

## Manitoba Deaf Sports Association

### **Discipline and Complaints Policy**

#### **Definitions**

1. The following terms have these meanings in this Policy:
  - a) "Association" – **Manitoba Deaf Sports Association**
  - b) "Complainant" – The Party alleging an infraction
  - c) "Days" – Any day of the week, including weekends and holidays
  - d) "Individuals" – All categories of membership defined in the Association's Bylaws, as well as all individuals engaged in activities with the Association including, but not limited to, athletes, coaches, managers, officials, volunteers, and committee or board members of the Association.
  - e) "Parties" – The Complainant, Respondent, and any other Individuals or persons affected by the complaint
  - f) "Respondent" – The alleged infracting Party

#### **Purpose**

2. The Association is committed to providing an environment in which all Individuals involved with the Association are treated fairly and with respect. Participation in the Association's activities brings many benefits and privileges. At the same time, Individuals are expected to fulfill certain responsibilities and obligations including complying with the Association's policies, bylaws, rules and regulations, and *Code of Conduct and Ethics*. Conduct that violates these values may be subject to sanctions pursuant to this Policy. Since discipline may be applied, the Association provides Individuals with the mechanism outlined in this Policy so that complaints are handled fairly, expeditiously, and affordably.

#### **Application of this Policy**

3. This Policy applies to all Individuals defined in the Definitions Section. This Policy does not apply to any Association employees as such matters are governed by the Association's policies that expressly apply to its employees.
4. This Policy applies to discipline matters that may arise during the Association's business, activities, and events including, but not limited to, competitions, tournaments, practices, tryouts, training camps, travel associated with the Association, the Association Board of Director meetings and any other Association meetings.
5. Discipline matters and complaints arising within the business, activities, or events organized by entities other than the Association will be dealt with pursuant to the policies of these other entities unless accepted by the Association in its sole discretion.

#### **Reporting a Complaint**

6. Any Individual may report any complaint to the Association. Such a complaint must be in writing and signed, and must be filed within twenty-one (21) days of the alleged incident. Anonymous complaints may be accepted at the sole discretion of the Association.
7. A Complainant wishing to file a complaint outside of the twenty-one (21) day period must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the complaint outside of the twenty-one (21) day period will be at the sole discretion of the Association. This decision may not be appealed.

### **Dispute Resolution and Mediation**

8. Before any complaint proceeds to a formal stage, the dispute will first be referred to an Association delegate for review, with the objective of resolving the dispute via alternate dispute resolution (ADR) and/or mediation.

### **Case Manager**

9. Should the alternate dispute resolution not resolve the dispute, the Association will appoint a 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 can be, but is not required to be associated with the Association. 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:
  - a) 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
  - b) Determine if the complaint is a minor or major infraction
  - c) Appoint the Panel, if necessary, in accordance with this Policy
  - d) Coordinate all administrative aspects of the complaint
  - e) Provide administrative assistance and logistical support to the Panel as required
  - f) Provide any other service or support that may be necessary to ensure a fair and timely proceeding
10. 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.
11. 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.
12. 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.

### **Minor Infractions**

13. Minor infractions are **incidents** of failing to achieve expected standards of conduct that generally do not result in harm to others or to the Association. Examples of minor infractions can include, but are not limited to, an incident of:
  - a) Disrespectful, offensive, abusive, racist, or sexist comments or behaviour
  - b) Disrespectful conduct such as outbursts of anger
  - c) Conduct contrary to the values of the Association
  - d) Being late for, or absent from, the Association events and activities at which attendance is expected or required
  - e) Non-compliance with the Association's policies, procedures, rules, or regulations
  - f) Minor violations of the Association's *Code of Conduct and Ethics*

14. 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 Association decision-makers.
15. 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).
16. Penalties for minor infractions, which may be applied singularly or in combination, include the following:
  - a) Verbal or written reprimand from the Association to one of the Parties
  - b) Verbal or written apology from one Party to the other Party
  - c) Service or other voluntary contribution to the Association
  - d) Removal of certain privileges of membership for a designated period of time
  - e) Suspension from the competitions, activities, or events
  - f) Restriction of activities
  - g) Any other sanction considered appropriate for the offense
17. Minor infractions that result in discipline will be recorded and records will be maintained by the Association. Repeat minor infractions may result in further such incidents being considered a major infraction.

### **Major Infractions**

18. 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 Association. Examples of major infractions include, but are not limited to:
  - a) Repeated minor infractions
  - b) Any incident of hazing
  - c) Incidents of physical or sexual abuse
  - d) Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
  - 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 Association's image, credibility, or reputation
  - h) Disregard for the Association's bylaws, policies, rules, and regulations
  - i) Major or repeated violations of the Association's *Code of Conduct and Ethics*
  - j) Intentionally damaging Association property or the property at which the activity takes place or improperly handling of the Association's monies
  - k) Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illegal drugs
  - l) Any possession or use of performance enhancing substances or methods
  - m) Theft of money and/or property of others
  - n) Cheating during a competition
19. 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.

### **Procedure for Major Infraction Hearing**

20. 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.

21. 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.
22. 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.
23. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
24. The Case Manager will determine the format of the hearing, which may involve an oral in-person hearing, an oral 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:
  - a) The Parties will be given appropriate notice of the day, time, and place of the hearing
  - b) 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
  - c) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
  - d) The Panel may request that any other individual participate and give evidence at the hearing
  - e) 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
  - f) The decision will be by a majority vote of Panel members
25. 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.
26. In fulfilling its duties, the Panel may obtain independent advice.

### **Decision**

27. 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 the Association. 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.

### **Sanctions**

28. The Panel may apply the following disciplinary sanctions, singularly or in combination, for major infractions:
  - a) Verbal or written reprimand from the Association to one of the Parties
  - b) Verbal or written apology from one Party to the other Party
  - c) Service or other voluntary contribution to the Association
  - d) Suspension from the Association competitions, activities, or events
  - e) Expulsion or dismissal from the Association
  - f) Withholding of awards
  - g) Payment of the cost of repairs for property damage
  - h) Suspension of funding from the Association or from other sources
  - i) Any other sanction considered appropriate for the offense

29. 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 from the Association competitions, activities or events until such time as compliance occurs.

#### **Suspension Pending a Hearing**

30. The Association may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual from the Association competitions, activities or events pending a hearing and a decision of the Panel or completion of criminal proceedings.

#### **Criminal Convictions**

31. 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 Association competitions, activities or events upon the sole discretion of the Association:

- a) Any child pornography offences
- b) Any sexual offences
- c) Any offence of physical or psychological violence
- d) Any offence of assault
- e) Any offence involving trafficking of illegal drugs

#### **Confidentiality**

32. The discipline and complaints process is confidential and involves only the Parties, the Case Manager, the Panel, and any advisors to the Parties or 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.

#### **Timelines**

33. 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.

#### **Records and Distribution of Decisions**

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

35. Decisions and appeals 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.

#### **Appeals Procedure**

36. The decision of the Panel may be appealed in accordance with Association's *Appeal Policy*.