

# Pennsylvania Search and Rescue Council

## Disciplinary Procedure Policy for Delegates and other Officers

Draft Version 1.1 September 23, 1994\*

- I. This policy is for discipline of PSARC Delegates and elected and appointed Officers; this includes regional representatives and appointed committee members, or any individual charged to act on behalf of PSARC. It does not address discipline of member teams or individuals who are members of those teams. Resigning a position does not remove an individual from proceedings under this policy.
- II. **Initial Charge:** Any person with a complaint against any PSARC Delegate or other Officer shall make such complaint in writing to the President. Verbal complaints shall not invoke this or any other formal disciplinary process unless subsequently submitted in writing. Anonymous complaints shall not be accepted.
  - A. Complaints will only be accepted if they charge violation of PSARC policy, procedures, or directives, or if they involve violations of law.
  - B. **Contents of Written Charge:** The written charge must state the specifics of the violation to include specific items violated, date of violation, names of witnesses, and other information that describes the violation.
  - C. If the complaint is against the President, the Vice-President, instead of the President, shall fulfill the disciplinary process duties as described below. The President shall continue to fulfill all other duties of the office.
- III. The President shall immediately provide a copy of the complaint to the individual against which the complaint is filed (the "accused individual"). Sending a registered letter to the individual's PSARC member team at the

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\* This is based on the presupposition that the Fourteenth Amendment of the U.S. Constitution may apply to disciplinary proceedings of PSARC. The Fourteenth Amendment states: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Black's Law Dictionary provides the following under "due process":

"... Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, this is not due process of law."

"Fundamental requisite of "due process" is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest . . ."

"Embodied in the due process concept are the basic rights of a defendant . . . and include, timely notice of a hearing or trial which informs the defendant of the charges against him or her; the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge; the presumption of innocence under which guilt must be proven by legally obtained evidence and the verdict must be supported by the evidence presented . . ."

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PSARC member team's official address as recorded by the Secretary shall be the method for notifying the individual. If the member team cannot or does not for any reason forward the complaint to this individual, then the individual shall no longer act for the team or for PSARC as a whole in any PSARC matters until the complaint is forwarded to the individual and the complaint resolved according the further provisions of this policy. If an individual believes that a team has not forwarded a complaint to him or her, that individual may contact PSARC at its official address to arrange for direct contact with PSARC. The President shall provide the accused individual with copies of any known written materials, reports or documents on which the accusation is based.

A. If the accusation is of such a nature as to possibly prevent the accused individual from safely performing his or her duties as far as participating in PSARC search and rescue or training activities, the President shall immediately place the accused individual on leave of absence or suspension.

1. Notification of suspension shall require that a registered letter be sent to the accused individual, stating that
  - a) the accused Individual shall not participate in any PSARC search and rescue or training event until further notice,
  - b) the individual has been accused of a particular complaint, and that
  - c) an Investigation Board will be appointed.
  - d) Along with the letter may be copies of written materials, reports or documents on which the accusation is based.
2. In the event of such a suspension, the President shall immediately convoke an Investigation Board (see below).

B. If the accusation is not of such a nature that the accused individual might not be able to safely participate in search and rescue or training activities, the President shall request, in writing, that the accused individual provide the President with a written response.

1. If such a response is received within sixty (60) days, the President or a designate shall attempt to resolve the complaint without recourse to further formal proceedings. If resolved satisfactorily, the President will provide the accused individual and the complainant with identical copies of a single letter stating that the complaint has been satisfactorily resolved. If both parties are satisfied with this letter, the matter shall be closed.

IV. If the President or designate cannot bring the parties to a mutually acceptable resolution, or if the accused individual does not provide a written response within sixty (60) days, the President shall appoint an Investigation Board.

A. The Investigation Board shall consist of three (3) individuals. One member of the Investigation Board shall be a respected person who is

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unrelated to either the accuser or the accused individual (or acceptable to both if related) but who has general knowledge of the type of complaint in dispute. This individual shall chair the Investigation Board. The other two members shall be elected or appointed officers of PSARC. The accused individual and accuser shall have the right to reject, without specifying any cause, the first two appointments of the President for each of the two positions. If a member of the Investigation Board cannot serve, the President shall appoint a replacement, with the accused and accuser having the right to reject the first appointment of the President. However, an individual who does not respond, within 60 days, to a registered letter to the PSARC member team's official address (or the individual's address if the individual has arranged with the Secretary for direct contact) with the President's nomination(s), shall lose the right of rejecting the President's appointee(s), and the President's appointee(s) shall constitute the Investigation Board.

- B. The President shall provide the Investigation Board with all written materials and other evidence pertinent to the case. The Investigation Board shall ensure that the accused individual has copies of all such materials. The Investigation Board shall meet in person and shall discuss the complaint. The meeting of the Investigation Board shall be open only to the Investigation Board, the accused and accuser, and witnesses for both sides. The Investigation Board shall be empowered to request additional information from either accuser or accused individual. The Investigation Board shall inform the accused individual of the sanctions that it is empowered to institute. These are:
1. No sanction.
  2. A written reprimand.
  3. A period of suspension from all PSARC activities, not to exceed one year.
  4. Revocation of officer status and/or search and rescue certification.
  5. A period of probation, the period to be set by the Investigation Board, but not more than one year. At the end this time the Investigation Board shall again meet and institute one of the other options above.
- C. The Investigation Board shall make no decision until the accused individual has had an opportunity to confront the accuser, and respond both verbally and in writing to all accusations. If an individual is unwilling or unable to meet with the Investigation Board within 60 days of official notification, by registered letter to the official PSARC team

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This is based this on the standard rejection of jurors used in federal trials, which helps ensure that the jury is acceptable to both sides.

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address (or the individual's address if the individual has arranged with the Secretary for direct contact) of possible meeting dates, places, and times, then the complaint shall become inactive. No individual with an inactive complaint against the individual may act as a delegate from a PSARC member team or may be nominated for or serve as an officer of PSARC until such time as the complaint is resolved according to the provisions of this policy. An individual may reactivate a complaint by official communication with the President of PSARC.

1.     **Presentation of Case:** Each side will be permitted to present evidence in the case and will follow the rules of evidence normally used.
  2.     **Examination of Witnesses:** Witnesses may be cross-examined by either side in the case.
  3.     **Summary of Case:** Each side will be allowed to summarize the evidence prior to Investigation Board discussion and decision.
- D.     The Investigation Board shall base all its decisions on established standards of conduct for PSARC personnel; this shall include specific tasks assigned to an individual by the PSARC membership or Board of Directors. The Investigation Board shall make any such standards available, in writing, to both accuser and accused individual.
- E.     The Investigation Board may deem a complaint frivolous and present the President with a formal complaint against the originator of the original complaint, to be dealt with by the mechanisms of this Policy.
- F.     The findings of the Investigation Board shall be final. The only recourse to Investigation Board findings and sanctions shall be through the court system.

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Items 1, 2, and 3 codify the basic rules of due process as established by the judicial system in the U.S.