

Skating Activities Disciplinary Procedure Policy



Contents

Part 1	
<i>Jurisdiction and Establishment of Tribunals</i>	3
Part 2	
<i>Reports and Notifications</i>	6
Part 3	
<i>Conduct of Tribunal Hearing</i>	9
Part 4	
<i>Offences and Penalties</i>	13
Part 5	
<i>Appeals</i>	17
Part 6	
<i>Miscellaneous</i>	20



Jurisdiction and Establishment of Tribunals



1. Adoption of By-law

- 1.1. This By-law is made under Rule 17 of the Skate Victoria Inc. constitution and comes into operation on 8th January 2017 and is binding on all members of Skate Victoria and other persons or organisations which submit themselves to the jurisdiction of the Skate Victoria.

2. Authority of Tribunal

- 2.1. Skate Victoria has the power under its constitution to hear and determine charges made against affiliated clubs, teams, individual members arising from or related to skating activities, games and competitions sanctioned by Skate Victoria
- 2.2. Skate Victoria has the right to delegate the power of hearing and determining charges to the Skate Victoria tribunal in accordance with the provisions of this Bylaw.
- 2.3. The Tribunal shall have power to suspend, disqualify, reprimand, fine, bond, ban or otherwise deal with any person involved in skating activities and/or Skate Victoria (including, but not limited to athletes, players, coaches, teams, clubs, officials or spectators) in accordance with this By-law, regarding any incident arising from an activity conducted by Skate Victoria. The incident may have occurred before, during or after the conduct of the activity, within the confines of the stadium, activity venue or its immediate surrounds, or elsewhere if directly related to a skating activity of any sort.
- 2.4. The Tribunal may also deal with any other disciplinary matter delegated to it for adjudication by Skate Victoria.
- 2.5. The Tribunal must at all times act independently and impartially in carrying out its duties in accordance with this By-law.

3. Membership of Tribunal

- 3.1. The Tribunal panel shall be appointed by Skate Victoria and shall comprise of the following persons:
 - (a) a Tribunal chairperson who shall be a person of experience and skills suitable to the function of chairing the Tribunal and discharging the responsibilities set out under clause 4.1;
 - (b) no fewer than three Tribunal members.
- 3.2. Where a Tribunal chairperson or Tribunal member resigns or is dismissed such that a vacancy exists on the Tribunal, the management committee of Skate Victoria shall act to fill such vacancy by appointing a replacement for that position as soon as is reasonably practical to do so.
- 3.3. Wherever possible, matters referred to the Tribunal for determination shall be heard by three members of the Tribunal as determined by the Tribunal chairperson, however a quorum of the Tribunal shall be two (2) members.
- 3.4. No Tribunal decision shall be invalidated by any irregularity in the appointment of a Tribunal member.

4. Responsibilities of Tribunal chairperson

- 4.1. Without limiting the duties of the Tribunal chairperson as set out under the various clauses of this By-law, a person appointed to the position of Tribunal chairperson shall have the following responsibilities:
 - (a) to ensure accurate records are kept of all of the Tribunal's proceedings and decisions and to make such records available to Skate Victoria upon request;
 - (b) to communicate to Skate Victoria the results of hearings of the Tribunal;
 - (c) to chair hearings of the Tribunal or to ensure that such task is delegated to a member of the Tribunal;
 - (d) to raise with any proposed Tribunal member any potential or possible conflict of interest which may arise from time to time.

5. Records of Tribunals Proceedings

- 5.1. The method of recording the proceedings and determinations of the Tribunal shall be at the discretion of the Tribunal chairperson.

6. Convening Tribunal hearings

- 6.1. If practicable, Skate Victoria shall provide notice to all skaters/teams participating in competitions conducted by it of the regular day, time and place of Tribunal hearings throughout the duration of the competition.
- 6.2. The Tribunal will be convened to hear charges arising from an event/game as soon as is practicable, preferably prior to the next round of events/games occurring.
- 6.3. Notification of persons charged under this By-law shall include details of the day, time and place of the Tribunal hearing at which the charge will be heard in accordance with Part 3 of this By-law, and must be provided a reasonable period prior to such hearing.

Reports and Notifications



7. Reports by officials

- 7.1. Any Skate Victoria official shall be entitled to report any person, team or club which, in the opinion of the official has committed an offence under this By-law.

8. Investigations

- 8.1. Where Skate Victoria or an official of Skate Victoria believes an offence may have been committed or Skate Victoria receives a letter of complaint, but no report has been made, Skate Victoria may investigate, or appoint a person to investigate, the alleged offence. If after the investigation, it or the person appointed to investigate recommends that a report should be made, Skate Victoria or the person appointed by it may make a report. A report arising out of an investigation conducted under this clause should be made within 1 week of the date on which the alleged offence took place.

9. Duties of officials making a report

- 9.1. An official who makes a report under clauses 7.1 or 8.1 shall lodge a report with Skate Victoria within 48 hours. Skate Victoria shall ensure that the charged person, team or club is notified of the report, as well as any other person involved in the report and all other match officials as soon as possible

10. Duties of Skate Victoria Receiving a report

- 10.1. Skate Victoria shall appoint an officer to be responsible for the receipt of reports made under this By-law and to carry out the duties in connection with such reports ("Hearings Officer"). The officer to whom responsibility is delegated under this clause 10.1 may hold another position within the Skate Victoria.
- 10.2. The Hearings Officer designated under clause 10.1 shall have the following duties:
- (a) to recommend to Skate Victoria the venue, time and day of the week to be set aside for hearings of the Tribunal;
 - (b) to convene hearings of the Tribunal to deal with matters referred to it;
 - (c) to ensure that three members of the Tribunal are present to deal with any matters referred to it for determination;
 - (d) to receive and refer to the Tribunal all material relating to any reports made under this By-law;
 - (e) to ensure the availability of all forms required to be used in any proceedings of the Tribunal;
 - (f) to notify the charged person, team or club of the date, time and place of the Tribunal hearing;
 - (g) if the charged person is under the age of 18 years, or otherwise unable to represent him or herself, then they are to be advised that they have the right to have an adult (not being a legal practitioner) with them at the Tribunal hearing, as an adviser, and that the adviser shall be allowed to ask questions;
 - (h) to provide the charged person, team or club with a copy of the report. In carrying out this function Skate Victoria shall:
 - (i) send a copy of the report to the charged person, team or club as soon as possible after the date of the report being lodged by the official with Skate Victoria.
 - (i) to notify the reporting official and any other officials or witnesses required to be in attendance, of the date, time and place of the Tribunal hearing. Where such reporting official is under 18 years of age, they are to be advised that they have the right to have an adult with them at the Tribunal hearing, as an adviser, and that the adviser shall be allowed to ask questions;
 - (j) to notify each of the above persons of the consequences of non attendance at a Tribunal hearing and the procedure to be followed in each case;

- (k) to notify the chairperson (or his/her delegate) of the Tribunal that a report has been received, and to deliver to the chairperson (or his/her delegate) of the Tribunal the report form and any other information relevant to the case.

11. Period between report & Tribunal hearing

- 11.1. A charged person, team or club shall not be entitled to participate in competitions conducted by Skate Victoria until such time as the Tribunal has heard and determined the report.

Conduct of Tribunal Hearing



12. Attendance at Tribunal hearings

- 12.1. The following persons shall be required to attend a Tribunal hearing conducted under this By-law:
- (a) the charged person;
 - (b) the president, secretary or other delegate representing a charged team or club;
 - (c) reporting official(s);
 - (d) any other person involved in the report;
 - (e) witnesses as indicated by the reporting official or charged person to be notified by the officer designated under clause 10.1;
 - (f) any witness required by the Tribunal.
- 12.2. The following persons shall be entitled to attend a Tribunal hearing as appropriate:
- (a) witnesses called to give evidence by a charged person, team or club;
 - (b) witnesses called to give evidence by the reporting official(s);
 - (c) any adult adviser to a charged person or reporting official.
- 12.3. The following persons shall be entitled to attend a Tribunal hearing with the permission of the Tribunal:
- (a) Skate Victoria representatives;
 - (b) approved representatives of the media;
 - (c) any other person.
- 12.4. Legal representatives or advocates are not permitted to appear before the Tribunal unless in exceptional circumstances and where leave to appear has been granted by the Tribunal chairperson.

13. Non-attendance at Tribunal hearings

- 13.1. If any charged person (or representative of a charged team or club) fails to attend a Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Tribunal in the absence of the charged person, team or club, provided that the Tribunal is satisfied that all notification procedures under this By-law have been carried out.
- 13.2. A charged person, team or club or reporting official may apply to the Hearings Officer to have a Tribunal hearing adjourned if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team or club. This will be at the discretion of the Hearings Officer (or the Tribunal if already convened) and if the application is granted a new date shall be fixed.
- 13.3. A charged person who is unable to attend a Tribunal hearing shall be entitled to appoint a representative (who is not a legal practitioner) to appear in his/her place if that charged person intends on pleading guilty, subject to the Tribunal receiving a letter of consent from the charged person containing the person's guilty plea to the charges contained in the report and any statement that person would have given to the Tribunal had he or she attended the hearing.
- 13.4. If any witness fails to attend a Tribunal hearing, the hearing may continue in their absence.
- 13.5. If a reporting official fails to attend a Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Tribunal in the absence of the reporting official, provided that the Tribunal is satisfied that all notification procedures under this By-law have been carried out.
- 13.6. If a reporting official or Skate Victoria official inadvertently fails to carry out any duties listed in clause 10, the charges shall not be dismissed for this reason, but may be adjourned to allow the omission to be rectified. Where appropriate, the Tribunal shall take the failure into account and make suitable allowance.

14. Tribunal hearing Conducted Via Teleconference

- 14.1. A charged person, team or club may apply to the Tribunal chairperson to have a Tribunal hearing conducted by telephone conference call if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team or club. In all other respects the procedure of the Tribunal hearing shall be conducted in accordance with this By-law.

15. Procedures of the Tribunal

- 15.1. For the purpose of this clause 15, a reference to a charged person includes a reference to the representative(s) of a charged team or club.
- 15.2. In the event of a team or club being reported, one (1) member of the team or club shall act as spokesperson for the team or club provided that an individual member of that team or club may elect to speak on their own behalf.
- 15.3. At the commencement of a hearing, the chairperson shall identify the members of the Tribunal and determine whether the charged person is present to answer the charge(s) set out in the report.
- 15.4. The charged person shall be asked whether he/she accepts the members of the Tribunal as impartial and independent, or whether he/she wishes to raise any objection in relation to any member. If the objection is found by the Tribunal to be valid, then the Tribunal member shall stand down for the duration of the hearing.
- 15.5. The charged person and the reporting official(s) shall be notified of their right to remain in the hearing until all evidence is presented but not to be present whilst the Tribunal considers its findings and determines an appropriate penalty (if any).
- 15.6. The chairperson shall advise all those persons present of the method of recording the hearing.
- 15.7. The charge(s) as contained in the report shall be read out in the presence of all persons eligible to be present.
- 15.8. The charged person shall be asked whether the charge is understood and the reporting official asked whether the charge correctly represents their intention.
- 15.9. The charged person shall be asked to plead.
- 15.10. If the charged person pleads guilty to the charge(s), the chairperson may read a short summary of the facts, admit the reporting official's evidence (written/verbal) and no witnesses need be called to give evidence unless the Tribunal requires it.
- 15.11. If the charged person pleads not guilty then the chairperson shall ask all witnesses except the reporting official(s) and the charged person (and their advisers if appointed in accordance with this by-law) to leave the room and to wait to be called to give their evidence.
- 15.12. The reporting official (or the adviser to a reporting official who is a minor) shall proceed to give evidence and the witnesses of the reporting official(s) shall be called upon to give his/her evidence in turn, subject to the approval of the number of witnesses to be called by the Tribunal in its discretion. The charged person or his/her adviser may ask questions of the reporting official or any witness called.
- 15.13. Each witness shall be entitled to leave the Tribunal hearing after giving evidence unless otherwise directed by the Tribunal. Witnesses shall be entitled to remain in the hearing room after giving evidence with the permission of the Tribunal.
- 15.14. The charged person shall then be entitled to present their defence. Witnesses may be called subject to the approval of the number of witnesses to be called by the Tribunal in its discretion. Reporting officials or the adviser to a reporting official who is a minor may ask questions of the charged person or any witness called.
- 15.15. The Tribunal is empowered to question any person giving evidence.
- 15.16. Where a person exercises their right to have an adult observer or adviser present in accordance with this by-law, an opportunity for consultation shall be provided.

- 15.17. Video evidence may be presented in the discretion of the Tribunal.
- 15.18. At the conclusion of all of the evidence and submissions the chairperson shall ask the charged person, the reporting official and all other persons present to leave the hearing room while the Tribunal considers its findings.
- 15.19. If the Tribunal is not satisfied that the particular charge has been proved, but is satisfied that a lesser charge has been established, then the Tribunal may find such lesser charge established and shall apply the penalty applicable to the lesser charge.
- 15.20. Where it appears to the Tribunal that the reporting official has made an error in laying the wrong charge or omitted charges that should have been laid, the Tribunal may amend the charges and proceed to make a finding. Further, the Tribunal has the right to direct that a person other than the charged person be charged with an offence under this by-law on the basis of evidence presented before it during the course of conducting a hearing.
- 15.21. Where charges have been amended under clause 15.20, the Tribunal shall adjourn the hearing unless the charged person consents to it proceeding at that time.
- 15.22. The decision of the Tribunal shall be given in the presence of all, by the Tribunal chairperson.
- 15.23. Subject to clause 15.19, if the Tribunal is satisfied that a charge has been established on the balance of probabilities (ie more probable than not) it shall find the charge proved. Otherwise the charge shall be dismissed.
- 15.24. If a charge has been found proven by the Tribunal the charged person shall be informed of the finding. Any previous convictions against the charged person should then be laid before the Tribunal.
- 15.25. The charged person should then be given the right to make a final statement in relation to previous convictions or other mitigating circumstances before being asked to leave the room a second time.
- 15.26. The Tribunal shall then determine the penalty to be imposed (if any) and shall recall the charged person and reporting official to advise of the penalty.
- 15.27. The Tribunal is not obliged to give oral or written reasons for any decision made by it under this By-law.
- 15.28. A charged person who has been convicted of an offence and received a penalty under this By-law shall not play, coach, referee or otherwise take part in skating activities as directed by the Tribunal until the penalty has been served to the satisfaction of Skate Victoria.

Offences and Penalties



- 16.1. Clause 16.3 sets out the standard offences and maximum penalties to be applied where a charge has been established by a Tribunal.
- 16.2. For the purposes of this By-law, penalties for many offences which are established by a Tribunal shall be divided into two separate categories:
- (a) penalties for offences involving persons other than officials ("Group A offence"); and
 - (b) penalties for offences involving an official ("Group B offence").

16.3. Offences and penalties within Gameplay

- (a) Disputing the decision(s) of an official
 - Maximum penalty: 6 weeks suspension
- (b) Unsportsmanlike behaviour
 - Maximum penalty: 6 weeks suspension
- (c) Gross breach of Code of Conduct
 - Maximum penalty: 6 weeks suspension
- (d) Obscene gestures
 - A – Maximum penalty: 10 weeks suspension
 - B – Maximum penalty: 20 weeks suspension
- (e) Offensive language (which may include abusive, obscene or insulting language)
 - A – Maximum penalty: 10 weeks suspension
 - B – Maximum penalty: 20 weeks suspension
- (e) Attempting to strike
 - A – Maximum penalty: 0 weeks suspension
 - B – Maximum penalty: 52 weeks suspension
- (f) Striking (fist, hand, object, head)
 - A – Maximum penalty: 52 weeks suspension
 - B – Maximum penalty: life-time suspension
- (g) Fighting
 - A - More than 2 persons: Maximum penalty 20 weeks suspension
- (i) Spitting
 - A – Maximum penalty: 20 weeks suspension
 - B – Maximum penalty: 52 weeks suspension
- (j) Putting a person in fear of impending violence
 - A – Maximum penalty: 52 weeks suspension
 - B – Maximum penalty: 104 weeks suspension
- (k) Coaching, officiating, playing while under suspension
 - A - Minimum penalty: 2 weeks per game plus the suspension period
 - A - Maximum penalty: 5 weeks per game plus the suspension period
- (l) Deliberately endangering the safety, health, of the players, spectators, officials (incidents involving blood/ fluids)

A: Maximum penalty: life-time suspension

(l) Conduct which brings the sport of skating into disrepute

Maximum penalty: 19 weeks suspension

(m) Failure to attend Tribunal without proper cause when notified

Maximum penalty: 20 weeks suspension

(n) Failure to co-operate in, or hindering an investigation or hearing under these by-laws.

Maximum penalty: 20 weeks suspension

- 16.4. Where charges arising from one particular incident are heard together and the Tribunal finds the person or team guilty of more than one offence, it may impose a single penalty, being not more than the maximum penalty for the most serious of the offences, or it may impose individual penalties for each offence.
- 16.6. A penalty handed down under this clause shall commence from the date of the Tribunal finding unless otherwise expressly directed by the Tribunal. Penalties should wherever possible be expressed to be calendar weeks as opposed to number of matches. The Tribunal has a discretion to rule that a penalty will be suspended for the number of weeks which fall between seasons or during any season break.
- 16.7. Where a Tribunal imposes more than one period of suspension, it may impose them to be served concurrently or cumulatively or partly concurrently and partly cumulatively.
- 16.8. Persons on a first offence shall have this taken into account when assessing the penalty to be handed down.
- 16.9. A Tribunal may take into account a charged person's prior convictions in determining a penalty to be handed down provided the penalty does not exceed the maximum penalties assigned to offences under clause 16.3.

17. Administrative Tribunal

This clause provides for the handing down of penalties without the need for a Tribunal hearing and may be implemented by Skate Victoria which wish to provide such an option for charged persons, teams and clubs

- 17.1. If a person is charged with an offence carrying a maximum penalty of ten weeks or less, and
- (a) is not a minor; and
 - (b) has not been charged previously within the last 12 months the matter will be dealt with by an administrative tribunal.
- the matter will be dealt with by an administrative tribunal.
- 17.2. A person charged with an offence:
- (a) carrying a maximum penalty of more than ten weeks; or
 - (b) who is a minor; or
 - (c) who has been charged previously within the last 12 months; or
 - (d) who rejects a penalty of the administrative tribunal under clause 17.5. must be dealt with by the Tribunal.
- must be dealt with by the Tribunal.
- 17.3. An administrative tribunal shall consist of two people who have relevant experience in the sporting discipline.
- 17.4. When a report is received and the charge(s) carrying a maximum penalty of ten weeks or less, the administrative tribunal shall meet and determine a penalty. The charged person shall be notified of the penalty as soon as is practicable following the meeting of the administrative tribunal.
- 17.5. The charged person shall be required to notify Skate Victoria of his / her acceptance or rejection of the penalty within three working days of notification. If the penalty is acceptable to the charged person the penalty shall be enforced with no right of appeal.

- 17.6. If the penalty is not acceptable to the charged person the matter shall be referred to the Tribunal and be treated in the same manner as any other charge.
- 17.7. If the charged person fails to indicate acceptance or rejection of the administrative penalty in writing to Skate Victoria within three working days of notification, the administrative penalty will automatically be invoked.

SKATE VICTORIA INC

Appeals



18. Right of Appeal

- 18.1. There shall be no appeal from a decision of the Tribunal unless the person seeking to appeal (“Appellant”) satisfies the Appeals Officer of Skate Victoria, or their nominee, in that person’s sole discretion, that one or more of the following grounds of appeal is satisfied.
- (a) that significant new or additional evidence has become available;
 - (b) that the penalty imposed by the Tribunal is not in accordance with the provisions of this By-law; or
 - (c) that the Tribunal failed to follow procedures or requirements of this Bylaw to the significant detriment of the person seeking the appeal.
- 18.2. Only a charged person shall have the right of appeal from a decision of the Tribunal under this By-law.

19 Notice of Appeal

- 19.1. A person seeking to appeal a decision of the Tribunal must:
- (a) lodge a notice stating full details of charges and results thereof and stating in full the grounds of appeal with the Appeals Officer within fourteen (14) days of the notification of a determination of a Tribunal hearing (“Notice of Appeal”).
- 19.2. An Appellant shall be notified within seven (7) days of receipt of the Notice of Appeal as to whether an appeal hearing is to be granted and the time, date and place of the Appeal hearing, in the event that it is granted.

20. Appeal Tribunal

- 20.1. If an appeal hearing is granted, the Appeals Officer shall convene an Appeal Tribunal to hear and determine the appeal in accordance with this By-law.
- 20.2. An Appeal Tribunal shall consist of no fewer than three (3) persons appointed by Skate Victoria from time to time to hear appeals. Members of an Appeal Tribunal will preferably have experience in hearing and determining disciplinary matters in sport, however need not have any particular experience with the sport of skating.
- 20.3. Tribunal members who were not involved in the hearing of a matter the subject of an appeal shall be eligible to sit on an Appeal Tribunal.

21. Serving of Tribunal Penalties

- 21.1. Subject to clause 21.2.(b), where the Tribunal imposes a penalty that prevents the Appellant from participating in a match, the appellant shall serve that penalty pending the determination of the appeal.
- 21.2. Subject to clause 21.3., the Appeal Tribunal may of its own motion or upon application of any party to the appeal, order:
- (a) that an appeal be adjourned;
 - (b) a stay of the execution of the penalty imposed by the Tribunal pending the determination of the appeal.
- 21.3. The Appeal Tribunal shall make an order under clause 21.2.(b) only where it is satisfied that there are exceptional and compelling circumstances that make it harsh and unconscionable if such an order was not made. In determining that question, the Appeals Tribunal shall without limitation have regard to:
- (a) the merits of the appeal and the Appellant’s prospects of success;
 - (b) the interests of other teams, clubs and players; and
 - (c) the effect on the results of the competition.

22. Proceedings of Appeal Tribunal

- 22.1. The Appeal Tribunal and persons appearing before it are bound by the same procedures under this By-law as if the Appeal Tribunal was a Tribunal hearing a matter at first instance.

- 22.2. The Appeals Officer shall forward records of the Tribunal hearing in which the matter the subject of the Appeal was heard at first instance to the chairperson of the Appeal Tribunal.
- 22.3. The Appeal Tribunal shall have the discretion to conduct the hearing as a complete re-hearing or to limit the hearing to consideration of the ground(s) of appeal relied upon by the Appellant under clause 18.1.
- 22.4. An Appeal Tribunal shall have the power to:
 - (a) dismiss the appeal;
 - (b) uphold the appeal;
 - (c) impose any of the penalties set out in Part 4 of this By-law.
 - (d) reduce, increase or otherwise vary any penalty imposed by the initial hearings Tribunal in such manner as it thinks fit.
- 22.5. The Appeal Tribunal is not obliged to give oral or written reasons for a decision under clause 22.4.
- 22.6. At the conclusion of the appeal, the chairperson of the Appeal Tribunal shall ensure that the Appellant and the reporting official are correctly informed of the determinations of the Appeal Tribunal. The chairperson shall also notify the Appeals Officer of the decision of the Appeal Tribunal.

23. Single Right of Appeal

- 23.1. There is only one right of appeal following the decision of the initial Tribunal. Any appeal must be solely and exclusively resolved by the Appeal Tribunal and the decision of the Appeal Tribunal is final and binding on the parties.

24. Exhaust Internal Appeal

- 24.1. Person shall exercise his right of appeal under this By-law and have any appeal heard and determined by the Appeal Tribunal before commencing any proceedings or becoming a party to any proceedings in a court of law.

Miscellaneous



27. Relationship with criminal matters

- 27.1. If during a Tribunal hearing an investigation under this By-law it becomes known that criminal charges have been brought (as opposed to merely the subject of police investigation) arising out of the actions the subject of the hearing or investigation, the Tribunal and / or Skate Victoria may rule that further action be deferred until completion of the criminal charges, unless the police or other prosecuting authority advise they have no objection to the matter proceeding.
- 27.2. In making a determination under clause 27.1, the Tribunal and / or Skate Victoria shall have regard to the need to ensure the ongoing safety of players, referees and other persons involved in Skate Victoria.

Policies Review

This policy will be reviewed biannually to ensure it remains relevant to Skate Victoria operations and reflects both community expectations and legal requirements.

Signature

Signed: 
Executive Officer

Date: 08/01/2017

Signed: 
Executive Member

Date: 08/01/2017

Next policy review date is **January 2018**

Document Revision History

February 2011	Policy	Adopted
January 2017	Document format	Updated

SKATE
VICTORIA
INC