



DISCIPLINE and COMPLAINTS POLICY

EFFECTIVE AUGUST 22, 2022
Amended as of January 8, 2024

1. Purpose

1.1. The Federation is committed to providing an environment in which all Individuals involved with the Association are treated fairly and with respect.

1.2. Participation in the Federation's activities brings many benefits and privileges. At the same time, Individuals are expected to fulfill certain responsibilities and obligations including complying with the Federation's policies, bylaws, rules and regulations, and Code of Conduct. Conduct that violates these values may be subject to sanctions pursuant to this Policy. Since discipline may be applied, the Federation provides Individuals with the mechanism outlined in this Policy so that complaints are handled fairly, expeditiously, and affordably.

2. Definitions

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

2.1.1. "Federation" – Ontario Cheerleading Federation (OCF).

2.1.2. "Case Manager" – An individual appointed by the Federation, who need not be a member or affiliated with the Federation, to administer this Discipline and Complaints Policy.

2.1.3. "Complainant" – The Party alleging an infraction.

2.1.4. "Days" – Any day of the week, including weekends and holidays.

2.1.5. "Individuals" – All categories of membership defined in the Federation's Bylaws, as well as all individuals engaged in activities with the Federation including, but not limited to, athletes, coaches, officials, volunteers, administrators, committee members, and directors and officers of the Federation.

2.1.6. "Investigator" – An individual who is a neutral and independent third party, skilled in investigating, hired to conduct the investigation of complaints.

2.1.7. "Parties" – The Complainant, Respondent, and any other Individuals or persons affected by the complaint.

2.1.8. "Respondent" – The alleged infracting Party.

3. Application of this Policy

3.1. This Policy applies to all Individuals defined in the Definitions Section. This Policy does not apply to Federation employees as such matters are governed by the Federation's policies that expressly apply to its employees.

3.2. This Policy applies to discipline matters that may arise during the Federation's business, activities, and sanctioned events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with the Federation, the Federation Board of Directors meetings and any other Federation meetings.

3.3. Discipline matters and complaints arising within the business, activities, or events organized by entities other than the Federation will be dealt with pursuant to the policies of these other entities unless accepted by the Federation in its sole discretion.

4. Reporting a Complaint

4.1. Any Member or Registrant may report any complaint to the Federation. Such complaints must be submitted through email or in writing and must contain the full name and contact information of the Complainant. Anonymous complaints may be accepted at the sole discretion of the Federation.

Complaints should be submitted:

By email: Executive Director: safesport@ontariocheer.ca

4.2. At the Federation's discretion, the Federation may act as the complainant and initiate the complaint process under the terms of this Policy. In such cases, the Federation will identify an individual to represent the Federation.

4.3. Resignation or lapsing of membership after a complaint is filed does not preclude disciplinary proceedings being pursued under this Policy.

4.4. Upon receiving a complaint, the Federation will review the complaint to determine validity and required next steps. If the Federation determines, in its discretion, that the complaint has been resolved, is unsubstantiated, frivolous, vexatious the Federation will notify the complainant. If the subject of the complaint has been made aware, the Federation will also notify accordingly. Such notification will be made as soon as practicable.

4.5 Complaints shall be received within 90 days of their occurring. If the allegations occurred outside 90 days, the Federation will review the Complaint and consider whether it is in the interests of justice to allow the complaint to proceed outside the stated time parameters and whether there is a reason for the delay in reporting.

5. Case Manager

5.1. Upon the receipt and review of a complaint, the Federation may appoint a Case Manager to manage and administer complaints submitted in accordance with this Policy and such appointment is not appealable. The Case Manager can be, but is not required to be associated with the Federation. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner. More specifically, the Case Manager has a responsibility to:

5.1.1. Determine whether the complaint is frivolous or vexatious and within the jurisdiction of this Policy. If the Case Manager determines the complaint is frivolous or vexatious or outside the jurisdiction of this Policy, the complaint will be dismissed immediately. The Case Manager's decision to accept or dismiss the complaint may not be appealed.

5.1.2. Determine if the complaint is a minor or major infraction.

5.1.3. Appoint the Discipline Panel, if necessary.

5.1.4. Coordinate all administrative aspects and set timelines.

5.1.5. Provide administrative assistance and logistical support to the Panel as required.

5.1.6. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

5.2. The Case Manager will inform the Parties if the incident is to be dealt with as a minor infraction or major infraction and the matter will be dealt with according to the applicable section relating to the minor or major infraction.

5.3. This Policy does not prevent an appropriate person having authority from taking immediate, informal or corrective action in response to behaviour that constitutes either a minor or major infraction. Further sanctions may be applied in accordance with the procedures set out in this Policy.

5.4. Any infractions or complaints occurring within competition will be dealt with pursuant to the appropriate procedures at that competition. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only. Further sanctions may be applied, but only after review of the matter in accordance with the procedures set out in this Policy.

5.5. Where a Case Manager determines that an investigation is appropriate, if approved by the Federation, the Case Manager shall appoint an individual to investigate the complaint and handle the responsibilities of an investigator as described in this policy.

6. Minor Infractions

6.1. Minor infractions are incidents of failing to achieve expected standards of conduct that generally do not result in harm to others or to the Federation. Examples of minor infractions can include, but are not limited to, an incident of:

6.1.1. Disrespectful, offensive, abusive, racist, or sexist comments or behaviour.

6.1.2. Disrespectful conduct such as outbursts of anger.

6.1.3. Conduct contrary to the values of the Federation.

6.1.4. Being late for, or absent from, the Federation events and activities at which attendance is expected or required.

6.1.5. Non-compliance with the Federation's policies, procedures, rules, or regulations.

6.1.6. Minor violations of the Federation's Code of Conduct.

6.2. All disciplinary situations involving minor infractions will be dealt with by a person who has authority over both the situation and the individual involved. The person in authority can be, but is not restricted to being, staff, organizers, or Federation decision-makers.

6.3. Provided that the Individual being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident, procedures for dealing with minor infractions will be informal (compared to the procedures for major infractions) and will be determined at the discretion of the person responsible for discipline of such infractions (as noted above).

6.4. Penalties for minor infractions, which may be applied singularly or in combination, include the following:

- 6.4.1. Verbal or written reprimand from the Federation to one of the Parties.
- 6.4.2. Verbal or written apology from one Party to the other Party.
- 6.4.3. Service or other voluntary contribution to the Federation.
- 6.4.4. Removal of certain privileges of membership for a designated period of time.
- 6.4.5. Suspension from the competitions, activities, or events.
- 6.4.6. Restriction of activities.
- 6.4.7. Any other sanction considered appropriate for the offense.

6.5. Minor infractions that result in discipline will be recorded and records will be maintained by the Federation. Repeat minor infractions may result in further such incidents being considered a major infraction.

7. Major Infractions

7.1. Major infractions are instances of failing to achieve the expected standards of conduct that result, or have the potential to result, in harm to other persons, or to the Federation. Examples of major infractions include, but are not limited to:

- 7.1.1. Repeated minor infractions.
- 7.1.2. Any incident of hazing.
- 7.1.3. Incidents of physical or sexual abuse.
- 7.1.4. Behaviour that constitutes harassment, racism, sexual harassment, or sexual misconduct.
- 7.1.5. Pranks, jokes, or other activities that endanger the safety of others.
- 7.1.6. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition.
- 7.1.7. Conduct that intentionally damages the Federation's image, credibility, or reputation.
- 7.1.8. Disregard for the Federation's bylaws, policies, rules, and regulations.
- 7.1.9. Major or repeated violations of the Federation's Code of Conduct.
- 7.1.10. Intentionally damaging Federation property or the property at which the activity takes place.
- 7.1.11. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illegal drugs.
- 7.1.12. Any possession or use of performance enhancing substances or methods.
- 7.1.13. Theft of money and/or property of others.
- 7.1.14. Cheating during a competition.

7.2. Major infractions will be handled using the Procedure for Major Infraction Hearing set out in this Policy, except where a dispute resolution procedure contained within a contract, or other formal written agreement takes precedence.

8. Investigation

8.1. The Investigator, if one is appointed, must be unbiased and not in a conflict of interest situation.

8.2. Federal and/or Provincial legislation related to workplace harassment may apply to the investigation if the conduct complained of was directed toward a worker in a workplace. The Investigator should review occupational health and safety legislation and may consult independent experts to determine whether legislation applies to the complaint.

8.3. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial legislation. The investigation may include:

8.3.1. Interviews with the Complainant(s).

8.3.2. Interviews with the Respondent(s).

8.3.3. Interviews with Witnesses.

8.3.4. Statement of complaint (Complainant's perspective) prepared by Investigator, acknowledged by the Complainant and provided to the Respondent.

8.3.5. Statement of response (Respondent's perspective) prepared by Investigator, acknowledged by the Respondent and provided to the Complainant.

9. Investigator's Report

9.1. Following timelines determined by the Case Manager, who may modify the timelines as needed, the Investigator will prepare and submit a report using any applicable data collected pertaining to the case to the Executive Director/President of the Federation and the Case Manager.

9.2. The Investigator's report shall include a summary of evidence from the parties (including both statements of complaint and response, if applicable) and recommendations from the Investigator of whether or not, on a balance of probabilities, an incident occurred that could be considered Discrimination, Harassment, Sexual Harassment, or Abuse, or a breach of the Federation's bylaws, policies, procedures, rules, regulations or Code of Conduct.

10. Investigator's Reporting

10.1. Should the Investigator find that there are possible instances of offence under the Criminal Code of Canada, particularly related to Criminal Harassment (or Stalking), Uttering Threats, Assault, Sexual Interference, or Sexual Exploitation, the Investigator shall advise the Complainant to refer the matter to police. Upon notice of criminal activity, including physical or sexual assault allegations, regarding a minor, the Federation will notify the police.

10.2. The Investigator must also inform the Federation of any findings of criminal activity. The Federation may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of doping drugs or materials, any sexual crime involving minors, fraud against the Federation, or other offences where the lack of reporting would bring the Federation into disrepute.

The Federation will adhere to all disclosure and reporting responsibilities required by any government entity, local police service, or child protection agency.

11. Procedure for Major Infraction Hearing

11.1. The Case Manager shall notify the Parties that the complaint is potentially legitimate and the incident shall be dealt with as a major infraction. The Case Manager shall then decide the format under which the complaint will be heard.

11.2. The Case Manager will appoint a Discipline Panel, which shall consist of a single Adjudicator, to hear the complaint. At the discretion of the Case Manager, a Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair. The individual(s) should have the following characteristics: Experience in dispute resolution; Experience with sport disputes; No connection to either party; Preferably no connection with the Parties; and Decisiveness. The Panel members will be familiar with the policies of the Federation including its Rules, Guidelines and Bylaws and will act in accordance with same, unless written reasons have been given by the Panel.

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

11.4. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.

11.5. The Case Manager will determine the format of the hearing, which may involve an oral in-person hearing/virtual, an oral/virtual hearing by telephone, 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 deems appropriate in the circumstances, provided that:

11.5.1. The Parties will be given appropriate notice of the day, time, and place of the hearing.

11.5.2. 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.

11.5.3. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense.

11.5.4. The Panel may request that any other individual participate and give evidence at the hearing.

11.5.5. The 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.

11.5.6. The decision will be by a majority vote of Panel members.

11.6. 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 complaint in question and will be bound by the decision.

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

12. Decision

12.1. After hearing the matter, the Panel will determine whether an infraction has occurred and, so, the sanctions to be imposed.

12.2. Within fourteen (14) days of the hearing's conclusion, the Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the Federation. 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 before the end of the fourteen (14) day period.

12.3. The decision will be considered a matter of public record in accordance with section 18.2 of this Policy.

13. Sanctions

13.1. The Panel may apply the following disciplinary sanctions, singularly or in combination, for major infractions:

13.1.1. Verbal or written reprimand from the Federation to one of the Parties.

13.1.2. Verbal or written apology from one Party to the other Party.

13.1.3. Service or other voluntary contribution to the Association.

13.1.4. Suspension from the Federation sanctioned competitions, events, and/or activities.

13.1.5. Withholding of awards.

13.1.6. Payment of the cost of repairs for property damage.

13.1.7. Suspension of funding from the Federation or from other sources.

13.1.8. Expulsion from the Federation.

13.1.9. Any other sanction considered appropriate for the offense.

13.2. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately. Failure to comply with a sanction as determined by the Discipline Panel will result in automatic suspension from Federation sanctioned competitions, activities or events until such time as compliance occurs.

13.3. Infractions that result in discipline will be recorded and records will be maintained by the Federation.

14. Suspension Pending a Hearing

14.1. The Federation may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual from the Federation's sanctioned competitions, activities, or events, pending

a hearing or a decision of the Panel or completion of criminal proceedings. The Federation will post the names of suspended individuals on its website for the duration of the suspension.

15. Criminal Convictions

15.1. An Individual's conviction for any of the following Criminal Code offenses will be deemed a major infraction under this Policy and will result in ineligibility from the Federation's sanctioned competitions, activities or events upon the sole discretion of the Federation:

- 15.1.1. Any child pornography offences.
- 15.1.2. Any sexual offences.
- 15.1.3. Any offence of physical or psychological violence.
- 15.1.4. Any offence of assault.
- 15.1.5. Any offence involving trafficking of illegal drugs.

16. Confidentiality

16.1. The discipline and complaints process is confidential and involves only the Parties, the Case Manager, the Discipline Panel, the Executive Director (or in the absences of the ED, the President) and any advisors to 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.

17. Timelines

17.1. 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.

18. Records and Distribution of Decisions

18.1. Minor and major infractions that result in discipline, as well as decisions of any appeals, shall be recorded and maintained by the Federation.

18.2. Decisions and appeals are matters of public interest and shall be publicly available with the names of the individuals redacted, with the exception that names of persons disciplined shall be a matter of public record and may be posted to the Federation's website at the discretion of the Federation.

19. Appeals Procedure

19.1. The decision of the Panel may be appealed in accordance with the Federation's Appeal Policy.

20. Modification of Criteria

20.1. The Federation may revise this Policy at any time as circumstances require.

Appendix A

CASE MANAGER POSITION DESCRIPTION

1. Purpose

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

2. Policies

2.1. The following Policies require the appointment of a Case Manager:

- 2.1.1. Discipline and Complaints
- 2.1.2. Appeal
- 2.1.3. Alternate Dispute Resolution Policy

3. Identity

3.1. The Case Manager, whether or not appointed by the Federation at its sole discretion, should be experienced with the management of disputes in an unbiased manner. The individual should not be connected in any way to the issue being disputed (and/or the outcome of the dispute) but does not necessarily need to be an independent third-party not connected with the Federation – though the guaranteed independence and neutrality of a third-party is preferred. The individual does not need to be a Member of the Federation.

3.2. The Case Manager's identity does not need to be approved by any of the parties involved in the dispute, excluding the Federation.

4. Discretion – Complaints

4.1. When a complaint is filed, the Case Manager is required to:

- 4.1.1. Determine whether the complaint is frivolous and within the jurisdiction of the Discipline and Complaints Policy.
- 4.1.2. Appoint an Investigator, if necessary.
- 4.1.3. Propose the use of the Federation's Alternate Dispute Resolution Policy.
- 4.1.4. Appoint the Panel, if necessary.
- 4.1.5. Coordinate all administrative aspects and set timelines.
- 4.1.6. Provide administrative assistance and logistical support to the Panel as required.
- 4.1.7. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

5. Discretion – Alternate Dispute Resolution

5.1. When the parties agree to the jurisdiction of the Alternate Dispute Resolution Policy, the Case Manager may be required to:

- 5.1.1. Appoint the mediator or facilitator.

5.1.2. Coordinate all administrative aspects and set timelines.

5.1.3. Provide administrative assistance and logistical support to the mediator or facilitator as required.

6. Hearing Format – Discretion

6.1. If necessary, the Case Manager is required to exercise their discretion to determine the format of the hearing. Hearings typically take the following forms, but are not limited to:

6.1.1. In person.

6.1.2. Conference call.

6.1.3. Written submissions.

6.1.4. Conference call plus written submissions.

6.1.5. Virtual

6.2. In determining the format of the hearing, the Case Manager should consider:

6.2.1. The distance between the parties.

6.2.2. The animosity between the parties.

6.2.3. The time commitment and location of the Panel.

6.2.4. The timelines for a decision.

6.2.5. The language barriers between the parties.

6.2.6. The gravity of the complaint/appeal.

7. Panel Appointment

7.1. The Case Manager is required to appoint a Panel of one person, or three in extraordinary circumstances, to decide the issue. The individual(s) should have the following characteristics:

7.1.1. Experience in dispute resolution.

7.1.2. Experience with sport disputes.

7.1.3. No connection to either party.

7.1.4. Preferably no connection with the Parties.

7.1.5. Decisive.

7.2. The Case Manager should remind the Panel to adhere to the powers given to the Panel by the applicable policy. For example, if the policy does not permit the Panel to suspend the respondent indefinitely, then the Panel cannot sanction the respondent in this manner.

8. Communication

8.1. Especially when the hearing is to be held by written submissions, the Case Manager is required to communicate swiftly, clearly, and decisively with each party. The parties must adhere to the deadlines set by the Case Manager or by the applicable policy and the process must move forward even if a party misses a deadline.

8.2. When coordinating an oral hearing, the Case Manager should first consider the schedule of the Panel, then the schedule of the complainant, and then the schedule of the respondent in an attempt to find a suitable time for everyone.

9. Suggested Procedure

9.1. The Case Manager may implement the following procedure to facilitate the Discipline and Complaints Policy:

9.1.1. Receive the written complaint or appeal.

9.1.2. Communicate with the Complainant that you have been appointed the Case Manager and that their complaint will be disclosed to the Respondent and Panel. Also determine if there is additional evidence or written submissions to follow. If so, provide a deadline for receipt. (After this step, the Complainant may not have another opportunity to make additional submissions or provide evidence, unless determined otherwise by the Panel).

9.1.3. Determine whether the complaint is within the jurisdiction of the applicable Policy.

9.1.4. Notify the Respondent that you are the Case Manager and are in receipt of a complaint/appeal. Communicate to the Respondent that any submissions will be provided to the Complainant/Appellant and Panel. Provide the Respondent with a reasonable timeframe to submit their response document and any applicable evidence. (After this step, the Respondent may not have another opportunity to make additional submissions or provide evidence, unless determined otherwise by the Panel).

9.1.5. The Case Manager may wish to provide the Complainant to submit a rebuttal, but the rebuttal must be limited to issues raised by the Respondent and is not an opportunity to provide new evidence. The Panel may exclude such new evidence.

9.1.6. Appoint the Panel.

9.1.7. Conduct a hearing either via written documentation, teleconference, in – person, or a combination of these techniques.

9.1.8. Ensure the Panel renders a written decision within a prescribed timeline.