

# CANADIAN SPORT CENTRE SASKATCHEWAN (“CSCS”) DISCIPLINE AND COMPLAINTS POLICY

\* Indicates a section that has been adapted from the *Universal Code to Prevent and Address Maltreatment in Sport (“UCCMS”)*

## Definitions

1. The following terms have these meanings in this Policy:
  - a) “*Case Manager*” – An individual appointed by the Independent Third Party to administer complaints that are handled under Process #2 of this Policy.
  - b) “*Clients*” – Users of the CSCS’s services, including NSOs, PSOs, MSOs, and any person or entity retaining CSCS expertise
  - c) “*Complainant*” – The Party alleging an infraction
  - d) “*CSCS Discipline Chair*” – An individual appointed by CSCS that handles complaints that are assessed under Process #1 of this Policy. The CSCS Discipline Chair will be the acting Chief Executive Officer of CSCS or, if required, another individual who may be a Director, staff member, or other individual affiliated with CSCS but must not be in a conflict of interest.
  - e) “*Days*” – Days including weekends and holidays
  - f) “*External Discipline Panel*” – A Panel of one or three people who are appointed by the Case Manager to make decisions on complaints that are assessed under Process #2 of this Policy. Panel members should not be affiliated with CSCS or Sask Sport Inc.
  - g) “*Independent Third-Party*” – An independent individual (or individuals) appointed by CSCS to receive complaints
  - h) “*Maltreatment*” – as defined in the *Universal Code of Conduct to Prevent and Address Maltreatment in Sport (“UCCMS”)* and also provided in **Appendix A** of the *Code of Conduct and Ethics*
  - i) “*Parties*” – The Complainant, Respondent, and any other individuals or persons affected by the complaint
  - j) “*Power Imbalance*” – as defined in the *Universal Code of Conduct to Prevent and Address Maltreatment in Sport (“UCCMS”)* and also provided in **Appendix A** of the *Code of Conduct and Ethics*
  - k) “*Representative*” – Individuals employed by, or engaged in activities on behalf of, CSCS including: Directors, staff members, contract personnel, and volunteers
  - l) “*Respondent*” – The alleged infracting Party

## Purpose

2. Representatives are expected to fulfill certain responsibilities and obligations including complying with the *Code of Conduct and Ethics*. Conduct that violates the *Code of Conduct and Ethics* or the values of CSCS may be subject to sanctions pursuant to this Policy.

## Application of this Policy

3. This Policy applies to all Representatives.
4. This Policy applies to discipline matters that may arise during the CSCS’s services, business, activities, programming, and events. Discipline matters and complaints arising within the business, activities, or events organized by entities other than CSCS will be dealt with pursuant to the policies of these other entities unless requested and accepted by CSCS at its sole discretion.
5. This Policy applies to Representatives who are actively involved with CSCS’s services as well as to Representatives who are no longer actively involved with CSCS’s services when any claim regarding a potential breach of this Code occurred when the Representative was actively involved with CSCS’s services.

## Reporting a Complaint

6. Any individual may report any complaint to the Independent Third-Party appointed to receive complaints:

**ADR Institute of Saskatchewan**  
**President- Scott Siemens**  
President@adrsaskatchewan.ca

7. Complaints or incident reports should be made in writing for the discipline and complaints procedure to be initiated. The Complainant may contact the Independent Third Party for direction regarding the formal submission of a complaint. The Independent Third Party may accept any formal complaint, in writing or not, at their sole discretion.
8. At its discretion, CSCS may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, CSCS will identify an individual to represent the organization.

## Immediate Action

9. This Policy does not prevent a Representative 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.

## Independent Third-Party Responsibilities

10. Upon receipt of a complaint, the Independent Third-Party has a responsibility to:
- a) Determine whether the complaint is frivolous and/or outside of the jurisdiction of this Policy and, if so, the complaint will be dismissed immediately and the decision to dismiss the complaint may not be appealed;
  - b) Propose the use of alternative dispute resolution techniques such as a negotiated settlement or mediation (the Independent Third-Party may act as the mediator);
  - c) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and/or
  - d) Choose which process (Process #1 or Process #2) should be followed, and may use the following examples as a general guideline:

### **Process #1** - the Complainant alleges the following incidents:

- a) Disrespectful, abusive, racist, or sexist comments or behaviour
- b) Disrespectful conduct
- c) Minor incidents of violence (e.g., tripping, pushing, elbowing)
- d) Conduct contrary to the values of CSCS
- e) Non-compliance with the organization's policies, procedures, rules, or regulations
- f) Minor violations of the *Code of Conduct and Ethics*

### **Process #2** - the Complainant alleges the following incidents:

- a) Repeated minor incidents
- b) Any incident of hazing
- c) Behaviour that constitutes harassment, sexual harassment, 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 bylaws, policies, rules, and regulations
- i) Major or repeated violations of the *Code of Conduct and Ethics*
- j) Intentionally damaging CSCS's property or improperly handling CSCS'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

**Process # 1 - Handled by CSCS Discipline Chair**

11. Following the determination that the complaint or incident should be handled under Process #1, the Independent Third-Party will ask the CSCS to appoint a Discipline Chair, which by default, will be the CEO of CSCS/Sask Sport. In the event that the CEO is unable to act as the Discipline Chair, due to conflict of interest or otherwise, the Independent Third-Party will work with the CSCS Board of Directors to determine a suitable replacement. The CSCS Discipline Chair will:
- a) Make a decision;
  - b) Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident; and/or
  - c) Convene the parties to a meeting, either in person or by way of video or teleconference in order to ask the parties questions.
12. Thereafter, the CSCS Discipline Chair shall determine if a breach occurred and, if so, if one or more sanctions should be applied (see: **Sanctions**).
13. The CSCS Discipline Chair will inform the Parties of the decision, which will take effect immediately.

**Process #2 - Handled by Case Manager and External Discipline Panel**

14. Following the determination that the complaint or incident should be handled under Process #2, the Independent Third-Party will appoint a Case Manager (who may be the Independent Third-Party but should not be someone who is affiliated with CSCS). The Case Manager has a responsibility to:
- a) Appoint an External Discipline Panel (who should be one Arbitrator, or a Panel of three people in certain circumstances at the Case Manager's discretion, who has experience with sport disputes and who is not in a conflict of interest)
  - b) Coordinate all administrative aspects and set timelines
  - c) Provide administrative assistance and logistical support to the External Discipline Panel as required
  - d) Provide any other service or support that may be necessary to ensure a fair and timely proceeding
15. The Case Manager, in cooperation with the External 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 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 External 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 External 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 External Discipline Panel may request that any other individual participate and give evidence at the hearing

- e) The External 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 External Discipline Panel (if the Panel consists of three people)

16. 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 External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.

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

### Decision

18. After hearing the matter, the External 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 External Discipline Panel's written decision, with reasons, will be distributed to all parties, the Case Manager, and to CSCS. In extraordinary circumstances, the External 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 External Discipline Panel.

### Sanctions

19. \*Prior to determining sanctions, the CSCS Discipline Chair or the External Discipline Panel, as applicable, 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 CSCS;
- f) Real or perceived impact of the incident on the Complainant, sport organization 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.

20. \*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.

21. \*The CSCS Discipline Chair or the External Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly or in combination:

- a) **Verbal or Written Warning** - A verbal reprimand or an official, written notice and formal admonition that the individual has violated the *Code of Conduct and Ethics* and that more severe sanctions will result should the individual be involved in other violations

- b) **Education** - The requirement that an individual undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics*
- c) **Probation** - Should any further violations of the *Code of Conduct and Ethics* occur during the probationary period, will result in additional disciplinary measures, likely including a period of suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period of time
- d) **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, activity, or event sponsored by, organized by, or under the auspices of CSCS
- e) **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
- f) **Permanent Ineligibility** - Permanent ineligibility to participate, in any capacity, in any program, activity, or event sponsored by, organized by, or under the auspices of CSCS
- g) **Other Discretionary Sanctions** - Other sanctions may be imposed, including, but not limited to, other loss of privileges, no contact directives, a fine or a monetary payment to compensate for direct losses, or other restrictions or conditions as deemed necessary or appropriate

22. \*The CSCS Discipline Chair or the External Discipline Panel, as applicable, 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

23. Any conviction for a *Criminal Code* offense shall carry a presumptive sanction of permanent ineligibility from participating with CSCS. *Criminal Code* offences may include, but are not limited to:

- a) Any child pornography offenses
- b) Any sexual offences
- c) Any physical violence offense
- d) Any assault offense
- e) Any offense related to trafficking of illegal or banned drugs

24. Unless the CSCS Discipline Chair or the External Discipline Panel (as applicable) decides otherwise, any disciplinary sanctions will begin immediately. Failure to comply with a sanction will result in automatic suspension until such time as compliance occurs.

#### **Suspension Pending an Outcome**

25. CSCS may determine that an alleged incident is of such seriousness as to warrant suspension of a Representative pending completion of an investigation, criminal process, the hearing, or a decision of the CSCS Discipline Chair or External Discipline Panel (as applicable).

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

26. \*Records of all decisions will be maintained by CSCS. Other organizations may be advised of any decisions. Representatives recognize that a publicly-available searchable database or registry of Respondents who have been sanctioned, or whose eligibility to participate in sport has in some way been restricted, may be maintained and may be subject to provisions in the UCCMS.

**Reprisal and Retaliation**

27. \*A Representative who submits a complaint or who gives evidence in an investigation may not be subject to reprisal or retaliation from any Representative. Any such conduct may constitute Maltreatment and will be subject to disciplinary proceedings pursuant to this Policy.

## Appendix A – Investigation Procedure

\* Indicates a section that has been adapted from the UCCMS

### Investigation

1. Upon receipt of a complaint, the Independent Third-Party has a responsibility to determine if the alleged incident should be investigated. In making this decision, the Independent Third-Party should consider the seriousness of the allegations, the scope of the complaint, and any other matter that the Independent Third-Party believes may be relevant.
2. Only complaints that will be handled under Process #2 (described in the *Discipline and Complaints Policy*) are eligible to be investigated.
3. When an investigation occurs, the Independent Third-Party shall conduct an investigation and prepare a written Investigation Report. Alternatively, the Independent Third-Party may appoint an external investigator to conduct the investigation.
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
5. For non-employment relationships the investigation will be conducted as soon as possible and within a maximum of 60 days. Investigations involving Respondents who are employees or contractors of CSCS will be conducted within a maximum of 14 business days.
6. Should the Investigator find that there are possible instances of offence 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 CSCS to refer the matter to police.

### Investigation Report

7. \*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.
8. The Investigation Report should contain:
  - a) A summary of the relevant facts;
  - b) A determination as to whether the acts in question constitute a violation of the *Code of Conduct and Ethics*; and
  - c) If the act(s) constitute a violation, a recommended disciplinary action against the Respondent.
9. The investigator shall send a copy of the Investigation Report to the Complainant, the Respondent, and the External Discipline Panel.

**False Allegations**

10. 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. CSCS or the individual against whom the allegations were submitted may act as the Complainant.

**Confidentiality**

11. The investigator will make every effort to preserve the confidentiality of the complainant, respondent, and any other party. However, CSCS recognizes that maintaining anonymity of any party may be difficult for the Investigator during the investigation.