alleged breach.

## **5.6 DECISION OF JUDICIARY COMMITTEE**

- a) The Judiciary Committee will organise for a Committee to be convened by notifying panel members that they are required to hear a matter. The Judiciary Committee members will be provided with a copy of all relevant correspondence, reports or information received and sent relating to the allegations.
- b) The hearing will be scheduled as soon as practicable, but at least 14 days must be allowed for the parties to prepare any documentation relating to the allegation.
- c) Legal representation for the subject will not be allowed.
- d) At the hearing, the chairperson will read out the allegation and ask any subject if they understand the allegation being made against them.
- e) The Committee will be allowed to:
  - i) Consider the evidence in any form, that it deems relevant;
  - ii) Question any person giving evidence;
  - iii) Limit the number of witnesses presented if it is agreed by all parties that they support the person who requested them, but will not provide any new evidence; and
  - iv) Stop any further involvement of any person allowed to be present at the hearing if they display unreasonable or intimidating behaviour.
- f) At a hearing, the Judiciary Committee shall:
  - i) Give the subject (either personally or through a representative who shall not be legally trained) every opportunity to be heard;
  - ii) Give due consideration to any written statement submitted by the subject; and
  - iii) Determine what (if any) sanctions should be imposed if it is satisfied that the facts alleged in the complaint have been proved and that the alleged breach occurred.
- g) After all evidence has been presented the Committee will make its decision in private.
- h) The Judiciary Committee is required to give reasons for its decision to the subject.
- i) If the Judiciary Committee imposes a sanction, the Chief Executive Officer must, within seven (7) days after the action is taken, cause written notice to be given to the subject of the action taken and of the subject's right of appeal in accordance with regulation 5.9.
- j) The sanction does not take effect:
  - i) Until the expiration of the period within which the subject is entitled to appeal against the decision concerned; or
  - ii) If within that period the subject exercises the right of appeal, unless and until the Organisation confirms the decision under 5.9, whichever is the latter.

## **5.7 SANCTIONS**

- a) If the Judiciary Committee finds that an offence has been proved or committed, one or more of the following sanctions may be imposed:
  - i) direct that the individual makes a verbal and/or written apology;
  - ii) issue a written warning;
  - iii) direct that the individual attend counseling to address the behaviour;
  - iv) withdraw any award, placing, records, honour, achievements bestowed in any event or activities held or sanctioned by the Organisation;
  - v) demote or transfer the individual to another role or activity;
  - vi) in the case of a coach or official, direct that the relevant Little Athletics Centre/Zone disallow that subject from that role for a period of time or permanently;
  - vii) suspend the subject's right to participate in particular activities;
  - viii) suspend the subject from membership of the Organisation for a specified period;
  - ix) discontinue membership of the subject from the Organisation; or
  - x) impose such other penalty, action or educative process as it deems appropriate.
- b) If a finding is made that a Little Athletics Centre or Zone has committed an offence or the allegation is proved, one or more of the following sanctions may be imposed in addition to those set out in 5.7a):
  - i) A direction that any funding granted or given to it by the Organisation ceases from a specified date or for a specified period; or
  - ii) A direction that the Organisation cease to sanction events held by or under the auspices of that Little Athletics Centre or Zone.
- c) When imposing any sanction, it will be accompanied by a warning that a similar breach by that subject in the future may result in the imposition of a more serious sanction.
- d) When advising a Little Athletics Centre or Zone of any sanction that has been imposed against it, the notice may outline the rights of individuals who are members of such Little Athletics Centre or Zone.

## **5.8 FACTORS TO CONSIDER WHEN IMPOSING SANCTIONS**

The sanction to be imposed on a subject will depend on factors such as:

- a) The nature and seriousness of the behaviour or incidents;
- b) The effect of the proposed sanctions on the subject including any personal, professional or financial consequences;
- c) If there have been relevant prior warnings or disciplinary action;
- d) If there are any mitigating circumstances; and
- e) Any representations made to the Judiciary Committee.

## **5.9 APPEAL**

- a) A subject may appeal to the Board against a decision of the Judiciary Committee but must do so no later than seven (7) days after notice of the decision is served on the subject, by lodging with the chief Executive Officer a written notice to that effect.
- b) The notice must be accompanied by a statement of the grounds on which the subject intends to rely for the purposes of the appeal.
- c) Where the Chief Executive Officer receives such a notice, he/she shall notify the Board who shall consider the appeal at its next Board meeting or in a specially convened Board meeting to be held within twenty-eight (28) days after the date on which the Chief Executive Officer received the notice.
- d) The Board may uphold a decision of the Judiciary Committee, refer the matter back to the Judiciary Committee for it to be reconsidered, or reach its own decision in relation to the allegation against the subject. The Board must provide written reasons for its decision.
- e) The decision of the Board shall be made by a majority vote.