

## ONTARIO VOLLEYBALL ASSOCIATION (OVA) DISCIPLINE AND COMPLAINTS POLICY

*This is a Pan-Canadian Policy applicable to Volleyball Canada and the Provincial/Territorial Associations.*

### Definitions

1. The following terms have these meanings in this policy:
  - a) “Board” – The Board of Directors of Volleyball Canada and/or a Provincial/Territorial Association, as applicable
  - b) “Complaint” - An expression of dissatisfaction made per Section 16 of this Policy
  - c) “Complainant” – The party making a Complaint
  - d) “Days” – Days refers to working days, not including weekends and holidays
  - e) “Discipline Chair” - will be a Director of the Board of Volleyball Canada or a Provincial/Territorial Association, as applicable, or a person appointed to handle the duties of the Discipline Chair described in this policy.
  - f) “Discipline Panel” – The panel appointed by the Independent Case Manager to decide the Complaint
  - g) “Individuals” – refers to all categories of members and/or registrants defined in the Bylaws of Volleyball Canada and in the Bylaws of a Provincial/Territorial Association, as applicable, as well as all people employed by, contracted by, or engaged in activities with or on behalf of, Volleyball Canada or a Provincial/Territorial Association including, but not limited to, employees, contractors, athletes, volleyball clubs, coaches, mission staff, referees, volunteers, managers, administrators, committee members, parents or guardians, spectators, and directors and officers
  - h) “Independent Case Manager” – An Independent Third Party appointed by Volleyball Canada or a Provincial/Territorial Association (as applicable) to administer certain Complaints under this Policy
  - i) “Independent Third Party” – an independent individual or group with no professional or personal ties to Volleyball Canada or a Provincial/Territorial Association
  - j) “Provincial/Territorial Associations” – the provincial/territorial member governing bodies for volleyball in each province/territory
  - k) “Respondent” – The Party responding to the Complaint
  - l) “Temporary Measures” – may include but are not limited to, altering training schedules, providing or requiring supervision/chaperones, implementing contact limitations, implementing measures prohibiting one-on-one interactions and communications, and suspensions from participation in some or all aspects of sport activity.
  - m) “Competitions Sanction Chart” – is a pre-determined sanction chart for misconduct at OVA sanctioned events found in the youth competitions manuals published annually.

### Purpose

2. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with all policies, Bylaws, rules and regulations, including the *Abuse Policy* and *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this policy.

### **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 sanctioned events of Volleyball Canada and the Provincial/Territorial Associations including, but not limited to, competitions, practices, tryouts, training camps, travel associated with organizational activities, and any meetings.
5. This policy also applies to Individuals' conduct outside of the business, activities, and sanctioned events of Volleyball Canada and the Provincial/Territorial Associations when such conduct adversely affects the Organization's relationships (and the work and sport environment) or is detrimental, or has the potential to be detrimental, to the image and reputation of Volleyball Canada or a Provincial/Territorial Association. Such applicability will be determined by Volleyball Canada or a Provincial/Territorial Association, as applicable, at its sole discretion.
6. This policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this policy. Any infractions or Complaints occurring within a sanctioned competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only, **unless otherwise stated in the Competitions Sanction Chart**.
7. An employee of Volleyball Canada or a Provincial/Territorial Association who is a Respondent may also be subject to appropriate disciplinary action per the applicable *Human Resources Policy*, as well as the employee's employment agreement, if applicable.

### **Alignment**

8. Volleyball Canada and the Provincial/Territorial Associations recognize that Individuals may also be registered with both Volleyball Canada and a Provincial/Territorial Association. Volleyball Canada and the Provincial/Territorial Associations are required, pursuant to the *Reciprocation Policy*, to submit discipline decisions involving Individuals to the other organization with which the Individual may be registered, which may take further action at its discretion.
9. Volleyball Canada and/or a Provincial/Territorial Association may decide to take further action upon becoming aware of an Individual who has been disciplined by Volleyball Canada or a Provincial/Territorial Association, and if so, the Individual will be the Respondent to a Complaint initiated under the terms of this policy. Volleyball Canada or a Provincial/Territorial Association may act as the Complainant if the original Complainant is unwilling or unavailable to participate in this process.
10. The Discipline Chair or Discipline Panel, as applicable, will review and consider the decision by the Provincial/Territorial Association when deciding on the Complaint per the terms of this policy.

### **Minor's Representative**

11. Complaints may be brought for or against an Individual who is a minor (a person under the age of majority). Minors must have a parent/guardian or other adult serve as their representative during this process.

12. All communications, as applicable, must be directed to the minor's representative.
13. A minor is not required to attend an oral hearing, if held.

### **Reporting a Complaint**

14. Any Individual may report a Complaint to Volleyball Canada or to a Provincial/Territorial Association, the Discipline Chair, or Independent Third Party.
15. Any Individual may contact the Canadian Sports Helpline for advice, guidance and resources on how to proceed/intervene appropriately in the circumstances. 1-888-837-7678 – [info@abuse-free-sport.ca](mailto:info@abuse-free-sport.ca) – <http://abuse-free-sport.ca/en/>
16. A Complaint made to the Chief Executive Officer / Executive Director will forward all complaints to the Discipline Chair who will be a Volleyball Canada or a Provincial/Territorial Association board member or designate.
17. The Discipline Chair will determine the jurisdiction under which the Complaint will be addressed and notify the Complainant and Volleyball Canada or the Provincial/Territorial Association, if applicable.
18. Any Complaint that deals with Discrimination, Harassment, Sexual Harassment, violence, or Abuse (as defined in the *Code of Conduct and Ethics*) shall be referred to an Independent Third Party who will assume the responsibilities as defined in this Policy and may appoint an Investigator who will investigate the Complaint.
19. The Individual making the Complaint may contact Volleyball Canada's or a Provincial/Territorial Association's Independent Third Party. Volleyball Canada's and/or a Provincial/Territorial Association's Discipline Chair or Independent Third Party may accept any Complaint at his or her sole discretion.
20. Volleyball Canada and/or a Provincial/Territorial Association (as applicable) at its sole discretion, may act as the Complainant and initiate the Complaint process under the terms of this Policy.

### **Complaint Process**

21. Upon receipt of a Complaint, the Discipline Chair or Independent Third Party will:
  - a) Determine whether the Complaint is frivolous or vexatious and/or within the jurisdiction of this policy;
  - b) Propose the use of alternative dispute resolution techniques, if appropriate; and
  - c) Choose which process should be followed, and may use the following examples as a general guideline:

Process #1 - the Complaint alleges the following incidents (minor incidents):

- i. Minor misconduct
- ii. Minor incidents of violence (e.g., tripping, pushing, elbowing)
- iii. Non-compliance with Volleyball Canada's and/or a Provincial/Territorial Association Bylaws, policies, procedures, rules, or regulations
- iv. Minor violations of the *Code of Conduct and Ethics*

Process #2 - the Complaint alleges the following incidents:

- i. Repeated minor incidents
- ii. Disrespectful, abusive, racist or sexist comments or behaviour
- iii. Any incident of hazing
- iv. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- v. Major incidents of violence (e.g., fighting, attacking, sucker punching)
- vi. Pranks, jokes, or other activities that endanger the safety of others
- vii. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- viii. Conduct that intentionally damages the image, credibility, or reputation of Volleyball Canada and/or a Provincial/Territorial Association
- ix. Consistent disregard for the bylaws, policies, rules, and regulations
- x. Major or repeated violations of the *Code of Conduct and Ethics*
- xi. Intentionally damaging the property or improperly handling the organization's monies of Volleyball Canada and/or a Provincial/Territorial Association
- xii. Abusive use of alcohol or cannabis, any use or possession of alcohol or cannabis by minors, or use or possession of illicit drugs
- xiii. Any possession or use of banned performance enhancing drugs or methods
- xiv. A conviction for any *Criminal Code* offense

22. If the Discipline Chair or Independent Case Manager determines the Complaint is frivolous or vexatious or outside the jurisdiction of this policy, the Independent Case Manager will dismiss the Complaint immediately.

23. The Discipline Chair or Independent Case Manager's decision to accept or dismiss the Complaint may not be appealed.

**Process #1: Handled by Discipline Chair**

**Discipline Chair**

24. The Discipline Chair may:

- 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.

25. Thereafter, the Discipline Chair shall determine if a breach occurred, if so, if 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 the Volleyball Canada or to a Provincial/Territorial Association
- d) Removal of certain privileges
- e) Suspension from certain teams, events, and/or activities
- f) Suspension from all the activities of Volleyball Canada or a Provincial/Territorial Association for a designated period
- g) Any other sanction considered appropriate for the offense

26. The Discipline Chair will inform the parties of the decision, which will take effect immediately.

**Request for Reconsideration**

27. The Complainant or the Respondent may contest a decision by submitting a request for reconsideration in writing within five days of receiving the decision. In the request for reconsideration, the must indicate:
- Why the sanction is inappropriate;
  - Summary of evidence that the Respondent will provide to support the Respondent's position; and
  - What penalty or sanction (if any) would be appropriate.
28. Upon receiving a request for reconsideration, the Discipline Chair may decide to accept or reject the original decision.
29. Should the Discipline Chair not accept the request for reconsideration, the initial Complaint could be handled under Process #2 of this policy.

**Process #2: Handled by Independent Case Manager**

30. If the Discipline Chair or Independent Third Party, as applicable, determines that the Complaint should be dealt with under Process #2, the Independent Case Manager will:
- Propose the use of alternate dispute resolution techniques, if appropriate
  - Appoint the Discipline Panel, if necessary
  - Coordinate all administrative aspects and set timelines
  - Provide administrative assistance and logistical support to the Discipline Panel as required, and
  - Provide any other service or support that may be necessary to ensure a fair and timely proceeding
31. The Independent Case Manager will establish timelines that ensure procedural fairness and that the matter is heard. The Independent Case Manager may agree to an extension with notice and reasoning to both the Complainant and Respondent.
32. If the Independent Case Manager proposes the use of alternative dispute resolution to the Complaint, and if the dispute is not resolved, or if the Complainant and the Respondent refuse to attempt alternative dispute resolution (such as mediation or a negotiated settlement) the Independent Case Manager will appoint a Discipline Panel, which will consist of a single Arbitrator, to hear the Complaint. At the discretion of the Independent Case Manager, a Discipline Panel of three persons may be appointed to hear the Complaint. In this event, the Independent Case Manager will appoint one of the Discipline Panel's members to serve as the chair.
33. The Independent Case Manager, in cooperation with the Discipline Panel, will then decide the format under which the Complaint will be heard. This decision may not be appealed.
34. 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 Independent Case Manager and the Discipline Panel deem appropriate in the circumstances, provided that:
- 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
  - Copies of any written documents which the parties wish to have the Discipline Panel consider will

- be provided to all parties, through the Independent 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 will place such weight on the evidence as it deems appropriate
  - f) The decision will be by a majority vote of the Discipline Panel, if there are three persons on the Discipline Panel.

35. 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.
36. If a party chooses not to participate in the hearing, the hearing will proceed in any event.
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.
38. In fulfilling its duties, the Discipline Panel may obtain independent advice.

#### **Decision**

39. After hearing and/or reviewing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within 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 Volleyball Canada and the Provincial/Territorial Association (as applicable). 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 14- day period. The Discipline Panel and Independent Case Manager may agree to an extension with notice to the Complainant and Respondent.
40. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

#### **Sanctions**

41. 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 Volleyball Canada or a Provincial/Territorial Association
  - d) Removal of privileges
  - e) Suspension from teams, events, and/or activities
  - f) Suspension from 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

42. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. If the Respondent fails to comply with a sanction as determined by the Discipline Panel, the Respondent will be automatically suspended until such time as compliance occurs.

#### **Record of Decisions**

43. Records of all decisions will be maintained by Volleyball Canada and applicable Provincial/Territorial Associations. Provincial/Territorial Associations will submit all records to Volleyball Canada, which will maintain a national record of all decisions made. All records will be maintained in accordance with Volleyball Canada's and/or a Provincial/Territorial Associations' Privacy Policy.

#### **Appeals**

44. No decision of the Discipline Chair may be appealed until the completion of a request for reconsideration.
45. Either party may appeal the decision of the Discipline Panel in accordance with the *Appeal Policy*.

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

46. Volleyball Canada or a Provincial/Territorial Association (as applicable) at any time may determine that a Complaint is of such seriousness as to warrant suspension and/or Temporary Measure(s) of an Individual pending completion of an investigation, criminal process, the hearing, or a decision of the Discipline Panel. This suspension and/or Temporary Measure(s) decision may not be appealed.
47. The suspension and/or Temporary Measure(s) shall be effective immediately upon notice, unless stated otherwise and may be modified at any time. Suspension or Temporary Measure(s) will remain in effect until Volleyball Canada or a Provincial/Territorial Association (as applicable) expressly removes the suspension and/or Temporary Measure(s).

#### **Criminal Convictions**

48. An Individual's conviction for a *Criminal Code* offense, as determined by Volleyball Canada or a Provincial/Territorial Association (as applicable), will be deemed an infraction under this policy and will result in expulsion from Volleyball Canada or a Provincial/Territorial Association (as applicable). *Criminal Code* offences may include, but are not limited to:
- Any child pornography offences
  - Any sexual offences
  - Any offence of assault
  - Any offence involving trafficking of illegal drugs and/or performance enhancing drugs

#### **Confidentiality**

49. The discipline and Complaints process is confidential and involves only Volleyball Canada, the applicable Provincial/Territorial Association(s), the parties, the Case Manager, 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.

**Communication**

50. Volleyball Canada and the Provincial/Territorial Associations will identify those persons within their respective organizations who will be responsible for implementing this policy.

**Review and Amendment**

51. All significant amendments to this policy will be submitted to Volleyball Canada for review by its ad hoc committee on policies.

52. This policy will be reviewed every two years. Any significant policy amendments will be approved by the Volleyball Canada and the Provincial/Territorial Associations.

**Approval**

53. This policy was approved by Volleyball Canada and its Board of Directors on October 13, 2020.

54. This policy was approved by the OVA and its Board of Directors on June 3, 2021.