

F A L S E C R E E K Y A C H T C L U B

P o l i c y o n C o m p l a i n t s a n d S a n c t i o n s

Adopted 2019-10-16

Any member or employee of FCYC may make a report alleging that a member has breached a bylaw, policy, contract, or any other rule of the Club. This procedure is not a way to resolve personal disputes between members.

Where appropriate, members and employees are asked to address their concerns by offering informal advice and guidance. Accordingly, all are asked to welcome advice and guidance cordially and without defensiveness. However, some concerns are best addressed through the formal process outlined here, which implements the provisions of Bylaw Articles 3.2, 3.8, and 3.9. The formal process is to be interpreted consistent with the Bylaws and, in case of any conflict with a Bylaw provision, the Bylaws prevail.

In this procedure, the member or employee reporting a breach of a rule is the “Complainant.” The member alleged to be or have been in breach is the “Respondent.” A member or members designated to investigate the facts is the “Fact-Finder.”

1. Initial Report

An initial report of a breach of any Club regulation (bylaw, rule, or policy) should be submitted to the Commodore or another member of the Board of Directors. If the director receiving the report is in a conflict of interest or commitment, they must refer the Complainant to another director who is not in a conflict of interest or commitment.

The director should take the report seriously and invite a conversation to discuss the incident, the wisdom of proceeding formally, and the general

procedure to be followed. The Complainant must be informed that their report cannot be anonymous once the formal process is put in motion.

The formal process begins with a dispassionate and impartial written report of the Respondent's alleged conduct, as witnessed, with no comments added, no inferences drawn, and no judgements reached.

2. Prima Facie Determination

The director who receives the report will introduce it for discussion at a regular or ad hoc meeting of the Board of Directors. Any director who is in a conflict of interest or commitment should fully recuse themselves from the meeting and any further discussions of the matter.

The Board reviews the written report together with any other available evidence and determines whether there would be a violation of a Club regulation were the allegations to be substantiated by a fact-finding process. The Board does not at this stage reach any conclusions with respect to what happened or what sanctions might be warranted. The Board may decide at this stage to dismiss the matter.

If the Board decides to proceed, one or more members of the Club are appointed as Fact-Finder. A professional may be retained if circumstances warrant it. The Board may provide guidance on additional sources of evidence and the general conduct of the review.

The Respondent is immediately informed in writing of the allegations, of possible sanctions, of the process outlined here, and of their right to respond. They are assured that their identity is confidential and they are instructed not to approach individual directors about the matter. The Respondent is also informed that any acts of retaliation will result in sanctions.

3. Fact-Finder's Report

Having concluded their review, the Fact-Finder submits a report to the Board of Directors. The Board may decide at this stage to dismiss the matter, informing the Respondent and the Complainant that no further action will be taken. If the Board decides to proceed, the Respondent is given a copy of the Fact-Finder's report and informed of their right to respond in writing within fourteen days, submitting further evidence or information about mitigating circumstances. They are also informed that they have a right to appear in person before the Board.

4. Hearing

Should the Respondent wish to appear before the Board, a hearing is scheduled before the full Board or, at the Board's discretion, a Subcommittee of the Board. Legal counsel may advise the Club. The Respondent may be accompanied by an advisor.

The Board or Subcommittee may adjourn a hearing for further fact-finding.

5. Final Determination

Reviewing all available evidence, including the Respondent's written and verbal submissions, the Board or Subcommittee makes a final determination on the facts. The standard of evidence is a balance of probabilities. Having determined the facts and taken into account any mitigating circumstances, the Board or Subcommittee may impose appropriate sanctions. The decision is final and a decision of the Subcommittee is a decision of the Board.

The decision of the Board is communicated to the Respondent in writing.

All documents associated with the complaint are confidential and are recorded in the Confidential Minutes of the Board. The Board's regular minutes will note that a complaint was received and appropriate action taken.

5. Appropriate Sanctions

Possible appropriate sanctions include, but are not limited to, a letter of reprimand, a fine, “community service,” suspension from all or any of the privileges of the Club for a period of time, loss of Good Standing for a period of time, and expulsion from the Club.