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# UNIVERSAL CODE OF CONDUCT TO PREVENT AND ADDRESS MALTREATMENT IN SPORT (UCCMS)

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## Section 1.0 General Principles and Commitment

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- 1.1 Canadian Sport promises to contribute to the physical, psychological, social, and spiritual health of individuals of varying abilities, backgrounds and interests, and contributes to societal engagement and pride. The *Physical Activity and Sport Act* states that: “The Government of Canada’s policy regarding sport is founded on the highest ethical standards and values, including [...] the treatment of all persons with fairness and respect, the full and fair participation of all persons in sport and the fair, equitable, transparent and timely resolution of disputes in sport.”<sup>1</sup> Only when sport environments are safe and inclusive can these values be realized. Individuals should have the reasonable expectation when they participate in sport in Canada that it will be in an environment that is accessible, inclusive, respects their personal goals and is free from all forms of *Maltreatment*. *Maltreatment* in all its forms is a serious issue that undermines the health, well-being, performance and security of individuals, communities, and society. *Maltreatment* is unacceptable and fundamentally incompatible with the core values that lie at the heart of Canadian sport as indicated in the Canadian Sport Policy, including being values-based, inclusive, technically sound, collaborative, intentional and effective.
- 1.2 The following principles will guide the determination of *Maltreatment* and imposition of sanctions:
- The *Maltreatment* in question violates the integrity of the participant in question and undermines the values of Canadian sport.
  - The sanctions imposed reflect the seriousness of the *Maltreatment* and the harm to those affected and the values of Canadian sport.
  - Harmonized (applied to all *Participants* across Canada)
  - Fair (procedural and substantive due process for all *Participants*)
  - Comprehensive (all forms of *Maltreatment* and potential sanctions described)
  - Expert-informed (the determination of *Maltreatment* and impositions of sanctions will be informed by those with expertise in such areas as sport, child abuse, and the law)
  - Trauma-informed (acknowledgement of the physical, psychological and emotional effects of trauma, and avoidance of re-traumatization)
  - Evidence-driven (evidence of *Maltreatment* required)
  - Independent administration (free from all conflicts of interest)

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<sup>1</sup> *Physical Activity and Sport Act*, S.C. 2003, c. 2, Section 4.1

*[Comment to Section 1.2: Evidence or “proof” of maltreatment may include the words/report of a complainant if found credible by the relevant authorities. Depending upon the nature of the Maltreatment, physical evidence, corroboration or third-party verification may not be needed.]*

1.3 Following the Safe Sport Working Group’s consensus statements and the Pan-Canadian consultation held from March to May 2019, all parties and organizations committed to the goal of Safe Sport have agreed that *Maltreatment* has no place in Canadian sport and, when present, must be sanctioned appropriately. The commitments expressed below reflect this common understanding amongst Canadian sport stakeholders:

- All *Participants* in sport can expect to play, practice and compete, work, and interact in an environment free from *Maltreatment*.
- Addressing the causes and consequences of *Maltreatment* is a collective responsibility and requires the deliberate efforts of all *Participants*, sport stakeholders, sport club administrators and organization leaders.
- *Participants* in positions of trust and authority have the general responsibility to protect the health and well-being of all other *Participants*.
- Adult *Participants* have a specific ethical and statutory duty and the additional responsibility to respond to incidents of *Maltreatment* involving *Minors* and other vulnerable individuals.
- All *Participants* recognize that *Maltreatment* can occur regardless of age, sex, sexual orientation, gender identity or expression, race, ethnicity, Indigenous status, or level of physical and intellectual disability and their intersections. Moreover, it is recognized that those from traditionally marginalized groups have increased vulnerability to experiences of *Maltreatment*.
- All *Participants* recognize that individuals who have experienced *Maltreatment* may experience a range of effects that may emerge at different time points and that can profoundly affect their lives.
- All adults working with children and youth have a duty to prevent or mitigate opportunities for misconduct.
- In recognition of the historic vulnerability to discrimination and violence amongst some groups, and that continues to persist today, participants in positions of trust and authority have a duty to incorporate strategies to recognize systemic bias, unconscious bias, and to respond quickly and effectively to discriminatory practices.

## Definitions

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**Athlete:** An individual who is a member, registrant or license holder of a sport organization subject to the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS). **[Note: The UCCMS (when fully drafted and implemented) will set out in detail how jurisdiction over various groups of individuals, including *Athletes*, will be acquired.]**

**Complainant:** A *Participant* or observer who makes a report of an incident of *Maltreatment* or suspicions of an incident of *Maltreatment*.

**Consent by a Person over the Age of Majority:** *Consent* is defined in Canada's *Criminal Code* as the voluntary agreement to engage in the sexual activity in question. The law focuses on what the person was actually thinking and feeling at the time of the sexual activity. Sexual touching is only lawful if the person affirmatively communicated their consent, whether through words or conduct. Silence or passivity does not equal consent. Sexual activity is only legal when both parties consent. The *Criminal Code* also says there is no consent when: Someone says or does something that shows they are not consenting to an activity; Someone says or does something to show they are not agreeing to continue an activity that has already started; Someone is incapable of consenting to the activity, because, for example, they are unconscious; The consent is a result of someone abusing a position of trust, power or authority or someone consents on someone else's behalf. A person cannot say they mistakenly believed a person was consenting if: that belief is based on their own intoxication; they were reckless about whether the person was consenting; they chose to ignore things that would tell them there was a lack of consent; or they didn't take proper steps to check if there was consent.<sup>2</sup> For further information, please see the comment below.

Sexual activity with a minor is a criminal offence as is sexual activity with a person under the age of 18 years when the other person is in a position of trust or authority.

*[Comment to Consent: The responsibility for ensuring there is consent is on the person who is initiating or pursuing the sexual activity. When someone has said no to sexual contact, the other person cannot rely on the fact that time has passed or the fact that the individual has not said no again to assume that consent now exists. No one can legally consent in advance to sexual activity in the future when they will be unconscious. No one can legally consent to activity where they will suffer bodily harm, such as activity that will cause serious bruises, stitches or broken bones. It is a criminal offence to engage in sexual activity with a child, as a child is unable to consent.]*

**Disclosure:** The sharing of information by a *Participant* regarding an incident or a pattern of *Maltreatment* experienced by that *Participant*. *Disclosure* does not constitute a formal report that initiates a process of investigation to address the *Maltreatment*.

**Duty to Report under Child Protection Legislation:** A legal duty to report is mandated by law, and the requirement varies by province depending on provincial legislation. Everyone has a duty to report child abuse and neglect under Canadian child welfare laws. Professionals who work with children and youth have an added responsibility to report. Adults are obliged to report child *Maltreatment* if there is knowledge or suspicion that it is occurring. This is called the "duty to report." Every person in Canada has the duty to report known or suspected child *Maltreatment* by law. Known or suspected abuse or *Neglect* of a child must be reported to: local child welfare services (e.g., children's aid society or child and family services agency), or provincial/territorial social service ministries or departments, or local police.

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<sup>2</sup> *Criminal Code*, R.S.C. 1985, c. C-46, [s. 273.1(1)]

**Duty to Report Concerns Outside of Child Protection Legislation:** Participants have a duty to report concerns of inappropriate conduct of other *Participants* to uphold the ethical standards and values of Canadian sport. *Reporting* inappropriate conduct is important to ensure proper action is taken and expectations are re-established. By addressing inappropriate conduct, a collective responsibility to protect *Participants* from *Maltreatment* is enacted.

**Grooming:** Deliberate conduct by a *Participant* to sexualize a relationship with a *Minor* that involves the gradual blurring of boundaries and normalization of inappropriate and sexually abusive behaviour. During the grooming process, the *Participant* will gain the trust of the *Minor* and protective adults and peers around the *Minor* often under the guise of an existing relationship. Manipulation tactics are then used to blur perceptions and gain further access to and private time with the *Minor* in order to abuse or exploit the *Minor*. *Grooming* can occur whether or not harm is intended or results from the behaviour.<sup>3</sup>

**Minor:** An individual who is under the age of majority at the time and in the jurisdiction where the alleged *Maltreatment* occurred. It is the responsibility of the adult to know the age of a minor.<sup>4</sup>

*Comment to Minor: The following table illustrates the definition of a child for the purposes of protection in each province and territory at the time of writing this UCCMS. Please check your local jurisdiction for potential changes.*

| <i>Province or Territory</i>     | <i>Definition of child for purposes of protection</i> |
|----------------------------------|---|
| <i>Newfoundland and Labrador</i> | <i>under 16 years old</i>                             |
| <i>Prince Edward Island</i>      | <i>under 18 years old</i>                             |
| <i>Nova Scotia</i>               | <i>under 19 years old</i>                             |
| <i>New Brunswick</i>             | <i>under 19 years old</i>                             |
| <i>Quebec</i>                    | <i>under 18 years old</i>                             |
| <i>Ontario</i>                   | <i>under 18 years old</i>                             |
| <i>Manitoba</i>                  | <i>under 18 years old</i>                             |
| <i>Saskatchewan</i>              | <i>under 16 years old</i>                             |
| <i>Alberta</i>                   | <i>under 18 years old</i>                             |
| <i>British Columbia</i>          | <i>under 19 years old</i>                             |
| <i>Yukon</i>                     | <i>under 19 years old</i>                             |
| <i>Northwest Territories</i>     | <i>under 16 years old</i>                             |
| <i>Nunavut</i>                   | <i>under 16 years old</i>                             |

*Note: Children with disabilities are eligible for protective services until age 19.*

**Maltreatment:** Volitional acts that result in harm or the potential for physical or psychological harm.<sup>5</sup> Any of the various prohibited behaviours and conduct described in Section 2.0.

<sup>3</sup> Commit to Kids. Helping Organizations Prevent Child Sexual Abuse. Canadian Centre for Child Protection.

<sup>4</sup> <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/refugee-protection/canada/processing-provincial-definitions-minor.html>

<sup>5</sup> Crooks, C. V., & Wolfe, D. A. (2007). Child abuse and neglect. In E. J. Mash & R. A. Barkley (Eds.), *Assessment of childhood disorders* (pp. 639-684). New York, NY, US: Guilford Press.

**Neglect:** Any pattern or a single serious incident of lack of reasonable care, inattention to a *Participant's* needs, nurturing or well-being, or omissions in care. *Neglect* is determined by the objective behaviour but the behaviour must be evaluated with consideration given to the *Participant's* needs and requirements, not whether harm is intended or results from the behaviour.<sup>6</sup>

**Participant:** Every individual who is subject to the UCCMS. [Note: *Participants* may become subject to the UCCMS by various means. *Athletes* through membership in an adopting sport organization and coaches, volunteers, doctors, trainers, administrators, directors, etc. by signing an express contract accepting the jurisdiction of the UCCMS.]

**Physical Maltreatment:** Any pattern or a single serious incident of deliberate conduct that has the potential to be harmful to the physical well-being of the *Participant*. *Physical Maltreatment* includes, without limitation, contact or non-contact infliction of physical harm. *Physical Maltreatment* is determined by the objective behaviour, not whether harm is intended or results from the behaviour.<sup>7</sup>

**Power Imbalance:** A *Power Imbalance* may exist where, based on the totality of the circumstances, a *Participant* has supervisory, evaluative, a duty of care, or other authority over another *Participant*. A *Power Imbalance* may also exist between an *Athlete* and other adults involved in sport in positions such as high-performance directors, sport specific health-care providers, sport science support staff, care or support persons, guides or pilots. *Maltreatment* occurs when this power is misused.

Once a coach-*Athlete* relationship is established, a *Power Imbalance* is presumed to exist throughout the coach-*Athlete* relationship, regardless of age, and is presumed to continue for *Minor Athletes* after the coach-*Athlete* relationship terminates or until the *Athlete* reaches 25 years of age.

A *Power Imbalance* may exist, but is not presumed, where an intimate relationship existed before the sport relationship commenced (e.g., a relationship between two spouses or life partners, or a sexual relationship between consenting adults that preceded the sport relationship).

*[Comment to Power Imbalance: A Power Imbalance may arise whether the Participants are in 1) an authority-based relationship in which one person has power over another by virtue of an ascribed position of authority, such as between high performance director and coach; employer and employee; technical official and Athlete; 2) a dependency relationship in which the person in a position of lesser power is dependent upon the other person for a sense of security, safety, trust, and fulfillment of needs, conducive to intimate physical or psychological connections, such as between parent and child; teacher and student; coach and Athlete; high performance director and Athlete, sport science and medical support staff and Athlete; billet or host family and Athlete; and 3) a peer-to-peer relationship, including but not limited to teammate-teammate, athlete-athlete, coach-coach or official-official relationships. Power may be represented by seniority, ability, physical size, public profile, gender identity or*

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<sup>6</sup> (i) Stirling, A. (2009). Definition and constituents of maltreatment in sport: Establishing a conceptual framework for research practitioners. *British Journal of Sports Medicine*, 43(14), 1091-9. And (ii) Safe Sport Code for U.S. Olympic and Paralympic Movements. (2019). U.S. Center for Safe Sport.

<sup>7</sup> Ibid.

*expression, sexual orientation, ethno-racial identity, level of physical and intellectual disability, and their intersections, as some examples. Maltreatment occurs when this power is misused. Moreover, it is recognized that those from traditionally marginalized groups have experienced positions of lesser power.]*

**Psychological Maltreatment:** Any pattern or a single serious incident of deliberate conduct that has the potential to be harmful to the psychological well-being of the *Participant*. *Psychological Maltreatment* includes, without limitation, verbal conduct, non-assaultive physical conduct, and conduct that denies attention or support. *Psychological Maltreatment* is determined by the objective behaviour, not whether harm is intended or results from the behaviour.<sup>8</sup>

**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 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*.

**Respondent:** A *Participant* who is alleged to have engaged in *Maltreatment* and thereby to have violated the UCCMS.

**Sexual Maltreatment involving a Child:** Any form of adult/child sexualized interaction constitutes child sexual abuse. Sexual abuse of a child may occur through behaviours that do or do not involve actual physical contact.<sup>9</sup>

**Sexual Maltreatment involving a person over the Age of Majority:** Any sexual act, whether physical or psychological in nature, that is committed, threatened, or attempted against a *Participant* without the *Participant's Consent*. It includes any act targeting a *Participant's* sexuality, gender identity or expression, that is committed, threatened or attempted against a *Participant* without that *Participant's* Consent, and includes but is not limited to, the Criminal Code Offences of sexual assault, sexual exploitation, sexual interference, invitation to sexual touching, indecent exposure, voyeurism and non-consensual distribution of sexual/intimate images. Sexual Maltreatment also includes sexual harassment and stalking, cyber harassment, and cyber stalking of a sexual nature. Sexual Maltreatment can take place through any form or means of communication (e.g. online, social media, verbal, written, visual, hazing, or through a third party).

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<sup>8</sup> *ibid.*

<sup>9</sup> Commit to Kids. Helping Organizations Prevent Child Sexual Abuse. Canadian Centre for Child Protection. <https://commit2kids.ca/en/>

## Section 2.0 Maltreatment

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### 2.1 Scope of Application

- 2.1.1 This section of the UCCMS sets forth expectations for *Participants* regarding the elimination of *Maltreatment* in sport.
- 2.1.2 The UCCMS applies to *Participants* active in sport or retired from sport where any claim of *Maltreatment* occurred when the *Participant* was active in sport.
- 2.1.3 The right to participate in sport may be limited, conditional, suspended, terminated or denied if a *Participant* is alleged to have engaged in *Maltreatment*. It is a violation of the UCCMS for a *Participant* to engage in *Maltreatment* (however described).
- 2.1.4 Adults in positions of trust and authority shall be responsible for knowing what constitutes *Maltreatment*. The categories of *Maltreatment* are not mutually exclusive, nor are the examples provided in each category an exhaustive list. Rather, what matters for the assessment of the *Maltreatment* is whether the conduct falls into one or more of the categories, not into which category it falls. Abuse, assault, harassment, bullying, and hazing can be experienced in more than one category of *Maltreatment*.
- Maltreatment* can be any of the prohibited behaviours and conduct, provided the *Maltreatment* occurs in any one or a combination of the following situations (i) within a sport environment or (ii) when the *Participant* alleged to have committed *Maltreatment* was engaging in sport activities or (iii) when the *Participants* involved interacted due to their mutual involvement in sport or (iv) outside of the sport environment where the *Maltreatment* has a serious and detrimental impact on another *Participant*. The physical location(s) where the alleged *Maltreatment* occurred is not determinative.
- 2.1.5 *Subjecting a Participant to the Risk of Maltreatment*
- It is a violation of the UCCMS for sport administrators or other sport decision-makers in positions of authority to place *Participants* in situations that make them vulnerable to *Maltreatment*. This includes, but is not limited to, instructing an *Athlete* and coach to share a hotel room when traveling, hiring a coach who has a past history of *Athlete Maltreatment*, assigning guides and other support staff to a para-*Athlete* when the guide or support staff has a reputation for *Athlete Maltreatment* or assigning such a guide or support staff to a para-*Athlete* in the absence of consultation with the para-*Athlete*.
- 2.1.6 *Sport-Specific Considerations*
- The UCCMS acknowledges that sport-specific differences exist with respect to such aspects as acceptable levels of touch, physical contact, and aggression during training or competition. However, as the UCCMS does not address rules of the game, any relevant sport-specific differences will be considered during investigative processes.

## 2.2 **Maltreatment**

### 2.2.1 *Psychological Maltreatment*

2.2.1.1 It is a violation of the UCCMS for a *Participant* to engage in *Psychological Maltreatment*.

2.2.1.2 *Psychological Maltreatment* includes, without limitation, verbal acts, non-assaultive physical acts and acts that deny attention or support.

#### 2.2.1.2.1 Verbal Acts

Verbally assaulting or attacking someone, including but not limited to: unwarranted personal criticisms; body shaming; derogatory comments related to one's identity (e.g. race, gender identity or expression, ethnicity, Indigenous status, ability/disability); comments that are demeaning, humiliating, belittling, intimidating, insulting or threatening; the use of rumours or false statements about someone to diminish that person's reputation; using confidential sport and non-sport information inappropriately.

Verbal *Maltreatment* may also occur in online forms.

#### 2.2.1.2.2 Non-assaultive Physical Acts (no physical contact)

Physically aggressive behaviors, including but not limited to: throwing objects at or in the presence of others without striking another; hitting, striking or punching objects in the presence of others.

#### 2.2.1.2.3 Acts that Deny Attention or Support

Acts of commission that deny attention, lack of support or isolation including but not limited to: ignoring psychological needs or socially isolating a person repeatedly or for an extended period of time; abandonment of an *Athlete* as punishment for poor performance; arbitrarily or unreasonably denying feedback, training opportunities, support or attention for extended periods of time and/or asking others to do the same.

### 2.2.2 *Physical Maltreatment*

2.2.2.1 It is a violation of the UCCMS for a *Participant* to engage in *Physical Maltreatment*.

2.2.2.2 *Physical Maltreatment* includes, without limitation, contact or non-contact behaviours that have the potential to cause physical harm.

#### 2.2.2.2.1 Contact behaviours

Including but not limited to: deliberately punching, kicking, beating, biting, striking, strangling or slapping another; deliberately hitting another with objects.



2.2.2.2.2 Non-contact behaviours

Including but not limited to: isolating a person in a confined space; forcing a person to assume a painful stance or position for no athletic purpose (e.g., requiring an *Athlete* to kneel on a hard surface); the use of exercise for the purposes of punishment; withholding, recommending against, or denying adequate hydration, nutrition, medical attention or sleep; denying access to a toilet; providing alcohol to a *Participant* under the legal drinking age; providing illegal drugs or non-prescribed medications to a *Participant*; encouraging or knowingly permitting an *Athlete* to return to play prematurely following any injury or after a concussion and without the clearance of a medical professional; encouraging an *Athlete* to perform a skill for which they are known to not be developmentally ready.

2.2.3 *Sexual Maltreatment*

2.2.3.1 It is a violation of the UCCMS for a *Participant* to engage in *Sexual Maltreatment*.

2.2.3.2 *Sexual Maltreatment* includes, without limitation, any act targeting a person's sexuality, gender identity or expression, that is committed, threatened or attempted against a person, and includes but is not limited to the Criminal Code Offences of sexual assault, sexual exploitation, sexual interference, invitation to sexual touching, indecent exposure, voyeurism and non-consensual distribution of sexual/intimate images. *Sexual Maltreatment* also includes sexual harassment and stalking, cyber harassment, and cyber stalking of a sexual nature.

2.2.3.3 Examples of *Sexual Maltreatment* include, without limitation:

2.2.3.3.1 Any penetration of any part of a person's body, however slight, with any object or body part by a person upon another person, including but not limited to:

- a) vaginal penetration by a penis, object, tongue, or finger; and
- b) anal penetration by a penis, object, tongue, or finger.

2.2.3.3.2 Any intentional touching of a sexual nature of any part of a person's body, however slight, with any object or body part by a person upon another person, including but not limited to:

- a) kissing;
- b) intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching of another with any of these body parts;

- c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person, and
- d) making another touch themselves, the *Participant*, or someone else with or on any of the body parts listed in b).
- e) any intentional touching in a sexualized manner of the relationship, context or situation.

2.2.3.3.3 In addition to the criminal acts identified above, the UCCMS prohibits sexual relations between an *Athlete* above the age of majority (depending upon jurisdiction) and a *Participant* who holds a position of trust and authority on the basis that there can be no *Consent* where there is a *Power Imbalance*. A *Power Imbalance* that is presumed to exist may be challenged.

#### 2.2.4 *Neglect*

2.2.4.1 It is a violation of the UCCMS for a *Participant* to engage in *Neglect*.

2.2.4.2 *Neglect*, or acts of omission, includes without limitation: not providing an *Athlete* recovery time and/or treatment for a sport injury; not being aware of and not considering an individual's physical or intellectual disability; not considering supervision of an *Athlete* during travel, training or competition; not considering the welfare of the *Athlete* when prescribing dieting or other weight control methods (e.g., weigh-ins, caliper tests); disregarding the use of performance-enhancing drugs by an *Athlete*; failure to ensure safety of equipment or environment; allowing an *Athlete* to disregard sport's rules, regulations, and standards, subjecting *Participants* to the risk of *Maltreatment*.

#### 2.2.5 *Maltreatment Related to Grooming*

2.2.5.1 It is a violation of the UCCMS for a *Participant* to engage in *Grooming*.

2.2.5.2 *Grooming* is often a slow, gradual and escalating process of building trust and comfort with a young person. *Grooming* includes, without limitation, the process of making inappropriate behaviour seem normal and gradually engaging in 'boundary violations' which have been professionally-identified to Canadian standards (e.g., a degrading remark, a sexual joke, sexualized physical contact; adult *Participants* sharing rooms with a *Minor* who is not an immediate family member; providing a massage or other purported therapeutic interventions with no specific training or expertise; private social media and text communications; sharing personal photographs; shared use of locker rooms; private meetings; private travel, and providing gifts).

2.2.5.3 *Grooming* usually begins with subtle behaviours that do not appear to be inappropriate. Many victims/survivors of sexual abuse do not recognize the

grooming process as it is happening, nor do they recognize that this process of manipulation is part of the overall abuse process.

2.2.5.4 In the grooming process, the offender begins by gaining trust of adults around the young person. The offender establishes a friendship and gains the young person's trust. *Grooming* then involves testing boundaries (e.g. telling sexual jokes, showing sexually explicit images, making sexual remarks). Typically, behaviour moves from non-sexual touching to "accidental" sexual touching.

2.2.5.5 The young person is often manipulated into feeling responsible for the contact, is discouraged from telling anyone else about the relationship, and is made to feel obligated to protect the offender. The offender also builds trust with those close to the young person so that the relationship with the young person is not questioned.<sup>10</sup>

## 2.2.6 *Maltreatment* Related to Process

2.2.6.1 The behaviors identified below also constitute *Maltreatment* and may give rise to a sanction.

### 2.2.6.1.1 Interference with or Manipulation of Process

An adult *Participant*, violates the UCCMS by directly or indirectly interfering with a UCCMS process by:

- a) falsifying, distorting, or misrepresenting information, the resolution process, or an outcome;
- b) destroying or concealing information;
- c) attempting to discourage an individual's proper participation in or use of the UCCMS's processes;
- d) harassing or intimidating (verbally or physically) any person involved in the UCCMS's processes before, during, and/or following any UCCMS proceedings;
- e) publicly disclosing a *Participant's* identifying information, without the *Participant's* agreement;
- f) failing to comply with any temporary or provisional measure or other final sanction;
- g) distributing or otherwise publicizing materials a *Participant* gains access to during a UCCMS investigation or hearing, except as required by law or as expressly permitted; or
- h) influencing or attempting to influence another person to interfere with or manipulate the process.

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<sup>10</sup> Commit to Kids. Helping Organizations Prevent Child Sexual Abuse. Canadian Centre for Child Protection

#### 2.2.6.1.2 Retaliation

Retaliation is prohibited. A *Participant* shall not take an adverse action against any person for making a good faith *Report* of possible *Maltreatment* or for participating in any process under the UCCMS. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging or participating in UCCMS's processes.

Retaliation after the conclusion of investigation and sanction processes is also prohibited. Retaliation may be present even where there is a finding that no *Maltreatment* occurred.

Retaliation does not include good-faith actions lawfully pursued in response to a *Report* of possible *Maltreatment*.

#### 2.2.6.1.3 Aiding and Abetting

Aiding and Abetting is any act taken with the purpose of facilitating, promoting, or encouraging the commission of *Maltreatment* by a *Participant*. Aiding and Abetting also includes, without limitation, knowingly:

- a) allowing any person who has been suspended or is otherwise ineligible to be in any way associated with sport or to coach or instruct *Participants*;
- b) providing any coaching-related advice or service to an *Athlete* who has been suspended or is otherwise ineligible; and
- c) allowing any person to violate the terms of their suspension or any other sanctions imposed.

### 2.2.7 *Maltreatment* Related to *Reporting*

#### 2.2.7.1 Failure to *Report Maltreatment* of a *Minor*

A legal duty to report is mandated by law, and the requirement varies by province depending on provincial legislation. An adult *Participant* who fails to *Report* actual or suspected *Psychological Maltreatment*, *Sexual Maltreatment*, *Physical Maltreatment* or *Neglect* involving a *Minor Participant* pursuant to the UCCMS's processes and to law enforcement or child protection services (when applicable) shall be subject to disciplinary action under the UCCMS.

2.2.7.1.1 The obligation to *Report* requires the *Reporting* of any conduct which, if proven true, would constitute *Psychological Maltreatment*, *Sexual Maltreatment*, *Physical Maltreatment* or *Neglect* involving a *Minor Participant*. The obligation to *Report* is an ongoing one and is not satisfied simply by making an initial

*Report*. The obligation includes *Reporting*, on a timely basis, all relevant information of which an adult *Participant* becomes aware.

2.2.7.1.2 The obligation to *Report* includes making a direct *Report*.

2.2.7.1.3 The obligation to *Report* includes personally identifying information of a potential *Minor Complainant* to the extent known at the time of the *Report*, as well as a duty to reasonably supplement the *Report* as to identifying information learned at a later time.

2.2.7.1.4 *Participants* should not investigate or attempt to evaluate the credibility or validity of allegations involving *Psychological Maltreatment, Sexual Maltreatment, Physical Maltreatment* or *Neglect*. *Participants* making a good faith *Report* are not required to prove the *Reports* are true before *Reporting*.

#### 2.2.7.2 Failure to *Report* Inappropriate Conduct

Not all inappropriate conduct may meet the threshold for constituting *Maltreatment* under the UCCMS. However, such inappropriate conduct may represent behavior with the risk of escalating to *Maltreatment* under the UCCMS.

Any *Participant* who suspects or becomes aware of another *Participant's* inappropriate conduct, even if it is not defined as *Maltreatment* under the UCCMS, has a duty to report such inappropriate conduct through the organization's internal procedures. Those in positions of trust and authority who become aware of another's inappropriate conduct have a responsibility for reporting the concern within their organization's policies and procedures. The person making the report does not need to determine whether a violation of the UCCMS took place: instead, the responsibility lies in reporting the objective behaviour.

#### 2.2.7.3 Intentionally Filing a False Allegation

In addition to constituting *Maltreatment*, filing a knowingly false allegation or influencing others to file a knowingly false allegation, that a *Participant* engaged in *Maltreatment* shall be subject to disciplinary action pursuant to the UCCMS.

2.2.7.3.1 An allegation is false if the events *Reported* did not occur, and the person making the *Report* knows the events did not occur.

2.2.7.3.2 A false allegation is different from an unsubstantiated allegation; an unsubstantiated allegation means there is insufficient supporting evidence to determine whether an allegation is true or false. Absent demonstrable bad faith, an unsubstantiated allegation alone is not grounds for a UCCMS violation.

## Section 3.0 Sanctions

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In addition to any temporary or provisional measure that may be imposed, where there is sufficient evidence to support a finding that a *Participant* engaged in *Maltreatment* and thus violated the UCCMS, sanctions will be imposed. Different incidents constituting a violation of the same part of the UCCMS may arise out of markedly different circumstances, including various case-specific aggravating and/or mitigating factors.

**[Note: Precisely how (and by whom) it will be determined that there is “sufficient evidence” will be finalized when the operational and implementation details for the UCCMS are designed.]**

Any sanction imposed against a *Participant* must be proportionate and reasonable, relative to the *Maltreatment* that has occurred, taking into account previous disciplinary actions. However, progressive discipline is not required as a single occurrence of *Maltreatment* can lead to a very significant sanction.

### 3.1 Sanctions

Subject to Section 3.3, if *Maltreatment* is proven one or more of the following sanctions may be imposed:

#### 3.1.1 Verbal or Written Warning

A verbal reprimand or an official, written notice and formal admonition that a *Participant* has violated the UCCMS and that more severe sanctions will result should the *Participant* be involved in other violations.

#### 3.1.2 Education

The requirement that a *Participant* undertake specified educational or similar remedial measures to address the *Maltreatment*.

#### 3.1.3 Probation

Should any further violations of the UCCMS occur during the probationary period, will result in additional disciplinary measures, likely including 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 of time.

#### 3.1.4 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 any sport organization subject to the UCCMS. A suspended *Participant* is eligible to return to sport but reinstatement may be subject to certain restrictions or contingent upon the *Participant* satisfying specific conditions noted at the time of suspension.

#### 3.1.5 Eligibility Restrictions

Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions.

3.1.6 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 any sport organization subject to the UCCMS.

3.1.7 Other discretionary sanctions

Other sanctions for *Maltreatment* 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.

**3.2 Considerations**

3.2.1 Factors relevant to determining appropriate sanctions for a *Respondent* include, without limitation:

- 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 UCCMS's process;
- 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 UCCMS; 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 and aggravating circumstances.

Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.

**3.3 Presumptive sanctions**

3.3.1 The following sanctions are presumed to be fair and appropriate for the listed *Maltreatment*, but the *Respondent* affected may rebut these presumptions:

- a) *Sexual Maltreatment* involving a *Minor Complainant* shall carry a presumptive sanction of permanent ineligibility;

- b) *Sexual Maltreatment, Physical Maltreatment* with contact and *Maltreatment related to Process* shall carry a presumptive sanction 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 sanction shall be a period of suspension.

### 3.4 Public Disclosure

In addition to the publication of a summary of the final outcome of a UCCMS resolution process, a publicly-available searchable database or Registry of *Respondents* who have been sanctioned by or whose eligibility to participate in sport has in some way been restricted shall be maintained, pursuant to the provisions contained in the UCCMS. **[Note: Whether all sanctions shall be summarized and publicly disclosed (e.g. including a verbal warning or an educational update) and precisely how a record shall be maintained of every sanction outcome imposed on each *Respondent* has yet to be designed. These details will be included in the UCCMS. The objective is that all sanctions must be tracked so that sport stakeholders will know (i) who has breached the UCCMS and (ii) which *Respondents* are ineligible to be involved in sport.]**