



## DISCIPLINE AND COMPLAINTS POLICY

### Definitions

1. The following terms have these meanings in this Policy:
  - a) “*Case Manager*” – An individual appointed by the Chief Executive Officer to receive and administer certain complaints under this *Discipline and Complaints Policy*. The Case Manager does not need to be a member of, or affiliated with Softball Canada
  - b) “*Complainant*” – The Party making a complaint
  - c) “*Days*” – Days including weekends and holidays
  - d) “*Discipline Chair*” – An individual or individuals appointed by the President or CEO of Softball Canada to make determinations regarding discipline and complaint matters reported to Softball Canada
  - e) “*Individuals*” – All categories of membership defined in Softball Canada’s Bylaws, as well as all individuals employed by, or engaged in activities with Softball Canada including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, Directors and Officers of Softball Canada, spectators, and parents/guardians of athletes
  - f) “*Respondent*” – The Party responding to the complaint

### Purpose

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

### Discipline Chair

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

### Application of this Policy

5. This Policy applies to all Individuals.
6. This Policy applies to matters that may arise during Softball Canada’s business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Softball Canada’s activities, and any meetings.
7. This Policy also applies to Individuals’ conduct outside of Softball Canada’s business, activities, and events when such conduct adversely affects relationships within Softball Canada (and its work and sport environment), is detrimental to the image and reputation of Softball Canada, or upon the acceptance of Softball Canada. Applicability or acceptance will be determined by Softball Canada at its sole discretion.
8. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy. Any infractions

or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.

9. An employee of Softball Canada who is a Respondent will be subject to appropriate disciplinary action in accordance with any of Softball Canada's applicable policies, as well as the employee's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

### **Alignment**

10. Softball Canada recognizes that Individuals may also be registered with Provincial/Territorial Organizations and/or Local Associations. Softball Canada requires that Provincial/Territorial Organizations submit discipline decisions rendered at the Provincial/Territorial level involving Individuals to Softball Canada.

### **Adult Representative**

11. 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.
12. Communication from the Discipline Chair or Case Manager, as applicable, must be directed to the minor's representative.
13. A minor is not required to attend an oral hearing, if held.

### **Process**

14. Any Individual may report an incident or complaint to the Chief Executive Officer or Case Manager in writing, within fourteen (14) days of the alleged incident, although this timeline can be waived or extended at the Chief Executive Officer or Case Manager's discretion.
15. Softball Canada may, in its sole discretion, act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Softball Canada will identify an individual representative of the organization.
16. If a complaint or incident is reported to the Chief Executive Officer, this individual may, at their sole discretion and depending on the nature of the issue, decide whether it is necessary to appoint a Discipline Chair, who will be responsible for following process #1, as described in Sections 22-28 below, or, alternatively, appoint a Case Manager, who will be responsible for following Section 29 and following below. Should it be necessary to appoint a Discipline Chair, this appointment will be made by the President of Softball Canada Any decision made by the Chief Executive Officer (or the President of Softball Canada, in the case of an appointment of a Discipline Chair) pursuant to this section is not subject to appeal.
17. If the report of an incident or complaint is received by the Case Manager, this individual may, at their sole discretion and depending on the nature of the issue, transfer the matter to a Discipline Chair, who will be responsible for following process #1, as described in Sections 22-28 below, or, alternatively, retain carriage of the matter, and follow Section 29 and following below. The Case Manager's determination in this regard is not subject to appeal.
18. When determining whether to appoint a Discipline Chair or a Case Manager, the Chief Executive Officer has the discretion to choose which process should be followed, and may use the following examples as a general guideline:

- a) Process #1 - the Complaint alleges the following incidents:
  - i. Disrespectful, abusive, racist, or sexist comments or behaviour
  - ii. Disrespectful conduct
  - iii. Minor incidents of violence (e.g., tripping, pushing, elbowing)
  - iv. Conduct contrary to the values of Softball Canada
  - v. Non-compliance with Softball Canada's policies, procedures, rules, or regulations
  - vi. Minor violations of Softball Canada's *Code of Conduct and Ethics*
  
- b) Process #2 - the Complaint alleges the following incidents:
  - i. Repeated minor incidents
  - ii. Any incident of hazing
  - iii. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
  - iv. Major incidents of violence (e.g., fighting, attacking, sucker punching)
  - v. Pranks, jokes, or other activities that endanger the safety of others
  - vi. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
  - vii. Conduct that intentionally damages Softball Canada's image, credibility, or reputation
  - viii. Consistent disregard for Softball Canada's bylaws, policies, rules, and regulations
  - ix. Major or repeated violations of Softball Canada's *Code of Conduct and Ethics*
  - x. Intentionally damaging Softball Canada's property or improperly handling Softball Canada's monies
  - xi. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
  - xii. A conviction for any *Criminal Code* offense
  - xiii. Any possession or use of banned performance enhancing drugs or methods

19. The Discipline Chair or Case Manager (as applicable), may determine that the alleged incident may contain an element of discrimination, harassment, workplace harassment, workplace violence, sexual harassment, or abuse. In this case, the Discipline Chair or Case Manager may appoint an Investigator in accordance with Softball Canada's *Investigations Policy - Discrimination, Harassment, and Abuse* and Softball Canada, and the Investigator, will have additional responsibilities as described in that Policy.

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

Sanctions

20. Following the determination that the complaint or incident should be handled under Process #1, the Discipline Chair will review the submissions related to the complaint or incident and determine one or more of the following sanctions:
- a) Verbal or written reprimand
  - b) Verbal or written apology
  - c) Service or other contribution to Softball Canada
  - d) Removal of certain privileges
  - e) Suspension from certain teams, events, and/or activities
  - f) Suspension from all or some of Softball Canada's activities for a designated period
  - g) Any other sanction considered appropriate for the offense
21. The Discipline Chair will inform the Respondent of the sanction, which will take effect immediately.
22. Records of all sanctions will be maintained by Softball Canada.

### Request for Reconsideration

23. The sanction may not be appealed until the completion of a request for reconsideration. However, the Respondent may contest the sanction by submitting a Request for Reconsideration within four (4) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:
  - a) Why the sanction is inappropriate;
  - b) All evidence to support the Respondent's position; and
  - c) What penalty or sanction (if any) would be appropriate.
24. Upon receiving a Request for Reconsideration, the Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate sanction.
25. Should the Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
26. 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.

### **Process #2: Handled by Case Manager**

#### Case Manager

27. Following the determination that the complaint or incident should be handled under Process #2, the Chief Executive Officer will appoint a Case Manager to oversee management and administration of the complaint or incident. The Case Manager should not be in a conflict of interest and should have expertise in dispute resolution matters. Such appointment is not appealable.
28. The Case Manager has a responsibility to:
  - a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
  - b) Propose the use of Softball Canada's *Dispute Resolution Policy*
  - c) Appoint the Discipline Panel, if necessary
  - d) Coordinate all administrative aspects and set timelines
  - e) Provide administrative assistance and logistical support to the Discipline Panel as required
  - f) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

#### Procedures

29. If the Case Manager determines the complaint is:
  - a) Frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately
  - b) Not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the complaint is accepted and of the applicable next steps
30. The Case Manager's decision to accept or dismiss the complaint may not be appealed.
31. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
32. After notifying the Parties that the complaint has been accepted, the Case Manager may propose using Softball Canada's *Dispute Resolution Policy* with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the parties refuse to use the

*Dispute Resolution Policy*, the Case Manager will appoint a Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Case Manager, a Discipline Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Discipline Panel's members to serve as the Chair.

33. The Case Manager, in cooperation with the Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Discipline Panel deem appropriate in the circumstances, provided that:
  - a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
  - b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing
  - c) The Parties may engage a representative, advisor, or legal counsel at their own expense
  - d) The Discipline Panel may request that any other individual participate and give evidence at the hearing
  - e) The Discipline Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
  - f) The decision will be by a majority vote of the Discipline Panel
34. 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.
35. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
36. 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.
37. In fulfilling its duties, the Discipline Panel may obtain independent advice.

#### Decision

38. After hearing and/or reviewing 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 Softball Canada. 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.

### Sanctions

39. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:
- a) Verbal or written reprimand
  - b) Verbal or written apology
  - c) Service or other contribution to Softball Canada
  - d) Removal of certain privileges
  - e) Suspension from certain teams, events, and/or activities
  - f) Suspension from all or some of Softball Canada's activities for a designated period
  - g) Payment of the cost of repairs for property damage
  - h) Suspension of funding from Softball Canada or from other sources
  - i) Expulsion from Softball Canada
  - j) Any other sanction considered appropriate for the offense
40. 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.
41. Records of all decisions will be maintained by Softball Canada.

### Appeals

42. The decision of the Discipline Panel may be appealed in accordance with Softball Canada's *Appeal Policy*.

### **Suspension Pending a Hearing**

43. The Chief Executive Officer and President may, after consultation and at their sole discretion, 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. If the complaint is against either the President or Chief Executive Officer, such decision shall be made by Discipline Panel, upon application by the Complainant.

### **Criminal Convictions**

44. An Individual's conviction for a *Criminal Code* offense will be deemed an infraction under this Policy and may, subject to the conditions below, result in a suspension from Softball Canada. *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
  - e) Any offence involving trafficking of illegal drugs

In the cases of a) and b) above, the Individual shall be subject to a lifetime suspension from Softball Canada with no possibility of reinstatement. In the cases of c), d) or e), Softball Canada may file a complaint against the Individual, which shall be managed and heard under Process #2 described in Sections 29 and following above.

### **Confidentiality**

45. 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.

**Timelines**

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

**Records and Distribution of Decisions**

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