

Lacombe Minor Baseball Association Discipline and Complaints Policy

(the "Policy")

PURPOSE

1. Organizational Participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with all policies, by-laws, rules, and regulations of Lacombe Minor Baseball Association ("LMBA"), as updated and amended from time to time.
2. Non-compliance with any of the LMBA's policies, by-laws, rules, or regulations, or those of its Members, as applicable, may result in the imposition of sanctions pursuant to this Policy.

APPLICATION

Application – General

3. This Policy applies to all Organizational Participants and to any alleged breaches of the LMBA's policies, by-laws, rules or regulations, that designate this Policy as applicable to address such alleged breaches.

REPORTING

Organizational Participants

4. Any complaints involving alleged breaches of LMBA policies must be Reported in writing by an Individual (or Individuals) to LMBA within thirty (30) days of the occurrence of the incident. For the avoidance of doubt, this includes Reported complaints referred back to the LMBA by any outside organization that determined that a complaint initially reported to it does not fall within its jurisdiction.
5. Notwithstanding any provision in this Policy, the LMBA may, at its discretion, or upon request by the Independent Third Party, act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the LMBA will identify an individual to represent the organization.
6. A Complainant who fears retribution or reprisal or who otherwise considers that their identity must remain confidential may file a complaint with the Independent Third Party and request that their identity be kept confidential. If the Independent Third Party considers that the Complainant's identity must remain confidential, the Independent Third Party may ask that the LMBA take carriage of the complaint and act as the Complainant.

MINORS

7. Complaints may be brought by or against an Organizational Participant who is a Minor. 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.

INDEPENDENT THIRD PARTY RESPONSIBILITIES

11. 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.
 - b) Determine the appropriate jurisdiction to manage the complaint by considering the following:
 - i. whether the incident occurred within the business, activities, or Events of the LMBA, or affiliated organizations; and
 - ii. if the affiliated organization is able to manage the complaint process.
 - c) Determine whether the complaint is frivolous, vexatious or if it has been made in bad faith;
 - d) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and
 - e) Choose which process (Process #1 or Process #2, as outlined below) should be followed to hear and adjudicate the matter.

Available Process

There are two different processes that may be used to hear and adjudicate complaints. The Independent Third Party decides which process will be followed at their discretion, and such decision is not appealable.

Process #1 - the complaint contains allegations involving the following behaviours:

- 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 Process #2

- c) Conduct contrary to the values of the LMBA or those of one of its affiliated organizations
- d) Non-compliance with the policies, procedures, rules, or regulations of the LMBA or those of one of its affiliated organizations
- e) Minor violations of the policies or bylaws of the LMBA or those of one of its affiliated organizations.

*** The behaviours identified above are examples only and are not a definitive list of behaviours that may be addressed through Process #1.

Process #2 - the complaint contains allegations involving the following behaviours:

- a) Repeated incidents described in Process #1
- b) Hazing
- c) Abusive, racist, or sexist comments, conduct or behaviour
- d) Incidents that constitute Prohibited Behaviour under the Code of Conduct and Ethics (the "Code") 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 interferes with a competition or with any athlete's preparation for a competition
- h) Conduct that intentionally damages the image, credibility, or reputation of the LMBA or that of one of its affiliated organizations
- i) Consistent disregard for the by-laws, policies, rules, or regulations of the LMBA or those of one of its affiliated organizations
- j) Major or repeated violations of the *Code* or any other policies, by-laws, rules or regulations that designate this *Discipline and Complaints Policy* as applicable to address such alleged breaches.
- k) Intentionally damaging the property of the LMBA, one of its affiliated organizations, or improperly handling any of the aforementioned organizations' monies
- l) Abusive use of alcohol, any use or possession of alcohol by Minors, or use or possession of illicit drugs and narcotics
- m) A conviction for any *Criminal Code* offense

The behaviours identified above are examples only and are not a definitive list of behaviours that may be addressed through Process #2.

PROVISIONAL SUSPENSIONS

12. If it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of a Provisional Suspension or interim measures may be imposed against any Organizational Participants by the Independent Third Party after which further discipline or sanctions may be applied according to this Policy.

13. If an infraction occurs at a competition, it will be dealt with by the procedures specific to the competition, if applicable. Provisional Suspensions or interim measures may be imposed for the duration of a competition, training, activity, or Event only, or as otherwise determined appropriate by the Independent Third Party.¹

¹ In-competition discipline or sanction imposed by the applicable official or authority does not prevent an Organizational Participant from facing additional disciplinary proceedings under the Code.

14. Notwithstanding the above, the LMBA and/or Independent Third Party may determine that an alleged incident is of such seriousness as to warrant the imposition of a Provisional Suspension of a Respondent pending completion of an investigation, assessment and/investigation by criminal process, the hearing, or a decision of the External Discipline Panel (competition discipline panel).

15. Any Respondent against whom a Provisional Suspension or interim measure is imposed may make a request to the Independent Third Party or External Discipline Panel (if appointed) to have the Provisional Suspension or interim measure lifted. In such circumstances, the LMBA shall be provided with an opportunity to make submissions, orally or in writing, regarding the Respondent's request to have their Provisional Suspension lifted. Provisional Suspensions or interim measures shall only be lifted in circumstances where the Respondent establishes that it would be manifestly unfair to maintain the Provisional Suspension or interim measures against them.

16. Any decision not to lift a Provisional Suspension or interim measure shall not be subject to appeal.

Procedural Steps

PROCESS #1: Handled by Internal Discipline Chair

Internal Discipline Chair

17. Following the determination that the complaint or incident should be handled under Process #1, the Independent Third Party will appoint an Internal Discipline Chair² who may:

² The appointed Internal Discipline Chair must be unbiased and not in a conflict of interest.

a) Propose alternative dispute resolution techniques, 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). 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

c) Following receipt of the Parties' submissions, the Internal Discipline Chair 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.

18. Following their review of the submissions and evidence related to the complaint, the Internal Discipline Chair shall determine if any of the incidents listed in Process #1 above have occurred and, if so, determine whether to impose a sanction and, if so, determine the appropriate sanction (see: **Sanctions**). If, after hearing the Parties and reviewing their submissions, the Internal Discipline Chair considers that none of the incidents listed in Process #1 above have occurred, they shall dismiss the complaint.

19. The Internal Discipline Chair will inform the Parties of the Internal Discipline Chair's decision, which shall be in writing and include reasons. The Internal Discipline Chair's decision will take effect immediately, unless specified otherwise by the Internal Discipline Chair. 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.

20. Any decision rendered by the Internal Discipline Chair shall be provided to and maintained in the records of the relevant, Member and the LMBA. Decisions will be kept confidential by all the Parties involved and shall be retained and discarded in accordance with the relevant and applicable privacy legislation.

PROCESS #2: Handled by Independent Third Party and External Discipline Panel

Independent Third Party

21. Following the determination that the complaint should be handled under Process #2, the Independent Third Party will propose the use of alternative dispute resolution methods, if appropriate. If the dispute is not resolved using alternative dispute resolution methods, 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:

- 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 the LMBA, or any other sport 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

22. The Independent Third Party will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

23. 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.

24. 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.

25. 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:

a) 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 the LMBA are reasonable.

b) The Parties will be given appropriate notice of the day, time, and place of the hearing.

c) Copies of any written documents which 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.

d) The Parties may engage a representative, advisor, translator, transcription services or legal counsel at their own expense.

e) The External Discipline Panel may request that any other individual participate and give evidence at the hearing.

f) If not a Party, the LMBA and/or the relevant Member 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, the LMBA and/or the relevant Member 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.

3The purpose of this provision is not to provide the LMBA with the possibility to try to influence whether a sanction is imposed and, if so, the duration or nature of the sanction. Instead, this provision is intended to provide the LMBA with the possibility to provide the discipline panel with clarifying information when the parties have sought a particular sanction against an Individual, but they have misunderstood or misrepresented fundamental elements of the programming or membership structure (or other similar issues) and, if left unaddressed, could result in the discipline panel imposing a sanction that is unenforceable.

g) 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.

h) Nothing is admissible in evidence at a hearing that:

- i. would be inadmissible in a court by reason of any privilege under the law of evidence; or
- ii. is inadmissible by any statute.

i) The decision will be by a majority vote of the External Discipline Panel when the Panel consists of three people.

26. 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.

27. The process will proceed if a Party chooses not to participate in the hearing.

28. 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 complaint, shall be permitted to participate in the proceedings as determined by the External Discipline Panel, and will be bound by the decision.

29. In fulfilling its duties, the External Discipline Panel may obtain independent advice.

DECISION

30. 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.

31. 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 to the LMBA.

32. In extraordinary circumstances, the External Discipline Panel may first issue a verbal or summary decision soon after the conclusion of the hearing, with the full written decision to be issued before the end of the fourteen (14) day period.

33. The External Discipline Panel's decision will come into effect as of the date that it is rendered, unless decided otherwise by the External Discipline Panel. The External Discipline Panel's decision will apply automatically to the LMBA and all of its associated organizations.

34. Unless the matter involves a Vulnerable Participant, once the appeal deadline in the *Appeal Policy* has expired, the LMBA (as applicable) shall publish on their website the outcome of the case, the provision(s) of the relevant policies that have been violated, the name(s) of the Organizational Participants involved and the sanction(s) imposed, if any. If the matter is appealed, the publication provisions in the *Appeal Policy* shall apply. Identifying information regarding Minors or Vulnerable Participants will never be published by the LMBA.

35. If the External Discipline Panel dismisses the complaint, the information referred to in Section 34 above may only be published with the Respondent's consent. If the Respondent does not provide such consent, the information referred to in Section 34 above will be kept confidential by the Parties, the Independent Third Party, the LMBA and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to this *Policy*.

36. Other individuals or organizations, including but not limited to, Provincial/Territorial sport organizations, sport clubs, etc., shall be advised of the outcome of any decisions rendered in accordance with this *Policy*.

37. Records of all decisions will be maintained by the LMBA in accordance with their Privacy *Policy*.

38. 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 the LMBA's policies, bylaws, 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);
- g) Which organization is responsible for ensuring that the conditions have been satisfied; and,

h) Any other guidance that will assist the Parties to implement the External Discipline Panel's decision.

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

39. When determining the appropriate sanction, the Internal Discipline Chair or External Discipline Panel, as applicable, will consider the following factors (where applicable):

- a) The nature and duration of the Respondent's relationship with the Complainant, including whether there is a power imbalance;
- b) The Respondent's prior history and any pattern of misconduct, Prohibited Behaviour or Maltreatment;
- c) The respective 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 misconduct, Prohibited Behaviour or Maltreatment, and/or cooperation in the investigative and/or disciplinary process of the LMBA;
- f) Real or perceived impact of the incident on the Complainant, sport organization or the sporting community;
- g) Circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in the *Code*; addiction; disability; illness);
- h) Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate;
- i) A Respondent who is in a position of trust, intimate contact or high-impact decision making may face more serious sanctions; and/or
- j) Other mitigating or aggravating circumstances.

40. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required, and a single incident of Prohibited Behaviour, Maltreatment or other misconduct may justify elevated or combined sanctions.

41. The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly or in combination:

- a) **Verbal or Written Warning** - A verbal reprimand or an official, written notice that an Organizational Participant has violated the *Code* and that more severe sanctions will result should the Organizational Participant be involved in other violations.

- b) **Education** - The requirement that an Organizational Participant undertake specified educational or similar remedial measures to address the violation(s) of the *Code* or the UCCMS
- c) **Probation** - Should any further violations of the *Code* or the UCCMS occur during the probationary period, this may result in additional disciplinary measures, including, without limitation, a period of suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period
- d) **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of the LMBA. A suspended Organizational Participant may be eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Organizational Participant 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** - Ineligibility to participate in any capacity in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of the LMBA.
- 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.

42. 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 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 a final determination is made by the applicable process.

43. An Organizational Participant's conviction for certain *Criminal Code* offenses involving harmful conduct shall carry a presumptive sanction of permanent ineligibility from participating with the LMBA. Such *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

44. Failure to comply with a sanction as determined by the External Discipline Panel will result in an automatic suspension until such time as compliance occurs.

OSIC SANCTION

45. As a Program Signatory to the OSIC, the LMBA will ensure that any sanctions or measures imposed by the OSIC's Director of Sanctions and Outcomes ("DSO") will be implemented and respected within the LMBA's jurisdiction (including at the provincial, territorial and club level), once the LMBA receives appropriate notice of any sanction or measure from the OSIC.

APPEALS

46. The decision of an Internal Discipline Chair or External Discipline Panel, as applicable, may be appealed in accordance with the ***Appeal Policy(Appendix B)***.

CONFIDENTIALITY

47. The disciplinary process is confidential and involves only the LMBA, the Parties, the Independent Third Party, the Internal Discipline Chair, the External Discipline Panel (as appropriate), and any independent advisors to the External Discipline Panel.

48. None of the Parties (or their representatives or witnesses) referred to in Section 47 will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings, unless the LMBA is required to notify an organization such as an international federation, Sport Canada or other sport organization (i.e., where a Provisional Suspension or interim measures have been imposed and communication is required to ensure that they may be enforced), or notification is otherwise required by law.

49. Any failure to respect the confidentiality requirement may result in further sanctions or discipline by the Internal Discipline Chair or External Discipline Panel (as applicable).

TIMELINES

50. 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 Independent Third Party may direct that these timelines be revised.

PRIVACY

51. The collection, use and disclosure of any personal information pursuant to this Policy is subject to the LMBA's Policy Concerning the Protection of Personal Information.

52. The LMBA, or any of their delegates pursuant to this Policy (i.e., Independent Third Party, Internal Discipline Chair, External Discipline Panel), shall comply with the LMBA's Privacy Policy in the performance of their services under this Policy.

DEFINITIONS

53. Terms in this Policy are defined as follows:

a) **Athlete** – An individual who is an Athlete participant in the LMBA who is subject to the policies of the LMBA.

b) **Athlete Support Personnel** - Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other person working with, treating or assisting an Athlete participating in or preparing for sports competition.

c) **Independent Third Party** – the individual retained by the LMBA to receive reports and complaints, and to fulfill the responsibilities outlined in the *Discipline and Complaints Policy*, *Investigations Policy* and *Appeal Policy*, as applicable. This individual must not be in a real or perceived conflict of interest or have a direct relationship with any of the Parties.

d) **Complainant** – An Organizational Participant who makes a report of an incident, or a suspected incident, of alleged Maltreatment, Prohibited Behaviour or other misconduct that may be a violation of the standards described in the LMBA's policies, by-laws, rules or regulations, or the UCCMS.

e) **Days** – calendar days⁶

f) **External Discipline Panel** – A Panel of one or three people who are appointed by the Independent Third Party to decide on complaints that are assessed under Process #2 of this Policy.

g) **Event** - An event sanctioned by the LMBA, and which may include a social Event.

h) **Harassment** – as defined in the Code.

i) **Internal Discipline Chair** – An individual appointed by the LMBA to decide on complaints that are assessed under Process #1 of this Policy. The Internal Discipline Chair may be a Director, head coach, staff member, or other individual affiliated with the LMBA but must not be in a conflict of interest or have a direct relationship with any of the Parties.

- j) **Maltreatment** – as defined in the *UCCMS*
- k) **Minor** – as defined in the *UCCMS*.
- l) **Parties** – the individuals involved in a dispute.
- m) **OSIC** - Office of the Sport Integrity Commissioner, an independent division of the SDRCC which comprises the functions of the Sport Integrity Commissioner
- n) **Organizational Participant**– Refers to all categories of individual members and/or registrants defined in the By-laws of the LMBA who are subject to the policies, rules and regulations of the LMBA, as well as all persons employed by, contracted by, or engaged in activities with, the LMBA including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, volunteers, judges, managers, administrators, committee members, parents or guardians, spectators, committee members, or directors and officers.
- o) **Person in Authority** – Any Organizational Participant who holds a position of authority within the Organization including, but not limited to, coaches, instructors, officials, managers, support personnel, chaperones, committee members, or directors and officers.
- p) **Power Imbalance** – as defined in the *UCCMS*
- q) **Provisional Suspension** – means that the Organizational Participant is barred temporarily from participating in any capacity in any Event or activity of the LMBA, or as otherwise decided pursuant to the *Discipline and Complaint Policy*, prior to the decision rendered in a hearing conducted pursuant to this Policy.
- r) **Respondent** – The Party responding to the complaint.
- s) **UCCMS** - *Universal Code of Conduct to prevent and address Maltreatment in Sport*, as amended from time to time by the SDRCC
- t) **UCCMS Participant** - Individual affiliated with the Program Signatory as designated by the Program Signatory and who has signed the required consent form. UCCMS Participants may include an athlete, a coach, an official, an athlete support personnel, an employee, a contractual worker, an administrator, or a volunteer acting on behalf of, or representing the Program Signatory in any capacity.
- u) **Vulnerable Participant** – as defined in the *UCCMS*

Appendix A – Investigation Procedure

Determination

1. When a complaint is submitted pursuant to the *Policy* and is accepted by the Independent Third Party, the Independent Third Party will determine if the incident(s) should be investigated.

Investigation

2. If the Independent Third Party considers that an investigation is necessary, they will appoint an investigator. The investigator must be an independent third-party with experience in investigating. The investigator must not be in a conflict-of-interest situation and should have no connection to either party.

3. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial/Territorial legislation. The investigation may include:

- a) Interviews with the Complainant
- b) Witness interviews
- c) Statement of facts (Complainant's perspective) prepared by investigator, acknowledged by the Complainant and provided to the Respondent
- d) Interviews with the Respondent
- e) Statement of facts (Respondent's perspective) prepared by investigator, acknowledged by the Respondent and provided to the Complainant

Investigator's Report

4. Upon completion of their investigation, the investigator shall prepare a written report that shall include a summary of evidence from the Parties and any witnesses interviewed. The report shall also include a non-binding recommendation from the investigator regarding whether an allegation or, where there are several allegations, which allegations, should be heard by an External Discipline Panel pursuant to the *Discipline and Complaints Policy* because they constitute a likely breach of the Code of Conduct and Ethics, the UCCMS or any other relevant and applicable LMBA policy. The investigator may also make non-binding recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review or investigation).

5. The investigator's report will be provided to the Independent Third Party who will disclose it, at their discretion, all or part of the investigation to the LMBA and the relevant organizations (if applicable). The Independent Third Party may also disclose the investigator's report – or a redacted version to protect the identity of witnesses – to the Parties, at their discretion, with any necessary redactions. Alternatively, and only if necessary, other relevant Parties may be provided with an executive summary of the investigator's findings by the Independent Third Party.

6. Should the investigator find that there are possible *Criminal Code* offences, the investigator shall advise the Parties, the LMBA, and the matter shall be referred by the Independent Third Party to the police.

7. The Investigator must also inform the LMBA of any findings of criminal activity. The Organization may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of prohibited substances or methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any sexual crime involving Minors, fraud against the Organization, or other offences where the lack of reporting would bring the Organization into disrepute.

Reprisal and Retaliation

8. An Organizational Participant who submits a complaint to the Independent Third Party or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute Prohibited Behaviour and be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy* or, as applicable, the policies and procedures of the OSIC.

False Allegations

9. An Organizational Participant who submits allegations that the Investigator determines to be malicious, false, or for the purpose of retribution, retaliation or vengeance may be subject to a complaint under the terms of the *Discipline and Complaints Policy* and may be required to pay for the costs of any investigation that comes to this conclusion. The investigator may recommend to the LMBA that the Organizational Participant be required to pay for the costs of any investigation that comes to this conclusion. Any Organizational Participant who is liable to pay for such costs shall be automatically deemed to be not in good standing until the costs are paid in full and shall be prohibited from participating in any LMBA Events, activities or business. LMBA, or the Organizational Participant against whom the allegations were submitted, may act as the Complainant with respect to making a complaint pursuant to this Section 9.

Confidentiality

10. The Investigator will make reasonable efforts to preserve the anonymity of the LMBA, Respondent, and any other Party. However, the LMBA recognizes that maintaining full anonymity during an investigation may not be feasible.

Privacy

11. The collection, use and disclosure of any personal information pursuant to this Policy is subject to the LMBA's Policy Concerning the Protection of Personal Information.

12. The LMBA, or any of their delegates pursuant to this Policy (i.e., Independent Third Party, Internal Discipline Chair, External Discipline Panel), shall comply with the LMBA's Policy Concerning the Protection of Personal Information in the performance of their services under this Policy.

Appendix B – Appeal Process

SCOPE OF APPEAL

1. Any member of LMBA who is affected by a decision of any body or individual who has been delegated authority to make decisions on behalf of the LMBA, shall have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 5 of this policy.
2. This policy shall not apply to matters relating to baseball rules, which may not be appealed.

TIMING OF APPEAL

3. Members who wish to appeal a decision shall have 21 days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, along with detailed reasons for the appeal, to the President of Baseball Canada (or a designate). *The appeal shall include an appeal fee of, which may be retained by LMBA or returned to the appellant in the discretion of the President (Designate) and/or the Panel.*
4. Any party wishing to initiate an appeal beyond the 21 day period must provide a written request stating reasons for an exemption to this requirement. The decision to allow, or not allow an appeal outside the 21 day period shall be at the sole discretion of the President of LMBA.

GROUNDINGS FOR APPEAL

5. A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for the appeal. To have sufficient grounds the appeal must be based on one or more of the following potential errors having been made by the respondent:
 - a) making a decision for which it did not have authority or jurisdiction as set out in governing documents;
 - b) failing to follow procedures as laid out in the bylaws or approved policies of LMBA;
 - c) making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views;
 - d) exercising its discretion for an improper purpose;
 - e) making a decision which was grossly unreasonable.

SCREENING OF APPEAL

6. Within 7 days of receiving the notice of appeal, the President of LMBA (or a designate) shall decide whether or not the appeal is based on one or more of the categories of possible error by the respondent as set out in Section 5. The President of LMBA (or a designate) shall not determine if an error has been made, only if the appeal is based on such an allegation of error by the respondent.

7. If the appeal is denied on the basis of insufficient grounds, the appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President of LMBA (or a designate) and may not be appealed.

APPEALS PANEL

8. If the President of LMBA (or a designate) is satisfied that there are sufficient grounds for an appeal, within 10 days of having received the original notice of appeal he or she shall establish an Appeals Panel (the "Panel"). The Panel shall be comprised of at least one individual and no more than three individuals. The number of individuals to form the Panel shall be in the sole discretion of the President of LMBA (or a designate). An individual on the Panel shall have had no involvement with the decision being appealed and the parties to the Appeal. An individual on the Panel shall be free from any other actual or perceived bias or conflict.

PRELIMINARY CONFERENCE

9. The Panel may determine that the circumstances of the dispute warrant a preliminary conference:

- a) The matters which may be considered at a preliminary conference include date and location of hearing, timelines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.
- b) The Panel may delegate to its Chairperson (when appropriate) the authority to deal with these preliminary matters.

PROCEDURE FOR THE APPEAL

10. The Panel shall govern the appeal by such procedures as it deems appropriate, provided that:

- a) The appeal hearing shall be held within 21 days of the Panel's appointment.
- b) The appellant, respondent and affected parties shall be given 14 days written notice of the date, time and place of the appeal hearing.
- c) When a Panel is composed of three members then the Panel's members shall select from themselves a Chairperson. Decisions shall be by majority vote, where the Chairperson carries a vote.
- d) Copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least 5 days in advance of the hearing.
- e) Any of the parties may be accompanied by a representative or advisor, including legal counsel.
- f) If the matter under appeal relates to team selection, any person potentially affected by the decision of the Panel shall become a party to the appeal.
- g) The Panel may direct that any other individual participates in the appeal.

h) When a Panel is composed of three members in the event that one of the Panel's members is unable or unwilling to continue with the appeal, the matter will be concluded by the remaining two Panel members.

i) Unless otherwise agreed by the parties, there shall be no communication between Panel and the parties except in the presence of, or by copy to, the other parties.

11. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a conference call or video conference.

APPEAL DECISION

12. Within 14 days of concluding the appeal, the Panel shall issue its written decision, with reasons. In making its decision, the Panel shall have no greater authority than that of the original decision-maker. The Panel may decide:

- a) To void or confirm the decision being appealed;
- b) To refer the matter back to the initial decision-maker for a new decision; and
- c) To vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;
- d) To determine how costs of the appeal shall be allocated, if at all.

13. A copy of this decision shall be provided to each of the parties and to the President of LMBA.

TIMELINES

14. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Panel may direct that these timelines be abridged. If the circumstances of the disputes are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be extended.

FINAL AND BINDING

15. The decision of the Panel will be final and binding subject to the right of any party to the appeal to seek an appeal of the Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada.

16. No action or legal proceeding shall be commenced against LMBA in respect of a dispute, unless LMBA has refused or failed to abide by the provisions for appeal as set out in this policy.