SPP 11.25: Discipline and Appeal	26-02-02
Purpose	This Statement of Policy and Procedure is to ensure that organizational representatives receive a fair, affordable and expedient discipline and appeal process, and outlines the process for complaints, decisions, sanctions, reconsiderations, and appeals.
Scope	This Statement of Policy and Procedure applies to organizational representative conduct inside and outside of PHE Canada business, programs, meetings, activities, and sanctioned events when such conduct adversely affects PHE Canada and is detrimental to the governance, management, image and reputation of PHE Canada.

1. POLICY (what we do)

1.1. PHE Canada is committed to providing organizational representatives with a fair, affordable and expedient discipline and appeal process.

1.2. Organizational representatives, as defined, who express any concerns, lodge a formal complaint under this policy, or who provide information regarding a complaint under this policy may do so without fear of retaliation or reprisal. Any such conduct of retaliation or reprisal will be subject to immediate corrective action.

1.3. The President responds to concerns related to Board Directors and the Executive Director & Chief Executive Officer.

1.4. The Executive Director & Chief Executive Officer responds to the concerns of the employees and members.

1.5. Any potential or actual breaches of PHE Canada policies shall be handled in accordance with this policy and include warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment or membership.

1.6. The Executive Director & Chief Executive Officer and President apply disciplinary and appeals action as per this policy.

1.7. This policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further and swift discipline may be applied according to this policy.

2. PROCEDURES (how we do it)

2.1. Organizational representatives have the responsibility to, and are expected, encouraged and enabled to report any activity which:

- They believe it contravenes the law.
- Represents a real or apparent conflict of interest or a breach of a PHE Canada policy.
- Represents a misuse of PHE Canada funds or assets.
- Represents a danger to public health, safety, and/or the environment.

2.2. Any complaints involving alleged breaches of PHE Canada's policies that involve a UCCMS participant may be reported in writing or orally directly to the Canadian Centre for Ethics in Sport (CCES) .

- Incidents that involve alleged Maltreatment or Prohibited Behaviour (as those terms are defined in the UCCMS) will be addressed pursuant to CCES policies and procedures.
- CCES shall determine the admissibility of such complaints in accordance with the relevant and applicable CCES guidelines regarding the initial review and preliminary assessment, and the matter may only proceed pursuant to the CCES's procedures with the express consent of the parties involved where the parties have not been designeed by PHE Canada.

2.3 Any complaints involving alleged breaches of PHE Canada's policies that do not fall within UCCMS may be reported by any individual to PHE Canada in writing or orally to the Executive Director & Chief Executive Officer.

2.4 If the complaints involve the Executive Director & Chief Executive Officer and/or the Board of Directors, the report may be made in writing or orally to a designeed External Investigator.

2.5 At PHE Canada's discretion, PHE Canada may act as the complainant and initiate the complaint process under the terms of this policy. In such cases, the Executive Director & Chief Executive Officer will identify an individual to represent PHE Canada.

2.6 The complainant may contact the Executive Director & Chief Executive Officer for direction in writing the report, or may report orally and have the Executive Director & Chief Executive Officer complete the report on their behalf based on their oral report. If the later, the complainant will receive a copy of the draft report and has ten (10) business days to confirm its accuracy.

2.7 This policy does not prevent PHE Canada having authority from taking immediate, informal or corrective action in response to a complaint. Further sanctions may be applied in accordance with the procedures set out in this policy.

2.8 Once a complaint is received the Executive Director & Chief Executive Officer, as the Investigator has a responsibility to:

- Determine whether the complaint is frivolous, and/or not within the jurisdiction of this policy and therefore dismissed - this decision is not appealable.
- Propose to resolve the complaint by alternative dispute resolution.
- Determine if an investigation is required.

2.9 The Investigator shall be free from any real, potential, or perceived conflict of interest and shall operate at arm's length from both the complainant and the person(s) identified in the complaint to ensure impartiality and fairness in the investigative process.

2.10 When an investigation is required, it may take any form as decided by the Investigator, guided by any applicable federal and/or provincial legislation. The investigation may include:

- Complainant interviewed.
- Witnesses interviewed.

- Statement of facts (Complainant's perspective) prepared by Investigator and acknowledged by Complainant.
- Statement delivered to person(s) identified in the complaint.
- Person(s) identified in the complaint interviewed.
- Witnesses interviewed; and
- Statement of facts (person(s) identified in the complaint's perspective) prepared by Investigator and acknowledged by the person(s) identified in the complaint.

2.11 Following the investigation, the Investigator will provide an Investigator's report to the complainant and the person(s) identified in the complaint.

2.12 The Investigator's report should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether or not, on a balance of probabilities, a breach of a governing document including, but not limited to, the code of conduct and ethics occurred.

2.13 If the complaint falls under UCCMS (discrimination, harassment, violence, sexual harassment, or abuse of a participant), the Investigator will engage CCES to assist in the decision-making on the reported complaint and to produce the report.

2.14 The CCES report should include a summary of evidence from the parties (including both statements of facts, 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, violence, sexual harassment, or abuse and will be disclosed to PHE Canada.

2.15 Once a complaint is validated, the Investigator (in connection with CCES if appropriate) chooses which process should be followed and may use the following examples as a general guideline.

- **Process #1 - The Complaint alleges the following incidents**:
  - Disrespectful, abusive, racist, or sexist comments or behaviour
  - Disrespectful conduct
  - Minor incidents of violence (e.g., tripping, pushing, elbowing)
  - Conduct contrary to the values of PHE Canada
  - Non-compliance with PHE Canada's policies, procedures, rules, or regulations
  - Minor violations of the Code of Conduct and Ethics
- **Process #2 - The Complaint alleges the following incidents**:
  - Repeated minor incidents
  - Any incident of hazing
  - Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
  - Major incidents of violence (e.g., fighting, attacking, punching)
  - Pranks, jokes, or other activities that endanger the safety of others
  - Conduct that intentionally damages PHE Canada's image, credibility, or reputation
  - Consistent disregard for PHE Canada's bylaws, policies, rules, and regulations
  - Major or repeated violations of the Code of Conduct and Ethics

- Intentionally damaging PHE Canada property, committing financial misconduct (i.e., fraud), or improperly handling PHE Canada monies
- Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
- A conviction for any Criminal Code offense
- Any possession or use of banned performance-enhancing drugs or methods

2.16 Following the determination that the complaint or incident should be handled under Process #1, the Investigator (in connection with CCES if appropriate) will determine one or more of the following sanctions:

- Verbal or written reprimand
- Verbal or written apology
- Service or other contribution to PHE Canada
- Removal of certain privileges
- Suspension from certain events and/or activities
- Suspension from all PHE Canada activities for a designeed period of time
- Any other sanction considered appropriate for the offense

2.17 The Investigator will inform the complainant and the person(s) named in the complaint of the sanction (the parties), which will take effect immediately.

2.18 Records of all sanctions will be maintained by PHE Canada.

2.19 If there is no sanction, the complainant may contest the non-sanction by informing the Investigator, 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.

2.20 If there is a sanction, the person(s) named in the complaint 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:

- Why the sanction is inappropriate.
- Summary of evidence that the person(s) named in the complaint will provide to support the respondent's position; and
- What penalty or sanction (if any) would be appropriate.

2.21 Upon receiving a request for reconsideration, the Investigator may decide to accept or reject the person(s) named in the complaint's suggestion for an appropriate sanction.

- Should the Investigator accept the person(s) named in the complaint's suggestion for an appropriate sanction, that sanction will take effect immediately.
- Should the Investigator not accept the person(s) named in the complaint's suggestion for an appropriate sanction, the initial complaint or incident will be handled under process #2 of this policy.

2.22 Following the determination that the complaint or incident should be handled under process #2, the Investigator will oversee the management and administration of the complaint or incident.

- The Investigator has a responsibility to:
  - Determine whether the complaint is frivolous and/or within the jurisdiction of this policy.
  - Propose to resolve the complaint using alternate dispute resolution.
  - Work with the CCES, if appointed, to receive the Investigator's report.
  - Appoint the panel, if necessary.
  - Coordinate all administrative aspects and set timelines.
  - Provide administrative assistance and logistical support to the panel as required.
  - Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

2.23 The Investigator will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

2.24 After notifying the parties that the complaint has been accepted, the Investigator may propose using alternate dispute resolution with the objective of resolving the dispute. If all parties to a dispute agree to alternate dispute resolution, a mediator or facilitator, acceptable to all parties, shall be appointed to mediate or facilitate the dispute. The mediator or facilitator shall decide the format under which the dispute shall be mediated or facilitated and shall specify a deadline before which the parties must reach a negotiated decision. Any negotiated decision will be binding on the parties. Negotiated decisions may not be appealed.

2.25 If the dispute is not resolved via alternate dispute resolution, the Investigator may appoint a panel to hear the complaint. In extraordinary circumstances, and at the discretion of the Investigator, a panel may be extended to a committee of three independent people appointed to hear the complaint. In this event, the Investigator will appoint one of the panel's members to serve as the chair.

2.26 The Investigator, in cooperation with the 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 Investigator and the panel deem appropriate in the circumstances, provided that the parties are 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.

2.27 Copies of any written documents which the parties wish to have the panel consider will be provided to all parties, through the Investigator, in advance of the hearing.

2.28 The parties may engage a representative, advisor, or legal counsel at their own expense.

2.29 The Investigator or panel may request that any other individual participate and give evidence at the hearing.

2.30 The Investigator or 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.

2.31 The decision will be made by a majority vote of the panel.

2.32 If the person(s) identified in the complaint acknowledges the facts of the incident, they may waive the hearing, in which case the panel will determine the appropriate sanction. The panel may still hold a hearing for the purpose of determining an appropriate sanction.

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

2.34 The following disciplinary sanctions, singularly or in combination, may be applied:

- Verbal or written reprimand
- Verbal or written apology
- Service or other contribution to PHE Canada
- Removal of certain privileges
- Suspension from certain events and/or activities
- Suspension from all PHE Canada activities for a designeed period of time
- Payment of the cost of repairs for property damage
- Suspension of funding from PHE Canada or from other sources
- Expulsion from PHE Canada
- Any other sanction considered appropriate for the offense

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

2.36 Records of all decisions will be maintained by PHE Canada.

2.37 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.

2.38 In fulfilling its duties, the panel may obtain independent advice.

2.39 After hearing and/or reviewing the matter, the panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within twenty (20) days of the hearing's conclusion, the panel's written decision, with reasons, will be distributed to all parties, the External Investigator, and PHE Canada. 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 twenty (20) day period. The decision will be considered a matter of public record unless decided otherwise by the panel.

2.40 A decision made by a panel on a complaint may be appealed. Decisions made by PHE Canada related to conflicts of interest and membership may also be appealed. A party that wishes to appeal a decision has five (5) days from the date on which they received notice of the decision to submit, in writing to PHE Canada, the following:

- Notice of the intention to appeal
- Contact information and status of the Appellant
- Name of the respondent and any affected parties, when known to the Appellant
- Date the appellant was advised of the decision being appealed
- A copy of the decision being appealed, or a description of decision if a written document is not available
- Grounds for the appeal
- Detailed reasons for the appeal
- All evidence that supports these grounds
- Requested remedy or remedies
- An administration fee of one hundred dollars ($100), which will be refunded if the appeal is successful

2.41 A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the respondent:

- Decided that it did not have the authority or jurisdiction (as set out in the respondent's governing documents) to make
- Failed to follow its own procedures (as set out in the respondent's governing documents)
- Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views)

2.42 The Appellant must demonstrate, on a balance of probabilities, that the respondent has made a procedural error and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

2.43 PHE Canada will appoint an External Investigator from the original who has the following responsibilities:

- Determine if the appeal falls under the scope of this policy
- Determine if the appeal was submitted in a timely manner
- Decide whether there are sufficient grounds for the appeal

2.44 If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this policy, the appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed, and the administration fee will not be refunded.

2.45 If the External Investigator is satisfied there are sufficient grounds for an appeal, the External Investigator will appoint a panel which shall consist of a single arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the External Investigator, a panel of three persons may be appointed to hear the appeal. In this event, the External Investigator will appoint

one of the panel's members to serve as the chair. The panel will be free from bias and conflict of interest.

2.46 The appeal hearing will have a format as determined by the panel and the External Investigator and may be similar in format to hearings on complaints. The External Investigator will engage with PHE Canada to determine if there are any affected parties that should participate in the appeal hearing.

2.47 The panel shall issue its decision, in writing and with reasons, within twenty (20) days after the hearing's conclusion. In making its decision, the panel will have no greater authority than that of the original decision-maker. The panel may decide to:

- Reject the appeal and confirm the decision being appealed
- Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
- Uphold the appeal and vary the decision

2.48 The decision of the panel will be binding on the parties and on all PHE Canada representatives, subject to the right of any party to seek a review of the panel's decision pursuant to the rules of the CCES.

2.49 The External Investigator may 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 panel.

- **Criminal Convictions:** A representative's conviction for a criminal code offense, as determined by PHE Canada, will be deemed an infraction under this policy and will result in expulsion from PHE Canada. Criminal code offenses may include, but are not limited to:
    - Any child pornography offenses
    - Any sexual offenses
    - Any offense of physical violence
    - Any offense of assault
    - Any offense involving the trafficking of illegal drugs

In appropriate situations, the External Investigator may, upon receiving a complaint, contact law enforcement officials as part of their duty to report.

The discipline process and appeal process are confidential and involve only PHE Canada, the Parties, the External Investigator, 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 appeal to any person not involved in the proceedings.

2.50 The collection, use and disclosure of any personal information pursuant to this Policy is subject to PHE Canada's privacy policy. PHE Canada, or any of their delegates pursuant to this Policy (i.e., Independent Third Party, Discipline Panel), shall comply with PHE Canada's privacy policy in the performance of their services under this Policy.

2.51 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.

2.52 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.

2.53 A number of government agencies have been established to prevent and redress discrimination, harassment and violence. Implementation of these procedures does not prohibit employees from reporting incidents to their respective provincial government bodies.

3. DEFINITIONS

- Affected Party
- Appellant
- Complainant
- Days
- External Investigator
- Investigator
- Organizational Representative
- Panel
- Respondent

4 RELATED FORMS / RESOURCES

- None

Key Terms	Definition	SPP usage
Affected Party	Any individual, group, organization, or entity that is impacted or infringed upon by another's actions.	SSP 11.25
Appellant	The party submitting an appeal.	SSP 11.25
Complainant	The party submitting a complaint.	SSP 11.25
Days	Days including weekends and holidays.	SSP 11.25
External Investigator	An individual appointed by PHE Canada to address complaints or appeals under this policy. The External Investigator shall not be a member of, or affiliated with, PHE Canada.	SSP 11.25
Investigator	A person who carries out a formal inquiry or investigation.	SSP 11.25
Organizational Representative	Individuals employed by, or engaged in activities with PHE Canada, including, but not limited to, volunteers, managers, administrators, committee members, and Directors and Officers of PHE Canada.	SSP 11.25
Panel	Shall be appointed at the discretion of the External Investigator and consist of a single Arbitrator or a committee of three independent people, as determined by the External Investigator, who are free from a conflict of interest.	SSP 11.25
Respondent	The party responding to the complaint or appeal.	SSP 11.25