

## COMPLAINT AND DISCIPLINE POLICY

### DEFINITIONS

- Alternative Dispute Resolution: refers to resolving disputes in ways other than going to a formal discipline process.
- Appeal: A submission to reverse or amend a previous decision.
- Case Manager: An individual appointed by the Independent Third Party who administers the discipline process. The Case Manager is neutral in the discipline process.
- Code of Conduct: Paddle Canada's Code of Conduct
- Complainant: Individual reporting a formal complaint. The Complainant must be an Individual as defined by Paddle Canada.
- Formal Complaint: A written complaint, submitted to the Independent Third Party for the purposes of initiating a disciplinary process.
- Individuals: All categories of membership defined in Paddle Canada's Bylaws, as well as all individuals engaged in activities with the Association including, but not limited to Event or Course Participants, instructors, employees, volunteers, committee members, and directors.
- Independent Third Party (ITP): An individual or organization that is a neutral body with the necessary expertise to oversee the discipline policy.
- Internal Discipline Chair: The Executive Director or designate who administers the Minor Infraction process. The Internal Discipline Chair must not be in a conflict of interest.
- Designate: An individual appointed to administer the Minor Infraction process when the Executive Director is in a conflict of interest scenario or otherwise unable to manage the complaint.
- External Discipline Panel: An individual or panel of three (3) appointed to administer the panel requirements in accordance with the Major Infraction discipline process.
- Minors: An individual under the Age of Majority. The Age of Majority is determined by the province.
- Respondent: The Individual or organization responding to a formal complaint.
- UCCMS: Universal Code of Conduct to Prevent and Address Maltreatment in Sport, as amended from time to time.

## **PURPOSE**

1. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with PADDLE CANADA's policies, rules, regulations, and the Code of Conduct (CoC). Irresponsible behaviour by Individuals can result in severe damage to the integrity of Paddle Canada and its stakeholders. Conduct that breaches any governing documents may be subject to sanctions pursuant to this policy. The purpose of this policy is to establish due process to handle any complaint fairly and independently.

## **SCOPE OF APPLICATION**

2. This Policy applies to Individuals' conduct during Paddle Canada's sanctioned events, activities, or business, including, but not limited to, conferences, travel associated with Paddle Canada activities, the Paddle Canada office environment, and any Paddle Canada meetings. In addition, this Policy applies to any alleged breach by an Individual of Paddle Canada policies, by-laws, rules, and regulations (as amended from time to time) that designate this Policy as applicable to address such alleged breaches. Individuals that may be a complainant or respondent are Course, Clinic, or Event Participants, instructors, volunteers, administrators, directors, and employees, according to the policies of the Paddle Canada Code of Conduct.
3. This policy applies to the conduct of Individuals during all Activities, including while they are performing services on behalf of Paddle Canada at off-site assignments.
4. This policy applies to all communications and interactions between Individuals including communication by telephone or electronically.

## **REPORTING A COMPLAINT**

5. All complaints must be reported directly to the Independent Third Party (ITP) through its reporting mechanism. In the case where the complaint is reported to Paddle Canada, Paddle Canada will immediately transfer carriage to the ITP and will have no involvement in the process of resolution unless directed by the ITP.
6. Individuals are expected to report all complaints as soon as possible and no later than fourteen (14) days after experiencing or witnessing the interaction, incident, event, or situation of concern. ITP will, at their own discretion, determine if any delay in reporting should affect how or whether the matter will be accepted and/or resolved, based on the review of the explanation provided to them. This decision is not appealable.

## **MINORS**

7. Complaints may be brought by a Minor(s). Minors must have a parent/guardian or other adult serve as their representative during this process.
8. Communication from the Independent Third Party, Internal Discipline Chair or External Discipline Panel (as applicable) must be directed to the Minor's representative.
9. If the Minor's representative is not their parent/guardian, the representative must have written permission to act in such a capacity from the Minor's parent/guardian.
10. A Minor is not required to attend or participate in an oral hearing, if held, or participate in an investigation if conducted. In such circumstances, no adverse inference can be drawn against the Minor.

## **ALTERNATIVE DISPUTE RESOLUTION (ADR)**

11. Paddle Canada supports the principles of ADR and is committed to the techniques of negotiation, facilitation, and mediation as effective ways to resolve disputes. ADR also avoids the uncertainty, costs, and other negative effects associated with lengthy investigations, hearings, and appeals.
12. All Individuals are encouraged to communicate openly and collaborate and use problem-solving and negotiation techniques to resolve their differences.
13. Paddle Canada's position is that negotiated settlements are most often preferable to arbitrated outcomes.
14. Should a negotiated settlement be reached, the settlement shall be reported by the Case Manager to all parties involved, including Paddle Canada. Following the settlement, any actions and/or sanctions shall be enacted in accordance with the timelines specified by the negotiated decision.
15. Should a negotiated settlement be reached that requires any action to be taken by Paddle Canada before execution, the settlement shall be reported to Paddle Canada for approval. Paddle Canada may approve, reject, or propose amendments to a negotiated settlement for any requirements that involve an action by Paddle Canada.
16. Any decision by Paddle Canada to approve, reject, or propose amendments to a negotiated settlement may not be appealed.
17. Any actions that are to take place because of the settlement shall be completed in accordance with the timelines specified by the negotiated settlement, pending approval.
18. Failure to comply with a signed negotiated settlement will result in the suspension of the individual from participating in Activities. The lifting of the suspension will be reviewed by Paddle Canada upon the completion of all conditions identified in the signed negotiated settlement.
19. Any negotiated settlement will be final and binding on the Parties. Negotiated settlements may not be appealed.

20. A non-disclosure agreement (NDA) or any other confidentiality provision entered as part of a negotiated settlement may not prevent the publication by Paddle Canada or other applicable body for publication of sanctions on registries such as the Abuse-Free Sport Sanctions Registry or National Sport Organization (NSO) database.
21. NDAs may not be entered into if a complaint involves allegations of sexual Maltreatment, grooming, and boundary transgressions unless such an agreement:
  - a. is the expressed wish and preference of the Complainant(s);
  - b. includes an opportunity for the Complainant(s) to decide to waive their own confidentiality in the future and the process for doing so;
  - c. aligns with the principles of the UCCMS;
  - d. is of a set and limited duration; and
  - e. does not adversely affect:
    - i. the health or safety of a third party, or
    - ii. the public interest.
  - f. Any NDA in a Complaint involving allegations of sexual Maltreatment, grooming, and boundary transgressions must be reviewed and approved by Paddle Canada or an appointed adjudicator. The Paddle Canada or appointed adjudicator may, at their sole discretion, approve, reject, or propose amendments to an NDA. Any decision by Paddle Canada to approve, reject, or propose amendments to an NDA may not be appealed.
22. Should a negotiated settlement not be reached, the matter will proceed to the discipline process.
23. At Paddle Canada's discretion, if a complaint is not accepted, the Case Manager may direct the Parties to informal conflict resolution resources outside of the complaint process. Engagement in this informal conflict resolution process is voluntary.

#### **ITP CASE MANAGER RESPONSIBILITIES**

24. Upon receipt of a complaint, the Independent Third Party has a responsibility to:
  - a. Determine whether the complaint falls within the jurisdiction of this Policy and whether it has been submitted in accordance with the deadlines indicated herein;
  - b. Determine whether the complaint is frivolous, vexatious, or if it has been made in bad faith;<sup>1</sup>

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<sup>1</sup> If it is determined that an Individual made a report or influenced others to make a report that is fabricated, malicious, frivolous, or vexatious, they will be subject to disciplinary action up to and including expulsion. Repeated unfounded reports can lead to more severe disciplinary action, up to and including expulsion.

An allegation is false if the events reported did not occur, and the person making the report knows the events did not occur. A false allegation is different from an unsubstantiated allegation; an unsubstantiated allegation means there is insufficient supporting evidence to determine whether an allegation is true or false. An unsubstantiated allegation alone that is made in good faith is not grounds for violation, nor will it necessarily be considered fabricated, malicious, frivolous or vexatious.

- c. Determine if the alleged incident should be investigated pursuant to Appendix A – Investigation Procedure; and
  - d. Choose which process (Minor Infraction or Major Infraction as outlined below) should be followed to hear and adjudicate the matter, and
  - e. Determine whether to combine complaints into a single disciplinary process if there are multiple individuals submitting complaints against the same Respondent for allegations of a similar nature or occurrence in time.
25. If the Case Manager dismisses a complaint, the Case Manager’s reasoning for this dismissal will be provided to the Complainant, and the complaint will be dismissed immediately.
26. The decision to accept or deny a complaint may not be appealed.
27. Anonymous complaints may be accepted at the sole discretion of the Case Manager; however, Paddle Canada strongly discourages anonymous complaints recognizing that non-criminal offences are generally impossible to address without the involvement of the Complainant. Anonymity may not be guaranteed throughout the complaint management process.

#### **MINOR INFRACTION CRITERIA**

28. The Complaint Alleges one or more of the following:
- a. Disrespectful conduct or comments
  - b. Minor acts of physical violence, unless the physical violence is between a Person in Authority and a Vulnerable Participant, in which case the matter will be addressed under Major Infraction Process
  - c. Conduct contrary to the values of Paddle Canada.
  - d. Non-compliance with the policies, procedures, rules, or regulations of Paddle Canada.
  - e. Minor violations of the policies of Paddle Canada including but not limited to social media policy.

#### **MAJOR INFRACTION CRITERIA**

29. The Complaint Alleges one or more of the following:
- a. Repeated incidents described in Minor Infraction Requirements
  - b. Hazing
  - c. Discriminatory or Harassing behaviour
  - d. Incidents that constitute Prohibited Behaviour under the Code of Conduct or the UCCMS
  - e. Major incidents of violence (e.g., fighting, attacking)
  - f. Pranks, jokes, or other activities that endanger the safety of others
  - g. Conduct that intentionally damages the image, credibility, or reputation of Paddle Canada or its directors.

- h. Major or repeated violations of the Code or any other policies, rules or regulations that designate this Discipline and Complaints Policy as applicable to address such alleged breaches
- i. Intentionally damaging the property of Paddle Canada, one of its affiliated Regional Member Associations, or improperly handling any of the aforementioned Paddle Canada's monies
- j. Inappropriate use of alcohol, cannabis or providing alcohol or cannabis to Minors, or use or possession of illicit drugs and narcotics
- k. A conviction for any *Criminal Code* offense.

### **PROVISIONAL MEASURES**

- 30. If it is considered appropriate or necessary on the basis of the circumstances, the imposition of an immediate Provisional Suspension or interim measures may be imposed against any Individual by Paddle Canada, after which further discipline or sanctions may be applied according to this policy.<sup>2</sup>
- 31. Paddle Canada may determine that an alleged incident is of such severity as to warrant the imposition of a Provisional Suspension of a Respondent pending completion of an investigation, criminal process, or the discipline process.
- 32. Any Respondent against whom a Provisional Suspension or interim measure is imposed by the Paddle Canada Discipline and Complaint policy makes a preliminary request to the Case Manager or Discipline Panel to have the Provisional Suspension or interim measure lifted. Provisional Suspensions or interim measures shall only be lifted or revised in circumstances where the Respondent establishes that it would be manifestly unfair to maintain the Provisional Suspension or interim measures against them.
- 33. Any decision not to lift a Provisional Suspension or interim measure shall not be subject to appeal.

### **MINOR INFRACTION - COMPLAINT RESOLUTION PROCESS:**

- 34. The minor infraction process is centered on the principles of Alternative Dispute Resolution and wherever possible aims to facilitate an agreed-upon outcome between the parties.
- 35. This process is typically handled by the Paddle Canada Executive Director (ED), in the role of Internal Discipline Chair. Should the Paddle Canada ED be in a conflict-of-interest position or deem it appropriate to refer the matter, the Paddle

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<sup>2</sup>The Case Manager, upon the receipt of a complaint, may make non-binding recommendations to Paddle Canada regarding an immediate Provisional Suspension or interim measures for a Respondent who belongs to Paddle Canada if no such restrictions have been imposed by Paddle Canada. Any such recommendations are not subject to appeal.

Canada ED may refer the matter to be addressed by an individual with the necessary expertise to facilitate the minor infraction process.<sup>3</sup>

36. Following the determination that the complaint or incident should be handled under the Complaint Resolution Process, the ITP Case Manager will forward the complaint to the Internal Discipline Chair who may:
  - a. Propose alternative dispute resolution techniques or resolution in accordance with the Dispute Resolution policy if appropriate; and/or
  - b. Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident. Both Parties shall also have the right to submit to the Internal Discipline Chair, any relevant evidence, including, but not limited to witness statements, documentary evidence, or evidence from other media (i.e., photos, screenshots, videos, or other recordings).
  - c. Each Party shall have the right to receive the other Party's submissions and evidence, including the Complainant's complaint. In the case of oral submissions, each Party shall be present when such submissions are made (unless waived by a Party); and/or following receipt of the Parties' submissions, the ED or designate may convene the Parties to a meeting, either in person or by way of video or teleconference to ask the Parties questions and to allow the Parties to ask questions of one another.
37. Following their review of the submissions and evidence related to the complaint, the Internal Discipline Chair shall propose a resolution option for the parties to consider.
38. Should the parties deny the proposed resolution option, the Internal Discipline Chair or designate will determine if any of the incidents listed in the Minor Infraction Criteria above have occurred and, if so, determine whether to impose a sanction in accordance with the section SANCTIONS.<sup>4</sup>
39. If, after hearing the Parties and reviewing their submissions, the Internal Discipline Chair or designate considers that none of the incidents listed in the Complaint Resolution Requirements above have occurred, they shall dismiss the complaint.
40. The Internal Discipline Chair or designate will inform the Parties of the decision, which shall be in writing and include reasons. The Internal Discipline Chair's decision will take effect immediately unless specified otherwise by the ED or designate.
41. Should the circumstances require a decision to be rendered immediately or within a short timeline, the Internal Discipline Chair may render a short decision, either orally or in writing, followed by a written reasoned decision.
42. Any decision rendered by the Internal Discipline Chair shall be provided to and maintained in the records of Paddle Canada. Decisions will be kept confidential by the Parties and Paddle Canada.

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<sup>3</sup> The ED or designate may consult any individual or expert for assistance with the complaint resolution process.

<sup>4</sup> The sanctions should be appropriate in nature and scope to a minor infraction offence.

43. Decisions under the Complaint Resolution Process may only be published if deemed necessary and appropriate at the sole discretion of the Internal Discipline Chair.
44. If the Internal Discipline Chair decides not to impose a sanction on the Respondent, the Complainant may request a reconsideration from the Internal Discipline Chair by informing them in writing, within five (5) days of receiving the decision, that they are not satisfied with the decision and explaining why.
45. If the Internal Discipline Chair imposes a sanction, the Respondent may request a reconsideration from the Internal Discipline Chair by informing them in writing, within five (5) days of receiving the decision, that they are not satisfied with the decision.
46. In the Request for Reconsideration, the Complainant or Respondent must indicate:
  - a. Why the sanction is inappropriate;
  - b. All evidence to support the Respondent's position; and
  - c. What outcome or sanction (if any) would be appropriate.
47. Upon receiving a Request for Reconsideration, the Internal Discipline Chair shall render a decision within seven (7) days explaining whether they have accepted the Request for Reconsideration and, if so, their new decision.
48. The Internal Discipline Chair's new decision may be appealed in accordance with the Appeal Policy; however, no party shall have a right to appeal unless they have exhausted their right to request a reconsideration pursuant to the Request for Reconsideration procedure.

## **MAJOR INFRACTION DISCIPLINARY PROCESS**

### **HANDLED BY INDEPENDENT THIRD PARTY AND EXTERNAL DISCIPLINE PANEL**

49. Following the determination that the complaint should be handled as a Major Infraction, the Independent Third Party will appoint an External Discipline Panel of one (1) person to hear the complaint. Thereafter, the Independent Third Party shall have the following responsibilities: Upon referral to the Major Infraction Disciplinary Process, the ITP will appoint a Case Manager as follows:
  - a. Coordinate all administrative aspects of the process and set reasonable timelines.
  - b. Provide administrative assistance and logistical support to the External Discipline Panel as required, including providing the External Discipline Panel with any information related to previously imposed disciplinary sanctions against the Respondent(s) of the policies of Paddle Canada or any other sports organization that had authority over the Respondent
  - c. Provide any other service or support that may be necessary to ensure a fair and timely proceeding

50. The Independent Third Party will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
51. If warranted based on the nature of the case, the Independent Third Party may, in their sole discretion, appoint an External Discipline Panel of three (3) people. When a three-person External Discipline Panel is appointed, the Independent Third Party will appoint one of the External Discipline Panel's members to serve as the Chair.
52. The Independent Third Party, 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.
  - a. The hearing will be governed by the procedures that the Independent Third Party and the External Discipline Panel deem appropriate for the circumstances. The following procedural directions will apply:
    - i. The determination of procedures and timelines, as well as the hearing duration, shall be as expedient and cost-efficient as possible in order to ensure that costs to the Parties and Paddle Canada are reasonable.
    - ii. The Parties will be given appropriate notice of the day, time, and place of the hearing.
    - iii. Copies of any written documents that any of the Parties wishes to have the External Discipline Panel consider will be provided to all Parties, through the Independent Third Party, in advance of the hearing and in accordance with the timelines set by the Independent Third Party.
    - iv. The Parties may engage a representative, advisor, translator, transcription services, or legal counsel at their own expense
    - v. The External Discipline Panel may request that any other individual participate and give evidence at the hearing
    - vi. If not a Party, Paddle Canada shall be allowed to attend the hearing as an observer and will be provided with access to any documents submitted. With the permission of the External Discipline Panel, Paddle Canada may make submissions at the hearing or may provide the discipline panel with clarifying information that may be required for the External Discipline Panel to render its decision.
    - vii. The External Discipline Panel shall allow any evidence at the hearing filed by the Parties and may exclude any evidence that is unduly repetitious or otherwise an abuse of process. The External Discipline Panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to evidence filed by the Parties
    - viii. Nothing is admissible in evidence at a hearing that:

1. would be inadmissible in a court by reason of any privilege under the law of evidence; or
    2. is inadmissible by any statute.
  - ix. The decision will be by a majority vote of the External Discipline Panel when the Panel consists of three people.
53. If the Respondent acknowledges the facts of the incident(s), 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.
54. The process will proceed if a Party chooses not to participate in the hearing.

## **MAJOR INFRACTION DECISION**

55. After hearing the matter, the External Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. If the External Discipline Panel considers that an infraction has not occurred, the complaint will be dismissed.
56. Within fourteen (14) days of the conclusion of the hearing, the External Discipline Panel's written decision, with reasons, will be distributed to all Parties by the Independent Third Party, including Paddle Canada.
57. Other individuals or organizations may be advised of the outcome of any decisions rendered in accordance with this Policy, but only in circumstances where it is necessary to provide notice to such individuals or organizations to implement an imposed sanction
58. Records of all decisions will be maintained by Paddle Canada in accordance with their Privacy Policy.
59. When the External Discipline Panel imposes a sanction, the decision shall include, at a minimum, the following details:
- a. Jurisdiction;
  - b. Summary of the facts and relevant evidence;
  - c. Where applicable, the specific provision(s) of Paddle Canada's Code of Conduct, relevant policies, rules, or regulations that have been breached;
  - d. Which Party or organization is responsible for the costs of implementing any sanction;
  - e. Which organization is responsible for monitoring that the sanctioned individual respects the terms of the sanction;
  - f. Any reinstatement conditions that the Respondent must satisfy (if any); have been satisfied; and
  - g. Any other guidance that will assist the Parties to implement the External Discipline Panel's decision.
60. If necessary, a Party – or the organization that is responsible for implementing or monitoring a sanction – may seek clarifications from the External Discipline Panel regarding the order so that it can be implemented or monitored appropriately.

## SANCTIONS

61. Prior to determining sanctions, the Internal Discipline Chair or External 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, or if the respondent is a person of authority.
  - b. The respondent's prior history and any pattern of inappropriate behavior 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 violation, and/or cooperation in the process.
  - f. Real or perceived impact of the incident on the complainant and/or Paddle Canada and its Regional Member Associations,
  - g. Circumstances specific to the respondent being sanctioned (e.g., lack of appropriate knowledge or training regarding the requirements in this Policy)
  - h. A respondent who is a person in authority or otherwise in a position of trust, intimate contact, or responsible for high-impact decision-making may face more serious sanctions.
  - i. Other aggravating or mitigating factors.
62. 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.
63. The Internal Discipline Chair or External Discipline Panel 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 more severe sanctions will result should the individual be involved in other violations.
  - b. Education - The requirement that an Individual undertake specified educational or similar remedial measures to address the violation(s).
  - c. Probation - Should any further violations occur during the probationary period, will result in additional disciplinary measures, likely including a period of Suspension or permanent Ineligibility from Activities. 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 Activity. A suspended Individual is eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Individual 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 capacity, in any Activity.
  - 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.
  - h. Sanctions as outlined in the UCCMS.
64. 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, or a Complainant who was a Minor at the time of the incidents complained of, shall carry a presumptive sanction of permanent ineligibility
  - b. Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.
  - c. While a Respondent has pending charges or allegations of a crime against a person, if justified by the seriousness of the offence, the presumptive sanction shall be a period of suspension until the applicable process makes a final determination.
65. An Individual's criminal conviction, at any time, for any of the following Criminal Code offenses shall carry a presumptive sanction of permanent ineligibility from participating in an Activity and expulsion from Paddle Canada:
- a. Any offense involving the trafficking of illegal drugs or substances
  - b. Any offense involving child pornography.
  - c. Any sexual offence involving a Minor
  - d. Any sexual offense other than involving a Minor
  - e. Any offence of assault involving a Minor
  - f. Any offence of physical or psychological violence involving a Minor
66. Failure to comply with a sanction as determined by the Internal Discipline Chair or External Discipline Panel will result in an automatic suspension until such time as compliance occurs.

## **APPEALS**

67. This Appeal section applies to all Individuals. Appeals may be submitted on the following bases:
- a. Any Individual who is directly affected by a decision made by a Major Infraction External Discipline Panel shall have the right to appeal that decision where there is an alleged failure of the Panel to follow procedures

if there are sufficient grounds for the appeal under the Grounds for Appeal as set out below.

- b. Any Individual who has completed the Request for Reconsideration in the Minor Infraction – Complaint Resolution Process shall have the right to appeal that decision where there is an alleged failure of the Panel to follow procedures if there are sufficient grounds for the appeal under the Grounds for Appeal as set out below.

68. This policy will not apply to decisions relating to:

- a. employment;
- b. infractions for doping offenses;
- c. the rules of the sport;
- d. selection criteria, quotas, policies, and procedures established by entities other than Paddle Canada;
- e. substance, content, and establishment of team selection;
- f. Volunteer, instructor, or coach appointments and the withdrawal or termination of those appointments;
- g. budgeting and budget implementation;
- h. Paddle Canada operational structure and committee appointments;
- i. decisions or discipline arising within the business, activities, or events organized by entities other than Paddle Canada.
- j. commercial matters for which another Appeal process exists under a contract or applicable law; or
- k. decisions made under the Appeal section of this policy.

69. DESIGNATED APPEAL MANAGER

- a. An Appeal Manager will be appointed by the ITP to oversee the Appeal process as set out in the policy.
- b. The Appeal Manager must not be in a conflict of interest or have any direct relationship with the Parties, including any past involvement in any capacity in the matter under appeal.

70. TIMING OF APPEAL

- a. Individuals who wish to Appeal a final decision have ten (10) working days, from the date on which they received notice of the final decision under Appeal, to submit the following, in writing, through the designated reporting mechanism:
  - i. notice of the intention to Appeal;
  - ii. their contact information;
  - iii. name and contact information of the Respondent and any Affected Parties, when known to the Appellant;
  - iv. date the Appellant was advised of the decision being appealed;
  - v. copy of the decision being appealed, or description of decision, if written document is not available;
  - vi. grounds for the Appeal;
  - vii. detailed reasons for the Appeal;
  - viii. all evidence that supports these grounds; and

- ix. requested remedy or remedies.
- b. An Individual who wishes to initiate an Appeal beyond the ten (10) working day period must provide a written request stating the reasons for an exemption. The decision to allow, or not allow an Appeal outside of the ten (10) working day period will be at the sole discretion of the Appeal Manager and may not be appealed.

#### 71. GROUNDS FOR APPEAL

- a. 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 that the Discipline Panel:
  - i. made a decision that it did not have the authority or jurisdiction (as set out in the applicable governing documents) to make;
  - ii. failed to follow its own procedures (as set out in the applicable governing documents, including the NBSSCM Guidelines);
  - iii. 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); or
  - iv. made a decision that was unreasonable.

#### 72. SCREENING OF APPEAL

- a. The Appeal Manager has the following responsibilities:
  - i. To determine if the Appeal falls under the scope of the Appeal section;
  - ii. to determine if the Appeal was submitted in a timely manner;
  - iii. To decide whether there are sufficient grounds for the Appeal.
- b. If the Appeal Manager denies the Appeal because of insufficient grounds or 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.
- c. If the Appeal Manager is satisfied there are sufficient grounds for an Appeal, the Appeal Manager will appoint a single Appeal Arbitrator to hear the Appeal.

#### 73. DETERMINATION OF AFFECTED PARTIES

- a. To confirm the identification of any Affected Parties, the Appeal Manager will engage the Paddle Canada.
- b. The Appeal Manager may determine whether an Individual is an Affected Party, in their sole discretion.

#### 74. PROCEDURE FOR APPEAL HEARING

- a. The Appeal Manager shall notify the Parties that the Appeal will be heard.
- b. The Appeal Arbitrator shall then decide the format under which the Appeal will be heard. This decision is at the sole discretion of the Appeal Arbitrator and may not be appealed.
- c. If a Party chooses not to participate in the hearing, the hearing will proceed.

- d. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, 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 Appeal Manager and the Appeal Arbitrator deem appropriate in the circumstances. The following guidelines will apply to the hearing:
  - i. The hearing will be held within a timeline determined by the Appeal Arbitrator.
  - ii. The Parties will be given reasonable notice of the day, time, and place of an oral, in-person hearing or oral hearing by telephone or electronic communications.
  - iii. Copies of any written documents which any of the Parties wish to have the Appeal Arbitrator consider will be provided to all Parties in advance of the hearing.
  - iv. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense.
  - v. The Appeal Arbitrator may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
  - vi. The Appeal Arbitrator may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the Appeal but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate.
  - vii. If a decision in the Appeal may affect another Party to the extent that the other Party would have recourse to an Appeal in their own right, that Party will become an Affected Party to the Appeal in question and will be bound by its outcome.
  - viii. In fulfilling its duties, the Appeal Arbitrator may obtain independent advice.
- e. The Appeal Manager, if appropriate, may confirm whether the Parties wish to proceed under a dispute resolution process.
- f. The Parties may agree, in writing, to proceed under the Dispute Resolution process as set out above, to attempt to resolve the Appeal.
- g. The Appeal Arbitrator will determine the appropriate steps to follow under the Dispute Resolution process. This process must respect the rights of the Parties and comply with the principles of natural justice and procedural fairness.

#### 75. APPEAL DECISION

- a. The Appellant must demonstrate, on a balance of probabilities, that the Discipline Panel, as applicable, made an error as described in the Grounds for Appeal section of this policy and that this error had a material effect on the decision or decision-maker.

- b. The Appeal Arbitrator shall issue its decision, in writing and with reasons, within fourteen (14) working days after the hearing's conclusion. In making its decision, the Appeal Arbitrator will have no greater authority than that of the original decision-maker. The Appeal Arbitrator may decide to:
  - i. reject the Appeal and confirm the decision being appealed;
  - ii. uphold the Appeal and refer the matter back to the initial decision-maker for a new decision; or
  - iii. uphold the appeal and vary the decision.
- c. In extraordinary circumstances, the Appeal Arbitrator may also determine whether costs of the Appeal will be assessed against any Party. In assessing costs, the Appeal Arbitrator will consider the outcome of the Appeal, the conduct of the Parties, and the Parties' respective financial resources.
- d. The Appeal Arbitrator's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and the Paddle Canada, as applicable.
- e. In extraordinary circumstances, the Appeal Arbitrator may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter.

#### 76. TIMELINES

- a. If the circumstances of the Appeal are such that adhering to the timelines outlined by this policy will not allow a timely resolution to the Appeal, the Appeal Manager and/or Appeal Arbitrator may direct that these timelines be revised.

### **CONFIDENTIALITY**

77. Individuals can be assured that the ITP and Paddle Canada will take all possible steps to preserve confidentiality to the extent reasonably possible and in accordance with applicable privacy legislation and other legal requirements. Despite assurances of confidentiality and privacy, Paddle Canada must report incidents that are likely to give rise to a claim to its insurance provider at the time Paddle Canada is made aware of the incident. Moreover, the ITP Case Manager and Paddle Canada may be required to share relevant information with child protection authorities and law enforcement. The ITP Case Manager and Paddle Canada may also be required to provide sufficient information about the allegation(s) to an Individual to enable them to provide a proper response. In many cases, this will mean that anonymity is not feasible or fair.

78. Paddle Canada will keep and retain all relevant records in accordance with the applicable legislation. Such records will be stored in a confidential file maintained and accessed only by those that are authorized to have access to the confidential information.

### **MANIPULATION OF PROCESS, RETALIATION, AIDING AND ABETTING**

79. Individuals will be subject to discipline if they directly or indirectly interfere with this policy by:
- a. Falsifying, distorting, or misrepresenting information, the resolution process, or an outcome.
  - b. Attempting to discourage an Individual's proper participation in or use of this process.
  - c. Harassing or intimidating (verbally or physically) any person involved in the process.
  - d. Publicly disclosing identifying information of an Individual, without permission.
  - e. Failing to comply with any temporary or provisional measure or other final sanction
  - f. Publicizing materials an Individual gains access to during the review process or hearing, except as required by law or as expressly permitted.
  - g. Attempts to influence another person to interfere with or manipulate the process
  - h. Facilitating, promoting, or encouraging the commission of maltreatment.

#### **RETALIATION**

80. Retaliation is prohibited. It is a violation of this policy to retaliate in any way against an Individual who has raised a good faith concern or made a bona fide report about alleged or suspected misconduct, or against a witness, investigator, decision maker, or another person who has cooperated or participated in the process. Retaliation includes threatening, intimidating, harassing, coercing, or any other conduct that would discourage a reasonable person from engaging or participating in this process.
81. Retaliation after the conclusion of the sanction process is also prohibited. Retaliation may be present even where there is a finding that no misconduct occurred.
82. Any person who experiences such retaliation must immediately report their concern to ITP and Paddle Canada. Disciplinary action will be taken against an Individual who engages in retaliatory conduct, up to and including expulsion.

#### **CONFLICT OF INTEREST**

83. All Individuals involved in this process must identify any direct or indirect conflict of interest relating to the complaint. Failure to disclose a conflict of interest, or once disclosed, failure to have absolutely no influence on the case will be subject to discipline.

## Appendix A – Investigation

1. In exceptional circumstances, the ITP Case Manager may determine that a reported incident requires further investigation by an independent third-party investigator.
2. If an investigation by a third-party investigator is required, the ITP Case Manager will appoint the investigator that is skilled in investigating cases that align with the allegations.
3. The Investigator must not be in a conflict-of-interest situation and should have no connection to the complainant, respondent, or Paddle Canada.
4. The appointed investigator will have discretion on the investigation approach and will be considered a neutral third party with a mandate to seek the truth and make findings based on evidence collected through the investigation process. It is expected the investigator, in the course of conducting the investigation, will follow current and accepted best practices for investigation, principles of fairness and natural justice, and any applicable Federal and/or Provincial legislation.
5. Upon completion of their investigation, the investigator shall prepare a report that will include a summary of evidence gathered from the parties to the investigation, witnesses, and documentary information. The investigator will provide an analysis of the relevant information gathered and make findings based on the evidence, including a rationale for the findings made. Findings by the investigator shall be based on a balance of probabilities.
6. All parties must cooperate fully in the review or the potential investigation and resolution of the complaint.
7. If a respondent attempts to circumvent the process by failing to respond to a complaint in a thorough or timely fashion or at all, or if the complainant or/and the respondent refuse to participate in the review or third-party investigation process, the ITP Case Manager may proceed based on the information made available to them by the complainant and any witnesses interviewed/investigated as part of the process.
8. The ITP Case Manager retains the discretion of whether to share the full investigation report with the parties. However, in every case a reasoning for the decision will be shared with the complainant and respondent. This decision may not be appealed.

Approved June 5, 2024 Paddle Canada Board of Directors