

Biathlon Yukon

Discipline and Complaints Policy

Reviewed and approved Biathlon Yukon Board

1. **PURPOSE:** The purpose of this policy is to provide outline how individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the policies, By-laws, rules and regulations of Biathlon Yukon. Non-compliance may result in the imposition of sanctions pursuant to this Policy.

DEFINITIONS:

2. The following terms have these meanings in this Policy:
 - a) *“Complainant”* – The Party making a complaint
 - b) *“Days”* – Days includeweekends and holidays
 - c) *“Discipline Chair”* – An individual appointed or assigned by Biathlon Yukon to administer and decide complaints about minor incidents under Process #1 of this Policy. The Discipline Chair is usually the President (or a designate)
 - d) *“Case Manager”* – An individual appointed by Biathlon Yukon to administer complaints about major incidents under Process #2 of this Policy. The Case Manager should be independent and not be affiliated with Biathlon Yukon
 - e) *“Discipline Panel”* – An individual (or individuals) appointed by the Independent Case Manager to decide complaints about major incidents under Process #2 of this Policy. The Discipline Panel may or may not be affiliated with Biathlon Yukon but must not be in a conflict of interest
 - f) *“Individuals”* – All categories of membership defined in Biathlon Yukon’s By-laws, as well as all individuals employed by, or engaged in activities with, Biathlon Yukon including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, Directors and Officers, and parents/guardians of athletes
 - g) *“Respondent”* – The Party responding to the complaint

APPLICATION OF THIS POLICY:

3. This Policy applies to all Individuals.
4. This Policy applies to matters that may arise during the business, activities, and events of Biathlon Yukon including, but not limited to, competitions, practices and training, treatment or consultations (e.g., massage therapy), camps and clinics, travel associated with the activities of Biathlon Yukon, and any meetings.

5. This Policy also applies to Individuals' conduct outside of the business, activities, and events of Biathlon Yukon when such conduct adversely affects Biathlon Yukon's relationships (and the sport before work environment) or is detrimental to the image and reputation of Biathlon Yukon. Accordingly, applicability of this Policy will be determined by Biathlon Yukon upon its sole discretion and shall not be subject to appeal.
6. This Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Individuals who have retired from the sport where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Individual was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Individuals involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Individual(s).
7. In the event that it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of a sanction may be applied, after which further discipline or sanctions 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 may be for the duration of the competition, training, activity, or event only.
8. In addition to being subject to disciplinary action pursuant to this *Discipline and Complaints Policy*, an employee of Biathlon Yukon who is a Respondent to a complaint may also be subject to consequences in accordance with the employee's Employment Agreement or policies for human resources, if applicable.

MINORS

9. 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.
10. Communication from the Case Manager, Discipline Chair or Discipline Panel (as applicable), must be directed to the Minor's representative.
11. A Minor is not required to attend an oral hearing, if held.

REPORTING A COMPLAINT

12. Any person may report a complaint to Biathlon Yukon. Complaints must be made in writing.
13. At the discretion of Biathlon Yukon, Biathlon Yukon itself may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Biathlon Yukon will identify an individual who is not in a conflict of interest to represent Biathlon Yukon during the process.

RECEIVING A COMPLAINT

14. Upon receiving a complaint, Biathlon Yukon will appoint a Discipline Chair. The Discipline Chair will evaluate the severity of the allegations within the complaint and determine whether it should be handled by Process #1 (minor incidents) or by Process #2 (major incidents) described below.
15. The Discipline Chair may determine that the alleged incident(s) should be independently investigated prior to a decision being made. In these cases, the Discipline Chair may appoint an Investigator who will investigate the complaint and make a Report to the decision-maker, who is the Discipline Chair or Discipline Panel (as applicable). The Investigator must be an independent third-party skilled in investigating. The Investigator must not be in a conflict of interest and should have no connection to either party.
16. If an investigation takes place, it may take any form as decided by the Investigator, guided by any applicable Federal and/or Territorial legislation. The investigation may include but not limited to:
 - a) Complainant interviewed;
 - b) Witnesses interviewed;
 - c) Statement of facts (Complainant's perspective) prepared by Investigator and acknowledged by Complainant;
 - d) Respondent interviewed;
 - e) Witnesses interviewed;
 - f) Statement of facts (Respondent's perspective) prepared by Investigator and acknowledged by Respondent
17. The investigator's authority is limited to conducting the investigation, described above, and preparing a report for the decision-maker (either the Discipline Panel or Discipline Chair). The investigator may make recommendations in the report but such recommendations must be limited to the investigator's determination of the facts of the case. A summary of the investigator's report, with any recommendations, must be provided to the Complainant and Respondent prior to the decision and prior to a hearing (if held).
18. Any investigation that takes place is not a substitute for handling the complaint per Process #1 or Process #2 (as determined by the Discipline Chair) described below, and does not replace the need for a hearing (when the complaint is handled per Process #2).
19. The Discipline Chair may also propose resolving the complaint by using alternate dispute resolution techniques such as mediation or negotiation.
20. If alternate dispute resolution techniques are not proposed or if they are not successful in resolving the dispute, the Discipline Chair will choose which process should be followed, and may use the following example incidents as a general guideline:
 - Process #1 - the Complaint alleges the following incidents:
 - a) Disrespectful, abusive, racist, or sexist comments or disrespectful conduct
 - b) Minor incidents of violence (e.g., tripping, pushing, elbowing)
 - c) Conduct contrary to the values of Biathlon Yukon
 - d) Non-compliance with the organization's policies, procedures, rules, or regulations

- e) Minor violations of the *Code of Conduct and Ethics*

Process #2 - the Complaint alleges the following incidents:

- a) Repeated minor incidents
- b) Any incident of hazing
- c) Behaviour that constitutes harassment, sexual harassment, sexist behavior or sexual misconduct
- d) Major incidents of violence (e.g., fighting, attacking, sucker punching)
- e) Pranks, jokes, or other activities that endanger the safety of others
- f) Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- g) Conduct that intentionally damages the organization's image, credibility, or reputation
- h) Consistent disregard for the By-laws, policies, rules, and regulations
- i) Major or repeated violations of the *Code of Conduct and Ethics*
- j) Intentionally damaging the organization's property or improperly handling the organization's monies
- k) Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
- l) A conviction for any *Criminal Code* offense
- m) Any possession or use of banned performance enhancing drugs or methods

21. If the Discipline Chair is unsure of which process to choose, or believes that the case requires an independent Case Manager to administer the complaint, the Discipline Chair should select Process #2 regardless of the complaint's severity.

PROCESS #1: ADMINISTERED AND DECIDED BY DISCIPLINE CHAIR

22. Following the determination that the complaint or incident should be handled under Process #1, the Discipline Chair will either:

- a) Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident; or
- b) Convene the Parties to a meeting, either in person or by way of video or teleconference in order to ask the parties questions.

23. Thereafter, the Discipline Chair shall determine if there is a violation of any Biathlon Yukon policy or the *Code of Conduct and Ethics* and if so, which one or more of the following sanctions should be applied:

- a) Verbal or written reprimand
- b) Verbal or written apology
- c) Service or other contribution to Biathlon Yukon
- d) Removal of certain privileges
- e) Suspension from certain teams, events, and/or activities for a designated period
- f) Any other sanction considered appropriate for the offense

24. The Discipline Chair will inform the Parties of the decision, which will take effect immediately.
25. Records of all sanctions will be maintained by Biathlon Yukon.

REQUEST FOR RECONSIDERATION

26. If there is no sanction, the Complainant may contest the non-sanction by informing the Discipline Chair, within five (5) days of receiving the decision, that the Complainant is not satisfied with the decision. The initial complaint or incident will then be handled under Process #2 of this Policy.
27. If there is a sanction, the Respondent may contest the sanction by submitting a Request for Reconsideration within five (5) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:
 - a) Why the sanction is inappropriate;
 - b) Summary of evidence that the Respondent will provide to support the Respondent's position; and
 - c) What penalty or sanction (if any) would be appropriate.
28. The initial complaint or incident will then be handled under Process #2 of this Policy.

PROCESS #2: ADMINISTERED BY CASE MANAGER AND DECIDED BY DISCIPLINE PANEL

29. Following the determination that the complaint or incident should be handled under Process #2, the Discipline Chair will appoint a Case Manager who has a responsibility to:
 - a) Propose the use of alternate dispute resolution techniques
 - b) Appoint the Discipline Panel
 - c) Coordinate all administrative aspects and set timelines
 - d) Provide administrative assistance and logistical support to the Discipline Panel as required
 - e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding
30. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
31. The Case Manager may propose using alternate dispute resolution with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the parties refuse to attempt alternate dispute resolution (such as mediation or a negotiated settlement) the Case Manager will appoint a Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. 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.
32. The Case Manager, in cooperation with the Discipline Panel, will then decide the format under which the complaint will be heard. 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

33. 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.

34. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.

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

Decision

36. After hearing 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 to Biathlon Yukon. 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.

Sanctions

37. 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 Biathlon Yukon
- d) Removal of certain privileges
- e) Suspension from certain teams, events, and/or activities
- f) Suspension from certain activities for a designated period
- g) Payment of the cost of repairs for property damage
- h) Suspension of funding from the organization or from other sources

- i) Expulsion from the organization
- j) Any other sanction considered appropriate for the offense

38. 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.
39. Records of all decisions will be maintained by Biathlon Yukon understanding these records are treated confidentially.

APPEALS

40. A decision of the Discipline Panel may be appealed in accordance with the *Appeal Policy*.

SUSPENSION PENDING A HEARING

41. Biathlon Yukon may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of an investigation, criminal process, the hearing, or a decision of the Discipline Panel.

CRIMINAL CONVICTIONS

42. Biathlon Yukon may determine in its sole discretion that an Individual's conviction for a *Criminal Code* offense will be deemed an infraction under this Policy and will result in expulsion from Biathlon Yukon. *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

CONFIDENTIALITY

43. The discipline and complaints process is confidential and involves only Biathlon Yukon, the parties, the Case Manager, the Discipline Chair, 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.
44. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Discipline Chair or Discipline Panel (as applicable).

TIMELINES

45. 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 Case Manager may direct that these timelines be revised.

RECORDS AND DISTRIBUTION OF DECISIONS

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

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