



# FREESTYLE CANADA

## DISCIPLINE AND COMPLAINTS POLICY:

### APPENDIX A INVESTIGATION PROCEDURE

Effective date	November 1, 2023
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Date last reviewed	October 20, 2023
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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.