



# FREESTYLE CANADA

## DISCIPLINE AND COMPLAINTS POLICY

Effective date	November 1, 2023
Archived date	-
Date last reviewed	October 20, 2023
Scheduled review date	TBC
Replaces and/or amends	Freestyle Canada Discipline and Complaints Policy approved December 8, 2022
Approved by and date	FC BOD October 20, 2023
Appendix(-ces) to this Policy	-

### Purpose

1. Individuals are expected to fulfill certain responsibilities and obligations including complying with all policies, bylaws, rules and regulations of Freestyle Canada<sup>8</sup> and its Members, as amended from time to time. Non-compliance with any of Freestyle Canada's policies, bylaws, rules and regulations, or those of its Members, as applicable, may result in the imposition of sanctions pursuant to this Policy.

### Application

2. This Policy applies to all Individuals and to any alleged breaches of Freestyle Canada's policies, bylaws, rules or regulations, or any of those of its Members, that designate this Policy as applicable to address such alleged breaches.
3. In addition to being subject to disciplinary action pursuant to this *Discipline and Complaints Policy*, an employee of Freestyle Canada or a Member who is a Respondent to a complaint may also be subject to additional consequences in accordance with the employee's employment agreement or Freestyle Canada's human resources policies, if applicable.

### Reporting a Complaint

#### UCCMS Participants

4. Incidents that involve alleged Maltreatment or Prohibited Behaviour (as those terms are defined in the UCCMS) that occurred or continued as of January 1, 2023 involving a UCCMS Participant must be reported to the OSIC ([www.sportintegritycommissioner.ca/report](http://www.sportintegritycommissioner.ca/report)) and will be addressed pursuant to the OSIC's policies and procedures.

---

<sup>8</sup> A separate document with term definitions that apply to all Freestyle Canada Policy is found online and in the Freestyle Canada Safe Sport Policy Manual.

5. Incidents that involve alleged Maltreatment or Prohibited Behaviour that occurred before January 1, 2023 may be reported to the OSIC; however, the OSIC shall determine the admissibility of such complaints in accordance with the relevant and applicable OSIC Guidelines regarding the initial review and preliminary assessment, and the matter may only proceed pursuant to the OSIC's procedures with the express consent of the Parties involved where the Parties have not been designated by Freestyle Canada as a UCCMS Participant.
6. If the Freestyle Canada Independent Third Party receives a complaint that they consider would otherwise fall within the above sections, they shall seek consent from the Individual(s) that made the complaint to refer the matter to the OSIC and make such a referral if the Individual(s) provide such consent.

### Individuals

7. Any complaints involving alleged breaches of Freestyle Canada or a Member's policies that do not fall within Sections 4 or 5 above may be Reported by an Individual to Freestyle Canada's Independent Third Party within 30 days.<sup>9</sup> For the avoidance of doubt, this includes complaints referred back to the Freestyle Canada Independent Third Party by the OSIC following a determination made by the OSIC that a complaint initially reported to it does not fall within its jurisdiction. The OSIC is not required to comply with the deadline specified in this section.
8. Notwithstanding any provision in this Policy, Freestyle Canada may, at its discretion, or upon request by the Freestyle Canada Independent Third Party, act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Freestyle Canada will identify an individual to represent the organization.
9. A Complainant who fears retribution or reprisal or who otherwise considers that their identity must remain confidential may Report a complaint to the Freestyle Canada Independent Third Party and request that their identity be kept confidential. If the Freestyle Canada Independent Third Party considers that the Complainant's identity must remain confidential, the Freestyle Canada Independent Third Party may ask that Freestyle Canada take carriage of the complaint and act as the Complainant.<sup>10</sup>
10. If the Freestyle Canada Independent Third Party considers that it is unnecessary to keep the Complainant's identity confidential, they shall inform the Complainant, who may decide whether or not to pursue the Reported complaint. However, the Freestyle Canada Independent Third Party may not reveal the identity of the Complainant unless the Complainant expressly informs them of their desire to pursue the complaint and has indicated, in writing, their approval to have their identity divulged.
11. In exceptional circumstances, the Freestyle Canada Independent Third Party may direct a complaint to be managed by Freestyle Canada if a Member is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest, due to a lack of capacity or where the Member does not have policies in place to address the complaint. In such circumstances, Freestyle Canada shall have the right to request that a cost-sharing agreement is entered into with the Member as a pre-condition to Freestyle Canada managing the complaint.
12. Where the Freestyle Canada Independent Third Party refers a matter to be managed by a Member or

---

<sup>9</sup> This timeline may be waived at the Freestyle Canada Independent Third Party's sole discretion if they consider that there were extenuating circumstances that prevented the Individual from Reporting their complaint within 30 days of the occurrence of the incident. Any such decision by the Freestyle Canada Independent Third Party is not subject to appeal.

<sup>10</sup> In such circumstances, the Complainant(s) may be required to provide evidence during the disciplinary process.

affiliated organization, or where a Member or Club is otherwise responsible for managing a matter (i.e., because they received the matter directly), and the Member and/or Club fails to conduct disciplinary proceedings within a reasonable timeline, Freestyle Canada may, at its discretion, take jurisdiction over the matter and conduct the necessary proceedings. In such circumstances, if the Internal Discipline Chair or External Discipline Panel decides that Freestyle Canada acted reasonably in taking jurisdiction over the matter, Freestyle Canada's costs to conduct the proceedings, including legal fees, shall be reimbursed by the Member and/or Club to Freestyle Canada.

### Minors

13. Complaints may be brought for or against an Individual who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
14. Communication from the Freestyle Canada Independent Third Party, Internal Discipline Chair, or External Discipline Panel, as applicable, must be directed to the Minor's representative.
15. If the Minor's representative is not their parent/guardian, the representative must have written permission to act in such a capacity from the Minor's parent/guardian.
16. A Minor is not required to attend an oral hearing, if held, or participate in an investigation if conducted. In such circumstances, no adverse inference can be drawn against the Minor.

### **Freestyle Canada Independent Third Party Responsibilities**

17. Upon receipt of a Reported complaint, the Freestyle Canada Independent Third Party has a responsibility to:
  - a) Determine whether the complaint falls within the jurisdiction of this Policy and whether it has been submitted in accordance with the deadlines indicated herein;
  - b) Determine the appropriate jurisdiction to manage the complaint by considering the following:
    - i. whether the incident occurred within the business, activities, or Events of Freestyle Canada, or one of its Members or Clubs; and
    - ii. if the Member or Club is able to manage the complaint process<sup>11</sup>.
  - c) Determine whether the complaint is frivolous, vexatious or if it has been made in bad faith<sup>12</sup>;
  - d) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and
  - e) Choose which process (Process #1 or Process #2, as outlined below) should be followed to hear

---

<sup>11</sup> In making this assessment, the Freestyle Canada Independent Third Party may determine that the Member or Club lacks the capacity to manage the complaint (which may include financial and human resource capacity), that the Member or Club is not the appropriate instance to manage the complaint due to its seriousness (for example, clubs will not be expected to manage serious complaints due to the complexity of conducting such a process), or that a real or perceived conflict of interest exists within the Member or Club.

If the Freestyle Canada Independent Third Party determines that the Complaint or Report should be handled by a Member or Club, that organization may use its own policies to address the complaint or may adopt this Policy and appoint its own Independent Third Party to fulfil the further responsibilities listed herein. Where this Policy is adopted by a Member or Club, any reference to Freestyle Canada Independent Third Party below shall be understood as a reference to the Independent Third Party of the Member or Club.

<sup>12</sup> As indicated in the SDRCC's Investigation Guidelines, a Reported complaint shall not be characterized as vexatious if the evidence demonstrates that there was a reasonable basis for filing and pursuing it. For a complaint to be considered to have been made in bad faith, the Freestyle Independent Third Party must consider that it was filed consciously for a dishonest purpose or due to the moral underhandedness of the Complainant and that there was an intention to mislead.

and adjudicate the matter.

### Available Process

There are two different processes that may be used to hear and adjudicate complaints. Subject to Sections 4-6, the Freestyle Canada Independent Third Party decides which process will be followed at their discretion, and such decision is not appealable.

**Process #1** - the complaint contains allegations involving the following behaviours:

- a) Disrespectful conduct or comments
- b) Minor acts of physical violence, unless the physical violence is between a Person in Authority and a Vulnerable Participant, in which case the matter will be addressed under Process #2
- c) Conduct contrary to the values of Freestyle Canada or those of one of its Members or Clubs
- d) Non-compliance with the policies, procedures, rules, or regulations of Freestyle Canada or those of one of its Members or Clubs
- e) Minor violations of the policies or bylaws of Freestyle Canada or those of one of its Members or Clubs

\*The behaviours identified above are examples only and are not a definitive list of behaviours that may be addressed through Process #1.

**Process #2** - the complaint contains allegations involving the following behaviours:

- a) Repeated incidents described in Process #1
- b) Hazing
- c) Abusive, racist, or sexist comments, conduct or behaviour
- d) Incidents that constitute Prohibited Behaviour under the *Code of Conduct and Ethics* (the "Code") or the UCCMS
- e) Major incidents of violence (e.g., fighting, attacking)
- f) Pranks, jokes, or other activities that endanger the safety of others
- g) Conduct that intentionally interferes with a competition or with any Athlete's preparation for a competition
- h) Conduct that intentionally damages the image, credibility, or reputation of Freestyle Canada or that of one of its Members or Clubs
- i) Consistent disregard for the bylaws, policies, rules, or regulations of Freestyle Canada or those of one of its Members or Clubs
- j) Major or repeated violations of the Code or any other policies, bylaws, rules or regulations that designate this Policy as applicable to address such alleged breaches
- k) Intentionally damaging the property of Freestyle Canada, one of its Members or Clubs, or improperly handling any of the aforementioned organizations' monies
- l) Abusive use of alcohol, any use or possession of alcohol by Minors, cannabis or use or possession of illicit drugs and narcotics
- m) Criminal charges or a conviction for any *Criminal Code* offense

\* The behaviours identified above are examples only and are not a definitive list of behaviours that may be addressed through Process #2.

## Provisional Suspensions

18. If it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of a Provisional Suspension or interim measures may be imposed against any Individual by the Chief Executive Officer of Freestyle Canada (or their designate)<sup>13</sup> or the equivalent position of the relevant Member (where applicable) after which further discipline or sanctions may be applied according to this Policy.
19. If an infraction occurs at a competition, it will be dealt with by the procedures specific to the competition, if applicable. Provisional Suspensions or interim measures may be imposed for the duration of a competition, training, activity, or Event only, or as otherwise determined appropriate by the Chief Executive Officer of Freestyle Canada (or their designate) or the equivalent position of the relevant Member (where applicable).<sup>14</sup>
20. Notwithstanding the above, the Chief Executive Officer of Freestyle Canada (or equivalent position within a Member, where applicable), may determine that an alleged incident is of such seriousness as to warrant the imposition of a Provisional Suspension of a Respondent pending completion of an investigation, assessment and/or investigation by the OSIC, criminal process, the hearing, or a decision of the External Discipline Panel.
21. Any Respondent against whom a Provisional Suspension or interim measure is imposed may make a request to the Independent Third Party or External Discipline Panel (if appointed) to have the Provisional Suspension or interim measure lifted. In such circumstances, Freestyle Canada or the Member (as applicable) shall be provided with an opportunity to make submissions, orally or in writing, regarding the Respondent's request to have their Provisional Suspension lifted. Provisional Suspensions or interim measures shall only be lifted in circumstances where the Respondent establishes that it would be manifestly unfair to maintain the Provisional Suspension or interim measures against them.
22. Any decision not to lift a Provisional Suspension or interim measure shall not be subject to appeal.

## Procedural Steps

### Process #1 – Handled by Internal Discipline Chair

23. Following the determination that the complaint or incident should be handled under Process #1, the Freestyle Canada Independent Third Party will appoint an Internal Discipline Chair<sup>15</sup> who may:
  - a) Propose alternative dispute resolution techniques, if appropriate; and/or
  - b) Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident. Both Parties shall also have the right to submit to the Internal Discipline Chair any relevant evidence, including, but not limited to witness statements, documentary evidence or evidence from other media (i.e., photos, screenshots, videos or other recordings). Each Party shall have the right to receive the other Party's submissions and evidence, including the Complainant's complaint. In the case of oral submissions, each Party shall be present when such submissions are

---

<sup>13</sup> The term 'designate' includes the person with authority to impose a Provisional Suspension according to the situation.

<sup>14</sup> In-competition discipline or sanction imposed by the applicable official or authority does not prevent an Individual from facing additional disciplinary proceedings under the *Code of Conduct and Ethics*.

<sup>15</sup> The Internal Discipline Chair must be unbiased and not in a conflict of interest. The Freestyle Canada Independent Third Party may consult with Freestyle Canada to identify an individual who satisfies the aforementioned criteria to act as the Internal Discipline Chair who has knowledge of the sport of freestyle skiing.

made (unless waived by a Party); and/or

- c) Following receipt of the Parties' submissions, the Internal Discipline Chair may convene the Parties to a meeting, either in person or by way of video or teleconference to ask the Parties questions and to allow the Parties to ask questions of one another.

- 24. Following their review of the submissions and evidence related to the complaint, the Internal Discipline Chair shall determine, on the balance of probabilities, if any of the incidents listed in Process #1 above have occurred and, if so, determine whether to impose a sanction and, if so, determine the appropriate sanction (see: **Sanctions**). If, after hearing the Parties and reviewing their submissions, the Internal Discipline Chair considers that none of the incidents listed in Process #1 above have occurred, they shall dismiss the complaint.
- 25. The Internal Discipline Chair will inform the Parties of the Internal Discipline Chair's decision, which shall be in writing and include reasons. The Internal Discipline Chair's decision will take effect immediately, unless specified otherwise by the Internal Discipline Chair. Should the circumstances require a decision to be rendered immediately or within a short timeline, the Internal Discipline Chair may render a short decision, either orally or in writing, followed by a written reasoned decision within 14 days of any hearing or the date of receipt of the Parties' final submissions.
- 26. Any decision rendered by the Internal Discipline Chair shall be provided to and maintained in the records of the relevant club, Member and Freestyle Canada. Decisions will be kept confidential by the Parties and the aforementioned organizations and shall be retained and discarded in accordance with the relevant and applicable privacy legislation.

#### **Process #2 – Handled by External Discipline Panel**

- 27. Following the determination that the complaint should be handled under Process #2, the Freestyle Canada Independent Third Party will propose the use of alternative dispute resolution, if appropriate. If the dispute is not resolved using alternative dispute resolution, the Freestyle Canada Independent Third Party will appoint an External Discipline Panel of one (1) person to hear the complaint. Thereafter, the Freestyle Canada Independent Third Party shall have the following responsibilities:
  - a) Coordinate all administrative aspects of the process and set reasonable timelines;
  - b) Provide administrative assistance and logistical support to the External Discipline Panel as required, including providing the External Discipline Panel with any information related to previously imposed disciplinary sanctions against the Respondent(s) on the policies of Freestyle Canada, any Member or any other sport organization that had authority over the Respondent; and
  - c) Provide any other service or support that may be necessary to ensure a fair and timely proceeding.
- 28. The Freestyle Canada Independent Third Party will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
- 29. If warranted based on the nature of the case, the Freestyle Canada Independent Third Party may, in their sole discretion, appoint an External Discipline Panel of three (3) people. When a three-person External Discipline Panel is appointed, the Freestyle Canada Independent Third Party will appoint one of the External Discipline Panel's members to serve as the Chair.
- 30. The Freestyle Canada Independent Third Party, 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.

31. The hearing will be governed by the procedures that the Freestyle Canada Independent Third Party and the External Discipline Panel deem appropriate for the circumstances. The following procedural directions will apply:

- a) The determination of procedures and timelines, as well as the hearing duration, shall be as expedient and cost-efficient as possible in order to ensure that costs to the Parties and Freestyle Canada and/or the Member are reasonable.
- b) The Parties will be given appropriate notice of the day, time, and place of the hearing.
- c) Copies of any written documents which any of the Parties wishes to have the External Discipline Panel consider will be provided to all Parties, through the Freestyle Canada Independent Third Party, in advance of the hearing and in accordance with the timelines set by the Freestyle Independent Third Party.
- d) The Parties may engage a representative, advisor, translator, transcription services or legal counsel at their own expense.
- e) The External Discipline Panel may request that any other individual participate and give evidence at the hearing.
- f) If not a Party, Freestyle Canada and/or the relevant Member shall be allowed to attend the hearing as an observer and will be provided with access to any documents submitted. With the permission of the External Discipline Panel, Freestyle Canada and/or the relevant Member may make submissions at the hearing or may provide the discipline panel with clarifying information that may be required for the External Discipline Panel to render its decision.<sup>16</sup>
- g) The External Discipline Panel shall allow any evidence at the hearing filed by the Parties and may exclude any evidence is unduly repetitious or otherwise an abuse of process. The External Discipline Panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to evidence filed by the Parties.
- h) Nothing is admissible in evidence at a hearing that:
  - i. would be inadmissible in a court by reason of any privilege under the law of evidence; or
  - ii. is inadmissible by any statute or common law.
- i) The decision will be by a majority vote of the External Discipline Panel when the Panel consists of three people.

---

<sup>16</sup> The purpose of this provision is not to provide Freestyle Canada or a Member with the possibility to try to influence whether a sanction is imposed and, if so, the duration or nature of the sanction. Instead, this provision is intended to provide Freestyle Canada or a Member with the possibility to provide the Panel with clarifying information when a Party (or the Parties) have sought a particular sanction against an Individual, but they have misunderstood or misrepresented fundamental elements of the programming or membership structure (or other similar issues) and, if left unaddressed, could result in the discipline panel imposing a sanction that is unenforceable.

32. If the Respondent acknowledges the facts of the incident(s), the Respondent may waive the hearing, in which case the External Discipline Panel will determine the appropriate sanction. The External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
33. The process will proceed if a Party chooses not to participate in the hearing, unless the Complainant(s) withdraw their complaint.
34. 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, shall be permitted to participate in the proceedings as determined by the External Discipline Panel, and will be bound by the decision.
35. In fulfilling its duties, the External Discipline Panel may obtain independent advice.

### Decision

36. After hearing and/or reviewing the matter, the External Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. If the External Discipline Panel considers that an infraction has not occurred, the Reported complaint will be dismissed.
37. Within fourteen (14) days of the hearing's conclusion, the External Discipline Panel's written decision, with reasons, will be distributed to all Parties by the Freestyle Canada Independent Third Party, including to Freestyle Canada and the relevant Member(s). Other individuals or organizations, including but not limited to, Members, Provincial/Territorial sport organizations, sport clubs, etc., shall be advised of the outcome of any decisions rendered in accordance with this Policy.
38. In extraordinary circumstances, the External Discipline Panel may first issue a verbal or summary decision soon after the conclusion of the hearing, with the full written decision to be issued before the end of the fourteen (14) day period.
39. The External Discipline Panel's decision will come into effect as of the date that it is rendered, unless decided otherwise by the External Discipline Panel. The External Discipline Panel's decision will apply automatically to Freestyle Canada and all of its Members and associated organizations.
40. Unless the matter involves a Vulnerable Participant, once the appeal deadline in the *Appeal Policy* has expired, Freestyle Canada or the Member (as applicable) shall publish on their website the outcome of the case, the provision(s) of the relevant policies that have been violated, the name(s) of the Individual(s) involved and the sanction(s) imposed, if any. However, notwithstanding the aforementioned, a Party, Freestyle Canada or a Member may make submissions to the Internal Discipline Chair or External Discipline Panel to request that all or part of a decision be kept confidential.<sup>17</sup> Identifying information regarding Minors or Vulnerable Participants will never be published by Freestyle Canada or one of its Members. The Internal Discipline Chair or External Discipline Panel (as applicable) shall determine the length of time for which the aforementioned information is to be published. If the matter is appealed, the publication provisions in the *Appeal Policy* shall apply.

---

<sup>17</sup> The Internal Discipline Chair or External Discipline Panel (as applicable) shall allow the Parties to provide their position on any such request and shall render a decision on the request. Any such decision shall not be subject to appeal.



41. If the External Discipline Panel dismisses the complaint, the information referred to in Section 40 above may only be published with the Respondent's consent. If the Respondent does not provide such consent, the information referred to in Section 40 above will be kept confidential by the Parties, the Freestyle Canada Independent Third Party, Freestyle Canada and the Member (including the Respondent's Club) and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to this Policy.
42. Records of all decisions will be maintained by Freestyle Canada in accordance with its *Privacy Policy*.
43. When the External Discipline Panel imposes a sanction, the decision shall include, at a minimum, the following details:
- a) Jurisdiction;
  - b) Summary of the facts and relevant evidence;
  - c) Where applicable, the specific provision(s) of Freestyle Canada's (or a Member's) policies, bylaws, rules or regulations that have been breached;
  - d) Which Party or organization is responsible for the costs of implementing any sanction;
  - e) Which organization is responsible for monitoring that the sanctioned individual respects the terms of the sanction;
  - f) Any reinstatement conditions that the Respondent must satisfy (if any);
  - g) Which organization is responsible for ensuring that the conditions have been satisfied; and,
  - h) Any other guidance that will assist the Parties to implement the External Discipline Panel's decision.

If necessary, a Party – or the organization that is responsible for implementing or monitoring a sanction – may seek clarifications from the External Discipline Panel regarding the order so that it can be implemented or monitored appropriately.

### **Sanctions**

44. When determining the appropriate sanction, the Internal Discipline Chair or External Discipline Panel, as applicable, will consider the following factors (where applicable):
- 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 misconduct, Prohibited Behaviour or Maltreatment;
  - c) The respective 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 misconduct, Prohibited Behaviour or Maltreatment, and/or cooperation in the investigative and/or disciplinary process;
  - 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; addiction; disability; illness; etc.);
  - 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 or aggravating circumstances.
45. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required, and a single incident of Prohibited Behaviour, Maltreatment or other misconduct may justify elevated or combined sanctions.
46. The Internal Discipline Chair or 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 that an Individual has violated the Code (or other policy) 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 or the UCCMS (or other policy).
  - c) **Probation** - Should any further violations of the Code or the UCCMS (or other policy) occur during the probationary period, this may result in additional disciplinary measures, including, without limitation, 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.
  - d) **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of Freestyle Canada and its Members. A suspended Individual may be eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Individual satisfying specific conditions noted at the time of suspension.
  - e) **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions.
  - f) **Permanent Ineligibility** - Ineligibility to participate in any capacity in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of Freestyle Canada and its Members.

- 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.

47. The Internal Discipline Chair or 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 Minor Complainant, or a Complainant who was a Minor at the time of the incidents complained of, 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.
- c) While a Respondent has pending charges related to allegations of a crime against a person, if justified by the seriousness of the offence, the presumptive sanction shall be a period of suspension until a final determination is made by the applicable process.

48. An Individual's conviction for certain *Criminal Code* offenses involving harmful conduct shall carry a presumptive sanction of permanent ineligibility from participating in the activities of Freestyle Canada and its Members. Such *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

49. Failure to comply with a sanction as determined by the Internal Discipline Chair or External Discipline Panel, as applicable, will result in an automatic suspension from participation in the activities of Freestyle Canada and its Members until such time as compliance occurs.

### **OSIC Sanction**

50. As a Program Signatory to the OSIC, Freestyle Canada will ensure that any sanctions or measures imposed by the OSIC's Director of Sanctions and Outcomes will be implemented and respected within Freestyle Canada's jurisdiction (including at the provincial, territorial and Club level), once Freestyle Canada receives appropriate notice of any sanction or measure from the OSIC.

### **Appeals**

51. The decision of an Internal Discipline Chair or External Discipline Panel, as applicable, may be appealed in accordance with the *Appeal Policy*.

### **Confidentiality**

52. The discipline and complaints process is confidential and involves only Freestyle Canada (Chief Executive Officer and relevant staff as determined by the Chief Executive Officer), the applicable Member(s), the

applicable Club, the Parties, the Freestyle Canada Independent Third Party, the investigator (if one is appointed), the Internal Discipline Chair or the External Discipline Panel, and any independent advisors to the External Discipline Panel.

53. None of the Parties (or their representatives or witnesses) or organizations referred to in Section 52 will disclose confidential information relating to the discipline or complaint, or any information obtained as a result of any step in the discipline and complaints process, to any person not involved in the proceedings, unless Freestyle Canada or a Member is required to notify an organization such as an international federation, Sport Canada or other sport organization (i.e., where a Provisional Suspension or interim measures have been imposed and communication is required to ensure that they may be enforced), or notification is otherwise required by law.
54. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Internal Discipline Chair or External Discipline Panel (as applicable).

### **Timelines**

55. If the circumstances of the Reported complaint are such that adhering to the timelines outlined by this Policy will not allow a just resolution to the complaint, the Freestyle Canada Independent Third Party may direct that these timelines be revised.

### **Privacy**

56. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Freestyle Canada's usual policies and practices regarding private and/or confidential information, or those of its Members, as applicable
57. Freestyle Canada, its Members, or any of their delegates pursuant to this Policy (i.e., Freestyle Canada Independent Third Party, investigator (if any), Internal Discipline Chair, External Discipline Panel, and any independent advisors to the External Discipline Panel), shall comply with Freestyle Canada's usual policies and practices regarding private and/or confidential information (or, where applicable, those of its Members) in the performance of their services under this Policy.



# FREESTYLE CANADA

## DISCIPLINE AND COMPLAINTS POLICY:

### APPENDIX A INVESTIGATION PROCEDURE

Effective date	November 1, 2023
Archived date	-
Date last reviewed	October 20, 2023
Scheduled review date	TBC
Replaces and/or amends	Freestyle Canada Investigation Policy – Discrimination, Harassment, Maltreatment and Prohibited Behaviour approved December 8, 2022
Approved by and date	FC BOD October 20, 2023
Appendix(-ces) to this Policy	-

#### Determination

1. When a complaint is submitted pursuant to the *Discipline and Complaints Policy* (“Policy”) and is accepted by the Freestyle Canada Independent Third Party, the Freestyle Canada Independent Third Party will determine if the incident(s) should be investigated.
2. In exceptional circumstances, and only when the Freestyle Canada Independent Third Party considers that the conditions indicated in this section have been satisfied, the Freestyle Canada Independent Third Party may determine that a reported incident requires further investigation by an independent third-party investigator. The Freestyle Canada Independent Third Party will direct that an investigation be conducted:
  - Only if the Reported incident falls within Process # 2 in the Policy;
  - In accordance with and by an independent investigator appointed pursuant to this Investigation Procedure;
  - Where the Freestyle Canada Independent Third Party considers that there is a need for an independent assessment to determine whether an allegation or, where there are several allegations, which allegations, should be heard by an External Discipline Panel pursuant to this Policy because they constitute a likely breach of the *Code of Conduct and Ethics*, the UCCMS, the *Social Media Policy*, or any other relevant and applicable [MEMBER] policy, or whether the allegations are frivolous, vexatious or made in bad faith; and
  - For the purpose of making non-binding recommendations to the Freestyle Canada Independent Third Party so that they may discharge their responsibilities pursuant to this Investigation Procedure.
3. If the Freestyle Canada Independent Third Party considers that an independent investigation must be conducted for the reasons mentioned above, the investigation shall be conducted before any disciplinary

procedures are commenced pursuant to the Policy; however, when an investigation is conducted and where it is necessary in the circumstances, a Provisional Suspension or interim measures may be imposed in accordance with the Policy.

4. Upon receipt of the investigator's report, the Freestyle Canada Independent Third Party shall determine whether the matter will proceed in accordance with Process #2 in the Policy and shall inform the Parties and Freestyle Canada or the Member (as applicable).
5. If the Freestyle Canada Independent Third Party does not consider that an independent investigation is necessary and the Reported complaint has been accepted pursuant to the Policy, the matter shall proceed in accordance with Process #2.

### **Investigation**

6. If the Freestyle Canada Independent Third Party considers that an investigation is necessary, they will appoint an investigator. The investigator must be an independent third party with training or investigation experience. The investigator must not be in a conflict-of-interest situation and should have no connection to either Party.
7. Federal and/or Provincial/Territorial legislation related to Workplace Harassment or Workplace Violence may apply to the investigation if Harassment/Violence was directed toward a worker in a Workplace. The investigator should review workplace safety legislation, the organization's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
8. The investigation may take any form as decided by the investigator, guided by any applicable Federal and/or Provincial/Territorial legislation. The investigation may include:
  - a) Interviews with the Complainant(s)
  - b) Witness interviews
  - c) Statement of facts (Complainant's perspective) prepared by the investigator, acknowledged by the Complainant, and provided to the Respondent
  - d) Interviews with the Respondent(s)
  - e) Statement of facts (Respondent's perspective) prepared by the investigator, acknowledged by the Respondent, and provided to the Complainant

### **Investigator's Report**

9. Upon completion of their investigation, the investigator shall prepare a written report that shall include a summary of evidence from the Parties and any witnesses interviewed. The report shall also include a non-binding recommendation from the investigator regarding whether an allegation or, where there are several allegations, which allegations, should be heard by an External Discipline Panel pursuant to the Policy because they constitute a likely breach of the *Code of Conduct and Ethics*, the UCCMS, or any other relevant and applicable Freestyle Canada or Member policy. The investigator may also make non-binding recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review or investigation).
10. The investigator's report will be provided to the Freestyle Canada Independent Third Party who will

disclose, at their discretion, all or part of the investigation to Freestyle Canada and the relevant Members (if applicable). The Freestyle Canada Independent Third Party may also disclose the investigator's report – or a redacted version to protect the identity of witnesses – to the Parties, at their discretion, with any necessary redactions. Alternatively, and only if necessary, other relevant Parties may be provided with an executive summary of the investigator's findings by the Freestyle Canada Independent Third Party.

11. Should the investigator find that there are possible *Criminal Code* offences, the investigator shall advise the Parties, Freestyle Canada and, where applicable, the relevant Member, and the matter shall be referred by the Freestyle Canada Independent Third Party to the police.
12. The Investigator must also inform Freestyle Canada or the Member (as applicable) of any findings of criminal activity. Freestyle Canada or the Member (as applicable) 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 Freestyle Canada or any Member(s) (as applicable), or other offences where the lack of reporting would bring Freestyle Canada or the Member (as applicable) into disrepute.

### **Reprisal and Retaliation**

13. Any Individual who Reports a complaint to the Freestyle Canada Independent Third Party or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute Prohibited Behaviour and may be subject to disciplinary proceedings pursuant to the Policy or, as applicable, the policies and procedures of the OSIC.

### **False Allegations**

14. 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 Prohibited Behaviour) may be subject to a complaint under the terms of the Policy. The investigator may recommend to Freestyle Canada or the Member (as applicable) that the Individual be required to pay for the costs of any investigation that comes to this conclusion. Any Individual who is liable to pay for such costs shall be automatically deemed to be not in good standing until the costs are paid in full and shall be prohibited from participating in any Member and Freestyle Canada Events, activities or business. Freestyle Canada or any Member(s) (as applicable), or the Individual against whom the allegations were submitted, may act as the Complainant with respect to making a complaint pursuant to this Section 14.

### **Confidentiality**

15. The investigation process is confidential and involves only Freestyle Canada (Chief Executive Officer and relevant staff as determined by the Chief Executive Officer), the applicable Member(s), the applicable Club, the Parties, the Freestyle Canada Independent Third Party, and the investigator.
16. None of the Parties (or their representatives or witnesses) or organizations referred to in Section 15 will disclose confidential information relating to the investigation, or any information obtained as a result of any step in the investigation process, to any person not involved in the proceedings, unless Freestyle Canada or a Member is required to notify an organization such as an international federation, Sport Canada or other sport

organization (i.e., where a Provisional Suspension or interim measures have been imposed and communication is required to ensure that they may be enforced), or notification is otherwise required by law.

Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Internal Discipline Chair or External Discipline Panel (as applicable).

## **Privacy**

17. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Freestyle Canada's usual policies and practices regarding private and/or confidential information, or those of its Members, as applicable.
18. Freestyle Canada, its Members, or any of their delegates pursuant to this Policy (i.e., Freestyle Canada Independent Third Party, the investigator), shall comply with Freestyle Canada's usual policies and practices regarding private and/or confidential information (or, where applicable, those of its Members) in the performance of their services under this Policy.