

## **[Insert Name of sport organization] (the 'Organization')**

### **DISCIPLINE AND COMPLAINTS POLICY**

*\* Indicates a section that has been adapted from the Universal Code to Prevent and Address Maltreatment in Sport ("UCCMS")*

#### **Definitions**

1. Terms in this Policy that carry specific meaning will be capitalized. All other definitions not listed below are provided in Appendix A of the *Code of Conduct and Ethics*.
  - a) **Case Manager** – An individual (or individuals) or their delegate appointed by the Organization or by the Organization's Independent Third Party (as applicable) to receive and/or administer complaints under the *Discipline and Complaints Policy*. The Case Manager must not be in a conflict of interest. The Independent Third Party may serve as the Case Manager.
  - b) **\*Complainant** – A Participant or any person who reports an incident, or a suspected incident, of Maltreatment or other behaviour that is a violation of the standards described in the *Code of Conduct and Ethics*.
  - c) **Discipline Panel** – A Panel of one or three people who are appointed to handle complaints that are assessed under Process #2 of the *Discipline and Complaints Policy*. Panel members must not be in a conflict of interest. A Discipline Panel may be external to the Organization, such that the members on the panel are not directly affiliated with the Organization.
  - d) **Independent Third Party** – An independent individual, group of individuals, and/or organization appointed by the Organization to assume the responsibilities of the Case Manager as described in this Policy.
  - e) **Internal Discipline Chair** – An individual appointed to handle complaints that are assessed under Process #1 of this Policy. The Internal Discipline Chair may be a Director, head coach, staff member, or other individual affiliated or unaffiliated with the Organization but must not be in a conflict of interest.
  - f) **Parties** – Refers collectively to the individuals who are directly interested in the complaint/incident in issue, are entitled to fully participate in the hearing of the complaint and/or dispute resolution process, and may appeal the decision resulting from the process. In this Policy, the Parties are the Complainant and Respondent.
  - g) **\*Respondent** – The Participant responding to a complaint.

#### **Purpose**

2. The purpose of this Policy is to provide direction on how complaints may be submitted, how they will be assessed, and how they will be resolved. 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.

#### **Principle**

3. This Policy is guided by the principle that Maltreatment has no place in Canadian sport and, when present, must be sanctioned appropriately.

#### **Application of this Policy**

4. This Policy applies to Participants.

5. 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.
6. 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's jurisdiction. The Organization will, at its sole discretion, determine if/when this Policy applies.
7. \*This Policy will apply 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).
8. If it is considered appropriate or necessary in 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.
10. The Organization may, at its discretion, assume jurisdiction of a complaint that was submitted to an organization within its jurisdiction. In such cases, the Organization (or Independent Third Party, if applicable) will determine whether the complaint process should be re-started or resumed pursuant to the applicable section of this Policy.

#### **Minors**

11. 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.
12. Communication from the Case Manager, Independent Third-Party, Internal Discipline Chair or Discipline Panel (as applicable) must be directed to the Minor's representative.
13. A Minor is not required to attend an oral hearing, if held.

#### **Reporting a Complaint**

14. Any person may report a complaint to the Organization and/or the Organization's Case Manager:

**[Insert Organization Name and Contact and/or Case Manager contact]**

**Commented [MK1]:** The Organization should identify an individual/position within the Organization who can be the primary point of contact for receiving complaints. The Case Manager may also be an independent third party (external to the Organization).

15. A flowchart for the complaint process is provided as **Appendix B**.
16. 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.
17. Complaints or incident reports should be made in writing for the discipline and complaints procedure to be initiated. The Complainant may contact the Case Manager for direction regarding the formal submission of a complaint. The Case Manager may accept any formal complaint, in writing or not, at their sole discretion.

#### **Receiving a Complaint – Case Manager Responsibilities**

18. Upon receipt of a complaint, the Case Manager must:
  - a) Determine the appropriate jurisdiction to manage the complaint and consider the following:
    - a. Whether the complaint should be handled by the Organization or by another organization, where appropriate. In making this decision, the Case Manager will consider:
      - i. whether the incident has occurred within the business, activities or events of the Organization or other organization. If the incident has occurred outside of the business, activities, or events of either or more than one organization, the Case Manager will determine which organization's relationships are adversely affected or which organization's affairs are most impacted; and,
      - ii. if the other organization is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest or due to a lack of capacity.
    - b. If the Case Manager determines the complaint or incident should be handled by another organization, that organization may use its own policies to address the complaint or may adopt this Policy and appoint its own Case Manager to fulfil the responsibilities listed below. In such instance where this Policy is adopted by another organization, any reference to 'Case Manager' below shall be understood to be a reference to the organization's Case Manager and any reference to 'the Organization' shall be understood to be a reference to that organization managing the complaint.
  - b) Determine whether the complaint is frivolous and/or outside of 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, as outlined below) should be followed to hear and adjudicate the complaint.

**There are two different processes that may be used to hear and adjudicate complaints. The Case Manager will decide which process should be followed based on the nature of the complaint and using the following as a general guideline:**

**Process #1** - the Complainant alleges the following incidents:

- i. Disrespectful conduct or comments.
- ii. Minor incidents of physical violence (e.g., tripping, pushing, elbowing).
- iii. Conduct contrary to the values of the Organization.
- iv. Non-compliance with the Organization's policies, procedures, rules, or regulations.
- v. Minor violations of the *Code of Conduct and Ethics*.

**Process #2** - the Complainant alleges the following incidents:

- i. Repeated minor incidents.
- ii. Hazing.
- iii. Abusive, racist, or sexist comments or behaviour.
- iv. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct.
- v. Major incidents of violence (e.g., fighting, attacking, sucker punching).
- vi. Pranks, jokes, or other activities that endanger the safety of others.
- vii. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition.
- viii. Conduct that intentionally damages the Organization's image, credibility, or reputation.
- ix. Consistent disregard for the by-laws, policies, rules, and regulations.
- x. Major or repeated violations of the *Code of Conduct and Ethics*.
- xi. Intentionally damaging the Organization's property or improperly handling the Organization's monies.
- xii. Abusive use of alcohol, any use or possession of alcohol by Minors, or use or possession of illicit drugs and narcotics.
- xiii. A conviction for any *Criminal Code* offense.
- xiv. Any possession or use of banned performance enhancing drugs or methods.

#### **PROCESS #1: HANDLED BY INTERNAL DISCIPLINE CHAIR**

##### **Internal Discipline Chair**

19. Following the determination that the complaint or incident should be handled under Process #1, the Case Manager will appoint an Internal 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 to ask the parties questions and gather additional relevant information.
20. Thereafter, the Internal Discipline Chair shall determine if a breach occurred and if sanctions should be applied (see: **Sanctions**).
21. The Internal Discipline Chair will inform the Parties of the decision, which will take effect immediately.
22. Records of all sanctions will be maintained by the Organization.

##### **Request for Reconsideration**

23. Where a decision is rendered and no sanction is imposed, the Complainant may contest the decision

**Commented [MK2]:** Not all organizations wish to provide for this additional step in the process. Remove this section (the 5 paragraphs) if needed. If so, ensure this step is also removed from the Flowchart in the Appendix (the highlighted box).

by submitting a Request for Reconsideration within five (5) days of receiving the decision. In the Request for Reconsideration, the Complainant must provide reasons for their Request for Reconsideration by indicating:

- a) Why the decision is inappropriate;
- b) Summary of evidence that the Complainant will provide to support the Complainant's position; and
- c) What alternative decision, penalty or sanction (if any) would be appropriate.

24. Where a decision is rendered and a sanction is imposed, the Respondent may contest the decision by submitting a Request for Reconsideration within five (5) days of receiving the decision. In the Request for Reconsideration, the Respondent must provide reasons for their Request for Reconsideration by indicating:

- d) Why the decision is inappropriate;
- e) Summary of evidence that the Respondent will provide to support the Respondent's position; and
- f) What alternative decision, penalty or sanction (if any) would be appropriate.

25. Upon receiving the Request for Reconsideration, the Internal Discipline Chair may decide to accept partially or fully, or reject entirely, the Request for Reconsideration.

26. If the Internal Discipline Chair changes their original decision, the Internal Discipline Chair will inform the Parties of the revised decision, and any alternative or modified decision will take effect immediately. .

27. Where the Internal Discipline Chair rejects the Request for Reconsideration and maintains the original decision, , the initial complaint or incident will be handled under Process #2 of this Policy.

#### **PROCESS #2: HANDLED BY CASE MANAGER AND DISCIPLINE PANEL**

##### **Case Manager**

28. Following the determination that the complaint or incident should be handled under Process #2, the Case Manager must:

- a) Propose the use of alternative dispute resolution techniques;
- b) Appoint a Discipline Panel, if necessary;
- c) Coordinate all administrative aspects of the process and set reasonable timelines for the process;
- d) Provide administrative assistance and logistical support to the Discipline Panel, as necessary; and,
- e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

29. The Case Manager will, in accordance with procedural fairness, set and follow reasonable timelines and will ensure the matter is heard in a timely fashion.

30. The Case Manager may propose using alternative dispute resolution methods, such as mediation or a negotiated settlement.

31. If the dispute is not resolved using alternative dispute resolution methods, the Case Manager will appoint a Discipline Panel of one (1) person to hear the complaint. Depending on the severity of the

allegations and at the Case Manager's discretion, a Discipline Panel of three (3) people may be appointed. When a three-person Discipline Panel is appointed, the Case Manager will appoint one of the Discipline Panel members to serve as the Chair.

32. 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.
33. The hearing will be governed by the procedures that the Case Manager and Discipline Panel deem appropriate for the circumstances. The following guidelines will apply to the hearing:
  - a) The Parties will be given appropriate notice of the day, time, and place of the hearing.
  - b) Copies of any written documents which any of 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 each engage a representative, advisor, or legal counsel at their own expense.
  - d) The Discipline Panel may request any other individual to participate and give evidence at the hearing.
  - e) The Discipline Panel may allow as evidence at the hearing any oral evidence, document, or other 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 of a three-person Discipline Panel will be made by a majority vote.
34. If the Respondent acknowledges the complaint as alleged and admits to breaching the *Code of Conduct and Ethics*, 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 specific purpose of determining an appropriate sanction.
35. If a hearing is scheduled to proceed, the hearing will still proceed even where a Party chooses not to participate in the hearing.
36. In fulfilling its duties, the Discipline Panel may obtain independent advice.

#### **Decision**

37. Following a hearing and/or the Respondent's admission of breaching the *Code*, the Discipline Panel will determine whether a breach has occurred and, if so, the sanction(s) to be imposed. Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision, with reasons, will be distributed to the Parties, the Case Manager, and 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**

38. \*In determining appropriate sanction(s), the Internal Discipline Chair or Discipline Panel, as

applicable, will consider relevant factors, including:

- 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.

39. \*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.

40. \*The Internal Discipline Chair or Discipline Panel, as applicable, may apply the following disciplinary sanction(s), 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.

41. \*The Internal 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.
42. 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
43. 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.
44. Records of all decisions will be maintained by the Organization.

#### **Appeals**

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

#### **Suspension Pending a Hearing**

46. 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**

47. The discipline and complaints process is confidential and involves only the Organization, the Parties, the Case Manager, the Internal Discipline Chair, the Discipline Panel, and any independent advisors to the Discipline Panel. Once initiated, the Parties are prohibited from disclosing confidential information relating to the complaint to any person not involved in the proceedings, unless required to do so by law.
48. Any failure to respect this confidentiality requirement may result in discipline or sanctions by the Internal Discipline Chair or Discipline Panel (as applicable).
49. For greater certainty, nothing in this Policy is intended to preclude the Organization from publishing the names of any individuals serving a suspension or subject to other eligibility or participation

restrictions.

**Timelines**

50. To allow for a timely resolution of the complaint and where the circumstances warrant, the Case Manager may direct that the timelines established for the discipline and complaints process be revised, provided that procedural fairness is respected.

**Records and Distribution of Decisions**

51. Other individuals or organizations, including but not limited to, National Sport Organizations, Provincial/Territorial sport organizations, and sport clubs, may be advised of any decisions rendered in accordance with this Policy.

52. \*The Organization recognizes that a publicly available and 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	

## Appendix A – Investigation Procedure

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

### Determination

1. When a complaint is submitted pursuant to the *Discipline and Complaints Policy*, the Case Manager will determine if the incident should be investigated.

### Investigation

2. If the incident should be investigated, the Case Manager will appoint an Investigator. The Investigator should normally be an independent third-party and must have appropriate competencies to carry out the investigation. The Investigator must not be in a conflict-of-interest situation and should have no connection to either party.
3. Federal and/or Provincial/Territorial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a worker in a Workplace. The Investigator should review workplace safety legislation, the organization's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
4. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial/Territorial legislation. The investigation may include:
  - a) Interviews with the Complainant.
  - b) Witness interviews.
  - c) Statement of facts (Complainant's perspective) prepared by Investigator, acknowledged by the Complainant and provided to the Respondent.
  - d) Interviews with the Respondent.
  - e) Statement of facts (Respondent's perspective) prepared by Investigator, acknowledged by the Respondent and provided to the Complainant.

### Investigator's Report

5. Upon completion of their investigation, the Investigator must prepare a report that should include a summary of evidence from the Parties (including the statement of facts from each Party, if applicable) and recommendations from the Investigator of whether, on a balance of probabilities, a breach of the *Code of Conduct and Ethics* has occurred.
6. \*The Investigator must be aware that sport-specific differences exist with respect to such aspects as acceptable levels of touch, physical contact, and aggression during training or competition and will consider such differences during the investigative process.
7. The Investigator's Report will be provided to the Case Manager who will disclose it, at their discretion, to the Organization and the relevant organization (if applicable).
8. Should the Investigator find the complaint involves possible offences under the *Criminal Code*, particularly related to Criminal Harassment (or Stalking), Uttering Threats, Assault, Sexual Interference, or Sexual Exploitation, the Investigator shall advise the Complainant and the Organization to refer the matter to police.
9. The Investigator must also inform the Organization of any findings of criminal activity. The

Organization may decide whether to report such findings to police. In any case, the Organization is required to inform police if there are findings related to the trafficking of prohibited substances or methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any sexual crime involving Minors, fraud against the Organization, or other offences where the lack of reporting would bring the Organization into disrepute.

#### **Reprisal and Retaliation**

10. \*A Participant who submits a complaint to the Organization or who gives evidence in an investigation may not be subject to reprisal or retaliation. Any such conduct may constitute Maltreatment and will be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy*.

#### **False Allegations**

11. A Participant who submits allegations that the Investigator determines to be malicious, vexatious, or for the purpose of retribution, retaliation or vengeance (or that otherwise fall within the definition of Maltreatment) may be subject to a complaint under the terms of the *Discipline and Complaints Policy* and may be required to pay for the costs of any investigation that comes to this conclusion. The Organization or the Participant against whom the allegations were submitted, may act as the Complainant.

#### **Confidentiality**

12. The Investigator will make reasonable efforts to preserve the anonymity of the Complainant, Respondent, and any other party. However, the Organization recognizes that maintaining full anonymity during an investigation may not be feasible or may request the permission of an individual to disclose their identity.

## Appendix B – Discipline and Complaints Policy Flowchart



