



## BASKETBALL NEW BRUNSWICK

### DISCIPLINE AND COMPLAINTS POLICY (Adapted from Canada Basketball)

#### 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 Basketball New Brunswick (BNB) to serve as an independent third party to address complaints relating to abuse discrimination or harassment, as defined by BNB's *Abuse Policy*.
  - d) *"Discipline Chair"* - will be a Director of the Board, or an individual appointed to handle the duties of the Discipline Chair described in this Policy.
  - e) *"Individuals"* – All categories of membership defined in BNB's Bylaws, as well as all individuals employed by, or engaged in activities with, BNB including, but not limited to, athletes, coaches, convenors, officials, volunteers, committee members, Directors and Officers of BNB, spectators, and parents/guardians of athletes.
  - f) *"Respondent"* – The alleged infracting party.
  - g) *"Case Manager"* – An individual appointed by BNB to administer certain complaints under this *Discipline and Complaints Policy*. The Case Manager does not need to be a member of, or affiliated with, BNB, but is typically a staff member.

#### Purpose

2. BNB (BNB) is committed to providing an environment in which all Members and participants are treated with respect and characterized by the values of fairness, integrity and open communication. Membership in BNB, as well as participation in its activities brings with it many benefits & privileges. At the same time, individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with BNB's policies, Bylaws, rules and regulations, and the *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 Individuals.
4. This Policy applies to matters that may arise during BNB's business, activities, programs and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with BNB's activities, and any meetings.
5. This Policy also applies to Individuals' conduct outside of BNB's business, activities, and events when such conduct adversely affects relationships within BNB (and its work and sport environment), is detrimental to the image and reputation of BNB, or upon the acceptance of BNB. Applicability will be determined by BNB at its sole discretion.

6. This Policy does not prevent immediate discipline or sanctions from being applied as required within the context of the *Event Discipline Policy*. Further discipline may then be applied according to this Policy.
7. An employee of BNB who is a Respondent will be subject to appropriate disciplinary action per BNB's *Whistleblower* 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

8. 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.
9. Communication from the Discipline Chair or Designated ITP Officer, as applicable, must be directed to the minor's representative.
10. A minor is not required to attend an oral hearing, if held.

#### Reporting a Complaint

11. Any Individual may report a complaint to BNB of another individual's violation of the *Code of Conduct and Ethics* or *Abuse Policy*. A complaint must be in writing and must be filed within fourteen (14) days of the alleged incident or within fourteen (14) days of the end of the sport/league/competitive season, at the discretion of the individual filing the complaint.
12. A Complainant wishing to file a complaint outside of the fourteen (14) day period must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the complaint outside of the fourteen (14) day period will be at the sole discretion of BNB or the Case Manager, as applicable. This decision may not be appealed.
13. At BNB's discretion, BNB may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, BNB will identify an individual to represent the Complainant and use an independent third party to act as the Case Manager.

#### Receipt of a Complaint

14. Upon receipt of a complaint BNB will appoint a Case Manager who will:
  - a. Receive and acknowledge receipt of the complaint to the Complainant.
  - b. Determine if the complaint is frivolous or not within the jurisdiction of this policy.
  - c. Determine if the complaint falls within the jurisdiction of the *Abuse Policy*, *Workplace Harassment Policy* or *Whistleblower Policy*.
  - d. Determine if an investigation is required; and/or
  - e. Proceed to the Disciplinary Process as outlined below.
15. The Case Manager 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.
16. The Case Manager may propose using the *Dispute Resolution Policy* with the objective of resolving the dispute instead of continuing the Disciplinary Process. If the dispute is not resolved using that process, the Case Manager may dismiss the complaint, or proceed to the Disciplinary Process.
17. If the Case Manager determines the complaint is frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately. This decision may not be appealed.

18. In cases where a complaint arises from an event sanctioned by BNB as defined in the *Event Discipline Procedure*, and is accompanied by a referee or zone manager's report, or a report from the on-site convenor, the Case Manager may bypass the Disciplinary Process and instead apply Sportsmanship Sanctions for minor offenses. Automatic Sanctions are suitable to be applied in cases where players, coaches, parents or fans exhibit exceptionally poor sportsmanship, are verbally abusive towards officials, minor officials, opposing players or coaches, or refuse to comply with a reasonable request from the on-site convenor. Respondents will have the opportunity to provide written rebuttal and argument to the substance of the complaint before a decision is made.

#### Sportsmanship Sanctions

19. The following Automatic Sanctions may apply, singularly or in combination:

- a. Verbal or written reprimand;
- b. Required verbal or written apology;
- c. Temporary Suspension from certain teams, events, and/or activities lasting no more than 14 days;
- d. Suspension from BNB activities until a mandated Respect in Sport course is completed at the Respondent's expense.

#### Third Party Investigation

20. In cases alleging physical or sexual abuse, harassment or discrimination, the Case Manager may determine that the alleged incident may require a third party investigation. In such circumstances, the Case Manager may appoint an independent and qualified third party to investigate the complaint.

#### Disciplinary Process

21. If the Case Manager has determined that the complaint is admissible and is within the jurisdiction of this Policy, the Case Manager will notify BNB's President, who will appoint the Discipline Panel.

22. The 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.

23. The appointed Discipline Panel will consist of a minimum of 3 members, with one of the Discipline Panel's members to serve as the Arbitrator/Panel Chair. The number of appointed members of the Discipline Panel can vary based on the case.

24. 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 Hearing

25. 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 (in-person or otherwise)

26. 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 Case Manager, 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.
27. 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.
28. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
29. 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.
30. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

31. 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. 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

32. 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 BNB
  - d. Removal of certain privileges

- e. Suspension from certain teams, events, and/or activities
- f. Suspension from all BNB activities for a designated period
- g. Payment of the cost of repairs for property damage
- h. Suspension of funding from BNB or from other sources
- i. Expulsion from BNB
- j. Any other sanction considered appropriate for the offense

33. 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.

34. In applying sanctions, the Panel may have regard to the following aggravating or mitigating circumstances:

- a. The nature and severity of the incident.
- b. Whether the incident is a first offense or has occurred repeatedly.
- c. The individual's acknowledgement of responsibility.
- d. The individual's remorse and post-infraction conduct.
- e. The age, maturity or experience of the individual.
- f. Whether the individual retaliated.
- g. The individual's prospects for rehabilitation.

35. Records of all decisions and sanctions, if any, will be maintained by BNB.

#### Request for Reconsideration

36. The Complainant or the Respondent may contest the sanction by submitting a Request for Reconsideration within five (5) days of receiving the decision of the Discipline Panel. In the Request for Reconsideration, the Complainant or Respondent must indicate:

- a. Why the sanction is inappropriate;
- b. All evidence to support the party's position; and
- c. What penalty or sanction (if any) would be appropriate.

37. The sanction may not be appealed until the completion of a Request for Reconsideration.

38. Upon receiving a Request for Reconsideration, the Discipline Panel may decide to accept or reject the Respondent's suggestion for an appropriate sanction in accordance with BNB's *Appeal Policy*.

#### Suspension Pending a Hearing

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

#### Criminal Convictions

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

41. The discipline and complaints process is confidential and involves only the Parties, 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.
42. 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

43. 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

44. 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.

### Review and Approval

45. This Policy was reviewed and approved by the BNB Board of Directors on June 4<sup>th</sup>, 2020.