Complaints, Dispute Resolution and Discipline Policy

BC Athletics

2024

Definitions

1. The following terms have these meanings in this Policy:

   a) "*Commissioner's Office*" - Athletics Canada's Board of Directors vests the Commissioner's Office to be the autonomous authority to resolve disputes within Athletics Canada efficiently, effectively, and fairly. This office will be the first point-of- contact for all complaints reported to BC Athletics, including discipline and sanctions.

   b) "*Complainant*" - The Party making a complaint.

   c) "*Investigator*" - The individual appointed by the Commissioner's Office to investigate a complaint made under this policy.

   d) "*Maltreatment*" - A volitional act and/or omission that results in harm or has the potential for physical or psychological harm, abuse, harassment, sexual harassment as defined in the BC Athletics Code of Ethics and Conduct, and UCCMS.

   e) "*Prohibited Behaviors*" - Behaviors as outlined in the section 5 of the UCCMS.

   f) "*Harassment*" - Harassment is a form of discrimination and includes any unwanted physical or verbal behavior that offends or humiliates someone.

   g) "*Discrimination*" - Discrimination can include overt or subtle forms of harm that uniquely define the adverse or inequitable experiences of marginalized persons.

   h) "*Participants*" - Individuals employed by, or engaged in activities with, BC Athletics including, but not limited to, athletes, coaches, officials, volunteers, managers, administrators, committee members, parents and guardians and spectators at events, Directors and Officers of BC Athletics, and clubs that are members of BC Athletics.

   i) "*Respondent*" - The Party responding to the complaint.

   j) "*Sport Environment*" - Any place where BC Athletics business or activities are conducted. The sport environment includes but is not limited to, BC Athletics competitions, practices, tryouts, training camps, meetings, travel associated with BC Athletics, and BC Athletics office environment.

Purpose

2. Participants are expected to fulfill certain responsibilities and obligations including, but not limited to complying with BC Athletics bylaws, policies, procedures, rules and regulations, and Code of Ethics and Conduct Policy. Noncompliance may result in sanctions pursuant to this Policy. This Policy describes how Participants can report instances of breaches of BC Athletics bylaws, policies, procedures, rules and regulations, and Code of Ethics and Conduct Policy, including, but limited to, instances of Prohibited Behavours, such as, Maltreatment (psychological, physical, sexual) and Discrimination (as defined in the Code of Ethics and Conduct) and how BC Athletics will manage those reports.

Application of this Policy and Jurisdiction

3. This Policy applies to all Participants.

4. This Policy applies to matters that may arise in BC Athletics Sport Environments.

5. This Policy also applies to Participants' conduct outside of BC Athletics Sport Environment when such conduct adversely affects relationships within BC Athletics and its Sport Environment, is detrimental to the image and reputation of BC Athletics, or upon the acceptance of BC Athletics.

6. For complaints related to a club that is a member of BC Athletics, if the Commissioner's Office determines that the complaint may be handled more effectively by the club, that office may advise the Complainant to submit their complaint to the club. The Complainant may choose not to take such advice and may continue to proceed under this Policy provided that this Policy applies pursuant to section 4 or 5 above. Except in unusual cases, the Commissioner's Office will not accept a complaint that has already been handled through a club process.

7. In all cases, the applicability of this Policy will be determined by Commissioner's Office at its sole discretion and shall not be subject to appeal. Without limiting the generality of the foregoing, if the Commissioner's Office determines that a complaint is outside the jurisdiction of this Policy or frivolous or not of a nature that is appropriate to be considered under this Policy, the Commissioner's Office will dismiss the complaint.

8. This Policy is not intended to provide a process for Participants to resolve complaints that do not involve issues of a safe sport environment or complaints for which the appropriate remedy involves a monetary settlement or other sanction that is not within the power of BC Athletics to apply. For example, complaints that are at their heart an allegation of wrongful dismissal or other employment matter, trespass, libel or slander, breach of contract, etc. should not be pursued by a complainant using the procedures provided for in this Policy. Such complaints may be considered to be not of a nature that is appropriate to be considered under this Policy.

9. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required.

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 Commissioner's Office or Investigator, 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 Participant may report a complaint in writing to the Commissioner's Office, within fourteen (14) calendar days of the alleged incident, although this timeline can be waived or extended at the discretion of the Commissioner's Office. The complaint should use the BC Athletics Complaint Form and be sent to the following email address: Commissioner@athleticscommissioner.ca.

14. Anonymous complaints will be evaluated and screened based on the seriousness of the matter, their merits, level of detail and ability and authority to investigate. The decision to proceed with an anonymous complaint is in the discretion of the Commissioner's Office.

15. At BC Athletics discretion, BC Athletics may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, BC Athletics will identify an individual to represent BC Athletics.

Procedure to be Followed

16. To ensure natural justice and procedural fairness in the handling of complaints, the Commissioner's Office must be guided by the following procedures:

    1. Complaints must contain:

        a) Date(s) of the incident(s);

        b) Identity and contact information of the complainant (when an organization, such as BC Athletics acts as the complainant, an individual must be identified to represent the organization);

        c) Identify of the individual(s) who allegedly violated the BC Athletics Code;

        d) Description of the incident(s);

        e) The sections of the BC Athletics Code that were allegedly violated; and

        f) The requested remedy or solution.

17. When any complaint is submitted to the Commissioner's Office, the Commissioner's Office will determine whether it has jurisdiction over the subject matter of the complaint. Any decision on jurisdiction shall be final and binding.

    The Commissioner's Office has jurisdiction over complaints that contain allegations of any violations of the BC Athletics Code in the following situations:

    a) Incidents that occur during BC Athletics business, activities, or events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with BC Athletics activities, BC Athletics office environment, and any meetings: and;

    b) Instances where BC Athletics is required to take jurisdiction due to requirements imposed by provincial government, Sport Canada or other governing body as amended from time to time.

    c) Incidents or complaints involving an allegation of Maltreatment that occur during any Club or BC Athletics business, activities, or events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with a Club or BC Athletics activities, a Club or BC Athletics office environment, and any meetings.

18. Complaints within the jurisdiction of the Commissioner's Office will be handled in a manner consistent with the process(es) described in the Commissioner's Office Terms of Reference. In addition, the Commissioner's Office may also appoint an independent investigator to investigate the allegations if:

    a) The complaint contains an element of Maltreatment against a worker in a Workplace; or

    b) The complaint contains an element of Maltreatment against an athlete in an Athlete Workplace; or

    c) As determined by the Commissioner's Office in their sole discretion

19. Upon receiving the complaint, the Commissioner's Office may determine that the complaint is frivolous or vexatious, outside of the jurisdiction of the Commissioner's Office, or that the description of the incident is insufficient. Such complaints will be dismissed unless the Commissioner's Office permits the complaint to be resubmitted with more complete or accurate information.

20. If the alleged violation is determined to be an infraction better dealt with by a different authority, the Commissioner's Office will refer the complaint to an appropriate person who has authority over both the situation and the individual(s) involved. The person in authority can be, but is not restricted to, staff, event group leaders, team managers, officials, coaches, judges, organizers, clubs or BC Athletics decision-makers. The person in authority must report any sanction or discipline (if applied) back to the Commissioner's Office for retention or distribution as necessary.

21. The Respondent may, at any time in a Commissioner's complaint process, communicate to the Commissioner that they accept responsibility for the alleged breach of the Code. The Commissioner may then determine if the breach was minor or major and provide a sanction as described in this policy.

22. After the Commissioner's Office has confirmed jurisdiction, the Commissioner may, by communicating with each of the parties (the Applicant and the Respondent), determine if it is possible to reach a resolution to the dispute by mediation or by means of a private negotiation between the parties and/or their legal representative, if any. If so determined, the Commissioner's Office will permit the parties to engage in a period of without prejudice private negotiation and/or refer the mediation process to a resolution facilitator of the Sport Dispute Resolution Centre of Canada (SDRCC).

23. During the complaint procedure, the Commissioner's Office may decide that the alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of any criminal process, or of the complaint procedure and the release of a decision by the Commissioner's Office.

24. The Commissioner's Office will determine if it is appropriate for an investigation to be conducted and, if so, will appoint an independent investigator to investigate the complaint and prepare an investigator's Report. Investigators must be selected from the previously approved pool of qualified investigators vetted by Athletics Canada and the Commissioner's Office.

25. Federal and/or Provincial legislation related to workplace harassment may apply to the investigation if the conduct complained of was directed toward a worker in a workplace. The Investigator should review occupational health and safety legislation and/or consult independent experts to determine whether legislation applies to the complaint.

26. When appointed, the Investigator will have terms of reference as determined by the Commissioner's Office. The Investigator may not be an BC Athletics representative or Director and must be an independent third-party skilled in investigating claims of Maltreatment. The Investigator must be neutral and have no conflict of interest regarding the complaint and must have no connection to either party.

27. In accordance with timelines determined by the Commissioner's Office, which may be modified as necessary, the Investigator will prepare and submit an investigation report into the allegations of Maltreatment. The report will be considered by the Commissioner's Office prior to a decision on the complaint being made.

28. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial legislation. The investigation may include:

    a) Interviews with the Complainant;

    b) Interviews with the Respondent;

    c) Witness interviews;

    d) Statement of facts (Complainant's perspective) prepared by Investigator, acknowledged by the complainant and provided to the respondent;

    e) Statement of facts (Respondent's perspective) prepared by Investigator, acknowledged by the Respondent and provided to the Complainant.

29. The Investigator's report shall include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether or not, on a balance of probabilities, an incident occurred that could be considered Discrimination, Harassment, Sexual Harassment, or Abuse, Maltreatment, or a breach of BC Athletics by-laws, policies, procedures, rules, regulations or Code of Ethics and Conduct.

30. The information obtained about an incident or complaint (including identifying information about any individuals

involved) will remain confidential, unless disclosure is necessary for the purpose of investigating or taking corrective action or is otherwise required by law.

31. If mediation fails, is not possible, or is not deemed appropriate by the Commissioner, the Commissioner's Office will determine whether the alleged violations is a minor infraction or a major infraction.

32. Minor Infractions are defined as:

a) Disrespectful, abusive, racist, or sexist comments or behaviour that does not represent a sustained pattern of conduct;

b) Disrespectful conduct;

c) Minor incidents of uninvited physical contact (e.g., tripping, pushing, elbowing);

d) Minor violations of BC Athletics bylaws, policies, procedures, rules, or regulations;

e) Minor violations of BC Athletics Code of Ethics and Conduct, at the discretion of the Commissioner's Office.

Major infractions are defined as:

f) Repeated minor infractions;

g) Any incident of hazing, which is any form of conduct which exhibits any potentially humiliating, degrading, abusive, or dangerous activity expected of a junior-ranking individual by a more senior individual, which does not contribute to either individual's positive development, but is required to be accepted as part of a team or group, regardless of the junior-ranking individual's willingness to participate. This includes, but is not limited to, any activity, no matter how traditional or seemingly benign, that sets apart or alienates any teammate or group member based on class, number of years on the team or with the group, or ability;

h) Incidents of physical abuse;

i) Behaviour that constitutes harassment, sexual harassment, maltreatment, abuse, or sexual misconduct;

j) Pranks, jokes, or other activities that may or did endanger the safety of others;

k) Conduct that interferes with a competition or with any athlete's preparation for a competition;

l) Conduct that damages BC Athletics image, credibility, or reputation;

m) Consistent disregard for BC Athletics bylaws, policies, procedures, rules or regulations;

n) Major or repeated violations of BC Athletics Code of Ethics and Conduct;

o) Intentionally damaging BC Athletics property or improperly handling BC Athletics monies;

p) Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics;

q) A conviction for any Criminal Code offence; or

r) Any possession or use of banned performance enhancing drugs or methods.

33. Should the Investigator find that there are possible instances of 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 to refer the matter to police.

34. The Investigator must also inform BC Athletics of any findings of criminal activity. BC Athletics may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of doping drugs or materials, any sexual crime involving minors, fraud against BC Athletics, or other offences where the lack of reporting would bring BC Athletics into disrepute. BC Athletics will adhere to all disclosure and reporting responsibilities required by any government entity, local police service, or child protection agency

35. If the Commissioner's Office becomes aware, via a submitted complaint or by other means, of an individual

associated with BC Athletics being convicted of any of the following Criminal Code offences, the individual will be expelled from BC Athletics, expelled from the applicable Club or Branch, and/or removed from competitions, programs, activities, and events at the sole discretion of the Commissioner's Office:

- Child pornography offences
- Sexual offences
- Offence of physical or psychological violence
- Offence of assault
- Offence involving possession or trafficking of illegal drugs

36. In cases where the Commissioner's Office has determined that a major infraction has allegedly occurred, the Respondent will be provided with the outcome of the complaint and instructed to submit a response to the Commissioner's Office.

37. The Commissioner's Office will determine if an in-person hearing, a virtual hearing, or a hearing conducted in writing with documentary evidence and written submissions alone is the most effective method to share and consider the evidence relating to the complaint.

38. If an in-person hearing, conference call or virtual hearing is necessary, the parties (along with any interested individuals or witnesses identified by the Commissioner's Office) will be invited to participate alongside a representative or counsel (if desired). A minor is not required to attend an oral hearing. A minor's representative or counsel may participate in the hearing on the minor's behalf. If a hearing is held, it shall take the form specified by the Commissioner's Office wherein the parties and/or the Commissioner's Office may ask questions about the content of the evidence submitted.

39. The parties will be given reasonable 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, video or other electronic means. Copies of any written documents that any of the parties wish to have the Commissioner's Office consider will be provided to all Parties, through the Commissioner's Office, in advance of the hearing (if held) or completion of the review of documentary evidence.

40. The Commissioner's Office may allow as evidence 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.

41. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in their own right, that party will become a Party to the current complaint and will be bound by the decision.

42. If the Respondent acknowledges the facts of the complaint, the Respondent may waive the hearing or review of documentary evidence, as the case may be. The Commissioner's Office may still hold a hearing or conduct a review of documentary evidence for the purpose of determining an appropriate sanction to recommend.

43. If a Party chooses not to participate in the consideration of the complaint, the hearing and/or review of documentary evidence will proceed in any event.

44. Following the hearing (if held) or the conclusion of the documentary submissions, the Commissioner's Office will issue a written decision resolving the complaint. When making a decision, the Commissioner's Office must consider the Investigator's Report (if applicable). The absence of corroboration of any complaint of Maltreatment does not prevent the Commissioner's Office from finding that an infraction has occurred. If a sanction is to be applied, the sanction will correspond with the severity of the violation committed, the age of the Respondent, the Respondent's remorse, a public or private written or verbal apology, and any corrective action the Respondent has already taken. The Commissioner's Office may apply disciplinary sanctions, singularly or in combination as defined in this policy.

45. Unless the Commissioner's Office decides otherwise, any disciplinary sanctions will begin immediately and may be

applied retroactively. Failure to comply with a sanction as determined by the Commissioner's Office will result in automatic suspension from BC Athletics until such time as compliance occurs.

46. Infractions that occur at training camps or competitions may be dealt with immediately by the appropriate person having authority. In such situations, disciplinary sanctions will be for the duration of the training camp or competition only. Further sanctions may be imposed after review of the matter using procedures set out in this policy.

47. After considering the matter, the Commissioner's Office will determine, whether, on the balance of probabilities, an infraction has occurred, and if so, the sanctions it recommends be imposed. Within fourteen (14) calendar days after the hearing's conclusion, or the conclusion of the review of documentary evidence, as the case may be, the Commissioner's Office written decision regarding the infraction, with reasons, and recommendations regarding sanctions, with reasons, will be distributed to all parties.

48. The Commissioner's Office may impose the following disciplinary sanctions, singularly or in combination:

a) Verbal or written reprimand

b) Verbal or written apology

c) Service or other contribution to BC Athletics

d) Removal of certain privileges

e) Suspension from certain teams, events, and/or activities

f) Suspension from all BC Athletics activities for a designated period

g) Payment of the cost of repairs for property damage

h) Suspension of funding from BC Athletics or from other sources

i) Expulsion from BC Athletics (lifetime ban)

j) Any other sanction considered appropriate for the offence

49. Records of all decisions will be maintained by BC Athletics.

50. The decision of the Commissioner's Office may be appealed in accordance with BC Athletics Appeal Policy.

Suspension Pending a Hearing

51. The Commissioner's Office may determine that an alleged incident is of such seriousness as to warrant suspension of a Participant pending completion of a criminal process, investigation, the hearing or review of documentary evidence, or a decision of the Commissioner's Office.

Retaliation

52. A Participant who submits a complaint to the Commissioner's Office, or who given evidence in an investigation, may not be subject to retaliation from any Participant. Any such conduct may constitute Harassment and will be subject to disciplinary proceedings pursuant to this Policy. BC Athletics or the Participant facing the retaliation may act as the Complainant.

False Allegations

53. A Participant who submits allegations that the Investigator determines to be false or without merit may be subject to a complaint for Harassment under the terms of this Policy and may be required to pay for the costs of any

investigation that comes to this conclusion. Any Participant who is liable to pay for such costs shall be automatically deemed to be not in good standing until the costs are paid in full. BC Athletics or the Participant against who the allegations were submitted may act as the Complainant.

Confidentiality

54. The complaints and discipline process is confidential. Information will be provided only to those who have a "need to know" or as required in the course of any investigation or resolution of the matter or as required by law. It is the responsibility of all Participants to cooperate with any investigation and dispute resolution and discipline process and to maintain strict confidentiality of all information related to the complaint and any investigations.

55. The Investigator will make every effort to preserve the confidentiality of the Complainant, Respondent, and any other party to the investigation. However, the identity of the Complainant is often relevant to the Respondent's ability to provide a full answer and response to the allegations against them. The Commissioner's Office recognizes that maintaining anonymity of any party may be difficult for the Investigator during the investigation and anonymity is not guaranteed.

56. It is a serious breach of this Policy to break confidentiality unless disclosure of information relating to the complaint is necessary in order for the proper investigation and resolution of the matter or is required by law. Any such break will be treated in the same manner as Harassment.

Records and Distribution of Decisions

57. Notwithstanding the foregoing provisions regarding confidentiality, decisions rendered under this Policy will be considered a matter of public record unless and to the extent decided otherwise by the Commissioner's Office. Other individuals or organizations, including but not limited to national sport organizations, provincial sport organizations, sport clubs, may be advised of any decisions rendered in accordance with this Policy.

Timelines

58. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy is not reasonably practicable or will not allow a timely resolution of the complaint, the Commissioner's Office may direct that these timelines be revised.

Approved by the BC Athletics Board of Directors May 13, 2024