



Prohibited Behavior Investigation Policy

Approval Date: January 17, 2019

The Mountaineers (the Organization) is a community of passionate outdoor enthusiasts who welcome all people to share their deep connections to the outdoors. In support of this intent, The Mountaineers has adopted a Member Code of Ethics, a Staff Code of Ethics, a Board Code of Ethics, a Prohibited Behavior Policy, as well as the following policies regarding investigations of prohibited behavior. Staff is also in compliance with the Employee Handbook.

The Mountaineers is committed to maintaining an environment within our organization and during our sponsored activities that is free of verbal, physical and visual forms of harassment and other problem behavior so that everyone may enjoy our activities in a productive, respectful, safe, and dynamic environment. The Mountaineers is a safe place for everyone to learn and explore, both emotionally and physically, and any conduct that is not supportive of that spirit will be subject to review and corrective action.

Investigation Policies

All complaints will be investigated promptly and thoroughly; all investigations will be conducted with the same process and thoroughness regardless of the standing of any given member potentially involved in the complaint. A minor issue can sometimes be handled in an informal manner if followed up expediently and to the satisfaction of the complainant and/or others who may have observed the alleged behavior. It's mostly up to the complainant what situation could be considered minor and should be done with the concurrence and guidance of the Branch Chair.

More serious alleged behavior should always be reported and investigated with the more formal process. Situations that would not be considered minor and must be handled via the formal investigation process include:

- The behavior is malicious and/or directed at a single person or a specific group of people.
- The behavior has been repeated on 3 or more occasions.
- The infraction includes any of the more serious characteristics listed in the Prohibited Behavior Policy that would require the investigation be handled by staff or the Board.
- The offended person feels the offense warrants a formal complaint.
- The offense is addressed as a minor complaint, but the offended person/people is/are not satisfied with the outcome.
- The safety officer and/or branch leadership otherwise feels that the complaint needs to be elevated to the formal process.

These guidelines are intended to provide flexibility to handle minor issues in a more lightweight manner while taking complaints seriously and always striving for thoughtful, fair, and objective outcomes.

The CEO and the Board President may jointly approve an amended Prohibited Behavior Investigation Process as dictated by the needs of the situation and the severity of the complaint.

Any formal investigation will be conducted and a recommendation prepared by a single individual (the investigator) who then submits the findings and recommendation to a three-person review committee. The committee will be selected based on the policies within this document and formed by the appropriate level of leadership to complaint with staff support as necessary. The investigator is then subsequently chosen by the review committee. If at anytime an investigator or a member of the review committee acts in a manner that is discriminatory or construed as harassment the staff should be contacted immediately, if staff are a concern then the Board of Directors should be contacted.

To the extent possible, the investigation should be conducted at the level which the complaint arose or the behavior occurred. For example, a climbing complaint would be investigated within the climbing activity committee. However, should the nature of the complaint, avoidance of an appearance of or actual conflict of interest in either professional or personal capacity, or another factor arise that requires escalation, then the complaint will be investigated and reviewed at the next highest level (for example, from activity committee to branch leadership). During all investigations the following policies shall be in effect:

Transparency: The investigator and investigation committee should be as transparent as possible regarding the process, policies, and timeline with all involved while balancing opportunities for confidentiality.

- The subject(s) of the complaint and complainant should be notified of progress, as pertinent;
- Any suspension of privileges or other constraints for the duration of the investigation require written notification to the subject of the complaint prior to removal or implementation;
- The subject(s) of the complaint and complainant should be notified in writing of the final recommendation once approved and any imposed restrictions or other corrective actions explicitly stated;
- Witnesses have the right to be notified that the investigation is concluded, however, not necessarily the finding(s) or action(s) taken.

Limiting Need-to-Know: No one involved in the investigation process will share information provided to them beyond what is necessary to conduct a thorough and extensive finding of facts to reach an evidence-based recommendation. It should be acknowledged and made clear to those interviewed during the investigation that information they share may need to be revealed to the investigation review committee and other pertinent decision makers during the course of the investigation to allow for the necessary detail required for a full understanding of the investigation findings.

- Findings and recommendations will be considered sensitive files and only disclosed to those required within the investigation and reporting process;
- Witness identities should be withheld to the extent possible, especially to the subject(s) of the complaint and complainant. However, it is acknowledged that shielding identities and discussing the facts of the incident may not always be possible;
- It is acknowledged that while the investigator may ask individuals interviewed not to disclose information it cannot be guaranteed;
- Audio or video recordings of any conversations during an investigation are strictly forbidden.
- Limiting the need-to-know expectations continue after the conclusion of the investigation.

Professionalism and Integrity: Investigations into behavior are sensitive, which makes it imperative that

the investigator and review committee act with professionalism and integrity throughout the entirety of their participation in the process. We recognize that not all volunteer leaders have experience in human resource processes like conducting a behavior investigation. Staff's role is to support volunteer leaders in the investigation process while maintaining clear role and responsibility boundaries. All involved parties must:

- Remain objective throughout the process and avoid passing judgment;
- During interviews asks questions, specifically avoid leading questions or providing feedback during the interview;
- Ensures all communication, written or verbal, is conducted in a respectful and professional tone;
- Listens objectively to all parties for the consistency of accounts and level of detail;
- It is expected that at the beginning of an investigation the appointed investigator will commit to and honor the timeline for the duration of the investigation. It is ideal for a single investigator to conduct the investigation to enable a more objective and full understanding of the situation as it occurred;
- If there is a language barrier and an interpreter may be necessary, contact The Mountaineers staff for assistance to arrange the necessary support;
- Respects the integrity of the subject of the complaint, to include presumption of innocence until conclusion of the investigation;
- Investigators should conclude interviews by thanking the individual for their time and asking if there is anything else they should know;
- Judgment and penalty will be recommended by the investigator and reviewed / approved by a committee of three at the appropriate level of authority for the complaint.

Assumption of Neutrality: In order to assure that recommendations of the investigator reaches an evidence-based finding, it is the responsibility of the investigator to assume neutrality throughout the investigation. During the review of findings, the review committee is also responsible for maintaining neutrality.

- Recommendations should follow organizational guidance and provide a fair matching between the corrective action and transgression;
- Investigators and review committee members must immediately disclose any appearance or actual conflict of interest, personally or professionally, related to the investigation or subjects of the investigation, both when it begins and if one arises during the course of the investigation.

Timely: Investigations ideally will be completed within a 30 calendar day timeline unless an extension is requested.

- The investigator and review committee should be appointed within one week and the investigation should have begun within that timeline;
- An extension may be provided if necessitated by interview requirements, professional consultation, or other factors outside the control of the investigator or review committee;
- If an investigator or review-committee member at any time no longer has capacity to participate for any reason the rest of the committee and staff should be notified immediately;
- In the event of an extension, the subject(s) of the complaint and the complainant(s) should be notified promptly in writing;
- If an extension is being considered or additional support is required, then staff should be informed immediately to provide assistance and guidance as necessary.

Corrective Action: The goal of this policy is to provide a progression of corrective actions to address inappropriate behavior in order to create a safe and welcoming environment for all.

- The objective is to return all members to the organization with full membership if at all possible, promptly and with dignity;
- Member activities may be restricted for the duration of the investigation, especially should there be a question of safety for the individual or others;
- Probation is a time following the conclusion of an investigation (or restoration of privileges if limited) during which the member has full privileges, but any additional prohibited behavior complaints may result in revising the original recommendation.
 - Additional complaints during a probationary period will still undergo an investigation, however, should they be found legitimate the review committee is advised to consider permanent or more severe restrictions.
- Activity restrictions imposed on the subject of the complaint during the investigation count towards the timeline of recommended restrictions at the conclusion of the investigation.

Reporting and Investigation Process

Complaints, to the extent reasonable, should be submitted on the Mountaineers.org website, so that staff can provide policy and process support as necessary. If a complaint is against a staff member it should go to Human Resources (HR). If the HR leader is the subject of the complaint it should go to the CEO, and if the CEO is the subject of the complaint, then the complaint will go to the Board President for investigation. Investigation review committees will be formed according to the following policies:

- Investigation review committees will have three members to enable a deciding vote related to findings;
- Committee members will be chosen to avoid any apparent or real conflict of interest, personally or professionally;
- To the extent possible investigation review committees should have an individual that understands the nature of the activity;
- In cases of sexual harassment the investigation review committee must have representation from both genders;
- The review committee will appoint one individual (outside the three-person committee) to conduct the investigation, document a thorough finding of facts, and make a recommendation;
- No member of the review committee or the investigator should have an open complaint filed against them or were found to have violated Mountaineers Prohibited Behavior policy as the result of a previous investigation;
- Investigation review committee members should refer to investigation training provided by The Mountaineers and may also request staff support in the process.

Complaints, to the extent possible, will be handled at the specific leadership level (activity chair, branch chair, staff, Board of Directors) where they were observed or reported, and should be escalated by one level if leadership, conflict of interest, or other factors require. The investigation review committee will be appointed by the leader one level above complaint. For example, if the subject of the complaint is a climb leader, the Climbing Committee Chair is accountable for selecting the committee. If the subject of the complaint is the Climbing Committee Chair, the Branch Chair will select the committee. If the complaint is across two branches, the investigation will be led by the branch of the subject. Irrespective of at what level a complaint is being investigated, the Branch Chair should be informed of the complaint and outcome(s) of the investigation.

The leader who is one level above the complaint is accountable for adherence to the investigation

policy, supported by the branch safety officer and/or the Director of Operations. The leader may be appointed as the investigator by the review committee unless there is a conflict of interest or another situation that would prevent her/him from conducting a thorough and fair investigation.

It is an acknowledged expectation that complaints can and will come in through a wide variety of the mechanisms and individuals, but will be treated in a similar manner that respects all individuals involved and resolves the issue in a prompt manner. Complaints should ideally be filed within six months of the original incident. An investigation will be conducted on any complaints of misconduct, regardless of timeframe, however it is acknowledged that delays in reporting may consequently hinder the ability of the investigation to reach a definitive conclusion.

When a complaint is made to staff, they will help to ensure the complaint reaches the appropriate leadership, an investigation committee consisting of non-staff members is convened and provide support as necessary throughout the investigation. Staff shall be involved in the administration, not decision-making portion, of an investigation (for exceptions, see below). The process should be followed as outlined:

- Complaint is filed on Mountaineers.org and is reviewed by the Director of Operations who is responsible for recording the original report of the complaint, as well as reporting resolution status and filing the documentation.
 - Alternative: if the complaint originally comes to the appropriate leadership person an investigation committee should be convened and staff notified in case assistance throughout the process is needed.
 - Staff will also check against the records to see if a former complaint or probation is logged for any individuals involved.
- The appropriate leadership team is contacted by staff, provided with assistance and necessary policies and processes to conduct an investigation.
- An investigation review committee is formed and an investigator identified according to the policies described above.
- Documentation to verify facts of the case, such as trip rosters, preparatory email interactions prior to an activity, etc., are gathered.
- The investigation committee has 30 days from the day the complaint is filed to conduct the investigation and reach a recommendation or demonstrate the need for an extension. The Director of Operations should be notified in the event an extension is required, or if it appears one may be, as well as subjects of the complaint (not witnesses).
- Upon reaching a recommendation, the appropriate documentation as outlined in the documentation section of this policy is submitted to staff and shared with the respective Branch Chair(s) when relevant.
- Recommendation and investigation will be reviewed for thoroughness, fairness, adherence to policy, and if complete then filed. The investigation review committee will review the recommendation and approve, approve with modification, or request further information from the investigator.
 - Investigation review committee should consult staff at this time if they are concerned that legal or HR review could be necessary before issuing a recommendation.
- The subject(s) of the complaint and complainant will be notified in writing of the resolution outcome by the investigator.
 - Any witnesses consulted that inquire should be informed that the issue is now resolved and thanked for their cooperation.

- The complainant should be notified in writing that the issue is resolved and the general outcome of the investigation. Follow-up with the complainant should also be done at least twice with documentation after the initial resolution.
- Once an investigation is complete investigation-review-committee members and the investigator(s) should delete all documentation from personal devices or storage. The investigation-review committee is disbanded at the end of the process unless there is an appeal.

Appeals

Should a subject of a complaint investigation wish to appeal the finding or the corrective action, they may respond in writing to the resolution notification within 30 days. Appeals should be submitted to the Director of Operations. If an appeal is submitted, the final finding report will be provided to the CEO or Board President, or another member of the Executive Committee, as necessary to avoid a conflict of interest. Subsequently an appeal review committee of three non-staff members shall be established by the CEO or Board President, who were not involved with the original investigation in any way. The committee reviewing the appeal has a maximum of 30 days to review the previous report, conduct any further investigation as necessary, and submit in writing to the subject(s) of the complaint the resolution of the appeal.

The verdict on the appeal is final regardless of the committee conducting the appeal review. Any documentation generated during the appeal review will be added to the final documentation retained by The Mountaineers.

Documentation

All documentation generated during an investigation is considered confidential and once a final report is submitted and approved, all other forms should be deleted. The final report is only visible to members of the investigation committee, staff for final review and record retention, and the individuals handling appeals if necessary. The final report should include at minimum the following elements:

- Timeline of events related to both the complaint and the investigation;
- Members of the investigation committee and the investigator with an acknowledged statement that they have followed the investigation policy;
- Summaries of findings and interviews with subjects of the complaint and any witnesses;
- Copies of any pertinent documentation such as trip logs, the initial written complaint, or text messages;
- If unable to make a definitive conclusion the process should still be concluded and the attempt at an investigation documented and filed;
- Dissenting opinions if any within the review and/or appeal review committee;
- Recommendation, including if the complaint was considered justified, and corrective/coaching action as necessary;
- All documentation should be kept for a minimum of six years;
- Appendix of email communications with subjects of the complaint and others as necessary, including but not limited to, notification of any temporary restrictions. Email communications regarding the investigation should be limited to logistics to the extent possible with substantive conversations occurring over the phone or in person.

Escalation of Complaints and Staff Support

The Mountaineers staff serves as a support for the volunteer leadership that enacts this policy. Staff's responsibility is to provide guidance as needed, help provide policies and processes, access to any developed training materials related to investigation conduct, assist with timeline if necessary, and the

review the final recommendation for thoroughness and adherence to the policy and organizational mission and core values.

However, in some cases it may be necessary for a staff member or a member of the Board of Directors to be directly involved in or lead an investigation. Any of the below situations should be immediately escalated to The Mountaineers CEO or Director of Operations. In the event of a conflict of interest it should be escalated to the Board President. The list of below situations is not meant to be exhaustive and members of the committee should consider the staff a resource.

- If there is concern regarding illegal activity.
- An extension beyond the 30-day timeline is needed.
- The investigation team feels that the investigation may require legal or HR consulting due to a safety, liability or other concern.
- If the incident was highly public, involved more than 10 people, or otherwise, has the potential to damage the reputation of The Mountaineers.
- If the case is believed to involve sexual harassment or sexual assault, discrimination, a serious injury or fatality, general harassment, violence, or theft;
- if the case involves a youth in any capacity.
- If the objectivity or a conflict of interest of or related to the investigation committee is questioned by anyone involved in the investigation.
- If the case may represent a substantive and consistent safety threat to members.
- If the case involves the handling of Mountaineers funds.