

Discipline and Complaints Policy

** Indicates a section that has been adapted from the UCCMS*

Purpose

1. Participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the policies, By-laws, rules and regulations of the Organization. Non-compliance may result in the imposition of sanctions pursuant to this Policy.

Principles

2. *The following principles guide the findings and determinations under this Policy:
 - a) Any form of Maltreatment violates the integrity of Participants and undermines the values of Canadian sport.
 - b) Sanctions imposed will reflect the seriousness of the Maltreatment and the harm to those affected and the values of Canadian sport.
 - c) This Policy and its procedures will be:
 - i. Harmonized (applied to all Participants across Canada)
 - ii. Fair (procedural and substantive due process for all Participants)
 - iii. Comprehensive (all forms of Maltreatment addressed and potential sanctions described)
 - iv. Expert-informed (the determination of Maltreatment and impositions of sanctions will be informed by those with expertise in such areas as sport, child abuse, and the law)
 - v. Trauma-informed (acknowledgement of the physical, psychological and emotional effects of trauma, and avoidance of re-traumatization)
 - vi. Evidence-driven (evidence of Maltreatment required, where Evidence or “proof” of maltreatment may include the words/report of a complainant if found credible by the relevant authorities. Depending upon the nature of the Maltreatment, physical evidence, corroboration or third-party verification may not be needed)
 - vii. Independent administration (free from all conflicts of interest)

Application of this Policy

3. This Policy applies to all Participants.
4. This Policy applies to matters that may arise during the business, activities, and events of the Organization including, but not limited to, competitions, practices and training, treatment or consultations (e.g., massage therapy), camps and clinics, travel associated with the activities of the Organization, and any meetings.
5. This Policy also applies to Participants' conduct outside of the business, activities, and events of the Organization when such conduct adversely affects the relationships (or the work and sport environment) of the Organization, is detrimental to the image and reputation of the Organization, or upon the acceptance of the Organization. Accordingly, applicability of this Policy will be determined by the Organization upon its sole discretion.
6. *This Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Participants who have retired from the sport where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Participant was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Participants involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Participant(s).
7. Applicability of this Policy will be determined by the Organization at its sole discretion and shall not be subject to appeal.
8. In the event that it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of a sanction may be applied, after which further discipline or sanctions may be applied according to this Policy. Any infractions or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions may be for the duration of the competition, training, activity, or event only.
9. In addition to being subject to disciplinary action pursuant to this *Discipline and Complaints Policy*, an employee of the Organization who is a Respondent to a complaint may also be subject to consequences in accordance with the employee's Employment Agreement or policies for human resources, if applicable.

Minors

10. Complaints may be brought for or against a Participant who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
11. Communication from the Case Manager, Discipline Chair or Discipline Panel (as applicable) must be directed to the Minor's representative.
12. A Minor is not required to attend an oral hearing, if held.

Reporting a Complaint

13. Any person may report a complaint to the Organization or to the Organization's Case Manager (when identified). If a Case Manager has not been previously identified, the Organization will appoint an independent Case Manager and direct that person to receive the complaint.
14. At its discretion, the Organization may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the Organization will identify an individual to represent the organization.
15. Complaints or incident reports should be made in writing and the person making the complaint may contact the Organization's Case Manager for direction. The Case Manager may accept any report, in writing or not, at their sole discretion.

Case Manager Responsibilities

16. Upon receipt of a complaint, the Case Manager has a responsibility to:
 - a) Determine the appropriate jurisdiction to manage the complaint and consider whether the complaint should be handled by another appropriate organization (such as a Club, provincial organization, national organization, or Sport PEI) or by the Organization. In making this decision, the Case Manager will consider whether the incident has occurred within the business, activities or events of the Organization;
 - b) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy and, if so, the complaint will be dismissed immediately and the Case Manager's decision to dismiss the complaint may not be appealed;
 - c) Propose the use of alternative dispute resolution techniques;
 - d) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and/or
 - e) Choose which process (Process #1 or Process #2) should be followed, and may use the following examples as a general guideline:

Process #1 - the Complainant alleges the following incidents:

- a) Disrespectful, abusive, racist, or sexist comments or behaviour
- b) Disrespectful conduct
- c) Minor incidents of violence (e.g., tripping, pushing, elbowing)
- d) Conduct contrary to the values of the Organization
- e) Non-compliance with the organization's policies, procedures, rules, or regulations
- f) Minor violations of the *Code of Conduct and Ethics*, *Social Media Policy*, or *Athlete Protection Policy*

Process #2 - the Complainant alleges the following incidents:

- a) Repeated minor incidents
- b) Any incident of hazing
- c) Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- d) Major incidents of violence (e.g., fighting, attacking, sucker punching)
- e) Pranks, jokes, or other activities that endanger the safety of others
- f) Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- g) Conduct that intentionally damages the organization's image, credibility, or reputation
- h) Consistent disregard for the bylaws, policies, rules, and regulations
- i) Major or repeated violations of the *Code of Conduct and Ethics*
- j) Intentionally damaging the organization's property or improperly handling the organization's monies
- k) Abusive use of alcohol, any use or possession of alcohol by Minors, or use or possession of illicit drugs and narcotics
- l) A conviction for any *Criminal Code* offense
- m) Any possession or use of banned performance enhancing drugs or methods

PROCESS #1: Handled by Discipline Chair

Discipline Chair

17. Following the determination that the complaint or incident should be handled under Process #1, the Case Manager will appoint a Discipline Chair who may:

- a) Recommend mediation;
- b) Make a decision;
- c) Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident; or
- d) Convene the parties to a meeting, either in person or by way of video or teleconference in order to ask the parties questions.

18. Thereafter, the Discipline Chair shall determine if a breach occurred and, if so, if one or more sanctions should be applied (see: **Sanctions**).

19. The Discipline Chair will inform the Parties of the decision, which will take effect immediately.
20. Records of all sanctions will be maintained by the Organization.

Request for Reconsideration

21. If there is no sanction, the Complainant may contest the non-sanction by informing the Discipline Chair, within five (5) days of receiving the decision, that the Complainant is not satisfied with the decision. The initial complaint or incident will then be handled under Process #2 of this Policy.
22. If there is a sanction, the sanction may not be appealed until the completion of a Request for Reconsideration. However, the Respondent may contest the sanction by submitting a Request for Reconsideration within five (5) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:
 - a) Why the sanction is inappropriate;
 - b) Summary of evidence that the Respondent will provide to support the Respondent's position; and
 - c) What penalty or sanction (if any) would be appropriate.
23. Upon receiving a request for reconsideration, the Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate sanction.
24. Should the Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
25. Should the Discipline Chair not accept the Respondent's suggestion for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Policy.

PROCESS #2: Handled by Case Manager

Case Manager

26. Following the determination that the complaint or incident should be handled under Process #2, the Case Manager has a responsibility to:
 - a) Propose the use of alternative dispute resolution techniques
 - b) Appoint the Discipline Panel, if necessary
 - c) Coordinate all administrative aspects and set timelines
 - d) Provide administrative assistance and logistical support to the Discipline Panel as required
 - e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding
27. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

28. The Case Manager may propose using alternative dispute resolution with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the parties refuse to attempt alternative dispute resolution (such as mediation or a negotiated settlement) the Case Manager will appoint a Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. At the discretion of the Case Manager, a Discipline Panel of three people may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Discipline Panel's members to serve as the Chair.
29. The Case Manager, in cooperation with the Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Discipline Panel deem appropriate in the circumstances, provided that:
- a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
 - b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing
 - c) The Parties may engage a representative, advisor, or legal counsel at their own expense
 - d) The Discipline Panel may request that any other individual participate and give evidence at the hearing
 - e) The Discipline Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
 - f) The decision will be by a majority vote of the Discipline Panel
30. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
31. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
32. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

33. After hearing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision, with reasons, will be distributed to all parties, the Case Manager, to the Organization. In extraordinary circumstances, the Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

Sanctions

34. *Prior to determining sanctions, the Discipline Chair or Discipline Panel, as applicable, will consider factors relevant to determining appropriate sanctions which include:
- a) The nature and duration of the Respondent's relationship with the Complainant, including whether there is a Power Imbalance;
 - b) The Respondent's prior history and any pattern of inappropriate behaviour or Maltreatment;
 - c) The ages of the individuals involved;
 - d) Whether the Respondent poses an ongoing and/or potential threat to the safety of others;
 - e) The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the Maltreatment, and/or cooperation in the process of the Organization;
 - f) Real or perceived impact of the incident on the Complainant, sport organization or the sporting community;
 - g) Circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in the *Code of Conduct and Ethics*; addiction; disability; illness);
 - h) Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate;
 - i) A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or
 - j) Other mitigating and aggravating circumstances.
35. *Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required and a single incident of Maltreatment or other prohibited behaviour may justify elevated or combined sanctions.
36. *The Discipline Chair or Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly or in combination:
- a) **Verbal or Written Warning** - A verbal reprimand or an official, written notice and formal admonition that a Participant has violated the *Code of Conduct and Ethics* and that more severe sanctions will result should the Participant be involved in other violations
 - b) **Education** - The requirement that a Participant undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics*
 - c) **Probation** - Should any further violations of the *Code of Conduct and Ethics* occur during the probationary period, will result in additional disciplinary measures, likely including a period of suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period of time

- d) **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, practice, activity, event, or competition sponsored by, organized by, or under the auspices of the Organization. A suspended Participant is eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Participant satisfying specific conditions noted at the time of suspension
 - e) **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
 - f) **Permanent Ineligibility** - Permanent ineligibility to participate, in any sport, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of the Organization and/or any sport organization subject to the UCCMS
 - g) **Other Discretionary Sanctions** - Other sanctions may be imposed, including, but not limited to, other loss of privileges, no contact directives, a fine or a monetary payment to compensate for direct losses, or other restrictions or conditions as deemed necessary or appropriate
37. *The Discipline Chair or Discipline Panel, as applicable, may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed Maltreatment:
- a) Sexual Maltreatment involving a Minor Complainant shall carry a presumptive sanction of permanent ineligibility;
 - b) Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.
 - c) While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive sanction shall be a period of suspension
38. A Participant's conviction for a *Criminal Code* offense shall carry a presumptive sanction of permanent ineligibility from participating with the Organization. *Criminal Code* offences may include, but are not limited to:
- a) Any child pornography offences
 - b) Any sexual offences
 - c) Any offence of physical violence
 - d) Any offence of assault
 - e) Any offence involving trafficking of illegal drugs
39. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.
40. Records of all decisions will be maintained by the Organization and sent to Sport PEI.

Appeals

41. The decision of the Discipline Panel may be appealed in accordance with the *Appeal Policy*.

Suspension Pending a Hearing

42. The Organization may determine that an alleged incident is of such seriousness as to warrant suspension of a Participant pending completion of an investigation, criminal process, the hearing, or a decision of the Discipline Panel.

Confidentiality

43. The discipline and complaints process is confidential and involves only the Organization, the parties, the Case Manager, the Discipline Chair, the Discipline Panel, and any independent advisors to the Discipline Panel. Once initiated and until a decision is released, none of the parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

44. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Discipline Chair or Discipline Panel (as applicable).

Timelines

45. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Case Manager may direct that these timelines be revised.

Records and Distribution of Decisions

46. Other individuals or organizations, including but not limited to, national sport organizations, Provincial/Territorial sport organizations, sport clubs, etc., may be advised of any decisions rendered in accordance with this Policy.

47. *The Organization recognizes that a publicly-available searchable database or registry of Respondents who have been sanctioned, or whose eligibility to participate in sport has in some way been restricted, may be maintained and may be subject to provisions in the UCCMS.

Policy History	
Approved	
Next Review Date	

Appeal Policy

Purpose

1. This *Appeal Policy* provides Participants with a fair and expedient appeal process.

Scope and Application of this Policy

2. This Policy applies to all Participants.
3. Any Participant who is directly affected by a decision made by the Organization shall have the right to appeal that decision provided that there are sufficient grounds for the appeal under the Grounds for Appeal section of this Policy.
4. This Policy will apply to decisions relating to:
 - a) Eligibility
 - b) Selection
 - c) Conflict of Interest
 - d) Discipline
 - e) Membership
5. This Policy will not apply to decisions relating to:
 - a) Employment
 - b) Infractions for doping offenses
 - c) The rules of the sport
 - d) Selection criteria, quotas, policies, and procedures established by entities other than the Organization
 - e) Substance, content and establishment of team selection or carding criteria
 - f) Volunteer/coach appointments and the withdrawal or termination of those appointments
 - g) Budgeting and budget implementation

- h) The organization's operational structure and committee appointments
- i) Decisions or discipline arising within the business, activities, or events organized by entities other than the Organization (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by the organization at its sole discretion)
- j) Commercial matters for which another appeals process exists under a contract or applicable law
- k) Decisions made under this Policy

Timing of Appeal

6. Participants who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit the following:

- a) Notice of the intention to appeal
- b) Their contact information
- c) Name and contact information of the Respondent and any Affected Parties, when known to the Appellant
- d) Date the Appellant was advised of the decision being appealed
- e) A copy of the decision being appealed, or description of decision if written document is not available
- f) Grounds for the appeal
- g) Detailed reasons for the appeal
- h) All evidence that supports these grounds
- i) Requested remedy or remedies
- j) An administration fee of two hundred dollars (\$200), which will be refunded if the appeal is upheld

7. A Participant who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an exemption. The decision to allow, or not allow, an appeal outside of the seven (7) day period will be at the sole discretion of the Appeal Manager and may not be appealed.

Submitting an Appeal

8. Appeals of decisions made by the Organization can be submitted to the Organization to be heard pursuant to this Policy.

Grounds for Appeal

9. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
 - a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
 - b) Failed to follow its own procedures (as set out in the Respondent's governing documents)
 - c) Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views)
 - d) Made a decision that was patently unreasonable

Screening of Appeal

10. The parties may first attempt to resolve the appeal through the *Dispute Resolution Policy*.
11. Appeals resolved under the *Dispute Resolution Policy* will result in the administration fee being refunded to the Appellant.
12. Should the appeal not be resolved by using the *Dispute Resolution Policy*, the Organization or the Provincial/Territorial Organization will appoint an independent Appeal Manager (who must not be in a conflict of interest or have any direct relationship with the parties) who has the following responsibilities:
 - a) To determine if the appeal falls under the scope of this Policy
 - b) To determine if the appeal was submitted in a timely manner
 - c) To decide whether there are sufficient grounds for the appeal

13. If the Appeal Manager denies the appeal on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
14. If the Appeal Manager is satisfied there are sufficient grounds for an appeal, the Appeal Manager will appoint an Appeal Panel which shall consist of a single Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Appeal Manager, an Appeal Panel composed of three persons may be appointed to hear the appeal. In this event, the Appeal Manager will appoint one of the Panel's members to serve as the Chair.

Determination of Affected Parties

16. In order to confirm the identification of any Affected Parties, the Appeal Manager will engage the Organization. The Appeal Manager may determine whether a party is an Affected Party in their sole discretion.

Procedure for Appeal Hearing

15. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Appeal Manager and may not be appealed.
16. If a party chooses not to participate in the hearing, the hearing will proceed in any event.
17. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Appeal Manager and the Panel deem appropriate in the circumstances, provided that:

- a) The hearing will be held within a timeline determined by the Appeal Manager
- b) The Parties will be given reasonable notice of the day, time and place of an oral in-person hearing or oral hearing by telephone or electronic communications.
- c) Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
- d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
- e) The Panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
- f) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate
- g) If a decision in the appeal may affect another party to the extent that the other party would have recourse to an appeal in their own right under this Policy, that party will become an Affected Party to the appeal in question and will be bound by its outcome
- h) The decision to uphold or reject the appeal will be by a majority vote of Panel members

18. In fulfilling its duties, the Panel may obtain independent advice.

Appeal Decision

19. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the Grounds for Appeal section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

20. The Panel shall issue its decision, in writing and with reasons, within seven (7) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:

- a) Reject the appeal and confirm the decision being appealed;
- b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
- c) Uphold the appeal and vary the decision.

21. The Panel will also determine whether costs of the appeal, excluding legal fees and legal disbursements of any parties, will be assessed against any party. In assessing costs, the Panel will take into account the outcome of the appeal, the conduct of the parties, and the parties' respective financial resources.
22. The Panel's written decision, with reasons, will be distributed to all parties, the Appeal Manager, and the Organization. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel.

Timelines

23. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Appeal Manager and/or Panel may direct that these timelines be revised.

Confidentiality

24. The appeals process is confidential and involves only the parties, the Appeal Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

Final and Binding

25. No action or legal proceeding will be commenced against the Organization or Participants in respect of a dispute, unless the Organization has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.

Approved	
Next Review Date	