

Policies & Procedures Manual



January 19, 2022 (ammended June 2022)

5.0 DISCIPLINE, COMPLAINTS and DISPUTE RESOLUTION

5.1 POLICY STATEMENT

Any breaches of the PacificSport Vancouver Island Policy, in particular those related to *'Staff Code of Conduct'*, *'Board & Volunteer Code of Conduct'*, and *'Human Resources Policies'* shall be handled using the following procedures.

5.2 DEFINITIONS

The following terms have these meanings in this Policy:

- “Clients” – Users of PacificSport Vancouver Island services, including on-site services, such as athletes, coaches, and other personnel connected to a team or athlete;
- “Complainant” – The Party alleging an infraction;
- “Days” – Days irrespective of weekend and holidays;
- “Employees and Volunteers” – Individuals employed by, or engaged in activities on behalf of, PacificSport Vancouver Island including: staff members, contract personnel, volunteers, practicum students, researchers, administrators, Board members, directors or strategic volunteers for the Board;
- “Respondent” – The alleged infracting Party;
- “Parties” – The Complainant, Respondent, and any other Individuals or persons affected by the complaint; and
- “Staff” – Any individual employed by, or engaged in activities on behalf of, PacificSport Vancouver Island including employees, contract personnel, practicum students, volunteers, researchers, and administrators.

5.3 APPLICATION

PacificSport Vancouver Island will provide an environment in which all clients, employees and volunteers involved with PacificSport Vancouver Island are treated with respect. Association with PacificSport Vancouver Island, as well as participation in its activities, brings many benefits and privileges. At the same time, employees and volunteers are expected to fulfill certain responsibilities and obligations including complying with PacificSport Vancouver Island policies, bylaws, rules and regulations, and *Staff Code of Conduct and Ethics*. Irresponsible behaviour by staff can result in severe damage to the integrity of the PacificSport Vancouver Island. Conduct that breaches these values may be subject to sanctions pursuant to this Policy. Since discipline may be applied, PacificSport Vancouver Island provides staff with the mechanism outlined in this Policy so that complaints are handled fairly, expeditiously, and affordably.

This Policy applies to all staff, clients, Board members, directors and strategic volunteers.

This Policy applies to discipline matters that may arise during the course of PacificSport Vancouver Island business, activities, and events including, but not limited to, contact with clients, travel associated with PacificSport Vancouver Island activities, the PacificSport Vancouver Island office environment, and any meetings.

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

5.4 PROCEDURES

5.4.1 Reporting a Complaint

5.4.1.1 Any client, staff member, Board member, director or strategic volunteer may report any complaint to the PacificSport Vancouver Island office. Such a complaint must be in writing and signed, and must be filed within fourteen days of the alleged incident. Anonymous complaints may be accepted at the discretion of PacificSport Vancouver Island.

5.4.1.2 Clients or staff members may only report complaints directed at PacificSport Vancouver Island employees or volunteers as defined in the Definitions Section. Complaints against clients should be directed to the client's National or Provincial sport organization, as appropriate.

5.4.1.3 A Complainant wishing to file a complaint outside of the fourteen-day period must provide a written statement giving reasons for an exemption from this limitation. The decision to accept, or not accept, the complaint outside of the fourteen-day period will be at the sole discretion of the Executive Director or Designate of PacificSport Vancouver Island. This decision may not be appealed.

5.4.2 Dispute Resolution and Mediation

5.4.2.1 Before any complaint proceeds to the formal stage, the dispute will first be referred to PacificSport Vancouver Island's Executive Director (or designate) for review, with the objective of resolving the dispute via alternate dispute resolution (ADR) and/or mediation in accordance to the procedures noted below.

5.4.2.2 PacificSport Vancouver Island supports the principles of Alternate Dispute Resolution (ADR) and is committed to the techniques of negotiation, facilitation, and mediation as effective ways to resolve disputes. Alternate Dispute Resolution also avoids the uncertainty, costs, and other negative effects associated with lengthy appeals or complaints, or with litigation.

5.4.2.3 PacificSport Vancouver Island encourages all Employees, Volunteers and Clients to communicate openly, collaborate, and use problem-solving and negotiation techniques to resolve their differences. PacificSport Vancouver Island believes that negotiated settlements are usually preferable to outcomes resolved through other dispute resolution techniques. Negotiated resolutions to disputes with and among Employees, Volunteers and Clients are strongly encouraged.

5.4.2.4 Opportunities for Alternate Dispute Resolution may be pursued at any point in a dispute within PacificSport Vancouver Island when all parties to the dispute agree that such a course of action would be mutually beneficial.

5.4.3 Case Manager

5.4.3.1 Should the review by PacificSport Vancouver Island's Executive Director (or designate) not resolve the dispute, PacificSport Vancouver Island will appoint a Case Manager to oversee management and administration of complaints submitted in accordance with this Policy and such appointment is not appealable.

The Case Manager is not required to be associated with PacificSport Vancouver Island. 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:

- 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;
- Determine if the complaint is a minor or major infraction;
- Appoint the Panel, if necessary, in accordance with this Policy;
- Coordinate all administrative aspects of the complaint;
- Provide administrative assistance and logistical support to the Panel as required; and
- Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

5.4.3.2 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.

5.4.3.3 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.

5.4.4 Minor Infractions

5.4.4.1 Minor infractions are **single incidents** of failing to achieve expected standards of conduct that generally do not result in harm to others or to PacificSport Vancouver Island. Examples of minor infractions can include, but are not limited to, a single incident of:

- Disrespectful, offensive, abusive, racist, or sexist comments or behavior;
- Disrespectful conduct such as outbursts of anger or argument;
- Conduct contrary to the values of PacificSport Vancouver Island;
- Being late for, or absent from, PacificSport Vancouver Island events and activities at which attendance is expected or required;
- Non-compliance with PacificSport Vancouver Island's policies, procedures, rules, or regulations; and
- Minor violations of PacificSport Vancouver Island's *Code of Conduct*.

5.4.4.2 All disciplinary situations involving minor infractions will be dealt with by the appropriate 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 PacificSport Vancouver Island decision-makers.

5.4.4.3 Provided that the Staff 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).

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

- Verbal or written reprimand from PacificSport Vancouver Island to one of the Parties;
- Verbal or written apology from one Party to the other Party;
- Service or other voluntary contribution to PacificSport Vancouver Island;
- Restriction of activities;
- Fines; and
- Any other sanction considered appropriate for the offense.

5.4.4.5 Minor infractions that result in discipline will be recorded and records will be maintained by PacificSport Vancouver Island. Repeat minor infractions may result in further such incidents being considered a major infraction.

5.4.5 Major Infractions

5.4.5.1 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 PacificSport Vancouver Island. Examples of major infractions include, but are not limited to:

- Repeated minor infractions;
- Any incident of hazing;
- Incidents of physical abuse;
- Behaviour that constitutes harassment, sexual harassment, or sexual misconduct;
- Pranks, jokes, or other activities that endanger the safety of others;
- Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition;
- Conduct that intentionally damages PacificSport Vancouver Island's image, credibility, or reputation;
- Disregard for PacificSport Vancouver Island's bylaws, policies, rules, and regulations;
- Major or repeated violations of PacificSport Vancouver Island's Code of Conduct;
- Intentionally damaging PacificSport Vancouver Island property or improperly handling PacificSport Vancouver Island;
- Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics; and
- Any possession or use of banned performance enhancing drugs or methods.

5.4.5.2 Major infractions occurring within competition may be dealt with immediately, if necessary, by an appropriate person having authority. 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. This review does not replace the appeal provisions of this Policy.

5.4.5.3 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, employee agreement, or other formal written agreement takes precedence.

5.4.6 Procedure for Major Infraction Hearing

5.4.6.1 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. This decision is at the sole discretion of the Case Manager and may not be appealed.

5.4.6.2 The Case Manager will appoint a Discipline Panel, which shall consist of a single Adjudicator, to hear the complaint. In extraordinary circumstances, and 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.

5.4.6.3 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.

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

5.4.6.5 The Case Manager will determine the format of the hearing, which may involve an oral in-person hearing, an oral hearing by telephone, an oral hearing conducted by computer meeting software, 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:

- The Parties will be given appropriate notice of the day, time, and place of the hearing;
- 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;
- The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense;
- The Panel may request that any other individual participate and give evidence at the hearing;
- 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; and
- The decision will be by a majority vote of Panel members.

5.4.6.6 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.

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

5.4.7 Decision

After hearing the matter, the 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 Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and PacificSport Vancouver Island. 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. The decision will be considered a matter of public record unless decided otherwise by the Panel.

5.4.8 Sanctions

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

- Verbal or written reprimand from PacificSport Vancouver Island to one of the Parties;

- Verbal or written apology from one Party to the other Party;
- Service or other voluntary contribution to PacificSport Vancouver Island;
- Restriction of activities;
- Expulsion or dismissal from PacificSport Vancouver Island;
- Payment of the cost of repairs for property damage;
- Any other sanction in accordance with PacificSport Vancouver Island's HR Policy; and
- Any other sanction considered appropriate for the offense.

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

5.4.8.3 Major infractions that result in discipline will be recorded and records will be maintained by PacificSport Vancouver Island.

5.4.9 Suspension Pending a Hearing

PacificSport Vancouver Island may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending a hearing and a decision of the Panel and/or completion of the criminal process.

5.4.10 Criminal Convictions

A Staff conviction for any of the following *Criminal Code* offenses will be deemed a major infraction under this Policy and will result in dismissal from PacificSport Vancouver Island:

- Any child pornography offences;
- Any sexual offences;
- Any offence of physical or psychological violence;
- Any offence of assault; and
- Any offence involving trafficking of illegal drugs.

5.4.11 Confidentiality

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

5.4.12 Timelines

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 Panel may direct that these timelines be revised.

5.4.13 Records and Distribution of Decisions

Minor and major infractions that result in discipline shall be recorded and maintained by PacificSport Vancouver Island. PacificSport Vancouver Island and other PacificSport Centres may be advised of any decisions.

Decisions are matters of public interest and shall be publicly available with the names of the individuals redacted. Names of persons disciplined may be disclosed to the extent necessary to give effect to any sanction imposed.

5.4.14 Final and Binding Decision

The decision of the Panel will be binding on the parties and on all PacificSport Vancouver Island Staff, subject only to the provisions of PacificSport Vancouver Island's Dispute Resolution Policy and/or the rules of the Sport Dispute Resolution Centre of Canada.

6.0 Harassment & Violence in the Workplace

6.1 POLICY STATEMENT

All PacificSport Vancouver Island (PSVI) staff members, volunteers, contractors, students, interns and visitors are entitled to be treated with respect and dignity, free from harassment based on the protected grounds of race, colour, national or ethnic origin, gender, gender identity, religion, age, marital or family status, sexual orientation, disability, or any other ground prescribed by any law that applies to PSVI.

6.2 APPLICATION

The conduct and language of employees in the workplace must meet acceptable social standards and must contribute to a positive work environment. An employee's conduct must not compromise the integrity of PacificSport Vancouver Island.

All employees have the right to expect, and the responsibility to create, a workplace where all employees are safe. Violence in the work place is unacceptable and will not be tolerated. Violence includes any attempted or actual exercise by any person, including another worker, of any physical force so as to cause injury to a worker and includes any express threat of violence. Types of behaviour that constitute **workplace violence** include, but are not limited to:

- Verbal threats to attack a worker/volunteer;
- Sending to or leaving threatening notes or emails for a worker/volunteer; Making threatening physical gestures to a worker/volunteer;
- Wielding a weapon in a workplace;
- Hitting, pinching or unwanted touching of a worker/volunteer which is not accidental;
- Throwing an object at a worker/volunteer;
- Blocking normal movement or physical interference of a worker/volunteer, with or without the use of equipment;
- Sexual violence against a worker/volunteer; and
- Any attempt to engage in the type of conduct outlined above.