|  |
| --- |
| **CATEGORY: 1.0 GOVERNANCE & STRATEGIC DIRECTION POLICIES****SECTION: 1.9 General Policies**  |
| **POLICY: 1.9.2 Discipline Policy** | **APPROVED:****Sept.’97** | **REVISED:****June ’00,** **July ’01, Nov. ’03, Nov ’15, Jan ’16, July ‘ 19**  | **PAGES: 13** |

**Definitions**

1. The following terms are defined within this policy as:
	1. “Case Manager” - An individual appointed by the CPC, who need not be a member or affiliated with the CPC, to administer this Discipline Policy. The Case Manager will comply with the position description described in Appendix “A”.
	2. “Complainant” – The party alleging a violation of the CPC’s Code of Conduct (Appendix “B”)
	3. “CPC” – Canadian Paralympic Committee
	4. “Days” – Any day of the week, including weekends and holidays
	5. “Individuals” – All categories of membership defined in the CPC’s Bylaws, as well as all individuals engaged in activities with the CPC including, but not limited to, athletes, coaches, team managers, officials, volunteers, parents/guardians, spectators, directors, officers and committee members of the CPC.
	6. “Respondent” – The party alleged to have violated the CPC Code of Conduct

**Purpose**

1. The Canadian Paralympic Committee (“CPC”) is committed to providing a safe, welcoming and inclusive environment which is athlete-centred, where all Individuals are treated with respect which is characterized by the values of fairness, integrity and open communication.
2. Membership in CPC, as well as participation in its activities, brings with it many benefits and privileges. At the same time, members and participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the CPC’s policies, bylaws, rules and regulations and the CPC Code of Conduct. (See Appendix “B”).
3. The CPC Code of Conduct identifies the standard of behaviour that is expected of its members and participants. CPC and the Individuals who comprise it are committed to being leaders on the world stage. Among other essential skills, this requires a high standard of behaviour. Irresponsible behaviour by Individuals can result in severe damage to the reputation, brand, and integrity of the CPC and Canada as a whole. Individuals who fail to meet the standard of behaviour that is expected will be subject to the disciplinary sanctions identified within this policy. Since sanctions may be applied, it is only fair to provide a mechanism that allows Complaints and discipline to be dealt with fairly, expeditiously and affordably.

**Application of this Policy**

1. This Policy applies to all Individuals.
2. This Policy only applies to Code of Conduct Complaints or allegations that may arise during the course of CPC business, activities and events, including but not limited to Major Games, World Championships, practices, training camps, travel associated with CPC activities, and any meetings. This Policy does not prevent and may supplement discipline from being applied by another organization.
3. Discipline matters and Complaints arising within the business, activities or events organized by entities other than the CPC, including its NSO Members, will be dealt with pursuant to the policies of those other entities unless otherwise requested and accepted by CPC in the sole discretion of CPC.
4. This Policy does not apply to CPC employees.

**Reporting a Complaint**

1. Any Individual may report a CPC Code of Conduct Complaint to the CEO or Executive Director, Corporate Services. Such Complaint must be signed and in writing and must be filed within fourteen days from the date on which the person knew or ought to have known that the incident complained of occurred. Anonymous Complaints will not be accepted (the “Complaint”).
2. A complainant wishing to file a Complaint beyond the fourteen days must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the notice of Complaint outside the fourteen-day period will be in the sole discretion of the individual who received the Complaint as identified in section 9 above. This decision may not be appealed.
3. If at any point during in the proceedings under this Policy, the Complainant becomes reluctant, or unable to continue, it shall be at the sole discretion of the CPC to act as the Complainant or not to proceed with the Complaint in accordance with this Policy. In such instances where the CPC chooses to act as the Complainant, the CPC shall appoint a representative to take the place of the Complainant.
4. At the CPC’s discretion, the CPC may act as the Complainant and initiate the Complaint process under the terms of this Policy. In such cases, the CPC will identify an individual to represent the CPC.

**Case Manager**

1. Upon receiving a Complaint, the CEO or Executive Director, Corporate Services will appoint an independent Case Manager to oversee the management and administration of Complaints submitted in accordance with this Policy and such appointment is not appealable. The Case Manager will not be connected in any way to the Complaint.
2. At a minimum, the Case Manager has a responsibility to:
	* 1. Determine whether the Complaint is frivolous and within the jurisdiction of this Policy;
		2. Determine whether the Complaint is a minor or major infraction;
		3. Appoint a Discipline Panel, if necessary;
		4. Coordinate all administrative aspects and set timelines; and
		5. Provide administrative assistance and logistical support to the Panel as required.

**Procedures**

1. If the Case Manager determines the Complaint is:
	* 1. Frivolous or outside the jurisdiction of this Policy, the Complaint will be dismissed immediately;
		2. Not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the Complaint has been accepted and advise of the applicable next steps.

If a Complaint is determined to be legitimate, the Complaint will be designated as a minor infraction or major infraction and dealt with according to the appropriate sections of this Policy. It will be in the sole discretion of the Case Manager to determine whether a complaint is to be dealt with as a major or minor infraction.

1. If the Case Manager determines the Complaint is legitimate, the Case Manager will also determine if the Complaint contains an element of Discrimination or Harassment as defined in the *Discrimination or Harassment Policy*. If so, the Case Manager may appoint an Investigator pursuant to the terms of that Policy. Any Investigator’s Report, completed pursuant to the *Discrimination or Harassment Policy*, must be considered by the decision-maker (either the person in authority for minor infractions, or the Discipline Panel for major infractions) prior to a decision being made on the Complaint.
2. This Policy does not prevent an appropriate person having authority from taking immediate corrective action to stop the behaviour being complained of provided that the individual is told the nature of the infraction and has an opportunity to provide information concerning the incident. Complaints occurring within competitions may also be dealt with immediately, if necessary, by a CPC representative in a position of authority, provided the individual being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident. In such situations, sanctions shall be for the duration of the competition only. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this Policy.

**Minor Infractions**

1. Examples of minor infractions include, but are not limited to, a single incident of:
	* 1. Disrespectful, offensive, abusive, racist, ablist, homophobic, or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, parents, spectators, staff and sponsors, including activity in and on traditional and social media;
		2. Unsportsmanlike conduct such as angry outbursts or arguing;
		3. Being late for or absent from CPC events and activities at which attendance is expected or required;
		4. Non-compliance with the policies, procedures, rules and regulations under which CPC is governed, whether at the local, provincial, national or international level;
		5. Use of cannabis, alcohol, or tobacco products by minors;
		6. Use of cannabis, alcohol, or tobacco products by adults in areas where smoking or consuming alcohol is prohibited;
		7. Disturbances in the Athletes Village during quiet time;
		8. Failing to follow the CPC Clothing Policy; or
		9. Other similar infractions of minor severity.
2. All disciplinary situations involving minor infractions occurring within the jurisdiction of CPC will be dealt with by the appropriate person having authority over the situation and the individual involved (the person in authority may include, but is not restricted to, coach, manager, official, classifier, or CPC Senior Staff). The Case Manager will consult with the CPC to determine the appropriate person in authority.
3. Procedures for dealing with minor infractions will be informal as compared to those for major infractions and will be determined at the discretion of the person responsible for discipline of such infractions (as noted above ). This is provided that the individual being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident.
4. Sanctions for minor infractions, which may be applied by CPC on recommendation of the Case Manager as a single sanction or in combination, include the following:
	* 1. Verbal or written reprimand which may be placed in the individual’s file for a period of one year;
		2. Verbal or written apology;
		3. Service or other voluntary contribution to CPC;
		4. Suspension from the current competition, activity or event; or
		5. Any other sanction considered appropriate for the offense.
5. Minor infractions that result in discipline will be recorded and maintained by the CPC for a period of one year. Repeat minor infractions may result in further such incidents being considered a major infraction.

**Major Infractions**

1. Major infractions are instances of misconduct that result, or have the potential to result, in harm to other persons or to the CPC.
2. Examples of major infractions include, but are not limited to:
	* 1. Repeated incidents of disrespectful, offensive, abusive, racist, ablist, homophobic or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, staff, parents, spectators and sponsors, including activity in and on traditional and social media;
		2. Repeated unsportsmanlike conduct such as angry outbursts or argument;
		3. Repeated incidents of being late for or absent from CPC events and activities at which attendance is expected or required;
		4. Activities or behaviour that interferes with a competition or with any athlete’s preparation for competition;
		5. Incident(s) of physical or sexual assault, bullying and/or harassment;
		6. Pranks, jokes or other activities that endanger the safety of others;
		7. Deliberate disregard for the policies, procedures, rules and regulations under which CPC is governed, whether at the local, provincial, national or international level;
		8. Conduct which results in harm to the image, credibility or reputation of CPC and/or its sponsors;
		9. Use of the CPC trademarks for commercial or non-commercial purposes without the prior written consent of the CPC;
		10. Abusive use of alcohol where abuse means a level of consumption that impairs the individual's ability to speak, walk or exercise reasonable judgment; causes the individual to behave in a disruptive manner; or interferes with the individual's ability to perform effectively and safely;
		11. Any possession or use of illicit drugs and narcotics;
		12. Any possession or use of banned performance enhancing drugs or methods;
		13. Betting or gambling relating to match fixing or CPC activities; or
		14. Deliberately jeopardizing the safety or health of an Individual.

*Note: The definition of “repeated” will depend on the severity of the infraction and frequency of offences within a given time to be determined by the Case Manager in its sole discretion.*

1. Major infractions occurring within competition may be dealt with immediately, if necessary, by an appropriate person having authority, provided the individual being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity or event only. In some cases, the individual may have a Team Member agreement that provides requirements or guidance for procedures in this area. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this Policy.

**Alternative Dispute Resolution**

1. If the Complaint is accepted by the Case Manager and is deemed to be a major Infraction, the Case Manager shall enquire if the Parties would be willing to attempt to resolve the issue by way of mediation. If both Parties consent to mediation, the matter will then be handled in accordance with the CPC’s Alternative Dispute Resolution Policy.
2. Should one of the Parties not agree to mediation, or should the matter not be resolved through the Alternate Dispute Resolution Policy, the Case Manager will appoint a Discipline Panel to hear the Complaint in accordance with this policy.

**Discipline Panel and Hearing**

1. Upon notifying the respondent of a Complaint of a major infraction, the Case Manager shall appoint a Discipline Panel and three persons to act as members of the Discipline Panel. The Case Manager shall appoint one of those persons to serve as the Chair of the Discipline Panel. Members of the Discipline Panel shall have had no involvement with the alleged infraction, or the decision being appealed, and shall be free from any other bias or conflict of interest.
2. Having regard to the nature of the Complaint and the potential consequences of any resulting sanctions, the Case Manager, in consultation with the Discipline Panel, will decide the format of the hearing which may be by way of documentary review, teleconference, or a combination of both. This decision may not be appealed.

**Preliminary Meeting**

1. The Case Manager, in consultation with the Discipline Panel, may determine that the circumstances of the Complaint warrant a preliminary meeting. The Panel may delegate to one of its members the authority to deal with preliminary matters, which may include but are not limited to:
	* 1. Determination of hearing format;
		2. Date and location of the hearing, if necessary;
		3. Timelines for the exchange of documents;
		4. Clarification of issues in dispute;
		5. Any procedural matters including order and procedure of the hearing;
		6. Remedies sought;
		7. Evidence to be brought before the hearing;
		8. Identification of any witnesses; and
		9. Any other procedural matter that may assist in expediting the hearing.

**Documentary Review**

1. When the hearing will be held by way of documentary submissions, the Discipline Panel will govern the hearing fairly and as it sees fit, provided that:
	* 1. All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument; and
		2. The applicable principles and timelines set out by the Panel are respected.

**Oral Hearing**

1. When the hearing will be held by way of a teleconference or in person hearing, the Discipline Panel will govern the hearing fairly and as it sees fit, provided that:
	* 1. The parties will be given seven days written notice of the day, time and place of the hearing;
		2. The parties will be provided copies of all evidence to be relied upon;
		3. Decisions of the Discipline Panel will be by majority vote;
		4. Panel members will refrain from communicating with the parties except in the presence of, or copy to, the other parties;
		5. The parties may be accompanied by a representative including legal counsel at the party’s own expense; additional representatives will be granted based on the circumstances. For example, a translator or as part of an accommodation,
		6. The parties will have the right to present evidence and argument;
		7. Any party potentially affected by the matter may be made party to the hearing by the Panel;
		8. The Discipline Panel may request that any witness be present at the hearing or submit written evidence in advance of the hearing;
		9. Each party will bear their own costs;
		10. Once appointed, the Discipline Panel will have the authority to abridge or extend timelines associated with any aspect of the hearing.
2. Where the Respondent acknowledges the facts of the incident, he or she may waive the hearing, in which case the Discipline Panel will determine the appropriate disciplinary sanction. The Discipline Panel may hold a hearing for the purpose of determining an appropriate sanction.
3. If a Party chooses not to participate in the hearing, the hearing may proceed in any event.
4. If a decision may affect another party to the extent that the other party would have recourse to a Complaint in their own right, that party will become a party to the Complaint in question, either as Complainant or Respondent as appropriate, and will be bound by the decision.
5. In fulfilling its duties, the Panel may obtain independent advice from a third party. Any independent advice obtained will be shared with all Parties, for which they will be given the opportunity to make submissions in response to said advice prior to the decision.

**Decision**

1. After hearing and/or reviewing the matter, the Discipline Panel will determine whether or not a violation of the Code of Conduct has occurred, and if so, will determine the appropriate sanction to be imposed. The Panel's written decision, with reasons, will be distributed to all parties, the Case Manager, and the CEO or Executive Director, Corporate Services within fourteen days of the conclusion of the hearing. Further distribution of the decision is subject to the Confidentiality section this Policy.

**Sanctions**

1. When the Panel has determined that there has been a violation of the Code of Conduct, the Panel may apply the following disciplinary sanctions which may be applied as a single sanction or in combination:
	* 1. Written reprimand to be placed in the individual’s file for a number of years as determined by the Panel, no greater than 8 years;
		2. Written apology;
		3. Removal of certain privileges;
		4. Suspension from certain CPC teams, events and/or activities;
		5. Suspension from all CPC activities for a designated period of time;
		6. Suspension of CPC funding;
		7. Payment of a financial fine in an amount to be determined by the Disciplinary Panel not exceeding an amount that would be deemed unreasonable;
		8. Expulsion from membership; and
		9. Any other sanction as may be considered appropriate for the offense.
2. Unless the Panel decides otherwise, any disciplinary sanctions will commence immediately. Failure to comply with a sanction as determined by the Panel will result in the automatic suspension of the Respondent from all related CPC activities until such time as compliance occurs.
3. In applying sanctions, the Panel may have regard to the following aggravating or mitigating circumstances:
	* 1. The nature and severity of the incident;
		2. Whether the incident is a first offense or has occurred repeatedly;
		3. The individual's acknowledgment of responsibility;
		4. The individual's remorse and post-infraction conduct;
		5. The age, maturity or experience of the individual; and
		6. The individual's prospects for rehabilitation.

**Serious Infractions**

1. When it is brought to the attention of CPC that an Individual has been charged with an offence under the Criminal Code or the criminal law in place in another jurisdiction where the individual alleged to have committed the offence is present, CPC may suspend the Individual pending further investigation, a hearing or a decision of a Panel either after any criminal matters have been disposed of and sentences served, or after an individual has been suspended for committing a serious infraction at a set of games and has returned home. The CPC will not take further disciplinary action while criminal charges are still pending.
2. Notwithstanding the procedures set out in this Policy, any Individual who is convicted of a criminal offense involving sexual exploitation, invitation to sexual touching, sexual interference, sexual assault aggravated assault, or any more serious offence will face automatic suspension from participating in any CPC activities or events for a period of time corresponding to the length of the criminal sentence imposed by the court, and may face further disciplinary action by CPC in accordance with this Policy.

**Timelines**

1. If the circumstances of the Complaint are such that this policy will not allow a timely conclusion, or if the circumstances of the Complaint are such the Complaint cannot be concluded within the timelines dictated in this policy, the Case Manager may direct that these timelines be revised.

**Confidentiality**

1. The discipline and Complaints process is confidential involving only the parties, the CEO or Executive Director, Corporate Services, the Case Manager and the 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.

**Records and Distribution of Decisions**

1. Infractions that result in discipline will be recorded and maintained by CPC. While confidentiality will be maintained, any decision rendered under this policy may be disclosed to any third party deemed appropriate by the CPC, by the CPC in response to any appeals, or as required by law. For example, decisions that are matters of public interest may be publicly available with the names of the individuals redacted. Likewise, names of persons affected may be disclosed to the extent necessary to give effect to any decision imposed.

**Appeals Procedure**

1. A decision of the Discipline Panel may be appealed in accordance with the *CPC Appeals Policy*.

**APPENDIX “A”**

**CASE MANAGER POSITION DESCRIPTION**

**Purpose**

1. In some of its policies, the CPC requires the appointment of a Case Manager. This Position Description outlines the role, identity, responsibilities and tasks of the Case Manager.

**Policies**

1. The following Policies require the appointment of a Case Manager:
2. Discipline
3. Appeal

**Identity**

1. The Case Manager, appointed by the CPC at their sole discretion, should be experienced with the management of disputes in an unbiased manner. The individual shall not be connected in any way to the issue being disputed.
2. The Case Manager’s identity does not need to be approved by any of the parties involved in the dispute, excluding the CPC.

**Discretion – Complaints (Discipline Policy)**

1. When a Complaint is filed, the Case Manager is required to:
2. Determine whether the Complaint is frivolous and within the jurisdiction of the Discipline and Complaints Policy;
3. Propose the use of the CPC’s Alternate Dispute Resolution Policy;
4. Appoint the Discipline Panel, if necessary;
5. Coordinate all administrative aspects and set timelines;
6. Provide administrative assistance and logistical support to the Panel as required; and
7. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

**Discretion – Appeals (Appeals Policy)**

1. When an appeal is filed, the Case Manager is required to:
	1. Propose the use of the CPC’s Alternative Dispute Resolution Policy;
	2. Determine if the appeal falls under the scope of the Appeal Policy;
	3. Determine if the appeal was submitted in a timely manner;
	4. Decide whether there are any grounds for the appeal;
	5. Appoint the Appeals Panel, if necessary;
	6. Coordinate all administrative aspects and set timelines in conjunction with the Appeals Panel;
	7. Provide administrative assistance and logistical support to the Appeals Panel as required; and
	8. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.
2. When determining if there are identified grounds for appeal, the Case Manager is not acting as the Panel and determining the merits of the appeal, but instead determining whether the Appellant has properly shown that an error, as described in the Appeal Policy, has been alleged. The Case Manager shall carefully consult CPC’s policies and procedures, and analyze the process that contributed to the decision, to determine whether there are appropriate grounds.

**Discretion – Alternative Dispute Resolution**

1. When the parties agree to the jurisdiction of the Alternative Dispute Resolution Policy, the Case Manager may be required to:
2. Appoint the mediator or facilitator;
3. Coordinate all administrative aspects and set timelines; and
4. Provide administrative assistance and logistical support to the mediator or facilitator as required.

**Hearing Format – Discretion**

1. If necessary, the Case Manager, in conjunction with the Appeals Panel or the Discipline Panel, as appropriate, is required to exercise their discretion to determine the format of the hearing. Hearings typically take the following forms:
2. Conference call;
3. In-person hearing;
4. Written submissions; or
5. A combination of s. 9(a), 9(b) and 9(c).
6. In determining the format of the hearing the Case Manager should consider:
7. The animosity between the parties;
8. The time commitment of the Panel;
9. The timelines for a decision;
10. The language barriers between the parties;
11. The gravity of the Complaint/appeal;
12. The complexity of the issues involved;
13. The amount of documentary evidence;
14. Whether one or both parties are represented by legal counsel;
15. The existence of written arguments provided in advance;
16. Whether credibility findings must be made; or
17. Accommodations required due to a Party’s disability.

**Panel Appointment**

1. The Case Manager is required to appoint members of the Appeals Panel or Discipline Panel. The panel members are more important to the resolution of the dispute than the Case Manager and should have the following characteristics:
2. Experience in dispute resolution;
3. Experience with sport disputes;
4. No connection to either party;
5. Decisiveness;
6. Fluent in the language in which the appeal is being argued; and
7. Available to make a decision on the appeal within the timeframes set under this policy.
8. The Case Manager and each member of an Appeals Panel or a Discipline Panel shall receive an honorarium of $125 per case.