

TRIATHLON MANITOBA

Discipline and Complaints Policy

Adopted by Board of Directors March 20, 2023

Definitions

1. The following terms have these meanings in this Policy:
 - a) “Athletes” - An individual who is an Athlete Participant in Triathlon Manitoba
 - b) “Case Manager” – An individual appointed by Triathlon Manitoba to administer this *Discipline and Complaints Policy*. The Case Manager does not need to be a member of, or affiliated with, Triathlon Manitoba
 - c) “Complainant” – The Party alleging an infraction
 - d) “Days” – Days including weekends and holidays
 - e) “Maltreatment” - As defined in the Code of Conduct and Ethics
 - f) “Individuals” – All categories of membership defined in Triathlon Manitoba’s Bylaws, as well as all individuals employed by, or engaged in activities with, Triathlon Manitoba including, but not limited to, athletes, coaches, convenors, referees, officials, volunteers, managers, administrators, committee members, Directors and Officers of Triathlon Manitoba, spectators at events, and parents/guardians of athletes
 - g) “Power Imbalance” - As defined in the Code of Conduct and Ethics
 - h) “Respondent” – The alleged infracting Party

Purpose

2. Individuals are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Triathlon Manitoba’s policies, Bylaws, rules and regulations, 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 course of Triathlon Manitoba’s business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Triathlon Manitoba activities, and any meetings.
5. This Policy also applies to Individuals’ conduct outside of Triathlon Manitoba’s business, activities, and events when such conduct adversely affects relationships within Triathlon Manitoba (and its work and sport environment) and is detrimental to the image and reputation of Triathlon Manitoba. Such applicability will be determined by Triathlon Manitoba at its sole discretion.
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. 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 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.
8. In addition to being subject to disciplinary action pursuant to this Discipline and Complaints Policy, an employee of Triathlon Manitoba 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. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.
9. Triathlon Manitoba may at its discretion, assume jurisdiction of a complaint that was submitted to a Member Club. In such cases, Triathlon Manitoba's Case Manager will determine whether the complaint process should be re-started or resumed pursuant to the applicable section of this Policy.

Reporting a Complaint

10. Any Individual may report any complaint to Triathlon Manitoba. A complaint must be In Writing and must be filed within fourteen (14) days of the alleged incident or within fourteen (14) days of the end of the sport/league/competitive season, at the discretion of the individual filing the complaint.
11. A Complainant wishing to file a complaint outside of the fourteen (14) 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 fourteen (14) day period will be at the sole discretion of Triathlon Manitoba or the Case Manager, as applicable. This decision may not be appealed.
12. At Triathlon Manitoba's discretion, Triathlon Manitoba may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Triathlon Manitoba will identify an individual to represent Triathlon Manitoba.
13. Resignation or lapsing of membership after a complaint is filed does not preclude discipline being pursued under this Policy.

Dispute Resolution Option

14. The matter will first be referred to Triathlon Manitoba's President (or designate) for review, with the option given to the parties to resolve the dispute via Alternate Dispute Resolution and/or mediation. Should the parties unanimously agree to proceed using Alternate Dispute Resolution and/or mediation, the process set out in the Dispute Resolution Policy shall be followed from this point. Should the parties not agree, the

process contained here shall be followed.

Case Manager

15. Upon the receipt of a complaint, Triathlon Manitoba will appoint a Case Manager to oversee management and administration of complaints submitted in accordance with this Policy. Such appointment is not appealable.
16. The Case Manager has a responsibility to:
 - a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
 - b) Propose the use of Triathlon Manitoba's Dispute Resolution Policy
 - c) Determine if the complaint should be investigated (per Appendix A - Investigation Procedure)
 - d) Appoint the Discipline Panel, if necessary
 - e) Coordinate all administrative aspects and set timelines
 - f) Provide administrative assistance and logistical support to the Discipline Panel as required
 - g) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

Procedures

17. If the Case Manager determines the complaint is:
 - a) Frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately
 - b) Not frivolous and within the jurisdiction of this Policy, the Case Manager will notify the Parties that the complaint is accepted and of the applicable next steps
18. The Case Manager's decision to accept or dismiss the complaint may not be appealed.
19. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
20. After notifying the Parties that the complaint has been accepted, 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 Discipline Panel of three persons, or any number the Case Manager deems appropriate, 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.
21. The 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. The format of the hearing, which may involve direct communication with the Parties, 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 be accompanied by 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

22. 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.

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

24. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in its own right, that party will become a Party to the current complaint and will be bound by the decision.

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

Decision

26. 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 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 Triathlon Manitoba. 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. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

Sanctions

27. Prior to determining sanctions, the Discipline Panel will consider factors relevant to determining appropriate sanctions which include:

- a) The nature and duration of the Respondent's relationship with the Complainant, including whether there is a Power Imbalance;
- b) The Respondent's prior history and any pattern of inappropriate behaviour or Maltreatment;
- c) The ages of the individuals involved;
- d) Whether the Respondent poses an ongoing and/or potential threat to the safety of others;
- e) The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the Maltreatment, and/or cooperation in the process of Triathlon Manitoba;
- f) Real or perceived impact of the incident on the Complainant, Triathlon Manitoba or the sporting community;
- g) Circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate

knowledge or training regarding the requirements in the Code of Conduct and Ethics; addiction; disability; illness);

- h) Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate;
- i) A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or
- j) Other mitigating and aggravating circumstances

28. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required, and a single incident of Maltreatment or other prohibited behaviour may justify elevated or combined sanctions.

29. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:

- a) Verbal or written warning
- b) Verbal or written apology
- c) Service or other contribution to Triathlon Manitoba
- d) Education or similar remedial measures
- e) Removal of certain privileges
- f) Suspension from certain teams, events, and/or activities
- g) Suspension from all Triathlon Manitoba activities for a designated period of time
- h) Withholding of prize money or awards
- i) Payment of the cost of repairs for property damage
- j) Suspension of funding from Triathlon Manitoba or from other sources
- k) Expulsion from Triathlon Manitoba
- l) Any other sanction considered appropriate for the offense

30. The Discipline Panel may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed Maltreatment:

- a) Sexual Maltreatment involving a Complainant who is a minor shall carry a presumptive sanction of permanent ineligibility;
- b) Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions; and/or
- c) While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive sanction shall be a period of suspension

31. 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.

32. Infractions that result in discipline will be recorded and records will be maintained by Triathlon Manitoba.

Suspension Pending a Hearing

33. Triathlon Manitoba 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 Discipline Panel.

Criminal Convictions

34. An Individual's conviction for a *Criminal Code* offense, as determined by Triathlon Manitoba, will be deemed an infraction under this Policy and will result in expulsion from Triathlon Manitoba. *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

35. The discipline and complaints process is confidential and involves only 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.

Timelines

36. 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 Discipline Panel may direct that these timelines be revised.

Records and Distribution of Decisions

37. 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.

Appeals Procedure

38. The decision of the Discipline Panel may be appealed in accordance with Triathlon Manitoba's *Appeal Policy*.

References

- a) Appeal Policy
- b) Human Resources Policy
- c) Code of Conduct and Ethics
- d) Dispute Resolution Policy
- e) Criminal Code
- f) Employment Agreement

History

- a) *Discipline Policy* approved on May 3, 2004.
- b) Policy based on Sport Manitoba's October 2016 *Discipline and Complaints Policy* template approved on November 13, 2017. Sections 33 and 34 added.
- c) Sections 8 and 9 amended based on July 2018 recommendation of Sport Manitoba. Approved by the Executive Committee on September 14, 2018.
- d) New section 12 inserted resulting in renumbering of all subsequent sections. Section 18 (revised numbering) amended. Based on Sport Manitoba's December 2018 recommendations. Approved by the Executive Committee on December 28, 2018.

- e) Policy updated on March 20, 2023 based on Sport Manitoba Discipline and Complaints Policy template, dated 2021. Add definitions for Maltreatment and Power Imbalance. Added sections 6, 8, 11, 18b, 18c, 29, 30 and 32. Replaced Investigation Procedure flowchart with text.

Appendix A - Investigation Procedure

Determination

1. When a complaint is submitted pursuant to the Discipline and Complaints Policy, the Case Manager will determine if the incident should be investigated.

Investigation

2. The Case Manager will appoint an Investigator. The Investigator must be an independent third-party skilled in investigating. The Investigator must not be in a conflict of interest situation and should have no connection to either party.
3. Federal and/or Provincial/Territorial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a worker in a Workplace. The Investigator should review workplace safety legislation, Triathlon Manitoba's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
4. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial legislation. The investigation may include:
 - a. Interviews with the Complainant
 - b. Witness interviews
 - c. Statement of facts (Complainant's perspective) prepared by Investigator, acknowledged by the Complainant and provided to the Respondent
 - d. Interviews with the Respondent
 - e. Statement of facts (Respondent's perspective) prepared by Investigator, acknowledged by the Respondent and provided to the Complainant

Investigator's Report

5. Upon completion of their investigation, the Investigator shall prepare a report that should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether, on a balance of probabilities, a breach of the Code of Conduct and Ethics occurred.
6. The Investigator must be aware that sport-specific differences exist with respect to such aspects as acceptable levels of touch, physical contact, and aggression during training or competition and will consider such differences during the investigative process.
7. The Investigator's Report will be provided to the Case Manager who will disclose it, at their discretion, to Triathlon Manitoba and the relevant club (if applicable).
8. Should the Investigator find that there are possible instances of offense under the Criminal Code, particularly related to Criminal Harassment (or Stalking), Uttering Threats, Assault, Sexual Interference, or Sexual Exploitation, the Investigator shall advise the Complainant and Triathlon Manitoba to refer the matter to police.

9. The Investigator must also inform Triathlon Manitoba of any findings of criminal activity. Triathlon Manitoba may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of prohibited substances or methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any sexual crime involving Minors, fraud against Triathlon Manitoba, or other offenses where the lack of reporting would bring Triathlon Manitoba into disrepute.

Reprisal and Retaliation

10. An Individual who submits a complaint to Triathlon Manitoba or who gives evidence in an investigation may not be subject to reprisal or retaliation. Any such conduct may constitute Maltreatment and will be subject to disciplinary proceedings pursuant to the Discipline and Complaints Policy.

False Allegations

11. An Individual who submits allegations that the Investigator determines to be malicious, false, or for the purpose of retribution, retaliation or vengeance (or that otherwise fall within the definition of Maltreatment) may be subject to a complaint under the terms of the Discipline and Complaints Policy and may be required to pay for the costs of any investigation that comes to this conclusion. Triathlon Manitoba or the Individual against whom the allegations were submitted, may act as the Complainant.

Confidentiality

12. The Investigator will make reasonable efforts to preserve the anonymity of the complainant, respondent, and any other party. However, Triathlon Manitoba recognizes that maintaining full anonymity during an investigation may not be feasible.