DISCIPLINE AND COMPLAINTS POLICY

Purpose

1. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the policies, Bylaws, rules and regulations of the Organization and its Members (as applicable). Non-compliance may result in the imposition of sanctions pursuant to this Policy.

Application of this Policy

2. This Policy applies to all Individuals.

3. This Policy applies to matters that may arise during the business, activities, and events of the Organization and its Members (as applicable) 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 or a Member, events hosted by the Organization and its members, the office environment and any meetings.

4. This Policy also applies to Individuals' conduct outside of the business, activities, and events of the Organization and its Members (as applicable) when such conduct adversely affects the relationships of the Organization and/or a Member (and the work and sport environment) or is detrimental to the image and reputation of the Organization or a Member. Accordingly, applicability of this Policy will be determined by the Independent Third Party, who may consult with the Organization or a Member in making this determination.

5. This Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Individuals who are no longer active in the sport where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Individual was active in the sport.

6. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Individuals 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 Individual(s).

7. Applicability of this Policy will be determined by the Independent Third Party 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 or provisional measure 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 or a Member 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 an Individual 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.

13. A Discipline Panel may take reasonable measures to support a minor's participation in a disciplinary process.

Reporting a Complaint

14. Any person may report a complaint to the Organization or a Member or to the Independent Third Party:

    ITP Sport: https://app.integritycounts.ca/org/itpsport

15. When a complaint is reported to the Organization or a Member, the Organization or Member will report the complaint to the Independent Third Party and will have no involvement in the matter unless required by the Discipline process.

16. At the discretion of the Organization or a Member (as applicable), the Organization or a Member 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 or a Member.

17. Complaints or incident reports should be made in writing and the person making the complaint may contact the Independent Third Party for direction. The Independent Third Party may accept any report, in writing or not, at their sole discretion.

CCESS Participants

18. Incidents that involve alleged Maltreatment or Prohibited Behaviour involving an CCESS Participant must be reported to CCESS and will be addressed pursuant to the CCESS's policies and procedures.

19. CCESS shall determine the admissibility of such complaints in accordance with the relevant and applicable CCESS Guidelines regarding the initial review and preliminary assessment, at their sole discretion.

20. If the Independent Third Party receives a complaint that they consider would otherwise fall within the above sections, they shall refer the matter to the CCESS and notify the Individual(s) that made the complaint of such action within seven days of referring the matter to the CCESS.

Independent Third Party Responsibilities

21. Upon receipt of a complaint from an Individual (or Individuals), the Independent Third Party shall determine whether the complaint should be handled by the Independent Third Party for Sport NL, or the Organization.

22. The Independent Third Party shall make this determination by taking into consideration whether the incident has occurred within the business, activities or events of the Organization of a Member, or if Clause 4 or 5 of this Policy may be applied

23. Notwithstanding the above, the Case Manager may direct a complaint to be managed by the Organization if the Member 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.

24. The Independent Third Party may determine that the alleged incident may require investigation. In this case, the Independent Third Party may appoint an Investigator who will investigate the complaint.

25. Upon receipt of a complaint, the Independent Third Party has a responsibility to:
    a. Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy;

b. Determine the appropriate jurisdiction to manage the complaint:[1]
c. Propose the use of alternate dispute resolution techniques;
d. Determine that the alleged incident may require an investigation. The **Case Manager** may also appoint an Investigator to investigate the complaint; and/or
e. Choose which process should be followed, and may use the following examples as a general guideline:
    i. Process #1 - the Complaint alleges the following incidents:
        1. Disrespectful conduct
        2. Minor incidents of violence (e.g., tripping, pushing, elbowing)
        3. Conduct contrary to the values of the Organization or a Member
        4. Non-compliance with the organization's policies, procedures, rules, or regulations
        5. Minor violations of the Code of Conduct and Ethics
        6. Pranks, jokes, or other activities that cause harm to others
        7. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
        8. Consistent disregard for the bylaws, policies, rules, and regulations
        9. Major or repeated violations of the Code of Conduct and Ethics
        10. Any possession or use of banned performance enhancing drugs or methods that is not addressed by CCES or designated anti-doping agency.
        11. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
        12. Intentionally damaging the organization's property or improperly handling the organization's monies.

    ii. Process #2 - the Complaint alleges the following incidents:
        1. Prohibited Behaviour as defined by the UCCMS
        2. Any incident of hazing
        3. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
        4. Major incidents of violence (e.g., fighting, attacking, sucker punching)
        5. A conviction for any Criminal Code offense as it relates to Maltreatment and/or Prohibited Behaviour

26. If an Organization due to a conflict of interest, capacity concern or other valid and justifiable reason cannot address a Process #1 complaint, they may refer the matter to the Independent Third Party for Sport NL. The decision to accept or deny the referral is at the discretion of Sport NL.

[1] This excludes the decision making in Process#1 regarding if the Organization or Member will address the complaint

27. If the Independent Third Party determines the complaint is frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately.

28. The Independent Third Party's decision to accept or dismiss the complaint may not be appealed.

Process #1: Handled by Complaint Resolution Officer

Complaint Resolution Officer

29. Following the determination that the complaint or incident should be handled under Process #1, the Organization shall determine whether the complaint should be handled by the Organization or by a Member Organization. [2]

30. The Organization or appointed Case Manager shall make this determination by taking into consideration whether the incident has occurred within the business, activities or events of the Organization of a Member.

31. Notwithstanding the above, the Organization may direct a complaint to be managed by the Organization if the Member 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.

32. If the Organization determines that the complaint or incident should be handled by a Member, that Member shall appoint its own Complaint Resolution Officer to fulfil the responsibilities listed below. In such instance, any reference to Complaint Resolution Officer below shall be understood as a reference to the Member's Complaint Resolution Officer.

33. The Complaint Resolution Officer must be an independent individual, established solely for the purpose of adjudicating the infractions brought before it pursuant to this Policy. At the Organization's discretion, an external individual with the necessary expertise may be appointed to fulfill this role.

34. Once the complaint is accepted, the Complaint Resolution Officer will:
    a. Provide the complaint to the respondent.
    b. The Complaint Resolution Officer will take all possible steps to address the dispute through Alternative Dispute Resolution, including Mediation.
    c. If unsuccessful in resolving the matter through Alternative Dispute Resolution, the Complaint Resolution Officer will decide on the format under which the complaint will be heard. The format may be a documentary hearing (summary proceeding) or oral hearing.

[2] The Organization may appoint a Case Manager who will determine whether the complaint should be handled by the Organization or by a Member Organization, and administer Process #1.

d. The decision on format of hearing by the Complaint Resolution Officer is not subject to appeal.
e. Within 10 days of the Appointment of the Complaint Resolution Officer the Complainant will provide a brief to both the Complaint Resolution Officer and the Respondent. The written brief shall be a maximum of 5 pages setting out the Complainants position on the issues raised in the complaint.
f. The documents the Complainant considers relevant or wishes to rely on will be a maximum of 10 documents and 200 pages.
    i. For clarity, a series of connected documents such as a series of emails or a series of letters may be considered one document.
g. Within 15 business days of receipt of the Complainant's brief, the Respondent will provide to both the Complaint Resolution Officer and the Complainant a written brief. The written brief will be a maximum 5 pages in length which sets out the Respondent's position on the issues contained in the complaint.
h. Any documentary evidence that the Respondent wishes to rely on will be a maximum 10 documents and 200 pages.
    i. For clarity, a series of connected documents such as a series of emails or a series of letters may be considered one document.
i. Both Parties shall also have the right to submit to the Complaint Resolution Officer any relevant evidence, including, but not limited to witness statements, documentary evidence or evidence from other media (i.e., photos, screenshots, videos, or other recordings)
j. Within 15 business days of receipt of the Respondent's response the Complainant may submit to both the Complaint Resolution Officer and the Respondent a reply statement. The maximum length of the reply statement is 5 pages.
k. No further documents may be submitted.
l. For cases requiring an oral hearing, the Complaint Resolution Officer will ask the Complainant and the Respondent for oral submissions in addition to written submissions regarding the complaint or incident.
m. In the case of oral submissions, each Party shall be present when such submissions are made (unless waived by a Party); and/or:
n. Following receipt of the Parties' submissions, the Complaint Resolution Officer may convene the Parties to a meeting, either in person or by way of video or teleconference to ask the Parties questions and to allow the Parties to ask questions of one another.

35. Following their review of the submissions and evidence related to the complaint, the Complaint Resolution Officer shall determine if any of the incidents alleged above have occurred and, if so, determine whether to impose a sanction and, if so, determine the appropriate sanction.

36. If, after hearing the Parties and reviewing their submissions, the Complaint Resolution Officer considers that none of the incidents alleged above have occurred, they shall dismiss the

complaint.

37. The Complaint Resolution Officer will inform the Parties of the decision, which shall be in writing and include reasons.

38. The Complaint Resolution Officer decision will take effect immediately, unless specified otherwise by the Complaint Resolution Officer.

39. Should the circumstances require a decision to be rendered immediately or within a short timeline, the Complaint Resolution Officer may render a short decision, either orally or in writing, followed by a written reasoned decision.

40. Any decision rendered by the Complaint Resolution Officer shall be provided to and maintained in the records of the relevant affiliated organization, and Member Organization.

41. Records of all sanctions will be maintained by the Organization and the Member. Members will disclose all decisions to the Organization, which may disclose such decisions at its discretion.

Process #2: Handled by Case Manager

Case Manager

42. Following the determination that the complaint or incident should be handled under Process #2, the Independent Third Party for Sport NL Case Manager has a responsibility to:
    a. Propose the use of alternate 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

43. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

44. The Case Manager may propose using alternate 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 alternate 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 persons 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.

45. 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

46. 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.

47. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.

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

Decision

49. 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 and the Member. 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

50. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:
    a. Verbal or written reprimand
    b. Verbal or written apology
    c. Service or other contribution to the Organization or a Member
    d. Removal of certain privileges
    e. Suspension from certain teams, events, and/or activities
    f. Suspension from certain activities for a designated period
    g. Payment of the cost of repairs for property damage
    h. Suspension of funding from the organization or from other sources
    i. Expulsion from the organization
    j. Any other sanction considered appropriate for the offense

51. 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.

52. Records of all decisions will be maintained by the Organization and the Member (as applicable). Members will submit all records to the Organization.

Appeals

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

Suspension Pending a Hearing

54. The Organization or the Member (as applicable) may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of an investigation, criminal process, the hearing, or a decision of the Discipline Panel.

Criminal Convictions

55. The Organization or the Member (as applicable) may determine in its sole discretion that an Individual's conviction for a Criminal Code offense will be deemed an infraction under this Policy and will result in expulsion from the Organization or the Member (as applicable). 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

Confidentiality

56. The discipline and complaints process is confidential and involves only the Organization, the applicable Member(s), 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.
57. 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

58. 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

59. 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 at the discretion of Sport NL.

Policy History	
Approved	
Next Review Date	
Revision Approval Dates	