

FINA RULES ON THE PROTECTION FROM HARASSMENT AND ABUSE

Implementing provisions of Article V.B.2 of the FINA Code of Ethics

Approved by the FINA Bureau and ratified by the FINA Congress on 18 December 2021

INTRODUCTION

- 1. APPLICATION AND SCOPE**
- 2. JURISDICTION**
- 3. DEFINITIONS**
- 4. FORBIDDEN CONDUCT**
- 5. PROCEDURE**
- 6. SANCTIONS**
- 7. IMPLEMENTATION BY MEMBER FEDERATIONS**
- 8. STATUTE OF LIMITATIONS**
- 9. AMENDMENTS AND INTERPRETATION**

INTRODUCTION

The Fédération Internationale de Natation (FINA) is committed to creating and preserving a sport setting that ensures positive, healthy, and fulfilling experiences for all individuals. In doing so, FINA prioritizes the welfare, safety, and rights of every participant at all times.

In furtherance of that objective, FINA has adopted the present Rules which are in harmony with the 2016 International Olympic Committee Consensus Statement on “Harassment and Abuse in Sport”.

These Rules are the foundation for athlete safety, well-being and the prevention of harassment and abuse. The Rules define misconduct; create standards that set boundaries between professional and athlete members; mandatory reporting; establish a structure for investigation of complaints and their underlying circumstances; and promote greater accountability and compliance.

FINA is committed to promoting a non-violent, supporting and safe sport environment for all its members related to the prevention of harassment and abuse in sport, by raising awareness, improving access to reporting, providing education / prevention, decreasing stigma and supporting research to determine the breadth and depth of the problem in the aquatic sports to inform our prevention interventions.

All Covered Persons are responsible for knowing the information set out herein and, by virtue of being a Covered Person, expressly agree to the jurisdiction of FINA and the applicability of these Rules, including those governing arbitration. FINA reserves the right to make changes to these Rules as necessary. Once such Rules become public, notice is deemed to have been provided and changes are effective immediately unless otherwise noted.

These Rules supplement Art. V.B.2 of the FINA Code of Ethics, entitled “Dignity”.

1. APPLICATION AND SCOPE

- 1.1 These Rules apply to all Covered Persons.
- 1.2 Each Covered Person shall be automatically bound by, and be required to comply with, these Rules by virtue of such participation, assistance, involvement, or preparation in any Covered Events.
- 1.3 It shall be the personal responsibility of every Covered Person to make himself or herself aware of these Rules including, without limitation, what conduct constitutes Forbidden Conduct and to comply with the requirements set out in these Rules. Covered Persons should also be aware that Forbidden Conduct may also constitute a criminal offence and/or a breach of other applicable laws and regulations. Covered Persons must comply with all applicable laws and regulations at all times.

2. JURISDICTION

- 2.1** Covered Persons submit to the exclusive jurisdiction of FINA and the FINA Adjudicatory Chamber to investigate and adjudicate allegations that a Covered Person engaged in one or more acts of Forbidden Conduct during a Covered Event.
- 2.1.2** If the Forbidden Conduct is alleged to occur in or between both Covered and Non-Covered Events, jurisdiction under these Rules only applies if the predominant nature and duration of the Forbidden Conduct occurred during Covered Events.
- 2.1.3** If the Forbidden Conduct is alleged to occur at a Non-Covered Event or does not involve a Covered Person, FINA does not have jurisdiction. In such situation, the aggrieved party should contact his/her national federation and/or competent legal authorities.
- 2.2** Final decisions and decisions on provisional suspensions rendered by the FINA Adjudicatory Chamber are appealable exclusively to the Appeals Arbitration Division of the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland in accordance with the CAS Code of Sports-related Arbitration. The CAS shall also have exclusive jurisdiction over interlocutory orders and no other court or tribunal shall have authority to issue interlocutory orders relating to matters before the CAS or the FINA Adjudicatory Chamber.
- 2.3** If a Major Event Organisation has its own rules on the protection from harassment and abuse (or similar), and either (a) an allegation asserting Forbidden Conduct against a Covered Person is first filed with the Major Event Organisation; or (b) it is determined by an Independent Protection Officer that the predominant nature of the alleged Forbidden Conduct took place during an event organized by a Major Event Organisation, FINA may defer jurisdiction to the Major Event Organisation.

3. DEFINITIONS

- 3.1** “**Claimant**” means the Covered Person(s) (or legal guardian in the event the Claimant(s) is a minor or incapacitated) who is alleged to have experienced conduct that constitutes a violation of these Rules.
- 3.2** “**Covered Event**” means a FINA World Championships, FINA Competition, Competition of a Major Event Organisation or any FINA-sanctioned or organized meeting (i.e. FINA Convention, FINA Congress, FINA Development activities, etc.).
- 3.3** “**Covered Person**” means any natural person(s) who participates in, assists in, is involved in, or prepares an Athlete(s) to participate in a Covered Event, which includes any natural person(s) belonging to one of the following categories:
- 3.3.1** “**Athlete**” means any person or group of persons, participating or qualified to participate in, a Covered Event.
- 3.3.2** “**Athlete Entourage Member**” means any coach, trainer, manager, agent, team staff, team official, medical or paramedical personnel

working with or treating Athletes, and all other persons working with Athletes.

3.3.3 “Official” means all FINA members, FINA staff, persons elected or appointed to any position within FINA or the Continental Organizations, Technical Committee Members, FINA Bureau, Judges, Jury Members, Referees and other individuals engaged in FINA activities, including organisers, consultants and any other accredited or engaged persons in contact with Athletes.

3.4 “Forbidden Conduct” means any conduct set out in Section 4.

3.5 “Athletes Safeguarding Counsel” means a group of (former) athletes and experts (medical, legal) supervising the processes as described in these Rules. The responsibility implies among others supervising the work of the Independent Protection Officer, supervising correct implementation of the Rules, confidentially advising athletes on the procedures and providing support for the victims and other potentially affected individuals (teammates, support personnel), acting as an initial point of contact for any victim, raising awareness and advising FINA Bureau and FINA Executive.

3.6 “Independent Investigation Officer” means a person operationally independent from the FINA Office whose role is to assist the Independent Protection Officer in the investigation of alleged Forbidden Conduct. He/She shall possess the necessary experience and skills to investigate matters related to the alleged Forbidden Conduct.

3.7 “Independent Protection Officer” means the officer(s) operating independently from the FINA Office (comprised of an athlete(s), medical and legal professional(s) who are appointed by the FINA Bureau at the proposal of the President) whose role (collectively or individually) is to receive from any Covered Person reports for any allegation of abuse and to investigate the alleged Forbidden Conduct and to implement these Rules in an effort to safeguard Covered Persons from Forbidden Conduct. They each shall possess the necessary experience and skills to investigate and resolve matters related to the alleged Forbidden Conduct. The identification and contact details of all Independent Protection Officers may be found on the FINA website. While reference to an Independent Protection Officer in these Rules is used in the singular, the appointed officers work collectively. Information and evidence may be shared between them subject to the confidentiality provisions set out in Section 5.12.

3.8 “Major Event Organisation” means any international, multi-sport organization that acts as the ruling body for any continental, regional or other international Competition.

3.9 “Member Federation” means the national federations affiliated to FINA in a country or a sport country recognised by FINA.

3.10 “Minor” means a person under the age of 18 years or, where applicable, a person who is under the age of majority and meets the definition of a child for

the purposes of protection in the country where the predominant nature of the alleged misconduct occurred.

3.11 “Non-Covered Event” means any event that is not a Covered Event.

3.12 “Rules” means the present rules on the protection from harassment and abuse.

4. FORBIDDEN CONDUCT

4.1 The following Forbidden Conduct shall constitute a violation of these Rules:

4.1.1 Harassment

Any acts of hazing, neglect, psychological abuse, physical abuse, and sexual harassment. These forms of harassment and abuse may occur in combination or in isolation.

4.1.2 Hazing

Any intentional action taken or any situation created that causes embarrassment, harassment or ridicule, and risks emotional, physical or sexual harm to a Covered Person, regardless of the individual’s willingness to participate.

4.1.3 Neglect

The failure of a Covered Person with a duty of care towards another Covered Person to provide a minimum level of care to that Covered Person which is causing harm, encouraging harm, allowing harm to be caused, or creating imminent danger of harm.

For example, forced training in unsafe training venues/equipment; failure to provide adequate nutrition/ fluids while training; or failure to protect the athlete from environmental risks (heat/cold/dangerous open water swimming environments).

4.1.4 Psychological Abuse

A pattern of deliberate, prolonged, repeated non-contact behaviours within a power differentiated relationship. This form of abuse is at the core of all other forms.

4.1.5 Physical Abuse

Any deliberate and unwelcome act – such as, for example, punching, beating, kicking, biting and burning – that causes physical trauma or injury. Such act can also consist of forced or inappropriate physical activity (e.g., inappropriate age or physique training loads; when injured or in pain), forced alcohol consumption, or forced doping practices.

4.1.6 Sexual Harassment

Any verbal or physical conduct of a sexual nature which is unwelcome. Sexual Harassment includes sexual advances, requests for sexual favors, and other

verbal or physical conduct of a sexual nature when such conduct is made either explicitly or implicitly. Sexual Harassment may take the form of Sexual Abuse.

4.1.7 Sexual Abuse

Any conduct of sexual nature, whether non-contact, contact or penetrative, where consent is coerced/manipulated or is not or cannot be given. The activities may include, but are not limited to assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. Sexual Abuse may also include non-contact activities, such as involving individuals in looking at, or in the production of, sexual images, watching sexual activities, encouraging to behave in sexually inappropriate ways, or grooming a person in preparation for abuse (including through the internet).

- 4.2** The following are not considered Forbidden Conduct and shall not be reported under these Rules: pool or equipment issues; financial disputes; scores; competitive progression concerns; and/or employment disputes. Moreover, Forbidden Conduct does not include professionally accepted coaching methods within Aquatics for skill enhancement, physical conditioning, team building, appropriate discipline, or techniques used to improve Athlete performance.

5. PROCEDURE

5.1 Reporting Requirements

Any Covered Person may report an incident under these Rules. The reports of harassment and abuse may be made in writing or verbally to an Independent Protection Officer so long as the allegations concern Forbidden Conduct against a Covered Person during a Covered Event. Reports shall be made in writing (by email) and addressed to an Independent Protection Officer with a copy to the FINA Office. All reports shall include the following information:

- The name, title, address, contact information and signature of the Claimant (or legal guardian in the event of a minor), subject to Article 5.2;
- The name and surname of the Covered Person alleged to have committed Forbidden Conduct;
- A complete factual description of the alleged Forbidden Conduct, including date(s) and location(s) of the Forbidden Conduct;
- Any evidence in the Claimant's possession supporting the allegation that Forbidden Conduct occurred; and
- Provision(s) of these Rules that are alleged to have been breached.

5.2 Anonymous Reporting

Reporting under these Rules may be made anonymously. Anonymity means that FINA will not know the personally identifying information of the reporter. However, an anonymous report may limit FINA's ability to investigate and respond to a report.

Consequently, FINA encourages Claimants to provide their name and contact information when reporting.

The identity of any Claimant may only be disclosed if such disclosure is both necessary for the purposes of any investigation into an alleged violation of these Rules and the consent in writing of the person to the disclosure of his or her identity has been obtained.

5.3 Initiation of Complaint

When an Independent Protection Officer receives a complaint of Forbidden Conduct that falls within the exclusive jurisdiction of FINA, he/she will notify the relevant Member Federation (if appropriate), conduct a preliminary inquiry with the Claimant and/or Covered Person, and (if appropriate) undertake an investigation into the alleged violation of these Rules.

Notice under these Rules to a Covered Person who is under the jurisdiction of a Member Federation may be accomplished by delivery of the notice to the Member Federation. The Member Federation shall be responsible for making immediate contact with the Covered Person to whom the notice is applicable.

5.4 Parties

The parties to a complaint are the Claimant and the accused Covered Person.

Neither the Claimant nor accused Covered Person are required to participate in the investigation or any form of resolution under these Rules. Cooperation and participation in the resolution process, however, is important to ensure that all relevant information and evidence are adequately presented to determine whether a violation occurred. If a Claimant or accused Covered Person declines to cooperate or participate in an investigation, the Independent Protection Officer and/or the FINA Adjudicatory Chamber will make their decision based on the available evidence. Alternatively, an Independent Protection Officer may, in his/her discretion, choose not to proceed.

Where a Claimant declines or is otherwise unable to participate in an investigation, procedure or hearing, the ability to resolve the allegations may be limited. An Independent Protection Officer may, nevertheless, pursue the allegation in his/her sole discretion if it is possible to do so without the Claimant's participation (e.g., where there is other relevant evidence of the Forbidden Conduct, such as recordings, corroborating reports from other witnesses, or physical evidence).

An Independent Protection Officer reserves the right to notify the guardians of any Claimant and/or any Covered Person regarding any perceived health or safety risk as a result of any alleged Forbidden Conduct.

5.5 Investigation

Following the initiation of a complaint, the Claimant and accused Covered Person will have an opportunity to submit information and relevant evidence, identify witnesses who may have relevant information, and to submit questions that they

believe should be directed by an Independent Protection Officer to each other or to any witness.

If during the investigative process (i.e., prior to the issuance of any report prepared by an Independent Protection Officer), information or evidence that was available to the Claimant and/or accused Covered Person, including testimonial evidence, is not provided or disclosed to an Independent Protection Officer, such information or evidence may not be considered in determining whether a violation of the Rules occurred. If such information or evidence is provided after the investigative process, absent good cause, it may be afforded less weight during any subsequent hearing by the FINA Adjudicatory Chamber .

5.6 Independent Investigation

An Independent Protection Officer may appoint an Independent Investigation Officer to investigate the alleged Forbidden Conduct.

Upon the conclusion of the Independent Investigation Officer's investigation, a report shall be prepared setting out his/her findings, conclusions, and recommendations. Such report will be addressed to an Independent Protection Officer, with copies provided to the Claimant and accused Covered Person.

5.7 Methods of Resolution

5.7.1 Administrative Closure

An Independent Protection Officer, in his/her discretion, may administratively close a matter. This may be done as a result of lack of jurisdiction, insufficient evidence, a Claimant who elects not to participate in the resolution process, or other factors as determined by an Independent Protection Officer. An Independent Protection Officer may, upon receipt of new information or evidence, or a change in circumstances, reopen the matter for further investigation.

5.7.2 Informal Resolution

The accused Covered Person may, at any time before a matter is final, elect to resolve allegations of Forbidden Conduct by accepting responsibility for a violation of these Rules. In doing so, an Independent Protection Officer will determine the appropriate sanction following consultation with the parties and in accordance with Section 6 of these Rules. An informal resolution constitutes a final and binding disposition of the matter. The outcome and sanctions of an informal resolution may be published by FINA.

5.7.3 Formal Resolution

Formal resolution occurs after an Independent Protection Officer completes an investigation, the parties are heard (in writing or otherwise) and the FINA Adjudicatory Chamber issues its decision.

If the FINA Adjudicatory Chamber determines that the allegations of Forbidden Conduct are false, vexatious, retaliatory or frivolous, they may recommend disciplinary action against the Claimant.

The outcome of a formal resolution may be published by FINA.

5.8 Referral to FINA Adjudicatory Chamber

If, following an investigation, the procedure is not administratively closed or informally resolved, the complaint will be forwarded by an Independent Protection Officer to the FINA Adjudicatory Chamber for formal resolution.

The FINA Adjudicatory Chamber shall have the competence to conduct any further investigation and/or adjudicate the alleged violation of these Rules, as needed. If, after consulting the parties, the FINA Adjudicatory Chamber considers itself sufficiently well informed to decide the complaint based on all associated documents and evidence submitted during the investigation, it may decide to issue its decision without an oral hearing.

5.9 Suspension of the Proceedings

An Independent Protection Officer and/or the FINA Adjudicatory Chamber shall have the discretion to suspend any investigation pending the outcome of investigations and/or legal procedure conducted by other competent authorities, notably law enforcement authorities or criminal courts.

5.10 Burden of Proof

The Claimant (or an Independent Protection Officer, in the event the Claimant declines or is unable to participate in the procedure) bears the burden of gathering sufficient evidence to reach a determination, based on the preponderance of the evidence, that a Covered Person violated these Rules. A “preponderance of the evidence” means “more likely than not.”

5.11 Consolidation

Complaints involving more than one Claimant or more than one accused Covered Person may, in the discretion of Chairman of the FINA Adjudicatory Chamber, be consolidated into a single matter.

5.12 Confidentiality

Complaints, decisions, investigation and interview reports, audio and/or video recordings, transcripts and other work product produced under the Rules are confidential, except where disclosure by FINA is required by law. Any violation of this provision, including by an advisor and/or associate of a Covered Person, may constitute an abuse of process.

While physical documentation and/or recordings must remain confidential, FINA and/or the relevant FINA Member Federation may disclose the outcome of the

matter, including a summary of any decision, to those parties or organizations with a need to know so that the outcome can be properly effectuated or understood.

If any person or entity misrepresents the process by which the outcome was determined, the underlying facts, or the outcome of a matter, FINA reserves the right to publicly correct the record.

5.13 Obligation to Report

All Covered Persons shall have the obligation to report to FINA, in accordance with these Rules, any act or behaviour that may objectively be considered Forbidden Conduct, or retaliation for not reporting Forbidden Conduct, for investigation and possible charge. Failure to report under these Rules may result in consequences under these Rules and/or the FINA Code of Ethics.

6. SANCTIONS

6.1 Range of Sanctions

If the FINA Adjudicatory Chamber decides that a Covered Person has committed Forbidden Conduct, the FINA Adjudicatory Chamber shall be entitled to impose the following sanctions in accordance with these Rules.

6.1.1 Warning

An official, written notice and formal admonition that a Covered Person has violated these Rules and that a more severe sanction may result should the Covered Person be involved in other violations.

6.1.2 Probation

A specified period of time, during which should any further violations of these Rules occur, additional disciplinary measures, including a period of suspension or permanent ineligibility may apply. This sanction may also include loss of privileges or other conditions, restrictions, or requirements.

6.1.4 Ineligibility

A suspension from the participation, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of FINA or a Member Federation, or at a facility under the jurisdiction of the same, for a period up to the lifetime of the Covered Person.

A Covered Person is eligible to return after the suspension lapses, but reinstatement may be subject to certain restrictions or contingent upon the Covered Person satisfying specific conditions noted at the time of suspension.

6.1.5 Other Discretionary Matters

The FINA Adjudicatory Chamber may, in its discretion, impose other sanctions, including, but not limited to, other loss of privileges, no contact directives,

requirement to complete educational or other programs, return of FINA awards, or any other restrictions or conditions as deemed necessary or appropriate.

In the discretion of the FINA Adjudicatory Chamber, a sanction may include restrictions or prohibitions from some types of participation but allowing participation in other capacities.

6.2 Aggravating and Mitigating Factors

In imposing sanctions in accordance with these Rules, the FINA Adjudicatory Chamber shall be entitled to consider the existence of any aggravating and/or mitigating factors.

Aggravating factors may include:

- 6.2.1** Failure to cooperate by the Covered Person with any investigation or requests for information by the Independent Protection Officer, Independent Investigation Officer and/or the FINA Adjudicatory Chamber.
- 6.2.2** Forbidden Conduct directed towards a minor(s) or other dependant person(s), notably, but not limited to, conduct arising from positions of power, caregiving, employment or any other form of dependant relationship.
- 6.2.3** The type of and/or repeated nature of the Forbidden Conduct.
- 6.2.4** Any previous violation under these Rules (or other rules of domestic law or related governing Forbidden Conduct) by the Covered Person.
- 6.2.5** Lack of remorse of the Person bound by these Rules.
- 6.2.6** Any other aggravating factor that the FINA Adjudicatory Chamber deems relevant.

Mitigating factors may include:

- 6.2.7** Cooperation by the Covered Person with any investigation or requests for information.
- 6.2.8** Timely admission of a violation by the Covered Person.
- 6.2.9** The Covered Person's clean disciplinary record.
- 6.2.10** Youth or inexperience of the Covered Person.
- 6.2.11** The Covered Person's remorse for his/her actions.
- 6.2.12** Any other mitigating factor that the FINA Adjudicatory Chamber deems relevant.

6.3 Educational Measures and Rehabilitation

As part of an informal or formal resolution of any matter, a Covered Person may be required to complete an appropriate education or rehabilitation programme pertaining to the prevention of harassment and abuse as a condition of eligibility or as an independent sanction.

6.4 Provisional and Voluntary Suspension

Upon request from an Independent Protection Officer and/or the Claimant, and after hearing from the accused Covered Person, the FINA Adjudicatory Chamber shall have discretion, in circumstances where it considers that the seriousness of the allegations against a Covered Person, the safety or well-being of the Claimant, or the dignity of the sport of Aquatics could otherwise be seriously undermined, to provisionally suspend a Covered Person pending the investigation and adjudication of the alleged violation.

Alternatively, a Covered Person bound by these Rules may accept a voluntary suspension from the participation in the sport of Aquatics provided that it is confirmed in writing to an Independent Protection Officer. A voluntary suspension shall be effective only from the date of receipt of such written confirmation to an Independent Protection Officer. Where a provisional suspension is imposed upon a Covered Person, consideration of time served shall be credited in the determination of any further period of suspension or other sanction which may be ultimately imposed.

6.5 Costs

The FINA Adjudicatory Chamber may order a Covered Person who has committed a violation of these Rules, to pay to FINA a contribution towards the costs and expenses of and incidental to any investigation, hearing and adjudication of the matter.

6.6 Publication and Notification

Any determination of a violation made under these Rules, including any associated sanction, may be publicly disclosed by FINA and may be reported to the appropriate FINA Member Federation and law enforcement authorities.

7. IMPLEMENTATION BY MEMBER FEDERATIONS AND FINA

7.1 Member Federations shall implement similar rules and regulations or incorporate the present Rules into their rules, as modified appropriately for national-level competition, in order to prevent against Forbidden Conduct under their respective jurisdictions.

7.2 To the extent allegations of Forbidden Conduct occurring at a Non-Covered Event are filed with a Member Federation, such Member Federation shall immediately inform the Independent Protection Officer. To the extent the Member Federation does not timely investigate and/or resolve the allegations of Forbidden Conduct,

an Independent Protection Officer may open a procedure for investigation and resolution under these Rules.

- 7.3** Any violations(s) or sanction(s) determined under these Rules shall be reciprocally recognized and enforced by and between all FINA Member Federations.
- 7.4** Any decision rendered by a Member Federation concerning Forbidden Conduct shall be immediately reported to the Independent Protection Officer, who will initiate the necessary recognition and enforcement procedures, as needed. Any determination by the FINA Adjudicatory Chamber recognizing the decision of a Member Federation shall be enforced by all Member Federations.
- 7.5** The failure of a Member Federation to comply with Sections 7.1 - 7.4 may be referred to the FINA Adjudicatory Chamber.

8. STATUTE OF LIMITATIONS

8.1 Statute of Limitations

The statute of limitation period for claims filed under these Rules is ten (10) years from last date upon which the Forbidden Conduct is alleged to have occurred.

In the event the Forbidden Conduct is alleged to have occurred while the Claimant was a Minor, the statute of limitation period is ten (10) years from the date upon which the Claimant turns the age of majority in the country where the predominant nature of the alleged Forbidden Conduct occurred.

The foregoing statute of limitations does not apply to claims for Sexual Abuse.

9. AMENDMENTS AND INTERPRETATION

- 9.1** These Rules may be amended from time to time by the FINA Bureau.
- 9.2** Unless stated otherwise, these Rules shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.
- 9.3** The headings and sub-headings in these Rules are for convenience only and shall not be deemed to be part of the substance of these Rules or to affect in any way the language of the provisions to which they refer.
- 9.4** If any subpart(s) of these Rules is held to be invalid, unenforceable or illegal for any reason, it shall be deemed to be deleted and the Rules shall otherwise remain in full force and effect. If a Covered Person retires, ceases to participate in, assist in, or remain involved in the sport of Aquatics while a disciplinary procedure under these Rules is underway, FINA shall retain jurisdiction to complete the relevant procedure and to impose any appropriate sanction. If the Covered Person retires, ceases to participate in, assist in, or remain involved in the sport of Aquatics before any disciplinary procedure has begun, FINA shall nevertheless have jurisdiction to conduct the relevant procedure and impose any appropriate sanction.