



## Tri-County Soccer Association Discipline, Complaints and Appeals Policy

Policy Adopted by Membership – April 5, 2023

### Jurisdiction

All parties, in fact all Members of the organization (Tri-County), must be aware that they are under the jurisdiction of the organization and are bound by the organization's decisions – provided these decisions are made fairly and with due process. Sport organizations are 'private tribunals' which means that they are empowered to determine their own rules for membership, to determine criteria for membership (like paying a fee), and to discipline Members when those Members do not meet certain obligations. In return, the Members determine the purpose and objectives of the organization, approve amendments to Bylaws, and elect Directors.

Members of the organization therefore, by agreeing to become Members, also agree to abide by the organization's Bylaws, policies and procedures. It may come as a surprise to some Members that they can be disciplined or fined by the organization – but provided the policies allow for it, and it is done fairly and with due process, it is a possibility.

Depending on what the organization's Bylaws say, and what the Bylaws of the Provincial/Territorial Sport Organization (PTSO-Alberta Soccer Association) say, a Member of a local sport organization may also be a member or a 'registrant' of the PTSO. This means that the individual is also under the jurisdiction of the provincial/territorial organization. The PTSO may get involved in complaints or disputes of particular seriousness, issues involving boundary rules or multiple local associations, or in the application of the PTSO's rules onto the local association. Rarely does the National Sport Organization (NSO-Canada Soccer) become involved in a local association matter but it could be argued that the NSO has jurisdiction as well.

### Tri-County Soccer Association Discipline and Complaints Policy

**"Organization" refers to: Tri-County Soccer Association**

This policy may be applied by individual Clubs under the jurisdiction of the Tri-County Soccer Association when their own policies do not cover the occurrences listed in this document.

#### Definitions

1. The following terms have these meanings in this Policy:

- a) **Athlete** – Includes any individual who is registered to compete for the Organization
- b) **Complainant** – An Individual 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*
- c) **Days** – Days including weekends and holidays
- d) **Discipline Chair** – An individual appointed to handle the duties of the Discipline Chair
- e) **Discrimination** – As defined in the *Code of Conduct and Ethics*
- f) **Harassment** – As defined in the *Code of Conduct and Ethics*
- g) **Individuals** – Refers to all categories of members and/or registrants defined in the Bylaws of the Organization who are subject to the policies of the Organization, as well as all people employed by, contracted by, or engaged in activities with the Organization including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, volunteers, managers, administrators, committee members, parents or guardians, spectators, and Directors and Officers
- h) **Maltreatment** – As defined in the *Code of Conduct and Ethics*
- i) **Minor** – Any Individual 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 majority and the age of the individual
- j) **Respondent** – The Party responding to a complaint
- k) **Sexual Harassment** – As defined in the *Code of Conduct and Ethics*
- l) **Workplace Harassment** – As defined in the *Code of Conduct and Ethics*
- m) **Workplace Violence** – As defined in the *Code of Conduct and Ethics*

Purpose



2. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the Organization's policies, Bylaws, rules and regulations, and *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

#### **Application of this Policy**

3. This Policy applies to all Individuals.

4. This Policy applies to matters that may arise during the Organization's business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with the Organization's activities, and any meetings.

5. This Policy also applies to Individuals' conduct outside of the Organization's business, activities, and events when such conduct adversely affects relationships within the Organization (and its work and sport environment), is detrimental to the image and reputation of the Organization, or upon the acceptance of the Organization. Applicability will be determined by the Organization at its sole discretion.

6. This Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Individuals who have retired from the sport where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Individual was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Individuals 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 Individual(s).

7. In the event that it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of a sanction may be applied, after which further discipline or sanctions 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 sanctions may be for the duration of the competition, training, activity, or event only.

8. In addition to being subject to disciplinary action pursuant to this *Discipline and Complaints Policy*, an employee of the Organization who is a Respondent to a complaint may also be subject to consequences in accordance with the employee's Employment Agreement or policies for human resources, if applicable.

#### **Minors**

9. Complaints may be brought for or against an Individual who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.

10. Communication from the Discipline Chair or Case Manager, as applicable, must be directed to the Minor's representative.

11. A Minor is not required to attend an oral hearing, if held.

#### **Reporting a Complaint**

12. Any person may report a complaint to the Organization on the provided Complaint form. ([INCIDENT REPORT LINK](#))

13. At the discretion of the Organization, the Organization may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the organization will identify an individual to represent the Organization.

14. Complaints or incident reports should be made in writing and the person making the complaint may contact the Discipline Chair for direction.

#### **Discipline Chair Responsibilities**

15. Upon receipt of a complaint, the Discipline Chair shall determine whether the complaint is frivolous and/or within the jurisdiction of this Policy.

16. If the Discipline Chair determines the complaint is frivolous and/or outside the jurisdiction of this Policy, the complaint will be dismissed immediately. The Discipline Chair's decision to accept or dismiss the complaint may not be appealed.

17. If the Discipline Chair determines that the complaint is valid and within the jurisdiction of this Policy, the Discipline Chair shall determine whether the complaint should be handled by the Organization or by another organization with jurisdiction (such as a Provincial/Territorial Sport Organization).



18. The Discipline Chair shall make this determination by taking into consideration which organization's relationships are adversely affected or which organization's image or reputation will be detrimentally affected by the incident.

19. Upon receipt of a complaint, the Discipline Chair has a responsibility to:

- a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy,
- b) Determine the appropriate jurisdiction to manage the complaint,
- c) Determine whether the alleged incident may contain an element of Discrimination, Harassment, Workplace Harassment, Workplace Violence, Sexual Harassment, or Maltreatment.

Process: The Complainant 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 the Organization
- v. Non-compliance with the organization's policies, procedures, rules, or regulations
- vi. Minor violations of the *Code of Conduct and Ethics, Social Media Policy, or Athlete Protection Policy*
- vii. Repeated minor incidents
- viii. Any incident of hazing
- ix. Behaviour that constitutes Harassment, Sexual Harassment, or sexual misconduct
- x. Major incidents of violence (e.g., fighting, attacking, sucker punching)
- xi. Pranks, jokes, or other activities that endanger the safety of others
- xii. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- xiii. Conduct that intentionally damages the organization's image, credibility, or reputation
- xiv. Consistent disregard for the organization's bylaws, policies, rules, and regulations
- xv. Major or repeated violations of the *Code of Conduct and Ethics, Social Media Policy, or Athlete Protection Policy*
- xvi. Intentionally damaging the organization's property or improperly handling the organization's monies
- xvii. Abusive use of alcohol, any use or possession of alcohol or cannabis by Minors, or use or possession of illicit drugs and narcotics
- xviii. A conviction for any *Criminal Code* offense
- xix. Any possession, use, trafficking, or administration of prohibited substances or prohibited methods as indicated on the version of the World Anti-Doping Agency's Prohibited List currently in force

#### **PROCESS-HANDLED BY DISCIPLINE CHAIR**

##### **Discipline Chair**

1. Following the determination that the complaint will be handled the Discipline Chair will request the following
  - a. Written submissions, from both the complainant and any witnesses, video evidence if applicable.
  - b. Convene a Discipline Committee meeting
  - a. Thereafter the Discipline Committee shall determine if a breach occurred and if so, the appropriate sanction.
  - b. Provide notice of the hearing
  - c. Ensure all evidence and submissions are disclosed to all Parties and the Panel
  - d. Set all timelines
1. The Committee
  - a. May request other individuals participate in the hearing
  - b. Will determine what is or is not evidence
  - c. Will render a written decision within 14 Days of the completion of the hearing
  - d. Will send the decision to the Discipline Chair and Executive Director who will distribute the decision as required
2. The Committee's decision may be appealed in accordance with the *Appeal Policy*.

##### **Process #1: Request for Reconsideration**

20. If there is no sanction, the Complainant may contest the non-sanction by informing the Discipline Chair, within five (5) Days of receiving the decision, that the Complainant is not satisfied with the decision.

21. If there is a sanction, the Respondent may contest the sanction by submitting a Request for Reconsideration within five (5) Days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:

- a) Why the sanction is inappropriate,
- b) Summary of evidence that the Respondent will provide to support the Respondent's position, and



c) What penalty or sanction (if any) would be appropriate.

22. Upon receiving a Request for Reconsideration, the Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate sanction.

23. Should the Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.

24. Should the Discipline Chair not accept the Respondent's suggestion for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Policy.

25. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.

26. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.

27. 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.

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

#### **Process #2: Decision**

29. After hearing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) Days of the hearing's conclusion, the Discipline Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the Organization. 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.

#### **Process #2: Sanctions**

30. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:

- a) A verbal or written reprimand,
- b) A verbal or written apology,
- c) Service or other contribution to the Organization,
- d) Removal of certain privileges,
- e) Suspension from certain teams, events, and/or activities,
- f) Suspension from certain activities for a designated period,
- g) Payment of the cost of repairs for property damage,
- h) Suspension of funding from the organization or from other sources,
- i) Expulsion from the organization, and/or
- j) Any other sanction considered appropriate for the offense.

31. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.

32. Records of all sanctions will be maintained by the Organization. The Organization will disclose all decisions to the applicable Provincial/Territorial Sport Organization, which may further disclose such decisions at its discretion.

#### **Process #2: Appeals**

33. The decision of the Discipline Panel may be appealed in accordance with the *Appeal Policy*.

#### **Suspension Pending a Hearing**

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

#### **Criminal Convictions**



35. The Organization may determine in its sole discretion that an Individual's conviction for a *Criminal Code* offense will be deemed an infraction under this Policy and will result in expulsion from the Organization. *Criminal Code* offences may include, but are not limited to:

- a) Any child pornography offences,
- b) Any sexual offences,
- c) Any offence of physical violence,
- d) Any offence of assault, or
- e) Any offence involving trafficking of illegal drugs.

#### **Confidentiality**

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

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

#### **Timelines**

38. 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 Case Manager may direct that these timelines be revised.

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

39. Other individuals or organizations, including but not limited to, national sport organizations, provincial/territorial sport organizations, sport clubs, etc., may be advised of any decisions rendered in accordance with this Policy.

### **Tri-County Soccer Association Appeal Policy**

#### **"Organization" refers to: Tri-County Soccer Association**

This policy may be applied by individual Clubs under the jurisdiction of the Tri-County Soccer Association when their own policies do not cover the occurrences listed in this document.

#### **Definitions**

1. The following terms have these meanings in this Policy:

- a) **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
- b) **Appellant** – The Party appealing a decision
- c) **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*
- d) **Days** – Days including weekends and holidays
- e) **Individuals** – Refers to all categories of members and/or registrants defined in the Bylaws of the Organization who are subject to the policies of the Organization, as well as all people employed by, contracted by, or engaged in activities with the Organization including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, volunteers, managers, administrators, committee members, parents or guardians, spectators, and Directors and Officers
- f) **Minor** – Any Individual 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 majority and the age of the individual
- g) **Parties** – The Appellant, Respondent, and any Affected Parties
- h) **Respondent** – The body whose decision is being appeal

#### **Purpose**

2. This *Appeal Policy* provides Individuals with a fair and expedient appeal process.

#### **Scope and Application of this Policy**

3. This Policy applies to all Individuals.



4. Any Individual who is directly affected by a decision by the Organization shall have the right to appeal that decision provided there are sufficient grounds for the appeal under the 'Grounds for Appeal' section of this Policy.
5. This Policy **will apply** to decisions relating to:
  - a) Eligibility
  - b) Selection
  - c) Conflict of Interest
  - d) Discipline
  - e) Membership
6. This Policy **will not apply** to decisions relating to:
  - a) Employment
  - b) Infractions for doping offenses
  - c) The rules of the sport
  - d) Selection criteria, quotas, policies, and procedures established by entities other than the Organization
  - e) Substance, content and establishment of team selection criteria
  - f) Volunteer/coach appointments and the withdrawal or termination of those appointments
  - g) Budgeting and budget implementation
  - h) The Organization's operational structure and committee appointments
  - i) Decisions or discipline arising within the business, activities, or events organized by entities other than the Organization (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by the Organization at its sole discretion)
  - j) Commercial matters for which another appeals process exists under a contract or applicable law
  - k) Decisions made under this Policy

#### **Timing of Appeal**

7. Individuals who wish to appeal a decision have seven (7) Days from the date on which they received notice of the decision to submit, in writing to the Organization via email cc'd to both the Discipline Chair, Executive Director and President, the following:
  - a) Notice of the intention to appeal
  - b) Contact information and status of the Appellant
  - c) Name and contact information of the Respondent and any Affected Parties, when known to the Appellant
  - d) Date the appellant was advised of the decision being appealed
  - e) A copy of the decision being appealed, or description of decision if written document is not available
  - f) Grounds for the appeal
  - g) Detailed reasons for the appeal
  - h) All evidence that supports these grounds
  - i) Requested remedy or remedies
  - j) An administration fee of two hundred dollars (\$200), which will be refunded if the appeal is upheld
8. An Individual who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an exemption. The decision to allow, or not allow, an appeal outside of the seven (7) day period will be at the sole discretion of the Appeal Manager and may not be appealed.

#### **Grounds for Appeal**

9. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
  - a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
  - b) Failed to follow its own procedures (as set out in the Respondent's governing documents)
  - c) Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views)
  - d) Failed to consider relevant information or took into account irrelevant information in making the decision
  - e) Made a decision that was grossly unreasonable
10. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.



### Screening of Appeal

11. Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), the Organization and the Appellant may first determine the appeal to be considered under the *Dispute Resolution Policy*.
12. Appeals resolved by mediation under the *Dispute Resolution Policy* will cause the administration fee to be refunded to the Appellant.
13. Should the appeal not be resolved by using the *Dispute Resolution Policy*, the Organization will appoint an independent Appeal Manager (who must not be in a conflict of interest) who has the following responsibilities:
  - a) Determine if the appeal falls under the scope of this Policy
  - b) Determine if the appeal was submitted in a timely manner
  - c) Decide whether there are sufficient grounds for the appeal
14. If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
15. If the Appeal Manager is satisfied there are sufficient grounds for an appeal, the Appeal Manager will appoint an Appeals Panel which shall consist of a single Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Appeal Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Appeal Manager will appoint one of the Panel's members to serve as the Chair.

### Determination of Affected Parties

16. In order to confirm the identification of any Affected Parties, the Appeal Manager will ask the Organization. The Appeal Manager may determine whether a party is an Affected Party in their sole discretion.

### Procedure for Appeal Hearing

17. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Appeal Manager and may not be appealed.
18. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
19. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, 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 Appeal Manager and the Panel deem appropriate in the circumstances, provided that:
  - a) The hearing will be held within a timeline determined by the Appeal Manager
  - b) The Parties will be given reasonable notice of the day, time and place of the hearing
  - c) Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
  - d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
  - e) The Panel may request that any other individual participate and give evidence at the hearing
  - f) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate
  - g) If a decision in the appeal may affect another party to the extent that the other party would have recourse to an appeal in their own right under this Policy, that party will become a party to the appeal in question and will be bound by its outcome
  - h) The decision to uphold or reject the appeal will be by a majority vote of Panel members
20. In fulfilling its duties, the Panel may obtain independent advice.

### Appeal Decision

21. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the **Grounds for Appeal** section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.
22. The Panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
  - a) Reject the appeal and confirm the decision being appealed
  - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
  - c) Uphold the appeal and vary the decision



23. The Appeal Panel will also determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, will be assessed against any Party. In assessing costs, the Appeal Panel will take into account the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources.
24. The Panel's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and the Organization. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel.

**Timelines**

25. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Appeal Manager and/or Panel may direct that these timelines be revised.

**Confidentiality**

26. The appeals process is confidential and involves only the Parties, the Appeal Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

**Final and Binding**

27. No action or legal proceeding will be commenced against the Organization or an Individual in respect of a dispute, unless the Organization has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in the Organization's governing documents.

Policy Adopted: April 5, 2023

Policy Effective Start Date: April 5, 2023