

# Florida Swimming Pool Association

## Code of Ethics & Complaint Procedures

### Part 1: Preamble

WHEREAS the mission of the Florida Swimming Pool Association is the advancement of the swimming pool and spa industry;

WHEREAS the advancing the swimming pool and spa industry requires holding industry participants to a high standard of professionalism and ethics in business;

WHEREAS the advancing the swimming pool and spa industry requires maintaining a positive public perception of the industry;

WHEREAS how swimming pool and spa industry participants conduct business impacts the professionalism and perception of the industry;

WHEREAS good faith and due diligence in all dealings with clients and members of the public impacts the professionalism and perception of the swimming pool and spa industry;

WHEREAS good faith and due diligence in all dealings with Florida Swimming Pool Association Members, staff, colleagues, co-workers, employees, subcontractors, and other professionals impacts the professionalism and perception of the swimming pool and spa industry;

WHEREAS honesty, integrity, reliability, accountability, and good faith dealings are good and necessary attributes of successful businesses and positively impacts the professionalism and perception of the swimming pool and spa industry;

The Florida Swimming Pool Association sets forth the following Code of Ethics and procedures for enforcement of the Code of Ethics for all members of the Florida Swimming Pool Association.

All members of the Florida Swimming Pool Association (FSPA) agree to abide by and comply with the terms and procedures of the FSPA Code of Ethics and agree to be bound by and held accountable under the terms and procedures set forth herein.

Agreement to and compliance with these terms and procedures are a condition of Membership with FSPA pursuant to the FSPA by-laws.

This Code of Ethics may be modified by the FSPA Board of Directors from time to time.

## **Part 2: Code of Ethics**

Members of the Florida Swimming Pool Association shall:

### **Section 1: Legal Compliance**

- At all times, maintain in good standing all occupational / professional licensure, certificates, and endorsements required under federal, state, and local laws required to conduct the type of business they are engaged in.
- At all times maintain all required insurance policies and coverages required for the type of business they are engaged in as required by the jurisdiction(s) in which the business operates.
- Comply with all federal and state employment laws.

### **Section 2: Duties as a Contractor**

- Take full responsibility for all contracting services performed under legal authority of their contractor license(s).
- Take full responsibility for all business operations of all companies qualified to perform contracting services under the authority of their license.
- Hold themselves, employees, and subcontractors to a reasonable industry standard of workmanship and proficiency for all contracting services performed.
- Follow all applicable building codes, standards, and ordinances in the performance of contracting services.
- Comply with all state and local building permit requirements.
- Ensure all construction contracts conform to all legal requirements and include all required disclosures to clients under state law.
- Ensure all marketing, advertising, and communications conform to state and local laws and ordinances.
- Not file building permit applications on behalf of an unlicensed individual or company.
- Not let an unlicensed person or company wrongfully represent the contractor's license as their own.

### **Section 3. Duties to the Public**

- Treat all members of the public with respect, fairness, and good faith.
- Present a true and honest picture of the services offered in all advertising, marketing, and communications.
- Be honest and forthright in all discussions of services/products offered and in all contract negotiations.
- Abide by all terms of contracts entered into and deliver all services and products as promised within the timeframe promised or within a reasonable timeframe under extenuating circumstances.
- Ensure that time is of the essence in all aspects of the contractor-client relationship.
- Truthfully and honestly communicate with clients, keeping them informed of the status of their project(s) and communicate updates, changes, and problems in a timely manner.
- Treat all client complaints with the utmost importance and due diligence.

### **Section 4. Duties to the Swimming Pool & Spa Industry**

- At all times act and conduct business in a manner that reflects positively on the Florida Swimming Pool Association and the swimming pool and spa industry.
- Treat all FSPA Members, Staff, and Volunteers with respect, fairness, and good faith.
- Treat colleagues, co-workers, employees, subcontractors, and other professionals with respect, fairness, and good faith.
- Be honest and forthright in all discussions of services/products offered and in all contract negotiations with colleagues, employees, suppliers, vendors, and subcontractors.
- Abide by all terms of contracts entered into and deliver all services and products as promised within the time promised or within a reasonable time under extenuating circumstances.
- Pay all monies owed to colleagues, employees, suppliers, vendors, and subcontractors for services, supplies, or products in a timely manner and pursuant to all applicable contracts, agreements, or terms of employment.

## **Part 3: Ethics Complaint Procedures**

### **Section 1: Parties, Definitions, and General Procedures**

#### **Parties and Definitions**

Charges of a violation of the Code of Ethics may be lodged against any member only by a member of FSPA in good standing or by the FSPA Board of Directors Builder's Council, Service Council, or Commercial Council.

The term "Complainant" shall mean: An FSPA Member in good standing or FSPA Council alleging a violation of the FSPA Code of Ethics against a Respondent.

The term "Respondent" shall mean: An FSPA Member who has been alleged to have violated the FSPA Code of Ethics via a Code of Ethics complaint.

The term "FSPA Chapter Board" shall mean the FSPA Chapter where the Respondent currently holds their primary FSPA Membership.

The term "FSPA Chapter President" shall mean the current President of the FSPA Chapter where the Respondent currently holds their primary FSPA Membership.

The term "FSPA Chapter Officer" shall mean any current Board Members of the FSPA Chapter where the Respondent currently holds their primary FSPA Membership.

The term "FSPA Council Member" shall mean the current Chair and chapter representatives serving on the FSPA Builder's, Commercial, or Service Councils

The term "FSPA Executive Committee" shall mean the current members of the FSPA Board of Directors Executive Committee.

The term "Presiding Board" shall mean: Either an FSPA Chapter Board of Directors or the FSPA Executive Committee that is hearing a Code of Ethics Complaint pursuant to these procedures.

### Conflicts of Interest

Should any FSPA Executive Committee member, FSPA Chapter Officer, or FSPA Council Member be named as a Respondent or Complainant in a Code of Ethics Complaint, or have any direct business dealings with the Respondent or Complainant they shall be excluded from performing any duties assigned to them under these procedures and from deliberating and voting on the determination of the Code of Ethics Complaint before the board or council that they serve on. The duties of the conflicted member shall be passed to the next officer in succession of authority.

### Quorum of the Presiding Board

At least three (3) members of the Presiding Board shall be present to establish a quorum. The Presiding Board must maintain a quorum for all discussions, hearings and votes required under these procedures. If fewer than three (3) members of the presiding board are present, no votes shall be taken, and discussions or hearings shall be rescheduled for a time when a quorum can be established.

## Hearings and Determinations

Voluntary resignation of FSPA membership by a Respondent shall not render a pending Code of Ethics complaint moot. When a Respondent resigns their FSPA membership while a Code of Ethics complaint is pending, investigation, hearing, and determination of the Code of Ethics complaint may proceed without the participation of the Respondent at the discretion of the Presiding Board.

## Communications

All communications outlined in these procedures shall be via e-mail except for the notice of the complaint and notice of hearing to the Respondent and notice of the Presiding Board's decision to the Respondent, which shall be sent via United State Postal Service (USPS) certified mail return receipt requested.

## Priority of Disposition

If a dispute involves both arbitration proceedings and an ethics complaint, the arbitration proceedings shall be resolved prior to seeking resolution of the ethics complaint.

## **Section 2: Complaints**

### Complaint Procedures

Complaints by FSPA Members:

Complaints alleging a violation of Code of Ethics lodged by an FSPA Member in good standing shall conform to the following procedure:

- Complaints must be in writing.
- Complaints must particularly name each provision of the Code of Ethics that is alleged to have been violated.
- Complaints must include any evidentiary documentation supporting the violation(s) alleged in the complaint.
- Complaints must be submitted to the FSPA CEO via e-mail.
- The names of those who submit complaints will be revealed to the respondent.

Complaints by the FSPA Councils:

Complaints of a violation of Code of Ethics lodged by the FSPA Councils shall conform to the following procedure:

- Any FSPA Member in good standing may submit to the FSPA Builder's Council, Service Council, or Commercial Council (the Council) a request that the Council

submit a complaint alleging a violation of the FSPA Code of Ethics against a FSPA member.

- The request must be in writing.
  - The request must describe the actions alleged to violate the FSPA Code of Ethics.
  - The request must include any evidentiary documentation supporting the violation(s) alleged in the request.
  - The request must be submitted to FSPA CEO via email no later than two weeks before the Council meeting where it will be discussed.
  - At the direction of the FSPA CEO, FSPA staff will distribute the request and all documents provided to the Council no later than one week prior to the Council meeting where the request is to be discussed.
  - Should the council decide to pursue a complaint based on such a request, the name(s) of those who submit complaints will not be revealed to the respondent and the council shall serve as the complainant.
- The FSPA CEO and Senior Director of Government Affairs may jointly submit to the FSPA Builder's Council, Service Council, or Commercial Council a request that the Council lodge charges of violation of the FSPA Code of Ethics against a FSPA member.
  - The request must be in writing.
  - The request must describe the actions alleged to violate the FSPA Code of Ethics.
  - The request must include any evidentiary documentation supporting the violation(s) alleged in the request.
  - The request must be submitted to the Council via email no later than one week before the Council meeting where it will be discussed.
- The Council, by majority roll call vote, must respond to a request to submit a Code of Ethics Complaint in only the following manners:
  - Requested Granted: The Council elects to allege violations of the Code of Ethics per the request.
  - Request Denied: The Council refuses to allege violations of the Code of Ethics per the request.
- If the request is denied, FSPA CEO will inform the requesting FSPA member of the Council's decision via e-mail as soon as practicable. The FSPA member will retain the right to submit a Code of Ethics complaint as individual FSPA member under these procedures.
- If the request is granted, FSPA CEO will process the complaint pursuant to Part 3, Section 3 of these procedures.

### Time Limitations on Complaints

A complaint may be filed at any time. However, if the complaint is filed one year or more after the occurrence of the alleged violation(s) of the Code of Ethics, The Presiding Board may, at its discretion, dismiss the complaint if it believes that the delay would materially prejudice the respondent's ability to respond. In exercising its discretion on this issue, the Presiding Board may consider the reasons for the delay, including whether they were within or outside the complainant's control.

## **Section 3: Complaint Review and Investigation**

### FSPA CEO / FSPA Officer Review

Upon receipt of a Code of Ethics Complaint, the FSPA CEO and FSPA Board President shall preform an initial review of the complaint and submitted supporting evidence. The FSPA CEO and FSPA Board President shall determine if the complaint presents a sufficient prima facie evidence that the Respondent has violated the FSPA Code of Ethics as alleged.

Upon determination that complaint establishes a prima facie case that the Respondent has violated the FSPA Code of Ethics, the FSPA CEO shall direct FSPA staff to further investigate the allegations set forth in the complaint.

Upon a determination that the complaint does not establish a prima facie case that the Respondent has violated the FSPA Code of Ethics, the FSPA CEO shall notify the Complainant of this determination in writing via e-mail as soon as is practicable.

### FSPA Staff Investigation

At the direction of the FSPA CEO, FSPA Staff will investigate the allegations made in the complaint. FSPA Staff will gather documentary and other evidence that is relevant to the claims made and tends to prove or disprove the violations of the FSPA Code of Ethics alleged in the complaint.

FSPA Staff Investigation of Code of Ethics complaints shall take no longer than 20 business days from the date the FSPA CEO requested the investigation.

Upon completion of investigation of the violations of the FSPA Code of Ethics alleged in the complaint by FSPA Staff, the FSPA CEO will transmit the complaint and all evidence to the to the FSPA Chapter President of the FSPA Chapter Board where the Respondent holds their primary FSPA membership or the FSPA Executive Committee pursuant to these procedures.

### FSPA Chapter Board Review

Upon receipt of a FSPA Code of Ethics Complaint the FSPA Chapter President shall call a meeting of the FSPA Chapter Board to review the Code of Ethics complaint. The FSPA CEO or Sr. Director of Government Affairs shall be present at the Chapter Board of Directors complaint review meeting; this meeting may be held in person or via video conference.

Upon review of the Code of Ethics complaint the FSPA Chapter Board, by majority vote, must take one of the following actions on the complaint in their discretion:

- Dismiss the complaint with or without prejudice.
- Schedule the complaint for a hearing by the FSPA Chapter Board.
- Request that FSPA Executive Committee act as the Presiding Board pursuant to these procedures.

If the FSPA Chapter Board of Directors elects to dismiss the complaint, the FSPA CEO shall notify the Complainant of the dismissal via e-mail as soon as practicable.

If the FSPA Chapter Board of Directors elects to hear the Code of Ethics complaint, then the FSPA CEO shall schedule and notice such a hearing pursuant to Part 3, Section 4 of these procedures.

#### FSPA Executive Committee Review

The FSPA Executive Committee may act as the Presiding Board for review and determination of the Code of Ethics complaint under the following circumstances:

In cases where the alleged Code of Ethics violation(s) has potential impacts beyond the FSPA's Chapter's jurisdiction or in cases of multiple conflicts of interest on the FSPA Chapter Board, the FSPA Chapter Board may request that the FSPA Executive Committee act in its place as the Presiding Board for review and determination of the Code of Ethics complaint.

Upon review of the Code of Ethics complaint, the FSPA Executive Committee, by majority vote, must take one of the following actions on the complaint in their discretion:

- Return the Code of Ethics Complaint to the FSPA Chapter Board of Directors for determination.
- Schedule the complaint for a hearing by the FSPA Executive Committee.

If the FSPA Executive Committee elects to return the Code of Ethics Complaint to the FSPA Chapter Board of Directors, the FSPA Chapter Board of Directors shall either dismiss or hear the complaint.



If the FSPA Executive Committee elects to hear the Code of Ethics complaint, then the FSPA CEO shall schedule and notice such a hearing pursuant to Part 3, Section 4 of these procedures.

Additionally, in cases where the Respondent to a Code of Ethics Complaint holds their FSPA membership only with the FSPA State Office and does not hold membership with any active FSPA Chapter the FSPA Executive Committee will be the Presiding Board for review and determination of the Code of Ethics complaint.

Upon review of the Code of Ethics complaint the FSPA Executive Committee, by majority vote, must take one of the following actions on the complaint in their discretion:

- Dismiss the complaint with or without prejudice.
- Schedule the complaint for a hearing by the FSPA Executive Committee.

If the FSPA Executive Committee elects to dismiss the complaint, the FSPA CEO shall notify the Complainant of the dismissal via e-mail as soon as practicable.

If the FSPA Executive Committee elects to hear the Code of Ethics complaint, then the FSPA CEO shall schedule and notice such a hearing pursuant to Part 3, Section 4 of these procedures.

#### **Section 4: Notice and Hearings**

Upon election of the Presiding Board to hear the Code of Ethics complaint the procedures for notice of the complaint, response to the complaint, and hearing of the complaint shall be as follows.

##### Notice

The Respondent shall be notified of the Code of Ethics complaint against them and the Code of Ethics hearing no less than 30 days before the scheduled hearing date. Notice to the Respondent shall be via USPS certified mail return receipt requested to the Respondent's primary mailing address on file with FSPA. Service of notice to the Respondent is effective upon mailing of the Code of Ethics Complaint and Notice of Hearing.

The Complainant shall be notified of the Code of Ethics hearing date via e-mail.

Notice of the Code of Ethics complaint to the Respondent shall contain the following information:

- A letter from the FSPA CEO containing the date, time, place of the Code of Ethics hearing, and deadline for submittal of a response and evidence.

- A copy of the FSPA Code of Ethics and Complaint Procedures.
- A copy of the Code of Ethics Complaint and all currently available documents and other evidence.

### Response

The Respondent may submit a written response refuting the allegations of the Code of Ethics complaint no later than 10 days before the scheduled hearing date. The written response and evidence shall be submitted to the FSPA CEO via USPS certified mail return receipt requested. Service of the response will be effective upon mailing of the response. The Presiding Board may, at its discretion, accept a late filing from the respondent.

The written response must include:

- Any evidence the Respondent intends to submit at the hearing.
- Any witness(es) the Respondent intends to call at the hearing.

The written response may include an objection to the date, time, or venue of the hearing; consideration of this objection is at the sole discretion of the Presiding Board.

Failure of the Respondent to submit a response will neither prevent the Presiding Board from proceeding nor prejudice the Respondent's case.

### Hearings

The hearing shall be closed to all except the Presiding Board; Complainant; Respondent; their legal counsel; and witnesses, if any; the FSPA CEO; FSPA Legal Counsel (if requested by the FSPA CEO); and FSPA staff deemed necessary to conduct the hearing at the discretion of the FSPA CEO.

Witnesses shall be present only while testifying.

The President of the Presiding Board shall act as the Presiding Officer for the hearing.

A FSPA Chapter or State staff member shall be designated the recorder by the FSPA CEO and will take written notes of the hearing.

No verbatim transcript of the hearing shall be made unless requested by the Complainant or Respondent. The Presiding Board may grant permission that a verbatim transcript of the hearing be recorded provided that transcripts shall only be made by a Certified Court Reporter. The requesting party shall be responsible for all costs of such verbatim transcription, including the cost of providing a copy of the transcript to the FSPA CEO following the hearing.

The complainant and respondent shall each be responsible for expenses incurred in their attendance at the hearing, including the expenses of their witnesses and legal counsel.

Only the following evidence is admissible during the hearing:

- Testimony of the Complainant.
- Testimony of the Respondent.
- Testimony of witnesses identified in the Code of Ethics complaint or response.
- Documentary evidence included in the Code of Ethics complaint or response.

All evidence not submitted with the Code of Ethics complaint or response shall be excluded from the hearing. All witnesses not named by the Code of Ethics complaint or response shall be excluded from testifying at the hearing.

No opening or closing statements shall be given. The Presentation of evidence will consist of presentations by the Complainant and Respondent as follows:

The Complainant will be given up to one hour to present the allegations made in the Code of Ethics complaint, including the presentation of all evidence and witnesses in support of the allegations. In lieu of a presentation, the Complainant may elect to have the Code of Ethics complaint and evidence read into the hearing record. The Presiding Board may ask clarifying questions of the Complainant or any witnesses at any time during the Complainants Presentation. No cross-examination of witnesses by the Respondent will be allowed.

The Respondent will be given up to one hour to present their defense to the allegations made in the Code of Ethics complaint, including the presentation of all exculpatory evidence and witnesses against the allegations. In lieu of a presentation, the Respondent may elect to have their written response and evidence read into the hearing record. The Presiding Board may ask clarifying questions of the Respondent or any witnesses at any time during the Respondent's Presentation. No cross-examination of witnesses by the Complainant will be allowed.

The presentation of evidence will conclude at the end of the Respondent's presentation. Before undertaking deliberations, the Presiding Board may ask any remaining clarifying questions of the Complainant, Respondent, or any witnesses. The Presiding Board will then dismiss all parties and witnesses and undertake deliberations in a closed session.

## **Section 5: Determinations**

### Deliberations

In closed session, the Presiding Board shall discuss the complaint and matters brought forth in the hearing and arrive at a decision. The decision shall be based only on the evidence and documentation, and allegations contained in the complaint, and not on speculations or surmise.

The Presiding Board shall, by majority roll call vote, determine if the Respondent has violated the FSPA Code of Ethics based on all the evidence presented.

If the Presiding Board finds that the Respondent has violated the Code of Ethics. The Presiding Board may impose any of the disciplinary penalties described in Section 7 of this part either jointly or severally. Approval of all penalties shall be by majority roll call vote of the Presiding Board, except for Suspension or Termination of FSPA Membership which shall require a 2/3 majority vote of the Presiding Board. The FSPA CEO is empowered to carry out any such penalties deemed appropriate by the Presiding Board.

The Presiding Board shall render its written decision no later than five business days after the hearing.

The Complainant and Respondent shall be notified of the Presiding Board's decision via e-mail. The Respondent shall also be notified of the Presiding Board's decision via USPS certified mail return receipt requested to the Respondent's primary mailing address on file with FSPA. Service of notice of the Presiding Board's decision to the Respondent is effective upon mailing of the decision.

## **Section 6: Appeals**

Either party may request to appeal the determination or dismissal of the Code of Ethics complaint by the Presiding Board only when an FSPA Chapter Board is the Presiding Board for the initial hearing. When the FSPA Executive Committee is the Presiding Board, no requests to appeal the determination or dismissal shall be entertained.

Requests for appeal must be in writing and must be submitted within 10 days of the notification of the decision by the Presiding Board. Requests for appeal must be submitted to the FSPA CEO via email.

The FSPA Executive Committee will review the request for appeal and all documentation, then schedule an appellate hearing for the next regular meeting of the FSPA Executive Committee. Each party will be allowed no more than fifteen minutes to provide information supporting or refuting the request for appeal. The FSPA Executive Committee may ask the Complainant or Respondent at any time during their respective presentations. No new evidence may be presented at an appellate hearing.

The FSPA Executive Committee will dismiss the parties before deliberations. The decision of the FSPA Executive Committee shall be by majority roll call vote. The decision of the FSPA Executive Committee will be final and binding.

The parties will be notified by the CEO of the FSPA via email, within five business days of the hearing.

## **Section 7: Penalties**

**Letter of Censure:** Where the Presiding Board has found that the Respondent has violated the FSPA Code of Ethics, a letter of censure may be invoked regarding a violation to formally reprimand the Respondent for their violation of FSPA's ethical standards. A letter may be published or unpublished at the decision of the Presiding Board. The Respondent FSPA member will retain membership with FSPA and all the rights and privileges thereof, unless otherwise specified by the Presiding Board.

**Education and Training:** Where the Presiding Board has found that the Respondent has violated the FSPA Code of Ethics, the Presiding Board may require the Respondent to take additional professional education or training classes as a penalty for their violation of FSPA's ethical standards. The Presiding Board may specify the education and training that must be completed by the Respondent and the time in which the education must be completed. The Presiding Board may specify alternate penalties if the respondent fails to complete the education and training specified within the set time. All costs of the ordered education and training shall be borne by the Respondent. The Respondent FSPA member will retain membership with FSPA and all the rights and privileges thereof, unless otherwise specified by the Presiding Board.

**FSPA Service Hours:** Where the Presiding Board has found that the Respondent has violated the FSPA Code of Ethics, the Presiding Board may require the Respondent to preform service hours, acting in the capacity of a volunteer, for FSPA State or Chapter programs as a penalty for their violation of FSPA's ethical standards. The Presiding Board may specify the number of hours and type of service that must be completed by the Respondent and the time in which the service must be completed. The Presiding Board may specify alternate penalties if the respondent fails to complete the service hours specified within the set time. All costs of performing the service hours ordered shall be borne by the Respondent. The Respondent FSPA member will retain membership with FSPA and all the rights and privileges thereof, unless otherwise specified by the Presiding Board.

**Fines:** Where the Presiding Board has found that the Respondent has violated the FSPA Code of Ethics, the Presiding Board may require the Respondent to pay a monetary fine payable to the Florida Swims Foundation for their violation of FSPA's ethical standards.

The Presiding Board may specify the amount of the fine, not to exceed the cost of the respondent's annual membership fee, that must be paid by the Respondent and the time in which the fine must be paid. The Presiding Board may specify alternate penalties if the respondent fails to complete the fine specified within the set time. The Respondent FSPA member will retain membership with FSPA and all the rights and privileges thereof, unless otherwise specified by the Presiding Board.

**Suspension:** Where the Presiding Board has found that the Respondent has violated the FSPA Code of Ethics, the Presiding Board may suspend the Respondent for a specified period not to exceed one year based upon the severity of the violation(s). A FSPA member who has had its membership suspended is eligible for reinstatement. The Presiding Board may condition reinstatement of membership on the completion of FSPA service hours, the payment, of fines or the completion of education and training. The Board may also condition reinstatement on the satisfaction of any civil, criminal, or administrative judgements or penalties pending against the Respondent. The Presiding Board may specify that if the respondent fails to complete the terms for reinstatement of their membership, their membership shall be terminated.

**Termination:** Where the Presiding Board has found that the Respondent has egregiously violated the FSPA Code of Ethics, the Presiding Board may revoke the Respondents Membership with FSPA permanently. Should the Respondent's FSPA membership be terminated under these procedures the respondent will not be eligible for reinstatement, and no refund of FSPA membership dues paid by the Respondent will be issued.

## **Section 8: Publication**

**Public Notification:** In the event of suspension or termination of FSPA membership, it shall be standard procedure to publish public notice of the suspension or termination together with the identification of the member in such a form as deemed appropriate by the Presiding Board.

**Withholding of Public Notification.** In cases where the Presiding Board determines that there are mitigating circumstances, it may vote to withhold public notification at its discretion.