



DISCIPLINE AND COMPLAINTS POLICY

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HEAD OFFICE

Victoria Office / Bureau de Victoria
3019 Glen Lake Road
Langford, BC CANADA V9B 4B4
Tel / Tél: 250-483-1202

Vancouver Office / Bureau de Vancouver
Suite 450 - 375 Water Street
Vancouver, BC CANADA V6B 5C6
Tel / Tél: 778-379-5770

rugby.ca
contact@rugby.ca



DISCIPLINE AND COMPLAINTS POLICY

* Indicates a section that has been adapted from the UCCMS

Purpose

1. This Policy provides directions for how complaints may be submitted, how they will independently 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. An individual may submit a complaint that those responsibilities and obligations have not been followed by a Participant..

Principles

*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.

Application of this Policy

2. This Policy applies to all Participants.
3. This Policy applies to matters that may arise during the business, activities, and events of the Organization including, but not limited to, meeting, competitions, practices and training, treatment, or consultations (e.g., massage therapy), camps and clinics, travel associated with the activities of the Organization.
4. 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.
5. *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).
6. Applicability of this Policy will be determined by the Organization at its sole discretion and shall not be subject to appeal.
7. If 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.

8. 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

9. 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.
10. Communication from the Case Manager, Discipline Chair or Discipline Panel (as applicable) must be directed to the Minor's representative.
11. A Minor is not required to attend an oral hearing, if held.

Reporting a Complaint

12. Any individual may report a complaint to Rugby Canada's Independent Third Party:

W & W Dispute Resolution Services
safesport_wwdrs@primus.ca

13. Any individual may report a complaint to the Organization's Case Manager (when identified) or directly to their Provincial Union or Club (which must then appoint a Case Manager) when the jurisdiction of the matter is within the Provincial Union or Club. The Independent Third Party or Case Manager may re-direct the Complainant to submit the complaint to their Provincial Union or Club.
14. Rugby Canada, at its discretion or by request of a Provincial Union or Club, may take jurisdiction of any complaint submitted to a Provincial Union or Club.
15. 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.
16. Complaints or incident reports should be made in writing and the person making the complaint may contact their Organization's Case Manager or Rugby Canada's Independent Third-Party (as applicable) for direction. The Case Manager or Independent Third Party (as applicable) may accept any report, in writing or not, at their sole discretion.

Responsibilities

17. Upon receipt of a complaint, the Case Manager or Independent Third Party (as applicable) has a responsibility to:
 - a) Determine if the Organization should be informed that a complaint was received, or that an investigation must be initiated, but will do so in an anonymous fashion unless consented otherwise by the Complainant.
 - b) Determine the appropriate jurisdiction to manage the complaint and consider the following:
 - i. Whether the complaint should be handled by the appropriate Provincial Union or Club or by Rugby Canada. In making this decision, the Case Manager or Independent Third Party (as applicable) will consider:
 - a. whether the incident has occurred within the business, activities or events of Rugby Canada or a Provincial Union or Club. If the incident has occurred outside of the business, activities or events of any of these organizations, the Case Manager or Independent Third Party (as applicable) will determine which organization's

- relationships are adversely affected or which organization's image or reputation will be detrimentally affected by the incident; and
- b. if Provincial Union or Club 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
- ii. When Rugby Canada's Independent Third Party determines that the complaint or incident should be handled by the relevant Provincial Union or Club, that Provincial Union or Club shall appoint its own Case Manager to fulfil the responsibilities listed below. In such instance, any reference to Case Manager below shall be understood as a reference to the Case Manager of the Provincial Union or Club
- c) 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;
- d) Propose the use of alternative dispute resolution techniques;
- e) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and/or
- f) 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 incidents similar to:

- 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 Rugby Canada or a Provincial Union or Club
- 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 incidents similar to:

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

PROCESS #1: Handled by Internal Discipline Chair

Internal Discipline Chair

18. Following the determination that the complaint or incident should be handled under Process #1, the Independent Third Party or Case Manager (as applicable) 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 in order to ask the parties questions.

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

20. The Internal Discipline Chair will inform the Parties of the decision, which will take effect immediately.

21. Records of all sanctions will be maintained by Rugby Canada and the applicable Provincial Union or Club. Provincial Unions and Clubs will disclose all decisions to Rugby Canada, which may disclose such decisions at its discretion.

PROCESS #2: Handled by Case Manager and External Discipline Panel

Case Manager

22. Rugby Canada's Independent Third Party or the Case Manager of the Provincial Union or Club (as applicable) may determine that the complaint should be handled under Process #2.

23. Determination:

- a) When Rugby Canada's Independent Third Party makes this determination, they may appoint a Case Manager to have the responsibilities described in this section (they may appoint themselves as Case Manager or another individual who is not in a conflict of interest).
- b) When the Case Manager of the Provincial Union or Club makes this determination, they will have the responsibilities described in this section.

24. 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

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

26. 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 an External Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. At the discretion of the Case Manager, an External Discipline Panel of three people may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the External Discipline Panel's members to serve as the Chair.

27. The Case Manager, in cooperation with the External 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 External 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 External 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 External Discipline Panel may request that any other individual participate and give evidence at the hearing
- e) The External 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 External Discipline Panel

28. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the External Discipline Panel will determine the appropriate sanction. The External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.

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

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

Decision

31. After hearing the matter, the External 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 External Discipline Panel's written decision, with reasons, will be distributed to all parties, the Case Manager, and to the Organization. In extraordinary circumstances, the External 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 External Discipline Panel.

Sanctions

32. *Prior to determining sanctions, the Internal Discipline Chair or External 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.
33. *Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.
34. *The Internal Discipline Chair or External 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 Rugby Canada, a Provincial Union or Club, 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
35. *The Internal Discipline Chair or External 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 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
36. 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

- 37. Unless the External 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.
- 38. Records of all decisions will be maintained by Rugby Canada and the Provincial Union or Club (as applicable). Provincial Unions and Clubs will submit all records to Rugby Canada.

Appeals

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

Suspension Pending a Hearing

- 40. The Organization, the Independent Third Party or Case Manager 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 External Discipline Panel.

Confidentiality

- 41. The discipline and complaints process is confidential and involves only the Organization, the Organization’s insurer, the parties, the Independent Third Party, the Case Manager, the Internal Discipline Chair, the External Discipline Panel, and any independent advisors to the External 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.
- 42. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Internal Discipline Chair or External Discipline Panel (as applicable).

Timelines

- 43. 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

- 44. 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.
- 45. *Rugby Canada 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	March 9, 2021
Next Review Date	March, 2022

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. The Case Manager will appoint an Investigator. The Investigator must be an independent third-party skilled in investigating. 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 shall prepare a report that should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether, on a balance of probabilities, a breach of the *Code of Conduct and Ethics* 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 Organization and the Case Manager will determine whether the report, or a summary of the report, will be distributed to the parties and/or the Discipline Panel. The provision of the Investigator's Report is conditional on the parties not distributing the Report to any third party without the written permission of Rugby Canada.
8. Should the Investigator find that there are possible instances of offence 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 but 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 from any individual or group. 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, false 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 every effort to preserve the confidentiality of the complainant, respondent, and any other party. However, the Organization recognizes that maintaining anonymity of any party may be difficult for the Investigator during the investigation.