

## Discipline, Complaints, and Appeals Procedure (version 1)

### Version History

Version	Date	Changes made
1	April 17, 2023	None

### Purpose

1. The Discipline, Complaints and Appeals Operational Procedures:
  - 1.1. Specifies the procedures and functions of the KESA and Discipline Committee;
  - 1.2. Describes the disciplinary processes KESA will follow when the FIFA Laws of the Game, the Universal Code of Conduct, BC Soccer and KESA Rules and Regulations, and any/all BC Soccer Competition Regulations are breached; and
  - 1.3. Specifies the disciplinary measures or sanctions that may be imposed.
2. Where there are any discrepancies in policy or procedure between KESA documents and the BC Soccer Disciplinary Code, the KESA document will take precedent, with exception of delivering sanction. KESA is not permitted to impose sanctions that are more strict than the BC Soccer sanctions table.

### Membership Consequences

3. When an Association, League, Affiliated Organization, Individual Registrant, Member, Board Member, Volunteer or Official is sanctioned, the KESA Board will apply any subsequent action in respect to the offending Association, Club, player, Official or member in relation to their membership or connection with KESA Soccer.
  - 3.1. No suspended player or member of any Soccer Association, or Affiliated Soccer Organization suspended or removed from BC Soccer will be eligible for membership with KESA.

### Reporting a Complaint

4. All complaints must be reported directly in writing to the KESA President and Discipline Chair. In the case where the complaint is reported to another member of the Board, the complaint will be forward to the KESA President and Discipline Chair.
  - 4.1 The person or group issuing the complaint is the Complainant.

- 4.2 The person or group being accused of the infraction are the Accused.
5. Individuals are expected to report all complaints as soon as possible after experiencing or witnessing the interaction, incident, event, or situation of concern. The Discipline Chair may decide to extend the reporting deadline based on the review of the information provided. This decision is not appealable.
6. An adult Individual who learns of information and reasonably suspects that a child has suffered an incident of child abuse, including sexual abuse, must immediately make a report of the suspected abuse to the local authorities and the KESA President.

### **Timelines**

7. Time limits area as per KESA Disciplinary Policy and as outlined in the following sections.
  - 7.1. Complaints related to match-play must be made within 14 days of the incident.

### **Discipline Process**

8. Persons and groups charged with an offence (the Accused) must have the opportunity to respond to the charges. Once the complaint is accepted, the Discipline Chair will provide the complaint, or a summary of the complaint, to the Accused Party and ask them to submit their response to the allegation(s) within 14 days. In some cases, this deadline may be extended based on the decision of the Discipline Chair. This decision may not be appealed.
9. The Discipline Chair will decide on the format under which the response will be heard. This decision may not be appealed. The format will be either:
  - 9.1. In person;
  - 9.2. Telecommunication / Video-conference; or,
  - 9.3. In writing (permission may be granted if the individual is unable to appear for valid reason as determined by the Discipline Committee and has made a written request for such consideration).
10. If an Accused Party attempts to circumvent the process by failing to respond to a complaint in a thorough or timely fashion or at all, the Discipline Chair nonetheless must proceed based on the information made available to them by the complainant and any witnesses interviewed/investigated as part of the process.
11. The Discipline Chair will decide if additional information is required from either party or witnesses.
12. Based on the information collected from both parties and potential witnesses, the Discipline Chair may handle the matter directly, if considered minor, or may decide that the matter meets the threshold for proceeding to a disciplinary hearing.
13. If requiring a hearing, the Discipline Chair will form a Discipline Committee comprised of minimum three (3) members, established solely for the purpose of adjudicating the infractions brought before it. The Discipline Committee will review information collected for the case and may decide to obtain additional information from related parties and/or witnesses.
14. In exceptional circumstances, the Discipline Chair may determine that a reported incident requires further investigation by an independent third-party investigator.

- 14.1. If an investigation by a third-party investigator is required, the Discipline Chair will select an investigator that is skilled in investigating similar cases.
- 14.2. The Investigator must not be in a conflict-of-interest situation.
- 14.3. The investigation may take any form as decided by the investigator, guided by any applicable Federal and/or Provincial legislation.
- 14.4. Upon completion of their investigation, the investigator must prepare a report that includes a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether, on a balance of probabilities, the allegation/s are substantiated.
- 14.5. All parties must cooperate fully in the review or the potential investigation and resolution of the complaint.
- 14.6. If an Accused Party attempts to circumvent the investigator's process by failing to respond to a complaint in a thorough or timely fashion or at all, or if the complainant or/and the Accused party refuse to participate in the review or third-party investigation process, the Discipline Chair nonetheless must proceed based on the information made available to them by the complainant and any witnesses interviewed/investigated as part of the process.
- 14.7. The Discipline Chair at their discretion will not share the full investigation report with the parties. However, a summary of the report will be shared with the complainant and accused, and any other individual deemed appropriate. This decision may not be appealed.
15. In the event that it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of an interim suspension or other sanction may be applied. The KESA Board will communicate this decision to the parties involved and to other parties as it sees necessary to protect the wellbeing of its members.
16. If there are multiple Individuals complaining against the same person with similar allegations the Discipline Committee may decide to review and if needed investigate them together.

## **Hearings**

17. Hearings are a part of the investigative process and individuals attending a hearing are not necessarily deemed to have committed misconduct. If the KESA Board determines that a hearing is required, the hearing shall be set in accordance with this procedure.
18. Notice of the day, time, type (in-person or other), and place of the hearing shall be given to all parties at least ten (10) business days prior to the scheduled hearing.
  - 18.1. By mutual consent and in writing, the parties may modify these timelines.
  - 18.2. A request to postpone a hearing will be granted if the request is received no later than five (5) business days prior to the hearing date. Requests to postpone within five (5) Business Days will be considered but may not be granted.
  - 18.3. An individual who requests to reschedule their hearing more than once may be suspended until such time that they attend a hearing at the discretion of the appointed Discipline Committee.
19. KESA Board may request a complainant or author of a misconduct report to attend a hearing. The requested party may decline to attend.
20. The offending party and/or their Representative must be present, or the hearing will not proceed unless the right to a hearing has been waived in writing.

- 20.1. An accused individual who refuses to attend, waives their right to participate, fails to attend, fails to respond to a hearing notification within 10 business days, or who walks out of a discipline hearing, preventing a Disciplinary Committee from rendering a decision on the case, will stand suspension until such time they make a written request for another hearing and appear at a scheduled subsequent hearing.
- 20.2. If a Discipline Committee determines that it has obtained sufficient evidence to make a sound and supportable decision it may instead render its decision.
21. Copies of any written documents which the parties wish to have the Discipline Committee consider will be provided to all Parties in advance of the hearing.
22. The Parties may engage a representative, advisor, or legal counsel at their own expense.
23. An Association Official/Representative may accompany an accused person with approval from the Disciplinary Committee; however, if the individual is less than 19 years of age, they must be accompanied by an adult Advisor who is a KESA Member or their parent/guardian. The adult Advisor representing the individual should be given the opportunity to speak on behalf of the individual.
24. The Discipline Committee may request that any other individual participate and give evidence at the hearing.
25. The parties may request witnesses to submit written information or to appear at the hearing. The party calling the witness is responsible for expenses when the witness is required to appear at the hearing. The Disciplinary Committee retains the right to determine relevancy of witnesses or statements, and therefore the attendance of any proposed witnesses or submission of statements.
26. The Discipline Committee can allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but can exclude such evidence that is irrelevant, unrelated, unduly repetitious, and must place such weight on the evidence as it deems appropriate. The decision will be by a majority vote.
27. During the hearing, the following actions are required by the Discipline Chair; however, the sequence may be adjusted:
  - 27.1. The Discipline Chair shall read the complaint and clearly state the charge.
  - 27.2. The author of the complaint or report, if present, must be given an opportunity to comment on or to add any qualifications to the complaint.
  - 27.3. The accused must be allowed to ask relevant questions and to make submissions and statements on their own behalf. All questions must be directed to the Discipline Committee.
  - 27.4. Discipline Committee members may question the complainant and the accused, and any witnesses invited to participate.
  - 27.5. The complainant and the accused will be invited to make summary statements.
  - 27.6. The Discipline Committee shall consider the evidence presented and decide the case within the timeline as laid out in KESA Policy and as follows:
    - 27.6.1. For match-related infractions, where the expected outcome is 5 Matches or less, decision will be provided within three (3) business days of the completion of the hearing.
    - 27.6.2. For all other infractions, final decision will be provided no later than 30 days following the hearing.
    - 27.6.3. A notable exception to the preceding is where there is legal or police involvement.
28. After hearing the matter, the Discipline Committee will reach a decision as to whether an infraction has occurred and if it has, what the sanction should be.

- 28.1. The Discipline Committee will issue a written decision, including reasons for distribution by the Discipline Chair to the Accused Party, the Complainant, and the KESA President.
- 28.2. The decision, but not the information collected from the original complaint, the response, or during any investigation, will be considered a public record, unless determined otherwise by the Discipline Committee.
29. Both the Complainant and Accused will be given a written record of the decision or advised that further consideration is required, and a decision letter will be provided to them that includes the specific Rights of Appeal information.
30. If a sanctioned individual or group appeals a decision, they are required to abide by the decision while the appeal process is pending unless a temporary stay of decision is granted by the Disciplinary Committee which prevents the decision from taking effect until the appeal is decided.
31. A Discipline Committee has the right to call a new hearing and re-hear any case if new evidence is brought forward at a later date.

### **Sanctions**

32. Sanctions will follow the BC Soccer Sanctions Table in the BC Soccer Discipline, Complaints and Appeals Policy (2022).
33. Prior to determining sanctions, the Discipline Committee will consider factors relevant to determining appropriate sanctions which include:
  - 33.1. The nature and duration of the Accused's relationship with the Complainant, including whether there is a power imbalance, or the Accused is a person in authority.
  - 33.2. The Accused's prior history, prior sanctioning, and any pattern of inappropriate behavior or maltreatment.
  - 33.3. The ages of the individuals involved.
  - 33.4. Whether the Accused poses an ongoing and/or potential threat to the safety of others.
  - 33.5. The Accused's voluntary admission of the offense(s), acceptance of responsibility for the violation, and/or cooperation in the process.
  - 33.6. Real or perceived impact of the incident on the complainant and/or KESA and its Member Organizations.
  - 33.7. Circumstances specific to the Accused being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in this Policy; addiction; disability; illness).
  - 33.8. Accused who is a person in authority or otherwise in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions.
34. 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.
35. The Discipline Committee may apply the following disciplinary sanctions, singularly or in combination:
  - 35.1. Verbal or Written Warning - A verbal reprimand or an official, written notice and formal admonition that the Accused has violated rules and regulations and that more severe sanctions will result should the individual be involved in other violations.
  - 35.2. Education - The requirement that an Individual undertake specified educational or similar remedial measures to address the violation(s) of the rules and regulations at their own expense where applicable.

- 35.3. 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
  - 35.4. 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
  - 35.5. Eligibility Restrictions - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
  - 35.6. Permanent Ineligibility - Permanent ineligibility to participate, in any capacity, in any Activity.
36. The above sanctions are representative penalties only, that they may be modified to fit the circumstances of the infraction, and that they are presented generally in order of severity.
  37. Unless the Discipline Committee decides otherwise, any disciplinary sanctions (such as a period of ineligibility) will begin immediately and timelines will be provided for fulfillment of other sanctions (such as a written apology), notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Committee will result in an automatic suspension until such time as compliance occurs.
  38. An Individual's criminal conviction, at any time, for any of the following Criminal Code offenses means permanent ineligibility from participating in an Activity and expulsion from KESA soccer:
    - 38.1. Any offense involving trafficking of illegal drugs or substances
    - 38.2. Any offense involving child pornography
    - 38.3. Any sexual offence involving a Minor
    - 38.4. Any sexual offense other than involving a Minor
    - 38.5. Any offence of assault involving a Minor
    - 38.6. Any offence of physical or psychological violence involving a Minor
  39. An Individual's conviction, at any time, for any of the following Criminal Code offenses may be deemed an infraction under this policy as determined by the Discipline Chair and may result in permanent ineligibility from participating in an Activity and expulsion from KESA Soccer:
    - 39.1. Any theft or fraud offence
    - 39.2. Any offence of assault other than involving a Minor
    - 39.3. Any offence of physical or psychological violence other than involving a Minor
  40. Records of all decisions will be maintained by the KESA Board.

## **Appeals**

41. In every case, named parties must be notified in writing of the appeal, and provided with the opportunity to deliver responding evidence and submissions.
42. Decisions pertaining to a complaint can be appealed to KESA, in accordance with this Appeals section.
43. Any party intending to appeal (the Appellant) must provide a written statement setting out their grounds of appeal to the Discipline Chair within ten (10) business days of notification of the sanctioning decision being made. The written application to appeal must contain:

- 43.1. Decision being appealed;
  - 43.2. Grounds for Appeal;
  - 43.3. Statement of facts;
  - 43.4. Rule or regulation that has been contravened; and
  - 43.5. Remedy sought.
44. Within fifteen (15) business days of receiving the written appeal, the Discipline Chair will refer the appeal request to the KESA President. The KESA President will form an Appeal Committee composed of (3) individuals, not of which can be part of the original Disciplinary Committee, and will assign one of these members to be the Appeals Chair And will identify the Respondent of the appeal.
  45. A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for the appeal as determined by the designated Appeals Committee. Sufficient grounds include the following and do not extend to questions of law:
    - 45.1. Making a decision for which it did not have authority or jurisdiction as set out in governing documents;
    - 45.2. Failing to follow procedures as laid out in the approved policies of the association;
    - 45.3. Making a decision which was influenced by bias;
    - 45.4. Exercising its discretion for an improper purpose; and
    - 45.5. Making a decision which was grossly unreasonable.
  46. The committee may dismiss the appeal, or allow the appeal and, revoke the sanction or findings, or impose a different sanction. In each case, the Appeal Committee must give reasons in writing for its decision to the KESA President. If the Appeals Panel determines that the appeal is not made on legitimate grounds it will inform the Appellant who will be granted no further avenues of appeal.
  47. If the Appeal is determined to be made on legitimate grounds, the Appeals Chair will inform both the Appellant and the Respondent within ten (10) business days and will provide a copy of the appeal to the Respondent.
  48. The Respondent will be granted ten (10) business days to submit a rebuttal to the appellant's submission. If the Respondent fails to return a written response and/or supporting documents/evidence, the appeal will proceed nonetheless.
  49. The Appeals Committee may, at its sole discretion and without holding a hearing, decide an appeal if, on the basis of the written documentation submitted to it, it is considered that the KESA Bylaws, or Rules and Regulations, or BC Soccer Universal Code of Conduct have or have not been breached.
  50. Written decisions are to be forwarded to the parties concerned (Appellant and Respondent) within fifteen (15) business days of the Respondent's rebuttal deadline date and, in cases where a personal hearing is held, within fifteen (15) business days after the date of the hearing.
  51. Every appeal will be handled in a manner that upholds the principles of procedural fairness outlined in the KESA Discipline, Complaints and Appeals Policy.
  52. Unless specifically determined by the KESA President, all appeals will be reviewed on the basis of the written documentation submitted to it.
  53. Decisions rendered by the Appeals Committee are to be written and must include the names of the Appeals Committee members, the names of the parties, the grounds for the decision, the facts upon which it was based and the decision itself and the rights to appeal to BC Soccer, if applicable.
  54. The KESA President will maintain records of all decisions. Making it available as appropriate.
  55. Sanctions imposed remain in force until the Appeals procedure is completed.
  56. Decisions may be communicated by electronic mail or by registered letter.

## **Confidentiality**

Individuals can be assured that the KESA President and KESA Board 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, KESA must report incidents that are likely to give rise to a claim to its insurance provider at the time KESA is made aware of the incident. Moreover, the KESA President and KESA Board may be required to share relevant information with child protection authorities and police. The KESA President and KESA Board may also be required to provide sufficient information about the allegation(s) to an Individual to enable him/her to provide a proper response. In many cases, this will mean that anonymity is not feasible or fair. The KESA President and KESA Board 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**

Individuals will be subject to discipline if they directly or indirectly interfering with this policy by: falsifying, distorting, or misrepresenting information, the resolution process, or an outcome attempting to discourage an Individual's proper participation in or use of this processes harassing or intimidating (verbally or physically) any person involved in the process publicly disclosing identifying information of an Individual, without permission failing to comply with any temporary or provisional measure or other final sanction distributing or otherwise publicizing materials an Individual gains access to during the review process or hearing, except as required by law or as expressly permitted influencing or attempting to influence another person to interfere with or manipulate the process facilitating, promoting, or encouraging the commission of maltreatment.

## **Retaliation**

Retaliation is prohibited. It is a violation of this policy to retaliate in any way against an Individual who have raised a good faith concern or made a bona fide report about alleged or suspected misconduct, or against a witness, investigator, decision maker or other 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 processes. Retaliation after the conclusion of the sanction processes is also prohibited. Retaliation may be present even where there is a finding that no misconduct occurred. Any person who experiences such retaliation must immediately report their concern to KESA. Disciplinary action will be taken against an Individual who engage in retaliatory conduct, up to and including expulsion.

## **Conflict of Interest**

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 grounds to discipline.



## **Legal Representation**

If a communication to KESA is received from a legal representative for a party requiring a legal response, any and all associated fees will be incurred by the party who initiated the legal representative.

If a communication to a KESA member or Affiliated Organization league is received from legal representative requiring a legal response, any and all fees will be incurred by the organization, association, league, club, team, Team Official, Match Official, player or individual who initiated the legal representative.

If members, Affiliated Organizations, association, league, club, team, Team Official, Match Official, player and/or individual wish to have a legal representative attend a BC Soccer member or Affiliated Organization hearing, they must advise that KESA member, affiliated club/organization or sanctioned league of this in writing a minimum of ten (10) Business Days prior to the hearing.

If a member, Affiliated Organization, association, league, club, team, Team Official, Match Official, player and/or individual wish to have a legal representative attend a KESA member, Affiliated Organization hearing, the association, league, club, team, Team Official, Match Official, player and/or individual are required to attend said hearing.