

Motion 1 – Motion to Update the *Club Hearings and Sanctions Policy*

WHEREAS the Clubs Governance Committee ought to guarantee the right of clubs to a fair and judicial process;

BE IT RESOLVED that the *Club Hearings and Sanctions Policy* [April 30, 2015] be revoked;

BE IT FURTHER RESOLVED that the *Club Hearings and Sanctions Policy* [November 15, 2018] be adopted by this Committee (**Appendix 1**).

PUDDIFANT/Seconder

Appendix 1

***Club Hearings and Sanctions Policy* [November 15, 2018]**

University Students' Council of Western University

Club Hearings and Sanctions Procedure

1.00 GENERAL

1.01 This document governs the procedures for submission, hearing, and resolution of complaints within the USC Clubs system.

1.02 Any reference to "day" or "days" shall refer to business days only and shall exclude statutory holidays and the USC winter closing period and any days the USC office is not operational.

1.03 Any reference to "person" or "persons" shall refer to an individual, group of individuals, or corporate entity.

1.04 Any reference to "Club" or "USC Club" shall refer to an organization that has been ratified by the USC in accordance with the Club Ratification and De-Ratification Procedure.

1.05 Any reference to "Executive" or "Club Executive" shall refer to the President, Vice-President Finance, Vice-President Events, and Vice-President Communications of a Club.

1.06 Any reference to "the Committee" or "Committee" shall refer to the Clubs Governance Committee as the superior authority of this Procedure.

1.07 Any reference to "Chair" or "the Chair" shall refer to the Chair of the Clubs Governance Committee as set in the governing statute of the Committee.

2.00 SUBMITTING A COMPLAINT

2.01 The investigation of a Club shall commence upon the receipt of a complaint by the Clubs Governance Committee or on the Clubs Governance Committee's own initiative.

2.02 A complaint shall consist of the following:

- (1) The name of the Club.
- (2) The name of the complainant.
- (3) The name of the complainant shall be blacked out when the complaint is forwarded to the Club.
- (4) The date of the alleged violation.
- (5) The section(s) of Clubs Policy and Procedure that the Club has allegedly violated.
- (6) Any other relevant information.

2.03 All complaints must be submitted to the Clubs Policy Coordinator within thirty (30) days of the alleged violation being discovered.

(1) A complainant may submit a written request to the Clubs Policy Coordinator to extend the submission deadline past thirty (30) days. It is the sole discretion of the Clubs Policy Coordinator whether to extend the deadline.

2.04 The Clubs Policy Coordinator shall ascertain the completeness of the complaint. A complaint shall be deemed complete and filed when it contains all of the items specified in section 2.02 above.

3.00 PRELIMINARY HEARING PROCEDURE

3.01 Upon receipt of a complaint, the Clubs Governance Committee shall meet at its earliest convenience to adjudicate on the matter.

3.02 The executive committee of the Club in question shall be notified of the complaint within five (5) days of the complaint being deemed filed under section 2.04.

(1) This notification shall contain the information of the complaint under section 2.02.

3.03 The executive committee of the Club in question shall be given five (5) days to submit a written response to the complaint to the Chair of the Clubs Governance Committee prior to the Clubs Governance Committee hearing at which the complaint shall be adjudicated.

3.04 Where a complaint has been filed against a Club, said Club's executive committee shall be permitted to review the complaint documents subject to the following conditions:

(1) Any information identifying the complainant will be blacked out as well as any other information deemed appropriate by the Chair of the Clubs Governance Committee.

(2) The Club executive committee may disclose the contents of the complaint documents to Club members. The Club executive committee is responsible for ensuring that all Club members are aware that the documents are confidential.

(3) The Club shall not be permitted to disclose the contents of the documents to anyone other than a Club member without written permission of the Chair of the Clubs Governance Committee.

(4) The Club will be held responsible for any disclosure of the complaint documents to any person other than a Club member. The Clubs Governance Committee may use unsanctioned disclosure of complaint documents as evidence when making a decision regarding potential sanctions.

3.05 The Clubs Governance Committee shall be guided by Clubs Policy and Procedure in adjudicating on alleged violations and may seek the assistance of any source of relevant information.

3.06 The Clubs Governance Committee shall deem the Club to have committed the violations in the following circumstances:

(1) It can be demonstrated that the Club violated sections of Clubs Policy and Procedure.

(2) It can be demonstrated that the Club violated USC and/or University governing documents or municipal, provincial, and/or federal law.

(3) It can be demonstrated that a Club misused or abused a USC service or privilege.

4.00 JUDICIAL HEARING PROCEDURE

4.01 Upon receipt of the decision of the Clubs Governance Committee resulting from the preliminary hearing, as specified in section 3.00, the Club having been deemed in the aforementioned section as having committed the alleged violation, the Club may request a hearing before the Committee.

(1) This must be done in writing to the Chair of the Clubs Governance Committee no more than five (5) days after being informed of the preliminary decision.

4.02 Upon receipt of a request for hearing, the Clubs Governance Committee shall meet at its earliest convenience to adjudicate on the matter. This meeting shall meet subject to the provisions of this clause.

4.03 Procedure

(1) Commencement of Proceedings

i. Proceedings shall be initiated when the appropriate appeal is filed to the Chair of the Clubs Governance Committee; such that:

a. petitions on behalf of the USC as a whole may be brought by the Student Programs Officer, the Clubs Associate, or a designate thereof;

b. petitions on behalf of the Club may be brought by decision of the Clubs' executive committee.

(2) Submissions of Parties

i. Both the Petitioner and Respondent shall be granted the opportunity to submit their written submissions prior to the oral hearing.

ii. Written submissions shall be drafted according to a template which shall be made available to the Parties.

(3) Preliminary Conferences

i. At the discretion of the Committee; the Parties to the dispute and members of the Committee may, time permitting, then meet in a preliminary conference and discuss a number of issues informally, including but not limited to:

ii. agreement on non-contentious facts of the dispute;

iii. explanation of hearing procedures, and;

iv. setting a date for the hearing.

(4) *Witnesses*

i. The parties to the dispute or the Committee may request, in writing, to the Chair of the Clubs Governance Committee to call witnesses before the hearing.

ii. The request to the Chair must be made before, but not after seventy-two (72) hours prior to the convening of the scheduled hearing.

iii. The decision on whether to permit the witnesses before the committee shall be at the discretion of the Chair.

iv. The Chair must issue the call to witnesses for testimony before the committee a minimum of forty-eight (48) hours prior to the convening of the scheduled hearing.

4.04 *Rights*

(1) Hearings shall be open to the public, limited only by space restrictions in the designated hearing room or the discretion of the Clubs Governance Committee.

(2) At the discretion of the Committee, oral submissions may be dispensed with where they are not possible or are clearly unnecessary.

(3) The Chair may order removal of anyone from a hearing if the Chair decides that they are being disruptive, threatening or offensive.

(4) No audio-visual recordings shall be taken during the hearing, although Parties may take notes as necessary.

(5) The Committee, or a designate thereof, may record the hearing for the purposes of taking and publishing minutes.

(6) The Committee may, at their discretion, modify the general oral hearing procedure as they see fit.

(7) A copy of the procedures shall be provided to the participants no less than three (3) days prior to the hearing.

(8) A sample procedure for the oral hearing shall be found in Appendix 1.

4.05 *Disposition*

(1) At the end of an oral hearing the Committee may recess the proceedings to determine if they shall render an oral decision immediately.

(2) Judgments by the Committee may be rendered orally at the end of a hearing or may be reserved.

4.06 *Notification*

- (1) The Chair of the Clubs Governance Committee shall provide written notice of the Committee's decision within ten (10) days of the decision being made.
- (2) Written notice shall consist of the decision, reasons for the decision, and any applicable sanctions.
- (3) All documentation including the notice of the decision shall be kept on file with the Student Organizations Support Staff.
- (4) The Chair of the Clubs Governance Committee shall ensure that all parties to the complaint are supplied with this policy, as well as any other policies relevant to Club Hearings and Sanctions.

5.00 SANCTIONING PROCEDURE

5.01 A Club found to have committed an alleged violation may be sanctioned as deemed appropriate by the Clubs Governance Committee.

5.02 A Club that has been found to be in violation of the USC's Bylaw #2 by Elections Committee may be sanctioned as deemed appropriate by the Clubs Governance Committee.

5.03 The Clubs Governance Committee shall determine the severity of sanctions. Criteria may include, but are not limited to the following:

- (1) the type of violation;
- (2) the Club's level of responsibility, including any action taken by the Club to mitigate the violation;
- (3) the Club's intent prior to and while committing the violation;
- (4) the persistence of the violation;
- (5) the Club's prior history of committing violations;
- (6) the harm caused by the violation; or
- (7) the level of remorse demonstrated by the Club.

5.04 The sanctioning of Clubs must occur solely by, and at the sole discretion of the Clubs Governance Committee.

- (1) Sanctions may include, but are not limited to the following:
- (2) a written warning;
- (3) prohibition from exercising certain privileges afforded the Club by the USC;
- (4) probation, such that any further violation would result in further sanctions or de-ratification;
- (5) discipline or removal of individual Club member or Executive;

- (6) freezing of financial accounts of the Club;
- (7) de-ratification of the Club; or
- (8) financial penalties, in accordance with section 5.09, hereinunder.

5.05 Any or all of the aforementioned sanctions as under section 5.04 may be carried out by the Student Programs Officer, or a designate thereof, either in the deliverance of their duties, or as tasked by the Clubs Governance Committee.

- (1) All sanctioning authority must originate from this Committee. Any sanctions under section 5.04 lacking authorization by the Clubs Governance Committee shall be considered to be extrajudicial.
- (2) The Clubs Governance Committee shall hear petitions from Clubs for grievances citing section 5.05(1). The Chair of the Clubs Governance Committee shall determine the substance of said claims, and refer this matter to the Committee, should they find it to contain a substantive grievance.

5.06 Where de-ratification is the selected course of action, the Clubs Governance Committee shall halt the meeting and proceed according to the *Club Ratification and De-Ratification Procedure*.

5.07 De-Ratification: Circumstances where de-ratification may be considered include, but are not limited to:

- (1) lack of student interest and involvement based on the discretion of the Clubs Governance Committee;
- (2) the Club does not have twenty-five (25) members;
- (3) the Clubs Governance Committee deems the Club to be dormant due to a lack of activity and/or programming, less than three (3) meetings are held per academic year, or less than one (1) Club event is held per semester;
- (4) the Club does not meet deadlines established by the USC, the Clubs Governance Committee or those with authority over the Clubs Community on a consistent basis, whether or not due to lack of ability or effort;
- (5) the relationship between the Club and its external organization makes it impossible for the Club to follow USC and University governing documents or USC Clubs Policy;
- (6) the Club demonstrated an inability to maintain financial stability or a positive financial account balance;
- (7) the Club consistently disregards requests for action or inaction made by the USC, the Clubs Governance Committee or those with authority over the Clubs system;
- (8) the Club engaged in egregious conduct as provided for in the Community Standards Policy, or the University's Code of Student Conduct;

- (9) the Club committed a serious misuse or abuse of a USC service or privilege;
- (10) the Club's actions or inactions has discredited the USC and its reputation;
- (11) the Club consistently violated or has, at the Clubs Governance Committee's sole discretion, committed a serious violation of USC policies, procedures and other governing documents;
- (12) the Club was found in violation of a municipal, provincial or federal law or regulation;
- (13) the Club consciously acted against, or refused to act in a manner that supported, the USC's objective or the Club's mandate; or,
- (14) the Club was found to be in duplication of service to another club or on campus service such that the club is not capable of demonstrating an independent value proposition to the campus community.

- i. This Club shall have the right to petition the Clubs Governance Committee to demonstrate its value proposition to the campus community.

- ii. Duplication of service shall be considered as a circumstance for de-ratification in cases only where strain has been placed on the resources of the Clubs system or another Club.

5.08 A Club that has been de-ratified will have its account closed and any money in the account will become the property of the USC.

5.09 Any Club assets or supplies in a locker or in office space will become property of the USC.

5.10 When a Club is sanctioned with financial penalties, it is encouraged that the following guidelines are followed:

- (1) Club financial penalties are to be applied based on the severity of the offense.

- (2) Financial penalties should not exceed 10% of the largest account balance held by the Club over the previous 12 months.

- (3) Upon levy of a financial penalty, the Chair of the Clubs Governance Committee shall, in a timely manner, inform the general membership of the Club upon which the penalty was levied of the penalty.

- i. At the discretion of either the Committee or the Chair, this responsibility may be delegated to the executive committee of the Club upon which the financial penalty is levied.

- a. In such a case, the Chair shall oversee this delegation and ensure it to be done in a timely manner, with the wording and distribution to be done to the satisfaction of the Chair.

ii. Failure by a Club to comply with section 5.09(3), in any regard, shall be grounds for further sanctions under section 5.04, or possible de-ratification under section 5.06(7).

(4) Revenues received from Club financial penalties shall be redirected to Clubs Appreciation, at the discretion of the Student Programs Officer, or a designate thereof.

6.00 RECORDS AND CONFIDENTIALITY

6.01 The Committee shall make available written, reasoned Judgments within a reasonable amount of time after the hearing.

6.02 A record of all written Judgments by the Clubs Governance Committee shall be kept by the USC and be made available to the public.

6.03 If a Party or Witness to a Case wishes to remain anonymous, they may apply to the Committee adjudicating their Case with reasons for such status before the commencement of the oral hearing.

6.04 The Chair of the Clubs Governance Committee may grant anonymous status if she decides the Party or Witness applying for said status requires protection from slander, libel or personal attack, or to prevent the public disclosure of medical information or extenuating personal circumstances.

6.05 In Cases where anonymity to a Party or Witness has been granted, the oral hearing shall be closed to the public and press and the Party or Witness shall only be referred to by their initials in the written Judgment.

6.06 The written judgment shall still be published publicly but with the private information redacted.

6.07 In Cases where Confidential Information of the USC is required, the hearing shall be held in camera and the Judgment shall not be made publicly available if the information cannot be redacted.

(1) The Judgment shall remain available to current and future Club Governance Committee members for consultation.

7.00 APPEALS

7.01 An organization that has been sanctioned may appeal the decision of the Clubs Governance Committee to the USC Appeals Board after being informed of the decision.

7.02 The appeal panel shall provide written reasons for its decision to the appellant organization and the Chair of the Clubs Governance Committee.

7.03 Should the appeal panel fail to come to a decision, the decision of the Clubs Governance Committee shall be upheld.

APPENDIX 1

Sample Procedure for Oral Hearings

- (1) The Chair shall introduce the members of the Clubs Governance Committee sitting on that Panel and shall outline the rules and procedure of the hearing;
- (2) The Petitioner, followed by the Respondent, may make an opening statement to introduce the nature of the application and the facts of the Case for no more than five (5) minutes;
- (3) The Petitioner shall present and question his/her witnesses and shall tender evidence;
- (4) The Petitioner shall have an additional twenty (20) minutes of time for oral arguments following the examination of their witnesses;
- (5) The Respondent shall then present and question his/her witnesses and shall tender evidence;
- (6) The Respondent shall have an additional twenty (20) minutes of time for oral arguments following the examination of their witnesses;
- (7) The Respondent/Petitioner may cross-examine the other parties' witnesses immediately following the examination in chief of the witness;
- (8) The members of the Committee may, at any time, ask questions of a Party;
- (9) The Petitioner, followed by the Respondent, may make a closing statement for no more than ten (10) minutes. No new evidence may be introduced during the closing statement.