

## **Section 4.0 – Complaint Management and Discipline Policy**

Compliance with the ACA Code of Conduct Policy is expected of all Participants affiliated with the organization. Any Participant who believes that a Participant listed within the ACA Code of Conduct Policy scope has failed to meet their obligations under the ACA Code of Conduct Policy or has demonstrated behaviour that is prohibited and categorized as Maltreatment is required to follow the reporting procedures outlined in the subsequent sections. Failure to comply with the ACA Code of Conduct Policy may result in disciplinary and remedial action including but not limited to written warnings, educational training, mediation, loss of privileges, termination of employment or contract, probation, suspension, or expulsion from membership.

### **4.1 – Definitions**

**The following definitions are to be used in the interpretation of Sections 4.0 and 5.0.**

- a. ***Adjudication***
  - i. The act where a dispute is resolved or a decision rendered. It may also refer to a judicial decision or a ruling. Adjudication refers to the legal process by which a judge, arbitrator or other trier of fact reviews evidence, hears arguments and legal reasoning of the opposing parties to reach a binding decision which determines the rights and obligations between the parties to the dispute.
- b. ***Alpine Independent Supervisory Board (AISB)***
  - i. A group of professionals, including but not limited to, lawyers, researchers, and sport administrators, independent of ACA who will serve as a disciplinary committee, responsible for the investigation and adjudication of Major Infractions.
- c. ***Complainant***
  - i. A Participant or observer who makes a report of an incident of Maltreatment or suspicions of an incident of Maltreatment.
- b.1 ***Complaint***
  - i. ACA Complaint form prescribed for use under this policy to report a suspicion of; or, an incident of Maltreatment.
  - ii. A verbal report of a suspicion or incident of Maltreatment to the ITP will also be considered a Complaint.
- d. ***Duty to Report under Child Protection Legislation***
  - i. There is a mandatory legal duty to report by law. The duty varies by province depending on provincial legislation. Everyone has a duty to report child abuse and neglect under Canadian child welfare laws. Professionals who work with children and youth have an added responsibility to report. Adults are obliged to report child Maltreatment if there is knowledge or suspicion that it is occurring. This is called the “duty to report.”
  - ii. Every person in Canada has the duty to report known or suspected child Maltreatment by law. Known or suspected abuse or Neglect of a child must be reported to: local child welfare services (e.g., children’s aid society or child and

family services agency), or provincial/territorial social service ministries or departments, or local police.

e. ***Duty to Report Concerns Outside of Child Protection Legislation***

- i. Participants have a duty to report concerns of inappropriate conduct of other Participants to uphold the ethical standards and values of Canadian sport. Reporting inappropriate conduct is important to ensure proper action is taken and expectations are re-established. By addressing inappropriate conduct, a collective responsibility to protect Participants from Maltreatment is enacted.

f. ***Independent Third Party (ITP)***

- i. A person external to the organization with experience in Maltreatment cases and investigation techniques who is hired to receive complaints, investigate complaints, and determine course of action in which the complaint is handled, within the relevant jurisdictions affiliated with ACA.

e.1 ***Intentionally Filing a False Allegation***

- i. Filing an intentionally false allegation that a Participant engaged in Maltreatment or attempting to influencing others to do so is deemed to constitute Maltreatment and may also lead to disciplinary action under the ACA Code of Conduct.
- ii. An allegation is false if the reported events comprising the allegation did not occur and the person making them knows the allegations did not occur.

g. ***Mediation***

- i. An alternative dispute resolution process facilitated by a professional and neutral third-party mediator who helps the parties (i.e., the Complainant and Respondent) find a solution together.

h. ***Reporting (or Report)***

- i. The provision of information in writing by any person or a Participant to a relevant independent authority (the independent person or position charged with receiving a report and determining next steps) regarding Maltreatment. Reporting may occur through either:
  1. The Complainant (of any age) who may be the one who experienced the Maltreatment or is a witness – someone who witnessed the Maltreatment or otherwise knows or suspects Maltreatment.
- ii. In either case, the intention of Reporting is to initiate an independent investigative process, which could result in disciplinary action being taken against the Respondent.

i. ***Respondent***

- i. A Participant who is alleged to have engaged in Maltreatment and thereby to have violated the ACA Code of Conduct.

j. ***Responsible Adult***

- i. Any parent or legal guardian who will have the right to act on behalf of the Complainant or Respondent throughout the complaint process, in the event that the Complainant or Respondent is a Minor.

- k. **SDRCC**
  - i. Means the Sport Dispute Resolution Centre for Canada.

#### **4.2 – Reporting or Report**

- a. Every Participant has a responsibility of advancing Safe Sport. This means not engaging in, allowing, condoning, or ignoring behaviour that violates the ACA Code of Conduct Policy.
- b. Every Participant has a responsibility to support this Code of Conduct by taking measures to report incidents of misconduct. Reporting may occur through either:
  - i. The Complainant (of any age) who may be the one who experienced the Maltreatment; or,
  - ii. Someone who witnessed the Maltreatment or otherwise knows, or suspects Maltreatment has occurred.
- c. Upon becoming aware of an incident, ACA may have an obligation to report misconduct to the Independent Third Party (ITP) for review and investigation if necessary, even without a formal complaint being made. Participants holding a position of trust or authority in an ACA program or activity, or those persons who are in an administrative position, have a responsibility to report infractions that they have witnessed or of which they suspect or have been made aware. This is to protect other Participants within the organization from suspected risks of harm.
- d. In the case of Participants who are Minors, an individual acting on behalf of the Participant may report misconduct. If an individual files a Complaint on behalf of a Minor, the individual also has the right to receive notices on behalf of the Minor and be present at all dealings with the Minor. In the event that the individual filing a Complaint on behalf of the Minor is not the parent or legal guardian, the Minor's parent or legal guardian must be informed and kept apprised of all matters at all stages in the process.
- e. All Major Infractions must be reported to ACA's ITP. While ACA encourages that Complaints be made in the prescribed form, a Complaint can also be made verbally to the ACA's ITP, using the ITP hotline or through the whistleblower mechanism. Additional attachments may be filed at the same time as the Complaint Form, if applicable. A Participant who files a Complaint is a Complainant and has the following responsibilities:
  - i. To report the incident(s) as soon as possible, especially if their safety and/or the safety of others is at risk.
  - ii. To provide as much detail as possible about the alleged conduct, including the date, time, and location of the incident(s), the name of the person alleged to have engaged in misconduct, details of what happened and/or what was said, names of any witnesses, description of action taken (if any), and copies of any documents that may be relevant, e.g., a letter, email, or note that pertains to any matter in issue.
  - iii. To cooperate fully in the investigation and resolution of any concerns, incidents, and allegations.

- iv. To uphold the strict confidentiality of all individuals involved in the matter and only discuss the matter with others on a need to know basis with respect to any legal issues, or as directed by ACA, for the purposes of investigating or taking corrective action with respect to the incident or allegation, or as otherwise required by law.
- v. Any individual who engages in Intentionally Filing a False Allegation will render themselves liable to disciplinary action in addition a Maltreatment violation will be deemed to have occurred.
- vi. To be a witness in any adjudication if requested by ACA.

#### **4.2.1 – Reprisal and Retaliation**

- a. A Participant who submits a complaint to ACA, or who gives evidence in an investigation, may not be subject to reprisal or retaliation from any individual or group. Should anyone who participates in the process face reprisal or retaliation, that individual will have cause to submit a complaint.

#### **4.2.2 – False Allegations**

- a. A Participant who submits allegations that the ITP determines to be false or without merit may be subject to a complaint pursuant to ACA's *Complaint Management and Discipline Policy*. In such circumstances, ACA or the individual against whom the false allegations were submitted may act as the Complainant.

#### **4.3 – Independent Third Party (ITP) Responsibilities**

- a. Any Participant affiliated with ACA may submit a formal complaint related to Maltreatment at any time. Complaints about ACA should also be submitted to the ITP. The ITP is responsible for ensuring that all complaints, allegations, incidents, or referrals related to Maltreatment and the safeguarding of Participants are dealt with fairly and equitably. In particular, and without limiting that responsibility, the ITP shall:
  - i. Upon receipt of a Complaint, undertake a preliminary confidential review of the Complaint and determine if the Complaint is admissible according to ACA policies.
  - ii. If the Complaint is deemed admissible, make a preliminary assessment of the allegation and will determine the appropriate course of action to be taken. The assessment will recommend the course of action wherever possible to resolve the Complaint.
  - iii. Appoint an investigator or team of investigators should the Complaint require a full investigation.
  - iv. Contact the person who filed the Complaint (the Complainant), to inform them in writing of the steps of the investigation process, what the investigation will cover, the timeframe of the investigation, what solutions or results are possible, and who will make the final decision regarding the

investigation and advise them on the preparation of any additional documentation that could or should be submitted.

- v. Contact the person(s) against whom the Complaint has been filed (the Respondent), provide them with a copy of the ACA Code of Conduct and any other relevant policies or legislation against which the Respondent's behaviour will be measured, as well as a summary of the allegations. The ITP will inform them in writing on the steps of the investigation process, what the investigation will cover, the timeframe of the investigation, what solutions or results are possible, and who will make the final decision regarding the investigation and advise them on the preparation of any responding documentation that could or should be submitted.
- vi. Advise both the Complainant and the Respondent of their right to be represented by legal counsel or accompanied throughout the process by another individual of their choice, so long as they are not involved or implicated in the allegations of the Complaint.
- vii. Endeavour to commence the investigation within five (5) days of receipt of the Complaint and complete the investigation within one month (unless not reasonably possible in the circumstances\*).
  - i. \*In cases of sufficiently serious alleged misconduct, wherein the ITP or another external third-party investigator is hired to conduct the investigation, the timeline for investigation is directed and managed by these parties and may extend beyond the proposed timeframe listed. In all cases, complaints are investigated and managed as efficiently as possible.
- viii. If necessary, seek out advice or support from other professional experts to enhance the investigation process.
- ix. Advise the Complainant, the Respondent, and any witnesses that they are not to discuss the complaint, incident, investigation, or their testimony with others unless necessary to obtain legal advice with respect to any legal issues.
- x. Collect additional information and separately conduct personal interviews with the Complainant, the Respondent, and any witnesses who may have relevant information about the alleged infractions.
- xi. Keep both the Complainant and the Respondent informed as the investigation progresses.
- xii. Review the interviews, document any inconsistencies, and compile an ITP Report taking into consideration all the information made available by all parties, including information discovered in the course of an external investigation that may have taken place.
- xiii. Inform the appropriate statutory agency (the police and/or the Local Authority Children's Social Care Department) where a report is made relating to concerns about suspected or actual Maltreatment of a Minor, and to comply with any directions or requirements they may make regarding the case.

- xiv. Monitor and review the progress on all cases and identify any trends emerging which may require a review of current policies and procedures.
  - xv. Consider medium and low risk cases and decide whether to issue any conditions regarding further participation in the sport.
  - xvi. Advise generally on matters of safeguarding policy, strategy, and procedure, and to approve appropriate protocols.
- b. Any Participant, regardless of age or status, may report an incident or Complaint to the ITP. Complaints can be submitted in writing through email ([alpinecanada@itpsport.ca](mailto:alpinecanada@itpsport.ca)) or through the designated ITP hotline (1-833-913-1304), both of which are only accessible by the ITP who will hold the information in confidence subject to disclosure on a need to know basis and after obtaining a confidential non-disclosure agreement from that person.
  - c. A number of government agencies have been established to prevent and redress acts of Maltreatment. The implementation of this Policy and complaints procedure does not prohibit a Complainant who experiences such behaviour from reporting incidents to and seeking assistance from their respective provincial and territorial government body.

#### **4.3.1 – ITP Recommendations**

- a. On completion of the initial assessment of the Complaint, the ITP will determine whether the acts complained of are substantiated. The ITP's Report will make one of six recommendations:
  - i. The complaint should be dismissed as it is unsubstantiated, trivial, or insufficient; or
  - ii. The complaint is deemed criminal, as defined by federal, provincial, and/or territorial legislation, and will be reported to appropriate services, including local police, Child Welfare Services (if the complainant is a Minor) and/or provincial/territorial social service ministries; or
  - iii. The complaint does not fall within the scope and jurisdiction of this Policy, and it should be referred to the appropriate body having jurisdiction, (e.g., the member association or local club); or
  - iv. The complaint should be dealt with as a Minor infraction, as defined in Section **4.4.1 – Minor Infractions** and referred to the appropriate person of authority (i.e., CEO or Chair of Board); or
  - v. The complaint should be dealt with as a major infraction, as defined in Section **4.4.2 – Major Infractions** and will undergo Dispute Resolution through a third-party mediator from SDRCC roster of mediators; or
  - vi. The complaint should be referred to the Alpine Independent Supervisory Board (AISB), a disciplinary committee independent of ACA responsible for the adjudication of Major Infractions and determining sanctions.
- b. Where a concern, incident, or Complaint is not substantiated, there will be no repercussions against the Complainant as long as the Complaint did not Intentionally File a False Complaint.

- c. The ITP recommendations will follow the guidelines outlined in this policy and cannot be appealed.

#### **4.4 – Types of Infractions**

- a. The ITP shall determine if the Complaint is considered to be a Minor or a major infraction of this policy. The ITP has the absolute discretion to determine the categorization of an infraction as Minor or major depending on the totality of the evidence, circumstances, and risks posed. The lists of infractions in Sections 4.4.1 and 4.4.2 are provided merely as a guide for the use of the ITP.
- b. Discipline for Minor Infractions will be imposed by the ITP in consultation with the CEO whereas discipline for Major Infractions will be imposed by the Alpine Independent Supervisory Board (AISB) in accordance with this policy (See section **4.6.7 – Alpine Independent Supervisory Board (AISB)**).

##### **4.4.1 – Minor Infractions**

- a. Minor Infractions may be a single incidence of behaviour resulting in a breach of the expected standards of conduct and may include, but are not limited to, behaviours, such as:
  - i. A single instance of disrespectful comments or behaviour directed towards others;
  - ii. A single instance of unsportsmanlike conduct;
  - iii. A single instance of a team member or support staff member breaking team rules that do not constitute a major infraction;
  - iv. Conduct contrary to the values of ACA;
  - v. Violations of ACA’s Code of Conduct determined to be Minor by the ITP; and
  - vi. A single instance of non-compliance with the policies, procedures, rules, or regulations of ACA.

##### **4.4.2 – Major Infractions**

- a. Major Infractions are instances of misconduct that result or have the potential to result in harm to other persons, to ACA or its reputation, and/or to the sport of skiing. Examples of Major Infractions include, but are not limited to:
  - i. Repeated Minor Infractions;
  - ii. Behaviour that constitutes Maltreatment of any kind, as outlined in the ACA Code of Conduct;
  - iii. Major incidents of violence (e.g., fighting, attacking);
  - iv. Pranks, jokes, or other activities that endanger the safety and well-being of others;
  - v. Major or repeated violations of ACA’s Code of Conduct Policy;
  - vi. Conduct that interferes with a competition or with any Athlete’s preparation for a competition;

- vii. Consistent or deliberate disregard for the policies, procedures, rules or regulations of ACA or the rules and regulations of competitions and events;
- viii. Intentional damage to ACA's property or improper handling of ACA's finances;
- ix. Conduct that intentionally damages the image, credibility, or reputation of ACA, including actions taken despite a clear conflict of interest;
- x. Excessive use of alcohol, any use of alcohol or cannabis by Athletes and Minors, use of illicit drugs and narcotics, or use of banned performance enhancing drugs or methods; and
- xi. A conviction for any offence under the Criminal Code, R.S.C., 1985, c. C-46.

#### **4.5 – Complaint Management – Minor Infractions**

- a. Following the ITP's determination that the Complaint is a Minor infraction, a disciplinary meeting shall be held within two (2) days with the Complainant, Respondent, the ITP, and the CEO. If the Minor infraction involves a Participant affiliated with a National Team, the High-Performance Director is also required to be present for the meeting. If the Minor infraction is about the CEO, the ITP will collaborate with the Chair of the Board to determine an appropriate sanction. If the Minor infraction is about a High-Performance Director, then the ITP and CEO will be the only members present during the disciplinary meeting, along with the Complainant and Respondent. The disciplinary meeting may take place in person, by phone, or other electronic means, such as videoconferencing.
- b. Prior to the disciplinary meeting, the Participant accused of the Minor infraction, i.e., the Respondent, must:
  - i. Be informed within two (2) days once a complaint has been made;
  - ii. Cooperate fully in the investigation and resolution of any concerns, incidents, and complaints;
  - iii. Refrain from any form of reprisal against anyone involved in the investigation;
  - iv. Be provided within two (2) days a written summary of the allegation(s), including the nature of the infraction and the specific clause within the Code of Conduct Policy that has allegedly been contravened;
  - v. Be advised that they are not to discuss the complaint, incident, investigation, or their testimony with other people, witnesses, or third parties unless necessary to obtain legal advice;
  - vi. Be afforded an opportunity to respond to the complaint by providing information and documents concerning the alleged incident. This information may be provided during a phone call, videoconference, or in person depending on the timing and logistics involved; and
  - vii. Be afforded the opportunity to be represented or accompanied by another (uninvolved) individual of their choice, including legal counsel, at any stage of the process including at the disciplinary meeting.
- c. Where a Respondent denies the allegations made, the discussion should nonetheless be treated as a formal warning that inappropriate behaviour will not be tolerated.

Information about the allegations and the Respondent's response must be available to all those making any disciplinary decision about the matter on a "need to know" basis. A decision regarding disciplinary or corrective action can be made immediately after the discussion, but no later than 24 hours after the disciplinary meeting. The ITP and CEO (or Chair of the Board) will either set aside the report of misconduct if it is unfounded or uphold the report (in part or in its entirety), in order to apply the appropriate disciplinary measures noted below. Once a decision is made, the CEO (or Chair of the Board) must inform the parties, in writing and verbally, of the results of the investigation and of any corrective action that will be taken as a result of the investigation.

- d. At any time, the CEO or Chair of the Board may request third-party mediation through SDRCC to resolve Minor Infractions.

#### ***4.5.1 – Disciplinary Sanctions for Minor Infractions***

- a. The following conduct sanctions may be applied, individually or in combination, for Minor Infractions:
  - i. Verbal reprimand;
  - ii. Remedial education;
  - iii. Performance improvement measures;
  - iv. Written reprimand to be placed in the individual's file;
  - v. Verbal apology to recipient(s) of infraction and/or ACA;
  - vi. Hand-delivered written apology to recipient(s) of infraction and/or ACA;
  - vii. Suspension from current or upcoming competitions; or
  - viii. Other penalties as may be considered appropriate for the offence.
- b. Disciplinary sanctions for Minor Infractions cannot be appealed.

#### ***4.5.2 – A Minor Filing or Responding to a Complaint***

- a. If the Complainant or Respondent is a Minor, the ITP will communicate with both the Complainant or Respondent and a Responsible Adult. The Responsible Adult will have the right to act on behalf of the Complainant or Respondent throughout the complaint process, including:
  - i. Providing assistance with filing or responding to the Complaint;
  - ii. Receiving all notices and correspondence on behalf of the Complainant or Respondent; and
  - iii. Being present at all dealings with the Complainant or Respondent, at all stages in the process.
- b. For the purposes of this section Responsible Adult means the Minor's parent or legal guardian. In unusual cases, the Minor may be assisted in filing or responding to a complaint by another adult designated as the Responsible Adult, such as a social worker, but the parent or legal guardian must always be aware and kept apprised of the filing and proceedings at all stages of the process.

#### **4.6 – Complaint Management – Major Infractions**

- a. If the ITP has determined that the Complaint is considered to be Major Infractions of this policy; then, ITP will review the Complaint and any attachments submitted for completeness and adherence to the submission procedures. If the documentation is either incomplete or missing, the Complainant will be asked to provide completed documentation.

##### ***4.6.1 – Suspension of Activity While Complaint is Under Review***

- a. The ITP may determine that an allegation is sufficiently serious to warrant a provisional suspension of the Respondent, pending investigation of the complaint. In the event that a complaint warrants a provisional suspension, the ITP will communicate the recommendation to the CEO – or the Chair of the Board if the complaint is about the CEO – immediately following their conclusion that a suspension is warranted. The CEO or Chair of the Board will be responsible for administering a written and verbal suspension within 24 hours of the ITP’s recommendation.
- b. The provisionally suspended Respondent(s) may challenge the provisional suspension to the appropriate SDRCC Tribunal. The Respondent(s) will be responsible for all costs associated with the appeal.
- c. If any Participant who has agreed to abide by this Policy and is charged of a criminal offence, the CEO, or Chair of the Board if the criminal charge involves the CEO, may immediately upon becoming aware of the criminal charge provisionally suspend that Participant, pending the resolution of the criminal charges and any subsequent investigation by ACA’s ITP, law enforcement, or child welfare services. A suspension revokes all participation privileges for the duration of time stated in the suspension order.
- a. The CEO or Chair of the Board will forward all information in ACA’s hands regarding the charge or conviction, as well as any suspension order to the ITP, at which time the ITP will follow the process of building a Case Report to make appropriate recommendations. Any information deemed appropriate or relevant by law enforcement authorities to support their investigation will be provided by the ITP.
- d. In addition to the ITP, the Complaint may also be reviewed by other external experts (e.g., legal), if necessary, to determine if a provisional suspension is warranted. A provisional suspension has the effect of revoking all participation privileges for the duration of time stated in the suspension order.
- e. A provisional suspension is not a finding of guilt, and that the investigation will proceed to make such determination.

##### ***4.6.2 – Illegal Activity to be Reported***

- a. If the ITP receives a Complaint that involves allegations that may be of an illegal nature, as defined by federal, provincial, or territorial legislation, such allegations will

immediately be reported to the appropriate law enforcement and/or child welfare authorities, by the ITP.

- b. In that event, ACA will cooperate fully with, and take direction from, the authority with which jurisdiction over the allegations resides.

#### ***4.6.3 – Refusal to Participate in the Investigation***

- a. If a Respondent attempts to circumvent the process by failing to respond to a complaint in a thorough or timely fashion or at all, or if the Respondent refuses to participate in the investigation process, the ITP shall nonetheless proceed based on the information made available to them by the Complainant and any witnesses interviewed as part of the process.

#### ***4.6.4 – Notification to the Respondent’s Member Association***

- a. The Respondent’s Member Association and/or local club will be informed that a Complaint has been received and the Respondent is under investigation, but will not be provided with a copy of the complaint materials, any details as to the nature of the complaint, or the ITP’s Report by ACA, in order to uphold confidentiality, unless required for the purposes of investigating the matter, taking corrective action, or as otherwise required by law.

#### ***4.6.5 – ITP’s Final Report***

- a. The ITP will work as quickly as possible to collect all pertinent information from the Complainant, the Respondent, any pertinent witnesses, and external investigators (if applicable) to produce the ITP’s Final Report, which will summarize the findings, conclusions, and recommendations for how to proceed.
- b. The ITP has thirty (30) days from when the Complaint is submitted to generate a report.
- c. If the ITP’s Final Report classifies the complaint as a major infraction, then the following procedures may follow:
  - i. Dispute Resolution (i.e., Mediation); or
  - ii. Review by the Alpine Independent Supervisory Board (AISB)

#### ***4.6.6 – Dispute Resolution***

- a. Before any Complaint proceeds to the AISB, there will be an attempt to resolve the dispute with the assistance of a third-party mediator through SDRCC. ACA supports the principles of Dispute Resolution and is committed to the techniques of negotiation, facilitation, and mediation as effective ways to resolve disputes. Dispute Resolution also avoids the uncertainty, costs, and other negative effects associated with lengthy appeals or complaints, or with litigation.
- b. A Mediation shall be commenced when the Parties (i.e., the Complainant and Respondent) have agreed in writing to proceed by way of Mediation before the SDRCC.

##### ***4.6.6.1 – Dispute Resolution – Mediation***

- a. The SDRCC shall appoint a Mediator from its Rotating List, unless the Parties have agreed to a Mediator prior to filing their joint Request for Mediation.
- b. Upon receipt of a request for Mediation, the Parties will be provided with a time limit, set by the SDRCC, to agree on a Mediator. If the Parties do not agree on a Mediator when the time limit expires, the SDRCC shall appoint the Mediator from its Rotating List.
- c. Complaints pertaining to Maltreatment of a Minor, criminal behaviour, or sexual harassment cannot be settled through mediation.

#### ***4.6.6.2 – Final and Binding***

- a. Any negotiated settlement will be made in writing and will be binding on the parties. Negotiated settlements may not be appealed or subsequently re-submitted as a Complaint to the ITP.
- b. Decisions that arise out of mediation are final and binding on all the parties.

#### ***4.6.6.3 – Confidentiality of Mediation***

- a. The meetings between the Respondent, Complainant, and the Mediator shall be confidential and without prejudice.
- b. The Mediator, the Respondent, the Complainant, their representatives and advisors, the experts, and any other person present during the Mediation session shall not disclose to any third party any information or document given to them during the Mediation, unless required by law to do so or with the consent of all persons.

#### ***4.6.7 – Alpine Independent Supervisory Board (AISB)***

- a. ACA will endeavor to maintain an AISB roster of 7 to 10 qualified individuals (e.g., lawyers, researchers, sport administrators) from across the country, from which an AISB of 3 will be struck when required for adjudication of Major Infractions.
- b. The AISB must be able to fully function in either English or French. Where the Complainant and the Respondent do not speak the same official language, the AISB may be bilingual (i.e., English and French speaking) or interpretation may be provided.
- c. No current member of the ACA Board, HR Equity, Diversity and Inclusion Committee, or current Director of an ACA Member or Club can be on the AISB. Current staff members or contractors are also restricted from sitting on the AISB.
- d. All AISB members must sign a Non-Disclosure Form and Declaration of Independence.
- e. The AISB will only be convened to investigate and adjudicate Major Infractions.

#### ***4.6.7.1 – AISB Process***

- a. ACA's Administrative Case Manager will convene the AISB within five days of the ITP's recommendation to have the complaint further investigated and adjudicated by the AISB.
- b. The composition of the AISB shall be as follows:

- i. Three persons will be appointed, of which one is named as Chair who must be legally trained, and one as committee secretary. The Administrative Case Manager will be responsible for all communications with the Complainant and Respondent regarding the discipline hearing and decisions made; and
  - ii. The AISB will include at least one lawyer and one individual with knowledge of and/or experience in the area of Maltreatment, including, but not limited to, a researcher, or sport administrator. The third member may be an individual from the sport community, who may or may not be affiliated with ACA.
- c. In making the appointments, every attempt will be made to ensure the following:
  - i. That no association exists between the Complainant or the Respondent and an AISB member, either actual or apparent;
  - ii. That no AISB member has been involved in any preliminary stage of the complaint;
  - iii. That no AISB member has a pre-set attitude, conflict with or apparent interest in the ultimate outcome (Definition: “apparent” is defined to mean “in appearance” or “reasonable likelihood”);
  - iv. That the AISB members speak the official language selected for the hearing (English or French); and
  - v. That there is appropriate gender representation amongst the members of the AISB (e.g., at no time should the AISB be comprised strictly of individuals from one gender).

#### ***4.6.7.2 – Timing of the Discipline Hearing***

- a. The discipline hearing will be called by the AISB Chair on a timely basis, but no later than 30 days after the AISB is convened.
- b. The discipline hearing shall proceed as scheduled unless both the Complainant and Respondent consent to an extension of time. No extension shall be granted more than 14 days past the original date set for the hearing. If the circumstances are such that the hearing cannot be concluded within the timelines prescribed by the Policy, the AISB Chair may extend the timelines.

#### ***4.6.7.3 – Principles for the Hearings of the AISB***

- a. The AISB shall be empowered to conduct the hearing in accordance with this Policy.
- b. The AISB will designate one language for the proceedings. Prior to the commencement of the hearing, the AISB Chair shall inform the Participants of their right to an interpreter, which will be provided on behalf of ACA.
- c. The principles of natural justice will be applied:
  - i. Everyone has the right to a fair hearing in the course of determining whether an infraction has been committed;
  - ii. The issue should be clearly and concisely stated so that both parties are aware of the essentials of the complaint;
  - iii. An Athlete has the opportunity to have an “Athlete Advocate” present at the hearing;

- iv. Both parties have the right to have a legal representative present their case;
- v. Relevant information must be available to all parties;
- vi. Both parties have the right to call and cross-examine witnesses; and
- vii. Both parties have the right to receive a written decision following the hearing.

#### ***4.6.7.4 – AISB’s Use of ITP’s Report***

- a. The original complaint, the submissions by the Complainant and Respondent, and the ITP’s Report will form the written documentation submitted to the AISB. All members of the AISB must receive the documentation by the Administrative Case Manager on the day they agree to be part of the AISB.

#### ***4.6.7.5 – Discipline Hearing Procedures***

- a. The AISB may choose to meet in person or via videoconferencing, but if the meeting takes place through videoconference, all AISB members, the Complainant, the Respondent and all attending witnesses must have two-way audio contact with all other persons attending the meeting.
  - i. All Participants must have in their possession copies of all written materials;
  - ii. The Complainant and the Respondent will have the right to be accompanied by and represented by legal counsel at any stage of the process, at their own expense;
  - iii. At the discipline hearing, either party may present information, witnesses, documents and/or personal statements, and either party may cross-examine the other, or their witnesses. The AISB members may similarly cross-examine or request any information from either party or any Participant of ACA;
  - iv. A Minor Complainant, Respondent, or witness can only be questioned at a discipline hearing if a “Responsible Adult” is also present on their behalf;
  - v. The AISB will then deliberate to reach a decision and make its decision on the basis of the written and verbal evidence presented at the Hearing;
  - vi. The AISB shall provide written reasons for its decision, which reasons shall be delivered within 14 days, via email, to each party and the CEO of ACA;
  - vii. Notwithstanding subsection f), the AISB may render a verbal decision immediately at the hearing provided that a written decision is delivered following the hearing in accordance with subsection f);
  - viii. The date on which the AISB sends the written decision via registered mail to the parties shall be deemed to be the date on which the decision was rendered;
  - ix. The AISB, on its own discretion, may grant monetary relief to either party in the form of expenses (limited to documented travel costs); and
  - x. Any Member or Participant shall be entitled to obtain a copy of the decision rendered, unless the AISB considers the matter to be sensitive or confidential in nature.

#### ***4.6.7.6 – Powers of the AISB***

- a. The AISB shall be empowered to impose penalties based on its findings and decision at the discipline hearing. The following are examples of disciplinary penalties that may be applied where it is found that a Major Infraction has occurred:
  - i. Verbal or written reprimand placed on the Respondent’s file;
  - ii. Verbal or written apology to be issued to all affected parties;
  - iii. Removal of certain privileges of registration or contracting with ACA;
  - iv. Participation in behavioural counselling, education, training, or other similar activities;
  - v. Suspension from certain events, including suspension from current or future competitions;
  - vi. Suspension from certain ACA activities such as competing, coaching, or officiating for a designated period of time;
  - vii. Removal and discontinuance of ACA or Sport Canada funding;
  - viii. Suspension from all ACA activities for a designated period of time;
  - ix. Suspension of license;
  - x. Expulsion from membership; and/or
  - xi. Publication of the disciplinary sanction.
- b. The above list includes representative penalties only, and therefore, these penalties may be modified or combined to adequately address the circumstances of the infraction. This list is presented generally in order of severity. What is appropriate in any given situation will vary, and will depend on a number of factors including, among other things, the nature and seriousness of the infraction, and whether this is a new or recurrent infraction.

#### ***4.6.7.7 – Discipline Material***

- a. After completion of its duties, the AISB will turn over all copies of the documentation from the discipline hearing to the CEO and Administrative Case Manager, including a copy of the complaint and details about the incident, the ITP’s Report, a summary of the results of the investigation that was provided to the Complainant and Respondent, any written submissions and notes taken by AISB members during the Hearing, and a copy of the decision and any corrective action taken to address the complaint, to ACA, for safe-keeping in a secure location for a minimum of 7 years.
- b. After 7 years, only the ITP’s Report and the decision will be kept in perpetuity.

### **4.7 – Confidentiality**

- a. The Complaint Management process is confidential and involves only those within ACA with a need to know, including a limited number of staff members (e.g., CEO is provisional suspension recommended for Administrative Case Manager if required to convene AISB), the Participant(s) acting as the Complainant(s) and Respondent(s) and individuals acting on their behalf, the ITP, the AISB, and any independent advisors to the AISB.

- b. Once a complaint is initiated and until a decision is released, disclosure of confidential information related to the complaint to any individual outside of the proceedings is prohibited except as strictly required for the purposes of investigating, taking corrective action with respect to the complaint, or as otherwise compelled by law. Any breach of this confidentiality obligation will be treated as a serious misconduct.
- c. All appropriate federal, provincial and territorial laws should be upheld throughout all disciplinary processes.
- d. Consenting to the ACA Code of Conduct permits ACA the right to publicize the final decision of an investigation and the associated sanctions made against Participants on the ACA website.

#### **4.8 – Reprisal Prohibited**

- a. Under no circumstances will ACA condone acts of retaliation or reprisal by Participants, by parents or legal guardians or other supporters of the Participants against those individuals who have reported inappropriate behaviour or actions to ACA.
- b. Similarly, no individual may retaliate against an individual who is accused of having acted inappropriately and contravened any policies. All participants are to report complaints under the Complaints and Discipline Policy and Procedures.
- c. Any individual who believes that they, or someone else has been subjected to unlawful reprisal must promptly report those concerns to ACA.

#### **4.9 – Training and Policy Review**

- a. ACA will provide information and training sessions to ensure that all Participants are aware of and understand this Policy and related policies. ACA will also ensure that said policies are maintained and reviewed annually or when gaps or deficiencies are identified as a result of an investigation.