

‘CONDUCT UNBECOMING’ KIWANIS CLUB MEMBERS

Kiwanis International Policies, which are determined by the Kiwanis International Board, define ‘conduct unbecoming’ as follows. Be aware that clubs (or districts) do *not* have the option to adjust this definition in any way but have the right to interpret it within reason.

POLICY B.11 – DEFINITION OF ‘CONDUCT UNBECOMING’

“Conduct unbecoming a member of the Kiwanis family” is defined as any conduct that:
(4/12)

- Constitutes harassment of another individual based on race, color, creed, national origin, age, or sex, including sexual orientation and gender identity. (10/21)
- Constitutes a criminal act that is clearly incompatible with the best interests of the public or of members of the Kiwanis family; or (4/12) (10/21)
- Constitutes repeated offensive or obnoxious behavior at Kiwanis events and activities as determined by at least two thirds of the board of directors of a club or district as it relates to conduct unbecoming charges at the club or district level. (10/21) (1/25)

Note: For conduct unbecoming purposes, the Kiwanis family is defined in the Kiwanis International Bylaws as members of Kiwanis clubs, Aktion Clubs, Circle K clubs, and Key Clubs. (4/12)

POLICY B.12 - CLUB MEMBER ACCUSED OF ‘CONDUCT UNBECOMING’

- a. If an allegation of ‘conduct unbecoming a member of the Kiwanis family’ is made against a member of a Kiwanis club, the member’s club shall follow a fair and just process appropriate to the club’s abilities and resources. The process shall ensure that both the person making the allegation and the person against whom the charge is made are given an opportunity to be heard and ask each other questions. If the member belongs to more than one club, the club associated with the ‘conduct unbecoming’ shall act. (10/12) (10/21)
- b. The president of the club (or immediate past president if the president is accused) shall immediately request from Kiwanis International a copy of the general process to be followed. (10/12) (10/21)
- c. If the accused member is also a district officer or a Kiwanis International officer and the conduct appears to have been committed in his/her capacity as an officer, or if it is

impossible to determine in what capacity the conduct was committed, the matter shall first be submitted to the Kiwanis International President or the district governor, in that order, as appropriate, who shall determine the capacity and either begin an investigation at the International or District level or refer it back to the club level to investigate and decide. (4/13) (10/21)

- d.** If either the accused member or the investigator believes some part of the investigation was faulty or the determination was incorrect, either party has the right to appeal in writing the Board's decision to the club membership. The appeal shall be heard at a special meeting of the club members in good standing. The decision of the club membership to uphold, reverse, or change the Board's decision(s) shall be final. (10/12) (4/13)
- e.** If, at any point during the 'conduct unbecoming' process, possible criminal wrongdoing is discovered, the matter shall be reported to the proper authorities. (10/12)
- f.** All materials, facts, and information related to the investigation, determination, and appeal (if any) shall be kept confidential at all times by any parties or persons involved in any part of the process. (10/12)
- g.** The club shall retain all official records on the matter (allegation, board report, and appeal record if any) in a confidential file as long as required by local applicable law, and shall send a copy to Kiwanis International, to be retained in a confidential file. (10/12) (10/21)
- h.** If an accused member is determined to have engaged in conduct unbecoming, some form of discipline must be given for the club to have properly completed due diligence on the matter. If a club does not discipline the member, the club shall be considered out of compliance with acceptable standards of Kiwanis International and may have its charter suspended or revoked as provided in the Kiwanis International Bylaws. (10/12) (10/21)
- i.** If the member was disciplined by the club in any way for 'conduct unbecoming' and if he/she is also: a member of another club(s); a district officer; or a Kiwanis International officer, the other club(s), district, or Kiwanis International may take separate disciplinary action against the member as each deems appropriate. (4/13)

(See also Procedure 344 – Club Member Accused of Conduct Unbecoming.)

PROCEDURE 344 – CLUB MEMBER ACCUSED OF ‘CONDUCT UNBECOMING’

344.1 - Allegation (10/21)

- A. Allegation:** If any club member believes a member has acted in a manner that constitutes conduct unbecoming a Kiwanian, as defined in Kiwanis policy, and believes the member should be disciplined, they may submit an allegation in writing to the club president setting forth the alleged words or actions that constitutes the conduct. The allegation shall include as much detail as possible regarding the time, place, persons, actions, words, etc. (10/12) (10/21)

However, if the president is the subject of the allegation, then, throughout the entire process, whenever it is stated that the president shall act, the immediate past president shall act instead. (10/12) (10/21)

- B. Review:** Upon receipt of an allegation, the president shall inform the club board. The club board shall then determine a fair and just way to review the allegation, including calling a hearing if necessary. (10/12) (10/21)

344.2 - Disclosure and Confidentiality

- A. During Investigation:** During the investigation, the president shall not disclose any information regarding the investigation to the public or to any other member of the club, including the club board, until the investigation process is complete, except that, the president may report to the board only that an allegation has been received and an investigation is being conducted, without disclosing the name of the accused member or any details of the investigation. (10/12) (4/13)
- B. After Investigation:** Once the investigation is complete, the president may disclose information regarding the investigation only to the board for a hearing on the matter (and to any club staff who has a need to know), but not to the public or to any other member of the club. (10/12) (4/13)
- C. If Appealed:** In the event the final determination by the board is appealed to the club membership, then information can be disclosed to those members who attend the appeal meeting, subject to the obligation of those club members to keep the information confidential. (10/12)
- D. General:** All materials, facts, and information related to the investigation, determination, and appeal (if any) shall be kept confidential at all times by any parties or persons involved in any part of the process. The person presiding over each step should remind all participants of the need to maintain confidentiality. (10/12)

344.3 – Membership Resignation, Suspension, Removal, and Reinstatement (10/21)

- A. Resignation:** An accused member may resign at any time during the conduct unbecoming process. Upon resignation, the club board may or may not choose to continue with the conduct unbecoming process. (10/12) (10/21)
- B. Suspension:** An accused member may be temporarily suspended from club membership by the club board, pending the outcome of the process. (10/12) (10/21)
- C. Removal:** An accused member should not be removed from club membership until the conduct unbecoming process has been concluded and depending on the discipline determined for the conduct. (10/21)
- D. Reinstatement:** If an accused member was suspended or removed from membership and if the charges against the accused member are not substantiated by the hearing, the accused may be reinstated to club membership. If the conduct unbecoming was substantiated and discipline other than membership removal is determined, then, after the discipline has been completed, the accused may be reinstated to club membership. (10/12) (10/21)

344.4 – Board Hearing (10/21)

- A. Referral to Board:** After investigation, the President shall refer the allegation and investigation results to the club board to determine whether to proceed with a hearing. A special meeting for this purpose shall be held after the matter is referred to the board, and shall be conducted in executive session (i.e., closed to non-board members). (10/12) (10/21)
- B. Notice of Hearing:** After the special board meeting, the president or designee shall send notice to the accused member of the investigation results, including charges and specifications, and whether the board intends to pursue the allegation(s) and proceed with a hearing. If a hearing is to be held, the accused member shall have the option to say nothing or to admit or deny the allegation(s). If denied, the hearing shall determine if the allegation(s) are true. If admitted, the hearing shall determine the resulting discipline. A date for a hearing shall be set in consultation with the accused member, to be held as soon as reasonably possible. The date shall be set when at least a quorum (which is a majority) of the board members can be present. (10/12) (10/21)
- C. Hearing:** If the board intends to proceed with a hearing, a special meeting of the board, with at least a quorum present, shall be held to conduct a hearing. The only persons allowed to attend the hearing are club board members, the accused member, any person(s) who assisted with the investigation, and any representatives or counsel for the accused or the club (and any club staff as needed). Witnesses are permitted only during their own testimony. The

president shall preside; however, if the president is the subject of the allegation or wishes to decline, the board shall determine who presides. If a board member is the subject of the allegation, he/she shall continue to be counted as a board member in determining the number needed for quorum, but will not be allowed to be present during deliberations or to vote at any point in the process. The hearing shall be held using principles of fairness to allow the accused, the person who brought the allegation, and any witnesses a fair opportunity to be heard. (10/12) (10/21)

344.5 –Determination and Discipline (4/13)

A. Determination: The board shall hold another special meeting in executive session (attendance limited to board members) to consider the charges and specifications against the accused member. Each of the specifications, and then the charge, is read, opened to debate, and voted on separately, although the several votes can be collected on a single written ballot. In each case, a majority vote* is necessary. If the accused is a member of the Board, he/she shall not have a vote on the matter. (10/12) (10/21)

B. Discipline: If the accused member is determined to have engaged in conduct unbecoming as alleged by at least one of the charges, then, by separate majority vote*, the board shall determine the appropriate disciplinary action, as follows: informal counseling, a verbal reprimand, written reprimand, suspension from office or club membership, or removal from office or club membership. The determination of the discipline should be based on the seriousness of the unbecoming conduct. (4/13)

If the discipline is removal from club membership, a two-thirds (2/3) vote* is required, per the Standard Form for Club Bylaws. For all other discipline, a majority vote* is required. If the accused member is a member of the board, he/she shall not have a vote on the matter. (10/12)

*Each of these votes refers to those board members present and eligible to vote. (10/12)

Note: If the discipline is determined to be suspension, and if the member was previously suspended, then the time the accused member has already been temporarily suspended may be credited toward the discipline. (10/12)

C. Board Report: The board shall produce a written report of its findings, conclusions, and decision(s) (hereinafter referred to as “the Board Report”), which shall become part of the club record on the matter. The club membership shall be informed of the board’s decision(s) on the matter, but other details from the Board Report shall remain confidential unless needed during a subsequent appeal of the board’s decision(s) to the membership. (10/12) (10/21)

344.6 – Appeal

- A. Request for appeal:** Within thirty (30) days of the Board Report being provided to the accused member and the investigator, either party has the right to appeal the board's decision(s) to the club membership. Such appeal must be made in writing to the president (or secretary, if the president is accused) and must state the specific reason(s) for the appeal. Either party may appeal either the board's finding that 'conduct unbecoming' did or did not occur or the resulting disciplinary action. (10/12)

An appeal may **not** be used to "re-try" the allegations against the accused member, and no new facts that were reasonably accessible at the time of the hearing will be allowed. An appeal will be allowed only if some part of the process or facts used to determine the board's decision(s) or the board's report is alleged to be faulty, incorrect, insufficient, or otherwise erroneous, or if the decision of the Board was contrary to the overwhelming weight of the evidence. (10/12) (10/21)

- B. Appeal Process:** If a written notice of appeal is received by the club president (or secretary, if the president is accused), the board shall call a special appeal meeting of the club membership to consider the appeal within thirty (30) days, provided at least fourteen (14) days advance notice of the meeting is given to the club membership. Any person who is not a current club member in good standing shall be excluded from the meeting. The accused member, investigator, and counsel for either side shall be excluded from the meeting, even if they are club members. All materials and information provided to the club membership shall remain confidential among those attending. At least a quorum of the membership (which is one-third) must be present at the appeal meeting. The president shall preside; however, if the president is the subject of the allegation or wishes to decline, the board shall determine who presides. The materials to be considered for the appeal shall be the Board Report and the appellant's basis for appeal. Members may ask only questions that are relevant to the appeal, and relevancy shall be determined by the presiding officer at the appeal. (10/12) (10/21)

- C. Permitted Motions:** Only two separate and specific types of motions may be made during the appeal meeting by a club member in attendance, as follows: (4/13)

1. Regarding the board's original determination of 'conduct unbecoming': move **either** to uphold the original decision; **or** they may move to overturn the original decision. Other motions are out of order.
2. Regarding the resulting disciplinary action, if any was given and if any is still in order: move **either** to uphold the board's original discipline; **or** they may move to overturn the board's original discipline and change it to some other disciplinary measure(s) which must be specified as part of the motion. Other motions are out of order.

Any motion shall require a majority vote of those present and eligible to vote to adopt. (10/12)

D. Final Authority: The decision of the club membership on the matter shall be final. (10/12)

E. Appeal Record: A written record of the appeal meeting of the club membership (hereinafter referred to as the “the Appeal Record”) shall be made and shall be reviewed and approved by the club board and retained by the club secretary. (10/12) (10/21)

344.7 – Official Records, Notification, and Separate Disciplinary Action (10/21)

A. Notification of Kiwanis International: A copy of all official records shall be sent to the Executive Director of Kiwanis International within thirty (30) days of the conclusion of all proceedings to retain in a confidential file. This provides documentation that the club completed due diligence regarding the allegation, as well as a safeguard against club records being lost or destroyed at a later date. (10/12) (4/13)

If the member was disciplined by the club in any way for ‘conduct unbecoming’ and if he/she is also a Kiwanis International officer, Kiwanis International may take separate disciplinary action against the member as it deems appropriate. (4/13)

The record of any former member who has been removed from a Kiwanis club for conduct unbecoming will be notated by Kiwanis International in the membership database. If another Kiwanis club attempts to add a member who appears in the database as being removed from a previous club for conduct unbecoming, Kiwanis International will notify the new club, prior to addition, of the previous removal. After acknowledging such notification, the new club will have the option to add the member if it still wishes to do so. (10/20)

B. Notification of District: If an accused member is removed from the club for ‘conduct unbecoming’, the club shall so notify the district governor. (10/12) (4/13)

If the member was disciplined by the club in any way for ‘conduct unbecoming’ and if he/she is also a district officer, Kiwanis International shall send a copy of the official records on the matter to the district governor, and the district may take separate disciplinary action against the member as it deems appropriate. (4/13)

C. Notification of Other Clubs: If the member was disciplined by the club in any way for ‘conduct unbecoming’ and he/she also belongs to another Kiwanis club(s), Kiwanis International shall send a copy of the official records on the

matter to the president(s) of the member's other club(s) and each club may take separate disciplinary action against the member as it deems appropriate. (4/13)

344.8 – Parliamentary Authority

The most recent edition of Roberts Rules of Order shall be the parliamentary authority for all procedural matters related to investigation, determination, discipline, and appeal (if any) for 'conduct unbecoming' which may not be specifically covered in Kiwanis governing documents, including but not limited to this procedure. (In the 11th edition of Roberts Rules, see Section 63 – Investigation and Trial). In the event of any inconsistency between Kiwanis governing documents and Roberts Rules, the Kiwanis provisions shall prevail. A failure to properly follow Robert's Rules of Order does not invalidate any action taken by the Board of a club. (10/12) (10/21)

For questions, contact Kiwanis International Member Services Dept or Governance Specialist

Member Services Dept.
memberservices@kiwanis.org
317.217.6113 or 6203

Governance Specialist
governance@kiwanis.org
317.217.6228

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