



FEMMES ET SPORT AU CANADA CANADIAN WOMEN & SPORT

CANADIAN WOMEN & SPORT

DISCIPLINE AND APPEAL POLICY

Definitions

1. The following terms have these meanings in this Policy:
 - a) *"Representatives"* – All categories of membership defined in Canadian Women & Sport's Bylaws, as well as all individuals employed by, or engaged in activities with, Canadian Women & Sport including, but not limited to, volunteers, managers, administrators, committee members, and Directors and Officers of Canadian Women & Sport
 - b) *"Independent Case Manager"* – An individual appointed by Canadian Women & Sport to address complaints or appeals under this Policy. The Independent Case Manager shall not be a member of, or affiliated with, Canadian Women & Sport
 - c) *"Panel"* – shall be appointed at the discretion of the Independent Case Manager and consist of a single Arbitrator or a committee of three independent people, as determined by the Independent Case Manager, who are free from a conflict of interest
 - d) *"Days"* – Days including weekends and holidays
 - e) *"Complainant"* – The party submitting a complaint
 - f) *"Appellant"* – The party submitting an appeal
 - g) *"Respondent"* – The party responding to the complaint or appeal
 - h) *"Affected Party"* - Any individual or entity, as determined by the Independent Case Manager, who may be affected by a decision rendered under this Policy and who may have recourse to an appeal in their own right under this Policy

Purpose

2. Representatives are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Canadian Women & Sport's policies, Bylaws, rules and regulations, and *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

Application of this Policy

3. This Policy applies to all Representatives.
4. This Policy applies to matters that may arise during the course of Canadian Women & Sport's business, activities, and events including, but not limited to, conferences, travel associated with Canadian Women & Sport activities, and any meetings.
5. This Policy also applies to Representatives' conduct outside of Canadian Women & Sport's business, activities, and events when such conduct adversely affects relationships within Canadian Women & Sport (and its work environment), is detrimental to the image and reputation of Canadian Women & Sport, or upon the acceptance of Canadian Women & Sport. Applicability will be determined by the Independent Case Manager.
6. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy.



7. An employee of Canadian Women & Sport who is a Respondent will be subject to appropriate disciplinary action per Canadian Women & Sport's *Human Resources Policy*, as well as the employee's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

Reporting a Complaint

8. Any individual may report an incident or complaint to Canadian Women & Sport or to the Independent Case Manager:

Brian Ward
W&W Dispute Resolution
brianward@globalserve.net
(613) 834-3632

9. At Canadian Women & Sport's discretion, Canadian Women & Sport may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Canadian Women & Sport will identify an individual to represent Canadian Women & Sport.
10. Complaints or incident reports should be made in writing and the person making the report may contact the Independent Case Manager for direction. The Independent Case Manager may accept any report, in writing or not, at their sole discretion.

Receiving a Complaint

11. The Independent Case Manager may determine that the alleged incident may constitute Workplace Harassment or Workplace Violence. In this case, the Complainant will be directed to file the complaint under the terms of the *Workplace Harassment and Workplace Violence Policy*.
12. The Independent Case Manager may determine that the alleged incident requires investigation. In this case, the Independent Case Manager may 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.
13. 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) Complainant interviewed;
 - b) Witnesses interviewed;
 - c) Statement of facts (complainant's perspective) prepared by Investigator and acknowledged by Complainant;
 - d) Statement delivered to Respondent;
 - e) Respondent interviewed;
 - f) Witnesses interviewed; and
 - g) Statement of facts (respondent's perspective) prepared by Investigator and acknowledged by Respondent.
14. Following the investigation, the investigator will provide an investigator's report to the Independent Case Manager who will disclose it to Canadian Women & Sport and to others as necessary, per his or her discretion, to assist in the decision-making on the reported complaint. The Investigator's Report should 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, Workplace Harassment, Workplace Violence, Sexual Harassment, or Abuse, or a breach of a governing document including, but not limited to, the *Code of Conduct and Ethics*.

15. Upon receipt of a complaint, the Independent Case Manager has a responsibility to:
- Determine whether the complaint is frivolous, and/or not within the jurisdiction of this Policy, and therefore dismissed (this decision is not appealable);
 - Propose to resolve the complaint by alternate dispute resolution;
 - Determine if an investigation is required; and/or
 - Choose which process should be followed, and may use the following examples as a general guideline:

Process #1 - the Complaint alleges the following incidents:

- Disrespectful, abusive, racist, or sexist comments or behaviour
- Disrespectful conduct
- Minor incidents of violence (e.g., tripping, pushing, elbowing)
- Conduct contrary to the values of Canadian Women & Sport
- Non-compliance with Canadian Women & Sport's policies, procedures, rules, or regulations
- Minor violations of the *Code of Conduct and Ethics*

Process #2 - the Complaint alleges the following incidents:

- Repeated minor incidents
- Any incident of hazing
- Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- Major incidents of violence (e.g., fighting, attacking, sucker punching)
- Pranks, jokes, or other activities that endanger the safety of others
- Conduct that intentionally damages Canadian Women & Sport's image, credibility, or reputation
- Consistent disregard for Canadian Women & Sport's bylaws, policies, rules, and regulations
- Major or repeated violations of the *Code of Conduct and Ethics*
- Intentionally damaging Canadian Women & Sport property, committing financial misconduct (i.e., fraud), or improperly handling Canadian Women & Sport monies
- Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
- A conviction for any *Criminal Code* offense
- Any possession or use of banned performance enhancing drugs or methods

Process #1: Handled by Independent Case Manager

Sanctions

16. Following the determination that the complaint or incident should be handled under Process #1, the Independent Case Manager will review the submissions related to the complaint or incident, including the Investigator's Report (if applicable), and determine one or more of the following sanctions:
- Verbal or written reprimand
 - Verbal or written apology
 - Service or other contribution to Canadian Women & Sport
 - Removal of certain privileges
 - Suspension from certain events and/or activities
 - Suspension from all Canadian Women & Sport activities for a designated period of time



g) Any other sanction considered appropriate for the offense

17. The Independent Case Manager will inform the Respondent of the sanction, which will take effect immediately.

18. Records of all sanctions will be maintained by Canadian Women & Sport.

Request for Reconsideration

19. If there is no sanction, the Complainant may contest the non-sanction by informing Independent Case Manager, within five (5) days of receiving the decision, that the Complainant is not satisfied with the decision. The initial complaint or incident will then be handled under Process #2 of this Policy.

20. If there is a sanction, the sanction may not be appealed until the completion of a request for reconsideration. However, the Respondent may contest the sanction by submitting a Request for Reconsideration within five (5) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:

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

21. Upon receiving a Request for Reconsideration, the Independent Case Manager may decide to accept or reject the Respondent's suggestion for an appropriate sanction.

22. Should the Independent Case Manager accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.

23. Should the Independent Case Manager not accept the Respondent's suggestion for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Policy.

Process #2: Handled by Panel

Case Manager

24. Following the determination that the complaint or incident should be handled under Process #2, the Independent Case Manager will oversee management and administration of the complaint or incident.

25. The Independent Case Manager has a responsibility to:

- a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
- b) Propose to resolve the complaint using alternate dispute resolution
- c) Work with the investigator, if appointed, to receive the investigator's report
- d) Appoint the Panel, if necessary
- e) Coordinate all administrative aspects and set timelines
- f) Provide administrative assistance and logistical support to the Panel as required
- g) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

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



27. After notifying the Parties that the complaint has been accepted, the Independent Case Manager may propose using alternate dispute resolution with the objective of resolving the dispute. If all parties to a dispute agree to alternate dispute resolution, a mediator or facilitator, acceptable to all parties, shall be appointed to mediate or facilitate the dispute. The mediator or facilitator shall decide the format under which the dispute shall be mediated or facilitated and shall specify a deadline before which the parties must reach a negotiated decision. Any negotiated decision will be binding on the parties. Negotiated decisions may not be appealed.
28. If the dispute is not resolved via alternate dispute resolution, the Independent Case Manager will appoint a Panel to hear the complaint. In extraordinary circumstances, and at the discretion of the Independent Case Manager, a Panel may be extended to a committee of three independent people appointed to hear the complaint. In this event, the Independent Case Manager will appoint one of the Panel's members to serve as the Chair.
29. The Independent Case Manager, in cooperation with the 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 Independent Case Manager and the 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 Panel consider will be provided to all Parties, through the Independent Case Manager, in advance of the hearing
 - c) The Parties may engage a representative, advisor, or legal counsel at their own expense
 - d) The Panel may request that any other individual participate and give evidence at the hearing
 - e) The 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 Panel
30. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Panel will determine the appropriate sanction. The Panel may still hold a hearing for the purpose of determining an appropriate sanction.
31. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
32. 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.
33. In fulfilling its duties, the Panel may obtain independent advice.

Decision

34. After hearing and/or reviewing the matter, the 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 Panel's written decision, with reasons, will be distributed to all Parties, the Independent Case Manager, and Canadian Women & Sport. In extraordinary circumstances, the Panel



may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Panel.

Sanctions

35. The 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 Canadian Women & Sport
- d) Removal of certain privileges
- e) Suspension from certain events and/or activities
- f) Suspension from all Canadian Women & Sport activities for a designated period of time
- g) Payment of the cost of repairs for property damage
- h) Suspension of funding from Canadian Women & Sport or from other sources
- i) Expulsion from Canadian Women & Sport
- j) Any other sanction considered appropriate for the offense

36. Unless the Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Panel will result in an automatic suspension until such time as compliance occurs.

37. Records of all decisions will be maintained by Canadian Women & Sport.

Appeals

38. A decision made by a Panel on a complaint may be appealed. Decisions made by Canadian Women & Sport related to conflict of interest and membership may also be appealed. A party that wishes to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit, in writing to Canadian Women & Sport, the following:

- a) Notice of the intention to appeal
- b) Contact information and status of the Appellant
- c) Name of the respondent and any affected parties, when known to the Appellant
- d) Date the appellant was advised of the decision being appealed
- e) A copy of the decision being appealed, or description of decision if written document is not available
- f) Grounds for the appeal
- g) Detailed reasons for the appeal
- h) All evidence that supports these grounds
- i) Requested remedy or remedies
- j) An administration fee of one hundred dollars (\$100), which will be refunded if the appeal is successful

39. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:

- a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
- b) Failed to follow its own procedures (as set out in the Respondent's governing documents)
- c) Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views)



40. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.
41. Canadian Women & Sport will appoint an Independent Case Manager who has the following responsibilities:
 - a) Determine if the appeal falls under the scope of this Policy
 - b) Determine if the appeal was submitted in a timely manner
 - c) Decide whether there are sufficient grounds for the appeal
42. If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed and administration fee will not be refunded.
43. If the Independent Case Manager is satisfied there are sufficient grounds for an appeal, the Independent Case Manager will appoint a Panel which shall consist of a single Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Independent Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Independent Case Manager will appoint one of the Panel's members to serve as the Chair. The Panel will be free from bias and conflict of interest.
44. The appeal hearing will have a format as determined by the Panel and the Independent Case Manager and may be similar in format to hearings on complaints. The Independent Case Manager will engage with Canadian Women & Sport to determine if there are any Affected Parties that should participate in the appeal hearing.
45. The Panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
 - a) Reject the appeal and confirm the decision being appealed
 - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
 - c) Uphold the appeal and vary the decision
46. The decision of the Panel will be binding on the Parties and on all Canadian Women & Sport's Representatives; subject to the right of any Party to seek a review of the Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).

Suspension Pending a Hearing

47. The Independent Case Manager may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of a criminal process, the hearing, or a decision of the Panel.

Criminal Convictions

48. A Representative's conviction for a *Criminal Code* offense, as determined by Canadian Women & Sport, will be deemed an infraction under this Policy and will result in expulsion from Canadian Women & Sport. *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

49. The discipline process and appeals process are confidential and involve only Canadian Women & Sport, the Parties, the Independent Case Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or appeal to any person not involved in the proceedings.

Timelines

50. 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 Panel may direct that these timelines be revised.

Records and Distribution of Decisions

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

Review and Amendments

52. Review and amendments shall take place bi-annually, in consultation with the Board of Directors and subject-matter experts. The next review will take place in May 2022.