



## SOFTBALL BC DISCIPLINE AND COMPLAINTS POLICY

### DEFINITIONS

\* Indicates a definition adapted from the UCCMS (Universal Code of Conduct to Prevent and address Maltreatment in Sport)

1. **Affected Party** – Any individual or entity, as determined by the Appeal Manager, who may be affected by a decision rendered under the *Appeal Policy* and who may have recourse to an appeal in their own right
2. **Appellant** – The Party appealing a decision
3. **Appeal Manager** – An individual, who may be any staff member, committee member, volunteer, Director, or an independent third party, who is appointed to oversee the *Appeal Policy*. The Appeal Manager will have responsibilities that include using decision making authority empowered by the *Appeal Policy*
4. **\*Athlete** – An individual who is an Athlete Participant in Softball BC who is subject to the UCCMS and the policies of Softball BC
5. **Board** – The Board of Directors of Softball BC
6. **Case Manager** – An independent individual (or individuals) appointed by Softball BC to receive and administer complaints under the *Discipline and Complaints Policy*
7. **Committee Member** – an individual elected or appointed to a committee of Softball BC
8. **\*Complainant** – A Participant or observer who makes a report of an incident, or a suspected incident, of Maltreatment or other behaviour that is a violation of the standards described in the *Code of Conduct and Ethics*
9. **Days** – Days including weekends and holidays
10. **Director** – An individual appointed or elected to the Board of Directors of Softball BC
11. **Discipline Chair** – an individual appointed to handle the duties of the Discipline Chair as described in the *Discipline and Complaints Policy*.
12. **Event** – An event sanctioned by Softball BC
13. **\*Minor** – Any Participant who is under the age of majority at the time and in the jurisdiction where the alleged Maltreatment has occurred. Adults are responsible for knowing the age of a Minor. For the purpose of protection in each Canadian province and territory, a Minor is a child younger than the following age:
  - a) 16 years old: Newfoundland and Labrador; Saskatchewan; Northwest Territories; Nunavut
  - b) 18 years old: Prince Edward Island; Quebec; Ontario; Manitoba; Alberta
  - c) 19 years old: Nova Scotia; New Brunswick; British Columbia; Yukon
14. **\*Participants** – Refers to all categories of individual members and/or registrants defined in the By-laws who are subject to the UCCMS and the policies of Softball BC, as well as all people employed by, contracted by, or engaged in activities with, Softball BC including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, volunteers, managers, administrators, committee members, parents or guardians, spectators, committee members, and Directors and Officers
15. **Parties** – the groups involved with a dispute. In the *Discipline and Complaints Policy*, the Parties are the Complainant and Respondent. In the *Appeal Policy*, the Parties are the Appellant, Respondent, and any Affected Party

16. **Person in Authority** – Any Participant who holds a position of authority within Softball BC including, but not limited to, employees, coaches, instructors, officials, managers, support personnel, chaperones, committee members, and Directors and Officers
17. **\*Reporting (or Report)** – The provision of information in writing by any person or a Participant to a relevant independent authority (the independent person or position, such as a Case Manager, charged with receiving a report and determining next steps) regarding Maltreatment. Reporting may occur through either: (i) the Complainant (of any age) or the one who experienced the Maltreatment, or (ii) a witness – someone who witnessed the Maltreatment or otherwise knows or suspects Maltreatment. In either case, the intention of Reporting is to initiate an independent investigative process, which could result in disciplinary action being taken against the Respondent.
18. **\*Respondent** – The Participant responding to a complaint or, in the case of an appeal, the body whose decision is being appealed.
19. **Social Media** – The catch-all term that is applied broadly to new computer-mediated communication media such as blogs, YouTube, Facebook, Instagram, Tumblr, TikTok, Snapchat, and Twitter.
20. **Vulnerable Participants** – Includes Minors and vulnerable adults (people who, because of age, disability or other circumstance, are in a position of dependence on others or are otherwise at a greater risk than the general population of being harmed by people in positions of trust or authority);
21. **Worker** – Any person who performs work for Softball BC, including employees, managers, supervisors, temporary workers, volunteers, student volunteers, part-time workers, the Board of Directors, and independent contractors.
22. **Workplace** – Any place where business or work-related activities are conducted. Workplaces include but are not limited to, the registered office(s), work-related social functions, work assignments outside the registered office(s), work-related travel, the training and competition environment, and work-related conferences or training sessions

\* Indicates a section that has been adapted from the UCCMS (Universal Code of Conduct to Prevent and address Maltreatment in Sport)

### **Purpose**

1. Participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Softball BC's policies, By-laws, rules and regulations, and *Code of Conduct and Ethics*. Non-compliance may result in actions pursuant to this Policy.

### **Principles**

2. \*The following principles guide the findings and determinations under this Policy:
  - a) Any form of Maltreatment violates the integrity of Participants and undermines the values of Canadian sport.
  - b) Sanctions imposed will reflect the seriousness of the Maltreatment and the harm to those affected and the values of Canadian sport.

### **Application of this Policy**

3. This Policy applies to all Participants.

4. This Policy applies to matters that may arise during Softball BC's business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Softball BC's activities, and any meetings.
5. This Policy also applies to Participants' conduct outside of Softball BC's business, activities, and events when such conduct adversely affects relationships within Softball BC (and its work and sport environment), is detrimental to the image and reputation of Softball BC, or upon the acceptance of Softball BC. Applicability or acceptance will be determined by Softball BC at its sole discretion.
6. \*This Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Participants who have retired from the sport where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Participant was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Participants involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Participant(s).
7. This Policy does not prevent immediate discipline or action from being applied as reasonably required. Further discipline may be applied according to this Policy. Any infractions or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary actions will be for the duration of the competition, training, activity, or event only.
8. An employee of Softball BC who is a Respondent will be subject to appropriate disciplinary action in accordance with any of Softball BC's applicable policies, as well as the employee's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

#### **Alignment**

9. Softball BC recognizes that Participants may also be registered with Local Sport Associations. Softball BC requires that Local Sport Organizations submit discipline decisions rendered at the LSO level involving Participants to Softball BC, where a suspension in excess of thirty (30) days is applied.

#### **Adult Representative**

10. Complaints may be brought for or against a Participant who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
11. Communication from the Discipline Chair or Case Manager, as applicable, must be directed to the minor's representative.
12. A Minor is not required to attend an oral hearing, if held.

#### **Reporting a Complaint**

13. Any person may report a complaint to Softball BC or to Softball BC's Case Manager (when identified). If a Case Manager has not been previously identified, Softball BC will appoint an independent Case Manager and direct that person to receive the complaint.

14. Softball BC may, in its sole discretion, act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Softball BC will identify an individual representative of the organization.

### **Case Manager Responsibilities**

15. Upon receipt of a complaint, the Case Manager has a responsibility to:
  - a) Determine the appropriate jurisdiction to manage the complaint and consider the following:
    - i. Whether the complaint should be handled by Softball BC. In making this decision, the Case Manager will consider:
      - a. whether the incident has occurred within the business, activities or events of Softball BC. If the incident has occurred outside of the business, activities or events of this organization, the Case Manager will determine which organization's relationships are adversely affected or which organization's image or reputation will be detrimentally affected by the incident; and
      - b. if the LSO is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest or due to a lack of capacity
    - ii. If the Case Manager determines that the complaint or incident should be handled by the appropriate LSO, that LSO may use its own policies to resolve the dispute or may adopt this Policy. In such instance, any reference to Case Manager below shall be understood as a reference to Softball BC's Case Manager and references to LSO shall be understood to be references to Softball BC
  - b) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy and, if so, the complaint will be dismissed once the Case Manager's decision to dismiss the complaint has been reviewed and if it has been approved by the Executive Director;
  - c) Propose the use of alternative dispute resolution techniques;
  - d) Determine if the alleged incident should be investigated pursuant to the *Investigations Policy*; and/or
  - e) Choose which process (Process #1 or Process #2) should be followed, and may use the following examples as a general guideline:
    - a) Process #1 - the Complaint alleges the following incidents:
      - i. Disrespectful, abusive, racist, or sexist comments or behaviour
      - ii. Disrespectful conduct
      - iii. Minor incidents of violence (e.g., tripping, pushing, elbowing)
      - iv. Conduct contrary to the values of Softball BC
      - v. Non-compliance with Softball BC's policies, procedures, rules, or regulations
      - vi. Minor violations of the *Code of Conduct and Ethics*
    - b) Process #2 - the Complaint alleges the following incidents:
      - i. Repeated minor incidents
      - ii. Any incident of hazing
      - iii. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
      - iv. Major incidents of violence (e.g., fighting, attacking, sucker punching)
      - v. Pranks, jokes, or other activities that endanger the safety of others
      - vi. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
      - vii. Conduct that intentionally damages Softball BC's image, credibility, or reputation
      - viii. Consistent disregard for Softball BC's bylaws, policies, rules, and regulations

- ix. Major or repeated violations of the *Code of Conduct and Ethics*
- x. Intentionally damaging Softball BC's property or improperly handling Softball BC's monies
- xi. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
- xii. A conviction for any *Criminal Code* offense
- xiii. Any possession or use of banned performance enhancing drugs or methods

**Process #1: Handled by Discipline Chair**

- 16. The Discipline Chair will be a Director of the Board, or an individual appointed by the President of Softball BC to handle the duties of the Discipline Chair. The President may choose to appoint three (3) individuals to serve as Discipline Chair and, in this case, decisions of the Discipline Chair will be by majority vote.
- 17. The Discipline Chair appointed to handle a complaint or incident must be unbiased and not in a conflict of interest situation

Actions

- 18. Following the determination that the complaint or incident should be handled under Process #1, the Discipline Chair will review the submissions and may:
  - a) Recommend mediation;
  - b) Make a decision;
  - c) Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident; orConvene the parties to a meeting, either in person or by way of video or teleconference in order to ask the parties questions
- 19. Thereafter, the Discipline Chair shall determine if a breach occurred and, if so, if one or more actions should be applied (see: **Actions**).
- 20. The Discipline Chair will inform the Parties of the decision, which will take effect immediately.
- 21. Records of all actions will be maintained by Softball BC.

Request for Reconsideration

- 22. The action may not be appealed until the completion of a request for reconsideration. However, the Respondent may contest the action by submitting a Request for Reconsideration within four (4) days of receiving the action. In the Request for Reconsideration, the Respondent must indicate:
  - a) Why the action is inappropriate;
  - b) Summary of evidence that the Respondent will provide to support the Respondent's position; and
  - c) What penalty or action (if any) would be appropriate.
- 23. Upon receiving a Request for Reconsideration, the Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate action.
- 24. Should the Discipline Chair accept the Respondent's suggestion for an appropriate action, that action will take effect immediately.

**Process #2: Handled by Discipline Panel**

25. The President will appoint three (3) individuals to serve as Discipline Panel and, in this case, decisions of the Discipline Panel will be by majority vote. Discipline Panel appointed to handle a complaint or incident must be unbiased and not in a conflict of interest situation

Case Manager

26. Following the determination that the complaint or incident should be handled under Process #2, the Case Manager has a responsibility to:

- a) Propose the use of Softball BC's *Dispute Resolution Policy*
- b) Advise the Discipline Panel, if necessary
- c) Coordinate all administrative aspects and set timelines
- d) Provide administrative assistance and logistical support to the Discipline Panel as required
- e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

Procedures

27. If the Case Manager determines the complaint is:

- a) Frivolous or outside the jurisdiction of this Policy, and that decision is upheld by the Executive Director, the complaint will be dismissed immediately
- b) Not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the complaint is accepted and of the applicable next steps

28. The Case Manager's decision to accept or dismiss the complaint, once it has been reviewed and approved by the Executive Director, may not be appealed,

29. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

30. After notifying the Parties that the complaint has been accepted, the Case Manager may propose using Softball BC's *Dispute Resolution Policy* with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the parties refuse to use the *Dispute Resolution Policy*, the Case Manager will advise the Discipline Panel to hear the complaint.

31. The Case Manager, in cooperation with the 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. The hearing will be governed by the procedures that the Case Manager and the Discipline Panel deem appropriate in the circumstances, provided that:

- a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
- b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing
- c) The Parties may engage a representative, advisor, or legal counsel at their own expense
- d) The Discipline Panel may request that any other individual participate and give evidence at the hearing
- e) The Discipline Panel may allow as evidence at the hearing any oral evidence and document or

- thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
- f) The decision will be by a majority vote of the Discipline Panel

32. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate action. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate action.
33. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
34. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in their own right, that party will become a Party to the current complaint and will be bound by the decision.
35. In fulfilling its duties, the Discipline Panel may obtain independent advice.

#### Decision

36. After hearing and/or reviewing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, the actions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Softball BC. In extraordinary circumstances, the Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

#### Actions

37. \*Prior to determining actions, the Discipline Chair or Discipline Panel, as applicable, will consider factors relevant to determining appropriate actions which include:
- 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 inappropriate behaviour or Maltreatment;
  - c) The ages of the individuals involved;
  - d) Whether the Respondent poses an ongoing and/or potential threat to the safety of others;
  - e) The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the Maltreatment, and/or cooperation in the process of Softball BC;
  - f) Real or perceived impact of the incident on the Complainant, sport organization or the sporting community;
  - g) Circumstances specific to the Respondent being disciplined (e.g. lack of appropriate knowledge or training regarding the requirements in the *Code of Conduct and Ethics*; 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 actions; and/or
- Other mitigating and aggravating circumstances
38. \*Any single factor, if severe enough, may be sufficient to justify the action(s) imposed. A combination of several factors may justify elevated or combined actions.

39. \*The Discipline Chair or Discipline Panel, as applicable, may apply the following disciplinary actions, singularly or in combination:
- a) **Verbal or Written Warning** - A verbal reprimand or an official, written notice and formal admonition that a Participant has violated the *Code of Conduct and Ethics* and that more severe actions will result should the Participant be involved in other violations
  - b) **Education** - The requirement that a Participant undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics*
  - c) **Probation** - Should any further violations of the *Code of Conduct and Ethics* occur during the probationary period, will result in additional disciplinary measures, likely including a period of suspension or permanent ineligibility. This action can also include loss of privileges or other conditions, restrictions, or requirements for a specified period of time
  - d) **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, practice, activity, event, or competition sponsored by, organized by, or under the auspices of Softball BC. A suspended Participant is eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the 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** - Permanent ineligibility to participate, in any sport, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of Softball BC and/or any sport organization subject to the UCCMS
  - g) **Other Discretionary Sanctions** - Other actions 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
40. \*The Discipline Chair or Discipline Panel, as applicable, may apply the following presumptive actions which are presumed to be fair and appropriate for the listed Maltreatment:
- a) Sexual Maltreatment involving a Minor Complainant shall carry a presumptive action of permanent ineligibility;
  - b) Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive action of either a period of suspension or eligibility restrictions.
  - c) While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive action shall be a period of suspension
41. A Participant's conviction for a *Criminal Code* offense shall carry a presumptive action of permanent ineligibility from participating with Softball BC. *Criminal Code* offences may include, but are not limited to:
- a) Sexual Maltreatment involving a Minor Complainant shall carry a presumptive action of permanent ineligibility;
  - b) Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive action of either a period of suspension or eligibility restrictions.
  - c) While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive action shall be a period of suspension



42. Unless the Discipline Chair or Panel decides otherwise, any disciplinary actions will begin immediately, notwithstanding an appeal. Failure to comply with an action as determined by the Discipline Chair or Panel will result in an automatic suspension until such time as compliance occurs.
43. Records of all decisions will be maintained by Softball BC.

#### Appeals

44. The decision of the Discipline Chair or Panel may be appealed in accordance with Softball BC's *Appeal Policy*.

#### **Pro Tem Suspension Pending a Hearing**

45. As per Article 4.1 d) of the Softball BC Member Handbook, in exceptional circumstances, an interim suspension may be applied a) upon agreement between the appropriate District Umpire in Chief and District Coordinator, or b) In the case of a Provincial Championship, by the Board Member, or their designate in charge of the Championship.

#### **Confidentiality**

46. The discipline and complaints process is confidential and involves only the Parties, the Case Manager, the Discipline Chair or Panel, and any independent advisors to the Discipline Chair or Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

#### **Timelines**

47. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Discipline Chair or Panel may direct that these timelines be revised.

#### **Records and Distribution of Decisions**

48. Other individuals or organizations, including but not limited to, national sport organizations, provincial sport organizations, sport clubs, etc., may be advised of any decisions rendered in accordance with this Policy.
49. \* Softball BC recognizes that a publicly-available searchable database or registry of Respondents who have been disciplined, or whose eligibility to participate in sport has in some way been restricted, may be maintained and may be subject to provisions in the UCCMS.