



CANADA BASKETBALL DISCIPLINE AND COMPLAINTS POLICY

Definitions

1. The following terms have these meanings in this Policy:
 - a) “*Complainant*” – The Party alleging an infraction
 - b) “*Days*” – Calendar days including weekends and holidays
 - c) “*Designated Independent Third Party (ITP) Officer*” – An individual appointed by Canada Basketball to serve as an independent third party to receive complaints

 - d) “*Maltreatment*” – as defined in the *Code of Conduct and Ethics*
 - e) “*Minor*” – as defined in the *Code of Conduct and Ethics*
 - f) “*Participants*” – All categories of individual membership defined in Canada Basketball’s Bylaws, as well as all individuals employed by, or engaged in activities with, Canada Basketball including, but not limited to, athletes, coaches, convenors, officials, volunteers, committee members, Directors and Officers of Canada Basketball, spectators, and parents/guardians of athletes
 - g) “*Power Imbalance*” – as defined in the *Code of Conduct and Ethics*
 - h) “*Respondent*” – The alleged infracting party
 - i) “*Case Manager*” – An individual appointed by Canada Basketball to administer complaints under this *Discipline and Complaints Policy*. The Case Manager does not need to be a member of, or affiliated with, Canada Basketball.

Purpose

2. Canada Basketball is committed to providing an environment in which all CB Members and participants are treated with respect and characterized by the values of fairness, integrity and open communication. Membership in Canada Basketball, as well as participation in its activities brings with it many benefits and privileges. At the same time, individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Canada Basketball’s policies, Bylaws, rules and regulations, and the *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

Principles

3. 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

4. This Policy applies to all Participants.

5. This Policy applies to matters that may arise during Canada Basketball's business, activities, programs and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Canada Basketball's activities, and any meetings.
6. This Policy also applies to Participants' conduct outside of Canada Basketball's business, activities, and events when such conduct adversely affects relationships within Canada Basketball (and its work and sport environment), is detrimental to the image and reputation of Canada Basketball, or upon the acceptance of Canada Basketball. Applicability will be determined by Canada Basketball at its sole discretion.
7. 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).
8. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline 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 or event, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.
9. An employee of Canada Basketball who is a Respondent will be subject to appropriate disciplinary action per Canada Basketball's *Whistleblower Policy* or *Workplace Harassment 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.

Adult Representative

10. Complaints may be brought for or against an 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 Discipline Panel or Designated ITP Officer, 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:
 - a) Contact the Canadian Sports Helpline for advice, guidance and resources on how to proceed/intervene appropriately in the circumstances. Phone: 1-888-837-7678; Email: info@abuse-free-sport.ca; Website: <http://abuse-free-sport.ca/en/>
 - b) Report an incident directly to the Designated Independent Third Party Officer: Ilan Yampolsky – canadabasketball@itpsport.ca or by phone at 1-833-913-1304.

14. At Canada Basketball's discretion, Canada Basketball may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Canada Basketball will identify an individual to represent Canada Basketball.

Receipt of a Complaint

15. Upon receipt of a complaint directly by the Designated ITP Officer or if received from Canada Basketball (at which point Canada Basketball must forward such complaint to the Designated ITP Officer for further handling), the Designated ITP Officer will:
 - a. Receive and acknowledge receipt of the complaint to the Complainant.
 - b. Determine if the complaint is within the jurisdiction of this policy.
 - c. Determine an investigation is required; and/or
 - d. Proceed to the Disciplinary Process as outlined below.
16. The Designated ITP Officer has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner.
17. The Designated ITP may propose using the *Dispute Resolution Policy* with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the parties refuse to use the *Dispute Resolution Policy*, the Designated ITP Officer will proceed to the Disciplinary Process.
18. If the Designated ITP Officer determines the complaint is frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately. This decision may not be appealed.

Investigation

19. The Designated ITP Officer may determine that the alleged incident may require an investigation. In such circumstances the Designated ITP Officer may appoint an independent and qualified third party to investigate the complaint.

Disciplinary Process

20. If Canada Basketball's Designated ITP Officer has determined that the complaint is admissible and is within the jurisdiction of this Policy, the Designated ITP Officer will notify Canada Basketball, at which point Canada Basketball will appoint i) a Case Manager, and ii) the Discipline Panel.
21. The appointed Case Manager will oversee the management and administration of the disciplinary process and has the responsibility to:
 - a. Gather all the details of the complaints and provide them to the Discipline Panel
 - b. Coordinate all administrative aspects and set timelines
 - c. Provide administrative assistance and logistical support to the Discipline Panel as required
 - d. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.
22. The appointed Discipline Panel will consist of a minimum of three (3) members, with one of the Discipline Panel's members to serve as the Arbitrator/Panel Chair.
23. Having regard to the nature of the discipline matter and potential consequences of any resulting sanctions, the Discipline Panel, will decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an:
 - a. oral in-person hearing

- b. an oral hearing by telephone or other communication medium
- c. a hearing based on a review of documentary evidence submitted in advance of the hearing, or
- d. a combination of these methods.

Documentary Review

24. Where the Panel has determined that the hearing will be held by way of documentary submissions, the Panel will govern the hearing fairly and as it sees fit, provided that:
- a. All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument;
 - b. The applicable principles and timelines set out by the Panel are respected.

Oral Hearing

25. Where the Panel has determined that the hearing will be held by way of oral hearing, the hearing will be governed by the procedures that the Discipline Panel deem appropriate in the circumstances, provided that:
- a. The Parties will be given appropriate notice by the Case Manager 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 Designated ITP Officer, in advance of the hearing
 - c. The Discipline Panel will refrain from communicating with the parties except in the presence of, or copy to, the other parties
 - d. The Parties may engage a representative, advisor, or legal counsel at their own expense
 - e. The Discipline Panel may request that any other individual participate and give evidence at the hearing
 - f. 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
 - g. The decision will be by a majority vote of the Discipline Panel, where the Chairperson carries a vote
 - h. The hearing will be held in private
 - i. Once appointed, the Discipline Panel have the authority to abridge or extend timelines associated with any aspect of the hearing.
26. 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.
27. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
28. 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.
29. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

30. After hearing and/or reviewing 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 by the Case Manager to all Parties, the Designated ITP Officer, and Canada Basketball. 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 by the Case Manager 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

31. Prior to determining sanctions, the Discipline Panel 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 Canada Basketball;
- 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

32. 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

33. The 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 Canada Basketball. A suspended Participant is eligible

- to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Participant satisfying specific conditions noted at the time of suspension
- e) **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
 - f) **Permanent Ineligibility** - Permanent ineligibility to participate, in any sport, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of the Organization, a Member, 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

34. 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.

35. The Discipline Panel 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. Records of all decisions and sanctions, if any, will be maintained by the organization maintaining jurisdiction.

Suspension Pending a Hearing

37. Canada Basketball may determine that an alleged incident is of such seriousness as to warrant suspension of an Participant pending completion of an investigation, criminal process, the hearing, or a decision of the Discipline Panel.

Criminal Convictions

38. An Participant's conviction for a *Criminal Code* offense, shall carry a presumptive sanction of permanent ineligibility from participating with Canada Basketball . *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
- f) Any offence involving illegal trafficking of legal substances or drugs

Confidentiality

39. The discipline and complaints process is confidential and involves only the Parties, the Case Manager, the Designated ITP Officer, 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.
40. Members of the Panel will have had no involvement with the alleged infraction and will be free from any other bias or conflict of interest.

Timelines

41. 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 Discipline Panel may direct that these timelines be revised.

Records and Distribution of Decisions

42. Other individuals or organizations, including but not limited to, national sport organizations, provincial sport organizations, sport clubs, federal or provincial governments, applicable registries, etc., may be advised of any decisions rendered in accordance with this Policy.
43. Canada Basketball 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 Universal Code of Conduct to Prevent and Address Maltreatment in Sport.

Review and Approval

44. This Policy was reviewed and approved by the Canada Basketball Board of Directors on the 15th day of February 2021.