
	Policy title: Discipline and Complaint Policy and Procedure 
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<p><b>This Policy and Procedure has been prepared by Canada Artistic Swimming (CAS) and amended for use by Alberta Artistic Swimming (“AAS”).</b></p>	

This Policy and Procedure should be read together with the CAS Safe and Welcoming Sport Policy Suite Overview, including the definitions that are set out in the Overview.

Part 1 – General

**1. Scope and application of this Policy and Procedure**

- 1.1. CAS, its PTSOs, and Affiliated Organizations are committed to providing a welcoming and safe environment for all Registrants and Individuals participating in or contributing to the sport of artistic swimming in Canada. To achieve this objective, the Organizations wish to ensure that any unwelcome behaviour or conduct occurring within their Activities and Events and any other alleged breaches of their Policies can be reported, complained about, and managed properly, equitably and fairly.
- 1.2. This Policy and Procedure applies to Reported Incidents or Complaints lodged against or involving current or past Registrants, Individuals, AAS or Affiliated Organizations arising from, or pertaining to the the Activities and Events of AAS and its Affiliated Organizations.
- 1.3. Complaints, Reported Incidents, or alleged Infractions occurring at the AAS or Affiliated Organization level shall ordinarily be managed through AAS or Affiliated Organization’s Discipline and Complaint Policy and Procedure, if applicable. In the absence of an Affiliated Organization Discipline and Complaint Policy and Procedure, AAS shall manage a Complaint or Reported Incident on behalf of the Affiliated Organization, and the applicable Discipline and Complaint Policy and Procedure of AAS will apply. All Complaints, Reported Incidents, or alleged Infractions determined to be a Major Infraction occurring at AAS or Affiliated Organization level must be reported to AAS and shall be managed by AAS pursuant to this Policy. The costs associated with AAS’ or CAS’ management of any complaint, Reported Incidents or alleged infractions occurring at the Affiliated Organization level will remain the responsibility of the applicable Affiliated Organization. In addition, if the ICA determines that a Complaint or Reported Incident falling within the jurisdiction of AAS or Affiliated Organization involves a national level interest, the ICA may decide that the CAS Discipline and Complaint Policy and Procedure will apply in lieu of the Discipline and Complaint Policy and Procedure of AAS or its Affiliated Organization.
- 1.4. An Individual or other person reporting an incident to the Organization does not have the status of Complainant unless they so choose. The Reported Incident may become an official Complaint either filed by a Complainant or by the Organization which can act as the

Complainant.

- 1.5. Depending on the nature of the Reported Incident or Complaint, an Employee who is a Complainant or Respondent may be subject to this Policy and Procedure in addition to the applicable Organization's human resources Policy and the Employee's employment agreement where applicable. AAS may also decide, at its discretion, to impose a disciplinary sanction against an Affiliated Organization that does not appropriately manage Complaints or Reported Incidents involving its Employees.
- 1.6. If the Complainant, the Respondent, or a witness is a Minor, as defined by the provincial jurisdiction where the Minor resides, a Parent or guardian shall act ordinarily as the Minor's representative. However, if a Minor files a Complaint or reports an incident without the consent or knowledge of their Parent or guardian, or where the Minor's Parent or guardian is a Respondent, the Minor may be represented by another person of their choice or determined by law under applicable child protection legislation. The Organization's Complaint Triage Officer, the Complaint Manager or the Discipline Panel may also make any decisions or take any actions considered to be reasonably necessary to protect the privacy and other interests of the Minor, including by not compelling the Minor to participate in proceedings contemplated in this Policy and Procedure.
- 1.7. If a Reported Incident or Complaint must be reported by law or if the Organization decides it should be reported to an external agency, sport organization, law enforcement authorities, or a child protection agency, it will be reported immediately.
- 1.8. If the Organization's Complaint Triage Officer finds, on the face of the Reported Incident or Complaint, that it is justified to recommend that the Organization impose an immediate interim and provisional disciplinary sanction against the Respondent, the Organization may take that action at its discretion.
- 1.9. This Policy and Procedure addresses (1) Minor Infractions, (2) Major Infractions, and (3) infractions arising outside Canada or AAS' territory. Minor Infractions shall be governed by Part II. Major infractions shall be governed by Part III. If a dispute or infraction arises outside of Canada or a AAS's territory and there is a critical lack of time to apply the procedures in Parts II or III, the dispute or infraction shall be governed by Part IV.
- 1.10. An Individual's conviction for a relevant and serious Criminal Code offence, or an anti-doping rule violation, will be deemed to constitute a Major Infraction and a breach of the Organization's Conduct Policy and may result in immediate sanction from CAS and/or AAS without the requirement for filing a Complaint or Reported Incident, conducting a Hearing, or issuance of a decision by a Discipline Panel. Relevant and serious criminal offences include but are not limited to:
  - a) Any child pornography offences;
  - b) Any sexual offences;
  - c) Any major offence of assault; and
  - d) Any offence involving trafficking of illegal drugs or substances listed on the Canadian Anti-Doping Program's prohibited list.

## **2. The Complaint Triage Officer**

- 2.1. The Organization shall appoint an experienced Complaint Triage Officer who shall be completely independent from CAS, its PTSOs and Affiliated Organizations, and the sport of artistic swimming. The Complaint Triage Officer shall have demonstrated experience in

investigations, alternative dispute resolution, managing disputes and complaints in a sport context, and in understanding the Canadian and relevant provincial sport systems. The Complaint Triage Officer shall have the full discretion and authority to manage Reported Incidents and Complaints in accordance with this Policy and Procedure.

2.2. The role of the Complaint Triage Officer is:

- a) to receive and conduct a preliminary assessment of the Reported Incident or Complaint and speak with the incident reporter or Complainant privately;
- b) when and if appropriate, to seek to resolve the dispute to the mutual satisfaction of the involved Parties;
- c) to either investigate the Reported Incident or Complaint or appoint an external investigator to conduct that investigation; and
- d) following the Complaint Triage Officer's preliminary assessment (if appropriate) or the Investigation of a Complaint or Reported Incident:
  - i. to decide if the Reported Incident or Complaint is a Minor Infraction or Major Infraction;
  - ii. to decide if the Reported Incident or Complaint shall be dealt with pursuant to the Organization's Discipline and Complaint Policy and Procedure or redirected to CAS, a PTSO, an Affiliated Organization, or a Sport Partner to be dealt with under its Discipline and Complaint Policy and Procedure, provided that Major Infractions must be dealt with at the AAS/PTSO or CAS level;
  - iii. if the Reported Incident or Complaint is determined to be a Minor Infraction, to refer the matter to the Complaint Manager who will manage it for the Parties in accordance with Part II of this Policy and Procedure;
  - iv. if the Reported Incident or Complaint is determined to be a Major Infraction;
    - 2.2.d.iv.1 to refer the matter to the AAS Complaint Manager who shall appoint a Discipline Panel to hear the Parties on the Complaint and determine any consequences in accordance with Part III of this Policy and Procedure; and
    - 2.2.d.iv.2 Advise the Organization of the Reported Incident or Complaint and provide information relevant to the Reported Incident or Complaint so that the Organization can assess whether an immediate interim and provisional disciplinary sanction may be warranted;
  - v. to reject the Reported Incident or Complaint if, in the opinion of the Complaint Triage Officer, it is unfounded, frivolous, or vexatious, or outside the jurisdiction of the Organization;
  - vi. to take any other measures deemed appropriate in the circumstances, including disclosure of the Reported Incident or Complaint to a law enforcement agency, CAS, a PTSO and/or an Affiliated Organization;
  - vii. to provide updates on the procedures but not on the merits of the case to the Organization's CEO or Executive Director, president or their designate, as applicable, unless they are involved in the Complaint or Reported Incident; and
  - viii. Subject to the disclosure otherwise provided for in this Policy to ensure the confidentiality of the proceedings.

2.3. If the Complaint Triage Officer appoints an external investigator to investigate a Complaint or Reported Incident, the investigator shall carry out the Investigation in a timely manner and, at the conclusion of the Investigation, shall submit a written report to the Complaint Triage Officer. The investigator's full report will not be communicated to the Organization, the Parties, or external stakeholders. The investigator shall not make any final decision on the Complaint or Reported Incident but may make factual findings, and shall make

recommendations to the Complaint Triage Officer based on those findings as to whether the allegations contained in the Complaint or Reported Incident are within the jurisdiction of the Organization, whether they are supported by evidence, and, if so, whether, they constitute a Minor Infraction or a Major Infraction.

- 2.4. A summary of the investigator's report will be shared with the Parties and the Board if the matter proceeds to a Discipline Hearing, but the full report will be considered confidential and will not be shared outside of the Complaint Triage Officer unless directed by the Discipline Panel or required by law. An investigator's report may be anonymous with names or relevant information redacted at the discretion of the Complaint Triage Officer or if instructed by the Discipline Panel.
- 2.5. The Complaint Triage Officer shall endeavour to make any decisions required under Section 2.2 d) within 21 Days of receipt of the Reported Incident and Complaint unless the complexity or the circumstances warrant an extension or urgency requires that the matter be dealt with more quickly.
- 2.6. The following decisions of the Complaint Triage Officer are final and binding and may not be appealed:
  - a) a decision that the allegations contained in a Complaint or Reported Incident are or are not within the jurisdiction of the Organization;
  - b) a decision to accept, redirect or reject a Complaint or Reported Incident; and
  - c) a determination that the Complaint or Reported Incident constitutes a Minor Infraction or a Major Infraction, and the consequent referral of the matter to the Complaint Manager to be dealt with under Part II or III of this Policy and Procedure.

### **3. The Complaint Manager**

- 3.1. The Organization shall appoint an experienced person or external agency to manage Complaints related disputes on behalf of the Organization. The Complaint Manager (CM) shall be completely independent from CAS, its PTSOs and Affiliated Organizations, and the sport of artistic swimming. The CM shall have demonstrated experience in investigations, alternative dispute resolution, managing disputes and complaints in a sport context, and in understanding the Canadian and relevant provincial sport systems. The CM shall manage Hearing procedures and assist the Parties and the Discipline Panel in accordance with this Policy and Procedure. On a case by case basis, an Organization may appoint the Complaint Triage Officer to assume the duties of and also act as the Complaint Manager for the same matter.
- 3.2. The role of the Complaint Manager is:
  - a) to assist the Parties in resolving a dispute arising out of a Reported Incident or Complaint involving a Minor Infraction;
  - b) to determine the consequences of a Minor Infraction related to a Reported Incident or Complaint after hearing all Parties;
  - c) to appoint a Discipline Panel when instructed to do so by the Organization's Complaint Triage Officer; and
  - d) to assist the Parties and the Discipline Panel in conducting the proceedings contemplated in Part III for a Reported Incident or Complaint involving a Major Infraction.

### **4. Reporting an incident or filing a Complaint**

- 4.1. Any Reported Incident or Complaint must be made in writing to the Organization's Complaint Triage Officer either directly or using the Alias portal within 14 Days of the incident. If they wish, the incident reporter or Complainant may use the Organization's incident report or Complaint form, or another form that names the Respondent(s) and clearly identifies and describes the date, location and circumstances of the alleged Infraction or misconduct by the Respondent(s). The Complaint Triage Officer has discretion to extend the time for filing a Reported Incident or Complaint, if circumstances and reasons presented by the Incident Reporter or Complainant justify doing so.
- 4.2. Depending on the nature of the Reported Incident or Complaint, the Complaint Triage Officer may provide a summary to an appropriate law enforcement or external agency.
- 4.3. Depending on the nature of the Reported Incident or Complaint, the Organization may issue an immediate interim suspension of a Respondent's registration or membership at any time pending the outcome of the Complaint Triage Officer's assessment, the Investigation, the Hearing or determination of the Discipline Panel, or the outcome of an external investigation initiated by a Sport Partner or a law enforcement or external agency, if such action is considered necessary to protect the safety or well-being of other Individuals. Such decision will be made by the Board of the Organization, at the Organization's discretion and is not appealable.
- 4.4. Upon receipt of the Reported Incident or Complaint, the Complaint Triage Officer will acknowledge receipt and provide notice to the Respondent and any other Affected Parties that a Complaint or Reported Incident has been received. The Complaint Triage Officer may decide, at their discretion, to investigate the Complaint or Reported Incident before providing notice to other Parties.
- 4.5. A Reported Incident or Complaint may be made anonymously; however, an anonymous report may limit the ability of the Complaint Triage Officer to assess the file or the ability of the investigator to investigate the Complaint or Reported Incident. An anonymous Complainant or Incident Reporter may be called as a witness before the Discipline Panel as instructed by the Panel.

## 5. Confidentiality

- 5.1. The Organization recognizes that it may be extremely difficult for a person to come forward with a Complaint or Reported Incident, and that it may also be devastating for a person to be accused wrongly of wrongdoing or misconduct. The Organization and the Parties involved in a Complaint will endeavour to keep all Reported Incidents and Complaints, including the procedures and merits of the matter and the fact that a Reported Incident or Complaint has been filed under this Policy, strictly confidential, except as required for Investigation, required by law, or where disclosure is necessary to protect the safety or well-being of Registrants, Individuals or the public or is provided for in this Policy.
- 5.2. Once a Complaint is initiated and until a decision is released and after all applicable appeals have been concluded, all Parties or witnesses involved in a Complaint will not discuss any information related to the Complaint, as described in Section 5.1, with any person other than, as applicable, the Complaint Triage Officer, the Complaint Manager, the investigator, the Discipline Panel, and the Party's immediate Family Members, legal advisors or authorized representatives, provided that such Family Members, legal advisors and authorized representatives also agree to maintain strict confidentiality of same. Non-compliance with

this Section may result in sanctions under this Policy and Procedure.

- 5.3. If a Complaint is within the public domain, the Complaint Triage Officer may, at their discretion, allow the Organization to communicate information about the Complaint or the management of the Complaint to the public. When required, the Organization's CEO, Executive Director, or President (or their designate) or the Complaint Triage Officer will act as spokesperson for the Organization.
- 5.4. The Complaint Triage Officer or Complaint Manager is authorized, at their discretion, to share procedural updates on the management of the Complaint with the Organization's legal counsel, the Organization's insurer, and the Organization's Board and CEO, Executive Director, or President and with any affected Organizations, unless they are directly involved in the Complaint. Such updates will not otherwise be provided to Registrants, Sport Partners or funding partners, the media or any other persons unless decided otherwise by the Organization.
- 5.5. AAS will retain records of decisions that have been made pursuant to this Policy. These records may be shared with CAS, PTSOs, Affiliated Organizations, Individuals or other organizations, including National Sport Organizations, provincial sport organizations, multi-sport organizations, public agencies, and government entities.
- 5.6. Notwithstanding any other provisions in this Policy:
  - a) any interim disciplinary sanctions may be disclosed and communicated at the sole discretion of the Organization;
  - b) information about a Complaint may be disclosed among and within the CEO, Executive Director, President and Board of CAS, affected PTSOs and affected Affiliated Clubs; and
  - c) information deemed by the Organization in its sole discretion to be necessary for the protection of the safety or well-being of Registrants, Individuals, and the Public may be disclosed; and
  - d) if a Reported Incident or Complaint must be reported by law or if the Organization decides it should be reported to an external agency, sport organization, law enforcement authorities, or a child protection agency, it will be reported immediately.

## Part II – Minor Infractions

### 6. Definition and scope of Minor Infractions

- 6.1. This part of the Policy and Procedure applies to Reported Incidents or Complaints involving Minor Infractions arising during the Organization's Activities or Events. A Minor Infraction involves a breach of the Organization's Policies that the Complaint Triage Officer determines is not of such a nature as to cause significant harm or aggravating consequences. Examples of Minor Infractions can be found in Appendix A.
- 6.2. Minor Infractions arising within the Activities or Events of an Affiliated Organization shall be dealt with using the Policies of such organization, subject to the authority of AAS or CAS to manage a Complaint or Reported Incident on behalf of an Affiliated Organization as described in this Policy or CAS's Safe and Welcoming Sport Policy Suite Overview.
- 6.3. CAS has the discretion to recognize and enforce discipline sanctions imposed by a PTSO, AAS, Affiliated Organization or Sport Partner. In addition, CAS may decide to impose its own additional sanctions if the matter is of national interest. AAS has the discretion to recognize and enforce discipline sanctions imposed by CAS, a PTSO, an Affiliated Organization or Sport Partner. In

addition, AAS may decide to impose its own additional sanctions if the matter is of provincial interest.

## **7. Disciplinary procedures for Minor Infractions**

- 7.1. A Reported Incident or Complaint involving a Minor Infraction occurring within the jurisdiction of the Organization shall be dealt with by Organization's Complaint Triage Officer. Once assessed by the Complaint Triage Officer, a Reported Incident or Complaint involving a Minor Infraction may be referred to and managed directly by the Complaint Manager or the Organization may determine that the Complaint Triage Officer will act as the Complaint Manager.
- 7.2. The Complaint Manager may take steps they consider appropriate to seek to resolve the matter, and may determine any appropriate disciplinary sanctions to be taken against a Respondent in accordance with this Policy and Procedure, provided that the Respondent is informed of the details of the allegations made against them and has an opportunity to provide their version of the facts before any decision is made.
- 7.3. The following non-exhaustive list of disciplinary sanctions may be applied, singularly or in combination, for Minor Infractions:
  - a) verbal reprimand;
  - b) written reprimand to be placed in the Respondent's file;
  - c) direction to provide a verbal apology;
  - d) direction to provide a hand-delivered written apology;
  - e) team service or other voluntary contribution to the Organization; or
  - f) any other appropriate sanction(s) as determined by the Complaint Manager.
- 7.4. Affiliated Organizations must report and share all decisions on Minor Infractions with AAS. AAS, in consultation with the affected Affiliated Organization, shall determine whether decisions should be further shared with CAS, PTSOs, other Affiliated Organizations or any other external groups or Individuals. If a decision is made by AAS to disclose a decision on a minor infraction, AAS may, at its sole discretion, take steps where appropriate and possible to protect the confidentiality interests of the Complainant, including redacting or not disclosing the identity of the Complainant.
- 7.5. Minor Infractions shall be recorded by the CEO or Executive Director, the Organization's designate, or the Complaint Manager. Repeated Minor Infractions may result in a Major Infraction, if so determined by the Organization's Complaint Triage Officer, in which case Part III shall apply.
- 7.6. Decisions related to a Minor Infractions are final and binding and are not appealable under the Appeals Policy.

## **PART III – Major Infractions**

### **8. Definition and scope of Major Infractions**

- 8.1. Major Infractions are behaviours determined by the Complaint Triage Officer to be more serious than a Minor Infraction, that may result in significant harm or aggravating consequences. Major Infractions include but are not limited to breaches of the Organization's Discrimination, Harassment, and Maltreatment Policy. Examples of Major Infractions are described in Appendix B.
- 8.2. Reported Incidents or Complaints alleging Major Infractions shall be filed with the

Organization's Complaint Triage Officer either directly or using the Alias platform.

- 8.3. Major Infractions arising within the Activities or Events of an Affiliated Organization shall be reported to AAS and shall be managed by AAS pursuant to this Policy, subject to the authority of CAS to manage a Complaint or Reported Incident on behalf of a PTSO or Affiliated Organization as described in CAS's Safe and Welcoming Sport Policy Suite Overview.
- 8.4. CAS has the discretion to recognize and enforce discipline sanctions imposed by a PTSO, AAS, Affiliated Organization or Sport Partner. In addition, CAS may decide to impose its own additional sanctions if the matter is of national interest. AAS has the discretion to recognize and enforce discipline sanctions imposed by CAS, a PTSO, an Affiliated Organization or Sport Partner. In addition, AAS may decide to impose its own additional sanctions if the matter is of provincial interest.

## 9. Disciplinary procedures for Major Infractions

- 9.1. If the Complaint Triage Officer determines, after assessing a Complaint or Reported Incident or after an investigation, that the Reported Incident or the Complaint involves a Major Infraction that should be dealt with more formally by a Hearing, the Complaint Triage Officer will refer the matter to the Complaint Manager who will appoint a Discipline Panel.
- 9.2. Within five Days of the Complaint Triage Officer's decision to refer the matter to the Complaint Manager, the Complaint Manager shall appoint, at their discretion, a panel of one or three persons to hear the matter. If a three-member Panel is appointed, the Complaint Manager shall also appoint one of the Panel members to act as Chair of the Panel.
- 9.3. The Discipline Panel shall be independent from the Parties and the Organization.
- 9.4. The Discipline Panel shall conduct a Hearing in accordance with the procedures in this Part, and may request the assistance of the Complaint Manager to manage the process.
- 9.5. Having regard to the nature of the Major Infraction and the potential consequences of any resulting sanctions, the Discipline Panel will decide whether to conduct the Hearing by way of a review of documentary evidence and written submissions, by way of an oral Hearing, or by way of a combination of these methods, after consulting with the Parties. If the Discipline Panel decides to conduct an oral Hearing, it may decide to do so in-person or by means of video or telephone conference.
- 9.6. The Discipline Panel may decide that a preliminary meeting is necessary to determine preliminary procedural, administrative, or legal issues. In the case of a three-member Panel, the Discipline Panel may delegate to one of its Panel members the authority to deal with these preliminary matters, which may include but are not limited to:
  - a) date and location of the Hearing;
  - b) timelines for the exchange of supporting documents and submissions;
  - c) clarification of issues related to the alleged Infraction;
  - d) format and procedures of the Hearing;
  - e) evidentiary rules and evidence to be brought before the Hearing;
  - f) identification of any witnesses; and
  - g) any other procedural matters that may assist in expediting the Hearing as long as procedural fairness is respected.
- 9.7. The Discipline Panel will govern the Hearing as it sees fit, provided that:
  - a) the Discipline Panel will endeavour to conduct the Hearing within 30 Days of the Panel's appointment, unless otherwise determined by the Panel after consulting with



- the Parties;
- b) the Parties will be given 21 Days' written notice of the day, time, and place of the Hearing;
- c) the Parties receive a summary version of the Investigator's report if an Investigation was carried out;
- d) all Parties will have an opportunity to adduce evidence and make submissions before the Panel;
- e) all Parties may be accompanied by a representative;
- f) if a three-member Discipline Panel is appointed, the Panel's quorum for the conduct of the Hearing shall be all three Panel members, and the Panel's decisions shall be rendered by a majority vote;
- g) the Discipline Panel may request that any witness or any other person be present at the Hearing or submit written evidence in advance of the Hearing;
- h) if the Respondent chooses not to participate in the Hearing, the Hearings will proceed in the Respondent's absence;
- i) the Hearing shall be held in private;
- j) the Organization may be granted an observer status at the Hearing as determined by the Panel.

9.8. Once appointed, the Discipline Panel will have the authority to abridge or extend timelines associated with any aspect of the Hearing.

9.9. In deciding the matter, the Discipline Panel has the power to review all the facts and the law.

9.10. After hearing the matter, the Discipline Panel will determine whether the Respondent has committed the Infraction alleged against them, and if so, whether the Respondent's conduct constitutes a Major Infraction or Minor Infraction, and the appropriate sanction(s) or consequence(s) to be imposed and any measures to mitigate the harm suffered by others as a result of the Infraction.

9.11. The Discipline Panel's written decision will be distributed to all Parties, to AAS and, if the Complaint arose at the Affiliated Club level with that Affiliated Club, within seven Days of the conclusion of the Hearing. Depending on the circumstances of the case:

- a) the Panel's written decision may include its reasons, or the Panel may issue a short decision with reasons to follow;
- b) AAS shall share the decision with CAS; and
- c) AAS may determine if a decision (or a summary of the decision) should be shared with other parties, including other PTSOs, Affiliated Organizations, external parties or Registrants. If a decision is to be disclosed, AAS may, at its sole discretion, take steps where appropriate and possible to protect the confidentiality interests of the Complainant, including redacting or not disclosing the identity of the complainant.

9.12. If the Respondent admits to the facts alleged in the Complaint, they may waive the Hearing, in which case the Discipline Panel will determine the appropriate disciplinary sanction. The Discipline Panel may still hold a Hearing for the purpose of determining an appropriate sanction.

9.13. If the Discipline Panel determines that the Complaint is false, frivolous, vexatious, retaliatory, or made in bad faith, the Discipline Panel may direct that there be disciplinary action against the Complainant.

9.14. The Discipline Panel may apply the following disciplinary sanctions, singly or in

combination, for Major Infractions:

- a) written reprimand;
- b) removal of certain privileges of registration, membership or employment;
- c) suspension from certain Activities or Events which may include suspension from the current competition or from future teams or competitions;
- d) suspension from certain or all Activities and Events of the Organization such as competing, coaching, or judging for a specified period or until the Respondent satisfies conditions specified by the Panel;
- e) suspension from employment with or without pay;
- f) expulsion from registration or membership;
- g) publication of the decision; and/or
- h) other sanctions as may be considered appropriate for the Infraction.

9.15. In determining sanctions, the Discipline Panel may consider aggravating or mitigating circumstances including:

- a) the nature and severity of the Infraction;
- b) the extent to which others have been harmed by the Infraction;
- c) the cooperation of the Respondent in the proceedings under this Policy and Procedure;
- d) whether the Infraction is a first offense or has occurred repeatedly;
- e) mental or physical disability that affects the Respondent's behaviour, judgement or actions;
- f) the Respondent's acknowledgment of responsibility;
- g) the Respondent's remorse and post-infraction conduct;
- h) the age, maturity, or experience of the Respondent;
- i) whether the Respondent retaliated, where the Incident involves Discrimination, Harassment or Maltreatment; and
- j) the Respondent's prospects for rehabilitation

9.16. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will commence at the date the decision is issued. Failure to comply with a sanction as determined by the Discipline Panel will result in automatic suspension of the Respondent's registration or membership and their participation in the Organization's Activities and Events until such time as the sanction is complied with.

9.17. Where the alleged Infraction may constitute Discrimination, Harassment or Maltreatment, or is of a similar nature, the Organization will keep all proceedings under this Policy confidential, except where disclosure is directed by the Discipline Panel because it is required by law or is in the best interests of the Organization, Individuals or the public. Nothing in this section shall affect the disclosure of decisions pursuant to section 9.11.

9.18. The decision of the Discipline Panel will be final and binding upon all Parties, subject to any appeal that may be permitted under the Appeals Policy.

9.19. Members of the Discipline Panel cannot be called as witnesses during a subsequent appeal, action or other proceeding seeking to challenge a decision including any proceeding before the SDRCC or any court of competent jurisdiction.

PART IV – Disputes arising outside Canada or the PTSO's territory, where there is a critical lack of time

**10.** Any Complaint or dispute between the Organization's Individuals arising outside Canada or AAS's territory, where there is a critical lack of time to apply the procedures in Parts II or III, shall be

governed by these provisions.

- 10.1. The term “outside Canada or AAS’s territory” shall mean any period when the Individuals are outside Canada or the AAS territory under the auspices of the Organization, including travelling to competitive events, participating in, or training for such events, and traveling home after the events.
- 10.2. Whenever possible, Complaints or disputes under this Part IV shall be heard and determined by the Complaint Triage Officer, or if the Complaint Triage Officer is unavailable or urgency requires an immediate decision, the matter shall be determined by the Organization’s designate.
- 10.3. Depending on the nature, severity and urgency of the Complaint or dispute, the Complaint Triage Officer/Organization’s designate may decide immediately on a course of action.
- 10.4. Despite any other processes contained in this Policy and Procedure, nothing shall prevent the Complaint Triage Officer/Organization’s designate from assuming jurisdiction when the Complaint or dispute arises outside Canada or the AAS’s territory and when there is a critical lack of time to apply the procedures in Parts II or III.
- 10.5. Any sanction, discipline or remedy imposed upon an Individual by the Complaint Triage Officer/Organization’s designate under this Part shall be reasonable and proportionate to the conduct complained of, and shall be determined by the Complaint Triage Officer/he Organization’s delegate after reasonably investigating the manner and hearing each involved Individual’s version of events in a procedurally fair manner as deemed appropriate and feasible by the Complaint Triage Officer/Organization’s designate in the circumstances.
- 10.6. Where a decision is made by the Organization’s designate that results in the removal of an Individual from a competition, such a decision may only be implemented by the Organization’s designate after the Organization’s designate consults with and obtains written approval from the CEO, Executive Director or President of the Organization or their designated representative.
- 10.7. The decisions of the Complaint Triage Officer/Organization’s designate shall be binding on all Parties. Failure by an Individual to comply with a decision and remedy properly imposed by the Complaint Triage Officer/Organization’s designate shall result in an automatic suspension of all the Individual’s privileges, and the Individual shall have no further right to participate at such event or competition, until such time as the sanctions, discipline or other remedies are complied with.
- 10.8. Where a dispute is of a highly sensitive nature, the Organization shall keep all proceedings under Part IV of this Policy confidential, except where disclosure is directed as part of the remedy to resolve the dispute, is required by law, by order of a court of competent jurisdiction, pursuant to the Canadian Anti-Doping Policy, or is in the best interests of the Organization, Individuals or the public. The disclosing body, at its sole discretion, may take steps where appropriate and possible to protect the confidentiality interests of a Complainant, including redacting or not disclosing the identity of the Complainant.
- 10.9. If a Party believes the decision of the Complaint Triage Officer/Organization’s designate rendered pursuant to this Part IV of the Policy has violated their right to procedural fairness, the decision may be appealed according to the Organization’s Appeals Policy.
- 10.10. A Complaint arising outside Canada or AAS’s territory may also be determined under Part II or Part III of this Policy and Procedure, in addition to any actions taken under this Part IV, if it is appropriate in the circumstances as determined by the Complaint Triage

Officer/Organizations Designate in their discretion.

#### PART V – General

- 11.0 Except in cases of willful misconduct, the Organization, the Organization's delegate, the Complaint Triage Officer, any investigator appointed by the Complaint Triage Officer, the Complaint Manager or the members of the Discipline Panel will bear no liability for any act or omission in connection with any decision rendered or process followed under this Policy.
- 12.0 No action or proceeding may be brought against the Organization in respect of a matter arising from this Policy unless the Organization has refused or willfully failed to comply with the provisions set out in this Policy.

## APPENDIX A – Examples of Minor Infractions

Examples of a Minor Infraction include:

- 1) a single minor incident of disrespectful, offensive, abusive, racist, or sexist comments or behaviour directed towards Individuals such as peers, opponents, Athletes, Coaches, Officials, administrators, spectators and sponsors and any Individuals.
- 2) a single minor incident of a breach of the Organizations Policies;
- 3) A single incident of being absent from the Organization's Activities and Events at which attendance is expected or required.
- 4) breach of curfew as designated by the Organization's designate.
- 5) non-compliance with the rules and regulations under which the Organization's Events and Activities are conducted, whether at the local, provincial, national, or international level.
- 6) any other incident determined to be a Minor Infraction by the Organization's Complaint Triage Officer.

## APPENDIX B – Examples of Major Infractions

Subject to the Complaint Triage Officer's evaluation of the particular circumstances, the following are examples of Major Infractions:

- 1) A single egregious or repeated incidents of disrespectful, offensive, abusive, racist, or sexist comments or behaviour directed towards Individuals such as peers, opponents, Athletes, Coaches, Officials, administrators, spectators, and sponsors.
- 2) A single egregious or repeated incidents of a breach(s) of the Organization's policies;
- 3) repeated incidents of being late for or absent from the Organization's Activities and Events and at which attendance is expected or required.
- 4) any action or conduct that would, in the discretion of the Organization's Complaint Triage Officer be detrimental to the reputation or image of the sport or the Organization.
- 5) the willful abuse of property owned, rented, borrowed, or leased by the Organization including vehicles, hotel rooms and team equipment.
- 6) serious breach of curfew as designated by the Organization or its designate.
- 7) conduct or behaviour which interferes with a competition or with any Athlete's preparation for a competition.
- 8) any conduct or behaviour that constitute serious Discrimination, Harassment or Maltreatment as defined in the Discrimination, Harassment and Maltreatment Policy.
- 9) deliberate disregard for the rules and regulations under which the Organization's Activities and Events are conducted, whether at the local, provincial, national, or international level.
- 10) abusive use of alcohol, where abuse means a level of consumption which impairs the Individual's ability to speak, walk or drive; causes the Individual to behave in a disruptive manner; or interferes with the Individual's ability to perform effectively and safely.
- 11) any use of alcohol by Athletes under the age of 18 or where prohibited by law.
- 12) use of illicit and illegal drugs.
- 13) use of banned performance enhancing drugs or methods.
- 14) use of drugs for a purpose for which they were not intended, including over-the-counter drugs.
- 15) any breach of the Conduct Policy determined to be an egregious one.
- 16) any misconduct deemed serious enough by the Organization's Complaint Triage Officer to constitute a Major Infraction.