

**ABORIGINAL SPORT CIRCLE (“ASC”)
OPERATIONAL POLICES**

Type: Governance
Name: DISCIPLINE AND COMPLAINTS POLICY

Authority: Board of Directors
Date Approved: July 15, 2019
Date Revised: June 18, 2019

See Appendix A for the Discipline and Complaints Policy Flowchart

Definitions

1. The following terms have these meanings in this Policy:
 - a) *“Independent Safe Sport Officer”* – An individual appointed by the ASC to administer complaints under this *Discipline and Complaints Policy*. The Independent Safe Sport Officer does not need to be a member of, or affiliated with, the ASC. The Independent Safe Sport Officer’s roles and responsibilities are further outlined in the *Independent Safe Sport Officer’s Job Description*.
 - b) *“Complainant”* – The Party making a complaint
 - c) *“Days”* – Days including weekends and holidays
 - d) *“Discipline Contact”* – An individual or individuals appointed by the ASC to be the first point-of-contact for all discipline and complaint matters reported to the ASC
 - e) *“Individuals”* – All categories of membership defined in the ASC’s Bylaws, as well as all individuals employed by, or engaged in activities with, the ASC including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, Directors and Officers of the ASC, spectators, and parents/guardians of athletes
 - f) *“Respondent”* – The Party responding to the complaint

Purpose

2. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the ASC’s policies, Bylaws, rules and regulations, and *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

Discipline Contact

3. The Discipline Contact will be the Independent Safe Sport Officer
4. The Discipline Contact appointed to handle a complaint or incident must be unbiased and not in a conflict of interest situation.

Application of this Policy

5. This Policy applies to all Individuals.
6. This Policy applies to matters that may arise during the course of the ASC’s business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with the ASC’s activities, and any meetings.
7. This Policy also applies to Individuals’ conduct outside of the ASC’s business, activities, and events when such conduct adversely affects relationships within the ASC (and its work and sport environment), is detrimental to the image and reputation of the ASC, or upon the acceptance of the ASC. Applicability will be determined by the ASC at its sole discretion.
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, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.

9. An employee of the ASC who is a Respondent will be subject to appropriate disciplinary action per the ASC's policies for human resources 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.

Alignment

10. The ASC recognizes that Individuals may also be registered with Provincial/Territorial Organizations. The ASC requires Provincial/Territorial Organizations to submit discipline decisions involving Individuals to the ASC and the ASC, at its discretion, may take further action.
11. If the ASC decides to take further action upon becoming aware of an Individual who has been disciplined by Provincial/Territorial Organization, the Individual will be the Respondent to a complaint initiated under the terms of this Policy. The ASC may act as the Complainant if the original Complainant is unwilling or unavailable to participate in this process.
12. The Independent Safe Sport Officer, as applicable, will review and consider the decision by the Provincial/Territorial Organization when deciding on the complaint per the terms of this Policy.

Adult Representative

13. Complaints may be brought for or against an Individual who is a minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
14. Communication from the Independent Safe Sport Officer, as applicable, must be directed to the minor's representative.
15. A minor is not required to attend an oral hearing, if held

Process

16. Any Individual may report an incident or complaint to the Independent Safe Sport Officer, within fourteen (14) days of the alleged incident, although this timeline can be waived or extended at the Independent Safe Sport Officer's discretion.
17. The Independent Safe Sport Officer may determine that the alleged incident may contain an element of discrimination, harassment, workplace harassment, workplace violence, sexual harassment, or abuse. In this case, the Independent Safe Sport Officer will work in accordance with the ASC's *Investigations Policy - Discrimination, Harassment, and Abuse* and the ASC, and will have additional responsibilities as described in that Policy.
18. At the ASC's discretion, the ASC may act as the Complainant and initiate the complaint process under the terms of this Policy.
19. Upon receipt of a complaint, the Independent Safe Sport Officer has discretion to choose which process should be followed, and may use the following examples as a general guideline:
 - a) Process #1 - the Complaint alleges the following incidents:
 - i. Disrespectful, abusive, racist, or sexist comments or behaviour
 - ii. Disrespectful conduct

- iii. Minor incidents of violence (e.g., tripping, pushing, elbowing)
 - iv. Conduct contrary to the values of the ASC
 - v. Non-compliance with the ASC's policies, procedures, rules, or regulations
 - vi. Minor violations of the ASC's *Code of Conduct and Ethics*
- b) Process #2 - the Complaint alleges the following incidents:
- i. Repeated minor incidents
 - ii. Any incident of hazing
 - iii. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
 - iv. Major incidents of violence (e.g., fighting, attacking, sucker punching)
 - v. Pranks, jokes, or other activities that endanger the safety of others
 - vi. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
 - vii. Conduct that intentionally damages the ASC's image, credibility, or reputation
 - viii. Consistent disregard for the ASC's bylaws, policies, rules, and regulations
 - ix. Major or repeated violations of the ASC's *Code of Conduct and Ethics*
 - x. Intentionally damaging the ASC's property or improperly handling the ASC's monies
 - xi. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
 - xii. A conviction for any *Criminal Code* offense
 - xiii. Any possession or use of banned performance enhancing drugs or methods

Process #1:

Sanctions

20. Following the determination that the complaint or incident should be handled under Process #1, the Independent Safe Sport Officer will review the submissions related to the complaint or incident and determine one or more of the following sanctions:
- a) Verbal or written reprimand
 - b) Verbal or written apology
 - c) Service or other contribution to the ASC
 - d) Removal of certain privileges
 - e) Suspension from certain teams, events, and/or activities
 - f) Suspension from all the ASC's activities for a designated period
 - g) Any other sanction considered appropriate for the offense
21. The Independent Safe Sport Officer will inform the Respondent of the sanction, which will take effect immediately.
22. Records of all sanctions will be maintained by the ASC.

Request for Reconsideration

23. 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 four (4) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:
- a) Why the sanction is inappropriate;
 - b) All evidence to support the Respondent's position; and
 - c) What penalty or sanction (if any) would be appropriate
24. Upon receiving a Request for Reconsideration, the Independent Safe Sport Officer may decide to accept or reject the Respondent's suggestion for an appropriate sanction.

25. Should the Independent Safe Sport Officer accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
26. Should the Independent Safe Sport Officer 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:

27. Following the determination that the complaint or incident should be handled under Process #2, the ASC will appoint an Independent Safe Sport Officer to oversee management and administration of the complaint or incident. The Independent Safe Sport Officer should not be in a conflict of interest and should have expertise in dispute resolution matters. Such appointment is not appealable. The Independent Safe Sport Officer's roles and responsibilities are further outlined in the Independent Safe Sport Officer *Job Description*.
28. The Case Manager has a responsibility to:
 - a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
 - b) Propose the use of the ASC's *Dispute Resolution Policy*
 - c) Appoint the Discipline Panel, if necessary
 - d) Coordinate all administrative aspects and set timelines
 - e) Provide administrative assistance and logistical support to the Discipline Panel as required
 - f) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

Procedures

29. If the Independent Safe Sport Officer determines the complaint is:
 - a) Frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately
 - b) Not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the complaint is accepted and of the applicable next steps
30. The Independent Safe Sport Officer's decision to accept or dismiss the complaint may not be appealed.
31. The Independent Safe Sport Officer will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
32. After notifying the Parties that the complaint has been accepted, the Independent Safe Sport Officer may propose using the ASC's *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 Independent Safe Sport Officer will appoint a Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Independent Safe Sport Officer, a Discipline Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Discipline Panel's members to serve as the Chair.
33. The Independent Safe Sport Officer, in cooperation with the Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Independent Safe Sport Officer and the Discipline Panel deem appropriate in the circumstances, provided that:
 - a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium

- b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Independent Safe Sport Officer, in advance of the hearing
 - c) The Parties may engage a representative, advisor, or legal counsel at their own expense
 - d) The Discipline Panel may request that any other individual participate and give evidence at the hearing
 - e) The Discipline Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
 - f) The decision will be by a majority vote of the Discipline Panel
34. 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.
35. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
36. 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.
37. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

38. 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 to all Parties, the Independent Safe Sport Officer, and the ASC. In extraordinary circumstances, the Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

Sanctions

39. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:
- a) Verbal or written reprimand
 - b) Verbal or written apology
 - c) Service or other contribution to the ASC
 - d) Removal of certain privileges
 - e) Suspension from certain teams, events, and/or activities
 - f) Suspension from all the ASC's activities for a designated period
 - g) Payment of the cost of repairs for property damage
 - h) Suspension of funding from the ASC or from other sources
 - i) Expulsion from the ASC
 - j) Any other sanction considered appropriate for the offense
40. 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.
41. Records of all decisions will be maintained by the ASC.

Appeals

42. The decision of the Discipline Panel may be appealed in accordance with the ASC's *Appeal Policy*.

Suspension Pending a Hearing

43. The ASC 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 Discipline Panel.

Criminal Convictions

44. An Individual's conviction for a *Criminal Code* offense, as determined by the ASC, will be deemed an infraction under this Policy and will result in expulsion from the ASC. *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

45. The discipline and complaints process is confidential and involves only the Parties, the Independent Safe Sport 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.

Timelines

46. 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

47. 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.

Appendix A

Discipline and Complaints Policy Flowchart

