



**New Brunswick Safe Sport
Complaint Mechanism**

Dispute Resolution Policies



DISPUTE RESOLUTION POLICIES

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PURPOSE

1. The purpose of this policy is to establish a process for the administration of the NBSSCM in alignment with the Program Guidelines.

DEFINITIONS

Abuse-Free Sport

Participant:

Individual participating in a Signatory's operations, activities and programs who is bound by the Abuse-Free Sport Participant Consent Form. Abuse-Free Sport Participant may include, without limitation, an athlete, a coach, an official, an athlete support personnel, an employee, a contractual worker, an administrator, or a volunteer acting on behalf of, or representing a Signatory in any capacity.

Activity:

Any programs, business, activities, and events of an eligible PSO/MSO including, but not limited to competitions, practices, evaluations, treatment, or consultations (i.e., massage therapy), training camps, travel associated with organizational activities, the office environment, and any meetings that are organized and/or sanctioned by an eligible PSO/MSO. This includes conduct outside of the programs, business, activities, and events of an eligible PSO/MSO when such conduct adversely affects an eligible PSO/MSO's relationships within the broader sport community, the work and sport environment, or is detrimental to the image and reputation of an eligible PSO/MSO.

Affected Parties:

Any individual or entity, as determined by the Appeal Manager, who may be affected by a decision rendered under the Appeal Policy and who may have recourse to an appeal in their own right.

Alternative Dispute Resolution (ADR)

A range of methods and procedures engaged for arriving at a solution to a dispute other than a decision by a designated individual.

Appeal:

Appeal of a decision of a Mediator/Arbitrator under this policy or of a decision of a PSO/MSO alleging the failure to follow their Constitution or by-laws, or policies as permitted by the terms of the NBSSCM Guidelines and this policy.

Appeal Manager:

A qualified and independent individual who oversees the management and administration of appeals. The Appeal Manager is appointed by the ITP. The Appeal Manager will have responsibilities that include using decision-making authority empowered by the Appeal Policy.

Appellant:	The party appealing a decision.
Case Manager:	A qualified and independent individual who oversees the management and administration of a complaint in accordance with this policy and the NBSSCM Guidelines. The Case Manager is appointed by the ITP.
Complainant:	An individual that files a complaint.
Independent Third Party (ITP):	An organization that is retained by Sport NB to receive reports with respect to a violation related to Major or Minor complaint and oversee the administration of the NBSSCM on behalf of Sport NB, as well as the appeal process.
Major Complaint:	Complaints related to any allegation of Maltreatment or Prohibited Behaviour, as defined by the UCCMS, by a Participant which may potentially involve a sanction involving a period of ineligibility.
Maltreatment:	As defined in the UCCMS.
Med/Arb:	A process conducted by a Mediator/Arbitrator that starts as a mediation and, if the dispute is not resolved, concludes by arbitration before the same Mediator/Arbitrator.
Mediator/Arbitrator:	An individual accepted and recognized by Sport NB, who meets the qualifications determined by Sport NB and is willing to conduct a Med/Arb for Sport NB pursuant to this policy and the NBSSCM Guidelines.
Minor:	An individual who is under the age of majority at the time and in the jurisdiction where the alleged violation occurred. At the time of writing this policy, an individual under the age of 18 is a Minor.
Minor Complaint:	Complaints related to any allegation of Maltreatment or Prohibited Behaviour or disagreement between Participants that, as decided by the Case Manager, do not fall under the scope of a Major Complaint.
NBSSCM:	New Brunswick Safe Sport Complaint Mechanism.
NSO:	The national governing body for given sport or discipline in Canada.
OSIC:	Office of the Sport Integrity Commissioner, an independent division of the Sport Dispute Resolution Centre of Canada or designate, which comprises the functions of the Sport Integrity Commissioner.
PSO/MSO:	A provincial sport organization or multi-sport organization who is a member of Sport NB and is eligible to participate in the NBSSCM. This may include associate members of Sport NB.

Participant:	All categories of membership, participant or registrant defined in the PSO/MSO By-laws, as well as all individuals engaged in activities with the PSO/MSO including, but not limited to, athletes, spectators, coaches, referees, officials, volunteers, committee members, medical staff, and directors.
Party or Parties:	The individual(s) or entities involved in a dispute.
Prohibited Behaviour:	As defined in the UCCMS.
Provisional Measures:	When a Participant is barred temporarily from participating in any capacity in any Activity of an eligible PSO/MSO, prior to a final resolution through the Med/Arb process conducted pursuant to this policy.
Respondent:	Participant(s) or PSO/MSO named in a complaint or appeal and, therefore, will respond to the complaint or an appeal.
Signatories:	UCCMS Adopting Organizations (as defined in the UCCMS) that have retained the services of the Abuse-Free Sport program for the administration and enforcement of the UCCMS, pursuant to an agreement in effect with the SDRCC or designate.
UCCMS:	<i>Universal Code of Conduct to Prevent and Address Maltreatment in Sport.</i>

SCOPE OF APPLICATION

1. This policy applies to the conduct of Participants during all Activities. This includes all communications and interactions between Participants, including communication by telephone or electronically.
2. The NBSSCM process is independent of any rights and privileges an PSO/MSO has as an employer of an employee who is a Respondent to a complaint. The PSO/MSO may exercise their rights in accordance with the employee's employment agreement or human resources policies, if applicable, while the NBSSCM process is underway.

ALIGNMENT

1. It is recognized that Participants may also register with NSOs that may mandate a different disciplinary process for complaints involving allegations of Maltreatment or Prohibited Behaviour.
2. If a PSO/MSO is informed that sanctions were applied to a Participant by a NSO, the OSIC or other sport body, they will report the information through the designated reporting mechanism.

REPORTING A COMPLAINT

1. All complaints must be reported directly through the identified reporting mechanism. (See Appendix A for reporting mechanism.)
2. If a complaint is communicated to Sport NB, the Complainant will be immediately redirected to the identified reporting mechanism. Once a complaint is submitted to the reporting mechanism, Sport NB will have no further involvement in the management of the complaint.
3. In the case where a complaint is reported to a PSO/MSO directly, if the PSO/MSO has designated the process under NBSSCM as their complaint process, the PSO/MSO will immediately redirect the Complainant to the identified reporting mechanism.
4. If the applicable NSO has mandated the use of a specific third-party complaints management mechanism for Participants involved in a specific sport/discipline, complaints must be submitted to the process as mandated by the NSO.
5. Any allegations of Maltreatment or Prohibited Behaviour against a Participant who has been designated as an Abuse-Free Sport Participant by a Signatory, must be reported to the OSIC. The Case Manager will refer any complaint concerning an Abuse-Free Sport Participant involving violations of the UCCMS to the OSIC for review in accordance with the applicable OSIC policy and procedure.
6. Anonymous complaints may be accepted at the sole discretion of the Case Manager. However, anonymous complaints are strongly discouraged as non-criminal offences are generally impossible to address without the involvement of the Complainant.

TIMELINESS

1. Participants are encouraged to report all complaints as soon as possible after experiencing or witnessing the interaction, incident, event, or situation of concern.
2. An adult Participant who receives information about or has knowledge of an interaction, incident, event, or situation and reasonably suspects that a child has suffered an incident of child abuse, including sexual abuse, shall immediately make a report of the suspected abuse to the local authorities.

STANDARD TO APPLY

1. If a Participant or other individual makes a complaint involving allegations that would be considered Maltreatment or Prohibited Behaviour under the UCCMS or other conduct standard currently in force that occurred at a time when a different complaint process was in force, the complaint will be addressed using the procedures of this policy, as amended from time to time.
2. If known, the conduct standards in place at the time the incident(s)/event(s) related to the complaint are alleged to have occurred will be applied.
3. The determination of the conduct standard to be applied will be decided by the Mediator/Arbitrator, at its sole discretion.

CASE MANAGER

1. Upon the submission of a complaint through the designated mechanism, a Case Manager will be appointed by the ITP to oversee the management and administration of the complaint in accordance with the NBSSCM Guidelines. Such an appointment is not appealable.
2. The Case Manager has a responsibility to:
 - a) determine whether the complaint falls within the jurisdiction of the NBSSCM and the scope of this policy;
 - b) assess and identify whether it is a Major or a Minor Complaint;
 - c) determine if the alleged incident must be investigated;
 - d) assess if the complaint is frivolous, vexatious or if it has been made in bad faith; and
 - e) determine whether to combine complaints into a single disciplinary process, if there are multiple individuals submitting complaints against the same Respondent for allegations of a similar nature or occurrence in time.
3. The Case Manager will determine whether to accept a complaint based on the factors outlined above.

4. If the Case Manager dismisses a complaint, the Case Manager's reasoning for this dismissal will be provided to the Complainant, and the complaint will be dismissed immediately.¹
5. If the complaint does not meet eligibility criteria, the Case Manager may direct or provide the Complainant with access to with access to facilitation and relevant supporting resources outside the formal NBSSCM process.
6. If a complaint is not frivolous and is within the jurisdiction of the NBSSCM, the complaint will be accepted. The decision to accept the complaint will be communicated to the Complainant(s) and Respondent(s).
 - a) The designated contact person for the applicable PSO/MSO(s) and Sport NB will receive notice of the decision of the Case Manager. This notification will include a summary of the allegations but will not include any identifying information of the Complainant as well as an overview of the process and timeline for completion.
7. The Case Manager's decision to accept or dismiss the complaint may not be appealed.
8. After a complaint is accepted, a Mediator/Arbitrator will be appointed for the matter by the Case Manager from a list maintained by Sport NB.
9. Any costs associated with the services of the Mediator/Arbitrator shall be covered by the NBSSCM.

ALTERNATIVE DISPUTE RESOLUTION

1. Sport NB supports the principles of ADR and is committed to the techniques of negotiation, facilitation, and mediation as effective ways to resolve disputes. ADR also avoids the uncertainty, costs, and other negative effects associated with lengthy investigation, hearings, and appeals.
2. All Participants are encouraged to communicate openly, and to collaborate and use problem-solving and negotiation techniques to resolve their differences.
3. Sport NB's position is that negotiated settlements are most often preferable to arbitrated outcomes.
4. Should a negotiated settlement be reached, the settlement shall be reported by the Case Manager to all parties involved, as well as the applicable PSO/MSO and Sport NB. Following the settlement, any actions and/or sanctions shall be enacted in accordance with the timelines specified by the negotiated decision.
5. Should a tentative negotiated settlement be reached that requires any action to be taken by

¹As 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 Case Manager 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.

Sport NB and/or an PSO/MSO before execution, the proposed settlement shall be reported to Sport NB and/or an PSO/MSO for approval. Sport NB and/or an PSO/MSO may approve, reject, or propose amendments to a proposed settlement for any requirements that involve an action by Sport NB and/or an PSO/MSO. Any decision by Sport NB and/or an PSO/MSO to approve, reject, or propose amendments to a negotiated settlement may not be appealed. Any actions that are to take place because of the proposed settlement shall be completed in accordance with the timelines specified by the negotiated settlement, pending approval.

- a) The Parties may not withdraw from the proposed settlement pending the approval of any actions to be taken by Sport NB and/or a PSO/MSO.
6. Failure to comply with a signed negotiated settlement will result in the suspension of the individual from participating Activities. The lifting of the suspension will be reviewed by the applicable PSO/MSO upon the completion of all conditions identified in the signed negotiated settlement.
 7. Any negotiated settlement will be final and binding on the Parties. Negotiated settlements may not be appealed.
 8. A non-disclosure agreement (NDA) or any other confidentiality provision entered as part of a negotiated settlement may not prevent the publication by a PSO/MSO or other applicable sport organization of sanctions on registries such as the Participant Abuse-Free Sport Sanctions Registry or NSO database. NDAs may not be entered into if a complaint involves allegations of sexual Maltreatment, grooming and boundary transgressions unless such an agreement:
 - a) is the expressed wish and preference of the Complainant(s);
 - b) includes an opportunity for the Complainant(s) to decide to waive their own confidentiality in the future and the process for doing so;
 - c) aligns with the principles of the UCCMS;
 - d) is of a set and limited duration; and
 - e) does not adversely affect:
 - i. the health or safety of a third party, or
 - ii. the public interest
 9. Any NDA in a Complaint involving allegations of sexual Maltreatment, grooming and boundary transgressions must be reviewed and approved by the Mediator/Arbitrator. The Mediator/Arbitrator may, at their sole discretion, approve, reject, or propose amendments to an NDA.
 - a) Any decision by the Mediator/Arbitrator to approve, reject, or propose amendments to an NDA may not be appealed.

10. Should a negotiated settlement not be reached, the matter will proceed to arbitration.
11. At Sport NB's discretion, if a complaint is not accepted, the Case Manager may direct the Parties to informal conflict resolution resources outside of the complaint process. Engagement in this informal conflict resolution process is voluntary.

MINORS

1. Complaints may be brought by or against a Participant who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
2. Communication from the Case Manager, Mediator/Arbitrator or Appeal Arbitrator (as applicable) must be directed to the Minor's representative.
3. 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.
4. A Minor is not required to attend or participate in an oral hearing, if held, or participate in an investigation, if conducted. In such circumstances, no adverse inference can be drawn against the Minor.

INVESTIGATION

1. In exceptional circumstances where it is impossible to reasonably proceed without the benefit of an investigation, the Case Manager may order an investigation by an independent third-party investigator before proceeding to a hearing.
2. If an investigation by a third-party investigator is required, the Case Manager will appoint an investigator that is skilled in investigating cases that align with the nature of the allegations.
3. Provincial legislation related to workplace harassment may apply to the investigation if harassment was directed toward an employee in a workplace. The investigator should review workplace safety legislation, the PSO/MSO's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
4. The investigator must not be in a conflict-of-interest with the Parties and should have no prior involvement with the Complainant, Respondent, the PSO/MSO, or the NSO.
5. The appointed investigator will have discretion on the investigation approach and will be considered a neutral third-party with a mandate to seek the truth and make findings based on evidence collected through the investigation process.
6. While conducting the investigation, the investigator will follow current and accepted best practices for investigation, principles of fairness and natural justice, and any applicable provincial legislation.

7. The investigation may take any form as decided by the investigator, guided by any applicable provincial legislation. The investigation may include:
 - a) interviews with the Complainant;
 - 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; and
 - e) statement of facts (Respondent's perspective) prepared by investigator, acknowledged by the Respondent, and provided to the Complainant.
8. The investigator must also inform the Case Manager of any findings of criminal activity. The Case Manager 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 crime involving Minors, fraud against a PSO/MSO (as applicable), or other offences where the lack of reporting would bring Sport NB and/or the PSO/MSO into disrepute.
9. Upon completion of their investigation, the investigator shall prepare a report that will include a summary of evidence gathered from the Parties to the investigation, any witnesses interviewed, and documentary information. The investigator will identify the conduct standard considered, provide an analysis of the relevant information gathered and make findings based on the evidence gathered, including a rationale for the findings made. Findings by the investigator shall be based on a balance of probabilities.
10. All Parties are expected to cooperate fully in the investigation.
11. 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 Complainant and/or the Respondent refuse to participate in the review or third-party investigation process, the investigator may proceed based on the information made available to them by the Complainant and any witnesses interviewed/investigated as part of the process.
12. The Case Manager retains the discretion of whether to share the full investigation report with the Parties or a redacted version to protect the identity of witnesses. This decision may not be appealed.

PROVISIONAL MEASURES

1. If it is considered appropriate or necessary on the basis of the circumstances, the imposition of an immediate Provisional Measure or interim measures may be imposed against any Participant by a PSO/MSO to whom a Respondent belongs to, after which further discipline or sanctions

may be applied according to this policy.

2. The PSO/MSO may determine that an alleged incident is of such severity as to warrant the imposition of a Provisional Suspension of a Respondent pending completion of an investigation, criminal process, or the Med/Arb process.
3. The Case Manager, upon the receipt and acceptance of a complaint, may make non-binding recommendations to a PSO/MSO in the complaint summary regarding an immediate Provisional Measures for a Respondent who belongs to the PSO/MSO if no such restrictions have already been imposed by the PSO/MSO.
 - a) Any such recommendations are not subject to appeal.
 - b) A PSO/MSO is not required to follow the recommendations of the Case Manager regarding the implementation of Provisional Measures.
4. Any Respondent against whom a Provisional Suspension or interim measure is imposed may make a preliminary request to the Mediator/Arbitrator to have the Provisional Suspension or interim measure lifted. Provisional Suspensions or interim measures shall only be lifted or revised in circumstances where the Respondent establishes that it would be manifestly unfair to maintain the Provisional Suspension or interim measures against them.
5. Any decision not to lift a Provisional Suspension or interim measure shall not be subject to appeal.

HEARING PROCESS

1. The Case Manager will appoint a Mediator/Arbitrator from a roster maintained by Sport NB. Once appointed, the Mediator/Arbitrator will be the primary point of contact for the parties, unless otherwise indicated.
2. The complaint process will comply with the requirements of the NBSSCM Guidelines as set out under Section V.
 - a) The hearing will be governed by a process determined by the Mediator/Arbitrator, as they deem appropriate in the circumstances, provided that:
 - i. within five (5) working days of their appointment, the Mediator/Arbitrator shall contact the Complainant(s) and the Respondent(s) to initiate the process;
 - ii. all matters under this policy, including investigations, interviews, administrative meetings and hearings, may held virtually or in person;
 - iii. the process must commence within three (3) to five (5) working days from the Mediator/Arbitrator's first contact with the Parties, unless there are extenuating circumstances or scheduling considerations which reasonably delay the start of the

hearing;

- iv. the Mediator/Arbitrator will determine whether it is appropriate for the matter to proceed to mediation first. If the Mediator/Arbitrator does not believe that the matter should proceed to mediation or the any of the Parties refuse to go to mediation, the matter will move directly to arbitration;
- v. the Mediator/Arbitrator shall ensure that all parties are given the opportunity to present evidence in a manner which complies with the Rules of Natural Justice and Procedural Fairness;
- vi. if not a Party, 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 Mediator/Arbitrator, the relevant Member may make submissions at the hearing or may provide the Mediator/Arbitrator with clarifying information that may be required for the Mediator/Arbitrator to render its decision. Nothing is admissible in evidence at a hearing that would be inadmissible in a court by reason of any privilege under the law of evidence or is inadmissible by any statute²;
- vii. if the Mediator/Arbitrator grants a request from either party for additional time, the Mediator/Arbitrator has the authority to impose interim conditions;
- viii. the Parties must be given:
 - appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium, and
 - copies of any written documents which the Parties wish to have the Mediator/Arbitrator consider will be provided to all Parties, through the Case Manager, in advance of the hearing;
- ix. the Parties may engage a representative, advisor, or legal counsel at their own expense;
- x. if the Respondent acknowledges the facts of the incident(s), the Respondent may waive the hearing, in which case the Mediator/Arbitrator will determine the appropriate sanction. The Mediator/Arbitrator may still hold a hearing for the purpose of determining an appropriate sanction;
- xi. the process will proceed if a Party chooses not to participate in the hearing; and

² The purpose of this provision is not to provide the Member with the possibility to try to influence whether a sanction is imposed. Instead, this provision is intended to provide the Member with the possibility to provide the Mediator/Arbitrator with clarifying information in other circumstances, for example, including but not limited to, when 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 Mediator/Arbitrator imposing a sanction that is unenforceable.

- xii. the Mediator/Arbitrator may request that any other individual or organization participate and give evidence at the hearing, including a PSO/MSO, provided such participation is reasonably required to effectively conduct the proceedings and is not prejudicial to the interest of the Parties.
3. The Mediator/Arbitrator has the power to modify a Provisional Measure and relieve against non-compliance with time limits, or any other technicality or irregularity as set out in this policy.

DECISION

1. After hearing the matter, the Mediator/Arbitrator will determine whether an infraction has occurred and, if so, the sanctions to be imposed.
2. The Mediator/Arbitrator shall render a written decision, with reasons, within three (3) to five (5) working days of the conclusion of the hearing.
3. In extraordinary circumstances, the Mediator/Arbitrator 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.
4. The Mediator/Arbitrator may uphold or dismiss the complaint.
 - a) If the complaint is upheld, the Mediator/Arbitrator may impose any sanction deemed appropriate including, but not limited to, those referred to in the UCCMS, or other such measures that the Mediator/Arbitrator, at their sole discretion, deems appropriate in the circumstances.
 - b) If the Mediator/Arbitrator considers that an infraction has not occurred, the complaint will be dismissed.
5. The decision of the Mediator/Arbitrator is final and binding and is subject to appeal only on the terms of the Appeal section, set out below.
6. The Mediator/Arbitrator's decision will come into effect as of the date on which it is rendered, unless decided otherwise by the Mediator/Arbitrator. The Mediator/Arbitrator's decision will apply automatically to the Respondent.
7. The PSOs/MSOs whom the Participant belongs will be notified by email of decisions/sanctions imposed under the policy.
8. When the Mediator/Arbitrator imposes a sanction under Major, 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 the UCCMS or applicable conduct standard, 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 whether 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 Mediator/Arbitrator's decision.
9. If necessary, a Party or the organization that is responsible for implementing or monitoring a sanction may seek clarification from the Mediator/Arbitrator regarding the order so that it can be implemented or monitored appropriately.

MAJOR SANCTIONS

1. Prior to determining sanctions, the Mediator/Arbitrator will evaluate the sanctioning considerations as set out at Section 7.4 of the UCCMS.
2. Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.
3. The Mediator/Arbitrator may apply the disciplinary sanctions, singularly or in combination, as set out at Section 7.2 of the UCCMS, they deem appropriate.
4. The sanctions identified in the UCCMS are representative penalties only. They may be modified to fit the circumstances of the infraction.
5. Unless the Mediator/Arbitrator decides otherwise, any disciplinary sanctions (such as a period of ineligibility) will begin immediately and timelines will be provided for fulfillment of other sanctions, such as a written apology.
6. Failure to comply with a sanction as determined by the Mediator/Arbitrator will result in an automatic suspension until such time as compliance occurs.
7. A Participant's criminal conviction, at any time, for Criminal Code offenses considered to be Maltreatment or Prohibited Behaviour under the UCCMS, shall be automatically sanctioned, as identified under Section 6.2 of the UCCMS.
8. Findings of Maltreatment or Prohibited Behaviour as identified under Section 7.3 of the UCCMS carry presumptive sanctions which may be rebutted by a Respondent.

MINOR SANCTIONS

1. The following are examples of disciplinary sanctions of a Minor complaint which may be applied singularly or in combination:
 - a) verbal reprimand;
 - b) written reprimand to be placed in the Respondent's file with the PSO/MSO;
 - c) direction to provide a verbal apology;
 - d) team service or other voluntary contribution to the PSO/MSO or/and its Member Organization(s); and
 - e) any other appropriate sanctions as determined by Mediator/Arbitrator.

OTHER CONSIDERATIONS

1. The complaint process is confidential and involves only the Parties, Case Manager, the Mediator/Arbitrator, and any independent advisors engaged by the Case Manager or Mediator/Arbitrator. Once initiated and until a decision is released, none of the Parties (or their representatives or witnesses) will disclose confidential information relating to the appeal to any person not involved in the proceedings, unless a Party is required to notify an organization such as an international or national 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.
2. The Case Manager and PSO/MSO may be required to share relevant information with child protection authorities and law enforcement.
3. PSO/MSOs will keep and retain all relevant records in accordance with the applicable legislation. Such records will be stored in a confidential file maintained and accessed only by those that are authorized to have access to the confidential information.

PROCEDURAL VIOLATIONS

1. Participants are prohibited from:
 - a) intentionally making false reports, as set out in Section 5.12 of the UCCMS;
 - b) interfering or manipulating a process under the NBSSCM or this policy, as set out in Section 5.12 of the UCCMS; and
 - c) retaliating against anyone who makes a good faith complaint or appeal under the NBSSCM or this policy, as set out in Section 5.14 of the UCCMS.
2. If it is determined that a Participant committed any of the above violations, they will be subject to

disciplinary action, up to and including permanent ineligibility.

Appeal Section

APPEALS

1. This section relates to appeals within the jurisdiction of the NBSSCM.
2. It provides Participants with a fair and expedient appeal process that aligns with the requirements of the NBSSCM Guidelines.

SCOPE AND APPLICATION OF THE APPEAL SECTION

1. This Appeal section applies to all Participants and PSOs/MSOs that are members of Sport NB who are eligible to participate in the NBSSCM. Appeals may be submitted on two bases:
 - a) Any Participant or PSOs/MSOs who is directly affected by a final arbitral decision made by a Mediator/Arbitrator appointed under the NBSSCM Guidelines and the accompanying policies may appeal that final decision, if there are sufficient grounds for the appeal under the Grounds for Appeal as set out below.
 - b) Any Participant who is directly affected by a decision made by a PSO/MSO shall have the right to appeal that decision where there is an alleged failure of a PSO/MSO to follow its Constitution or by-laws or policies, if there are sufficient grounds for the appeal under the Grounds for Appeal as set out below.
2. This policy **will not apply** to decisions relating to:
 - a) employment;
 - b) infractions for doping offenses;
 - c) the rules of the sport;
 - d) selection criteria, quotas, policies, and procedures established by entities other than a PSO/MSO;
 - e) substance, content and establishment of team selection or carding criteria;
 - f) volunteer/coach appointments and the withdrawal or termination of those appointments;
 - g) budgeting and budget implementation;
 - h) a PSO/MSO's operational structure and committee appointments;
 - i) decisions or discipline arising within the business, activities, or events organized by entities other than a PSO/MSO;

- j) commercial matters for which another Appeal process exists under a contract or applicable law; or
- k) decisions made under the Appeal section of this policy.

DESIGNATED APPEAL MANAGER

1. An Appeal Manager will be appointed by the ITP to oversee the Appeal process as set out in the policy.
2. The Appeal Manager must not be in a conflict of interest or have any direct relationship with the Parties, including any past involvement in any capacity in the matter under appeal.

TIMING OF APPEAL

1. Participants who wish to Appeal a final decision have fourteen (14) working days, from the date on which they received notice of the final decision under Appeal, to submit the following, in writing, through the designated reporting mechanism:
 - a) notice of the intention to Appeal;
 - b) their contact information;
 - c) name and contact information of the Respondent and any Affected Parties, when known to the Appellant;
 - d) date the Appellant was advised of the decision being appealed;
 - e) a copy of the decision being appealed, or description of decision, if written document is not available;
 - f) grounds for the Appeal;
 - g) detailed reasons for the Appeal;
 - h) all evidence that supports these grounds; and
 - i) requested remedy or remedies.
2. A Participant who wishes to initiate an Appeal beyond the fourteen (14) working day period must provide a written request stating the reasons for an exemption. The decision to allow, or not allow an Appeal outside of the fourteen (14) working day period will be at the sole discretion of the Appeal Manager and may not be appealed.

GROUNDS FOR APPEAL

1. A decision cannot be appealed on its merits alone. An Appeal may only be heard if there are sufficient grounds for Appeal. Sufficient grounds include that the PSO/MSO or the Mediator/Arbitrator:
 - a) made a decision that it did not have the authority or jurisdiction (as set out in the applicable governing documents) to make;
 - b) failed to follow its own procedures (as set out in the applicable governing documents, including the NBSSCM Guidelines);
 - c) made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views); or
 - d) made a decision that was unreasonable.

SCREENING OF APPEAL

1. The Appeal Manager has the following responsibilities:
 - a) to determine if the Appeal falls under the scope of the Appeal section;
 - b) to determine if the Appeal was submitted in a timely manner;
 - c) to decide whether there are sufficient grounds for the Appeal.
2. In the case of an Appeal based on the alleged failure of a PSO/MSO to follow its Constitution, by-laws, or policies, the Appeal Manager must determine if the Appellant has exhausted all internal dispute resolution procedures provided by the policies of the PSO/MSO.
3. A PSO/MSO internal dispute resolution procedure is deemed exhausted when:
 - a) the PSO/MSO or its internal Appeal process has rendered a final decision;
 - b) the PSO/MSO has failed to apply its internal Appeal policy within reasonable time limits or on reasonable grounds; or
 - c) the PSO/MSO has waived the requirement to exhaust its internal Appeal process.
4. If the Appeal Manager denies the Appeal because of insufficient grounds or it was not submitted in a timely manner, or because it did not fall under the scope of this policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
5. If the Appeal Manager is satisfied there are sufficient grounds for an Appeal, the Appeal Manager will appoint a single Appeal Arbitrator to hear the Appeal.

DETERMINATION OF AFFECTED PARTIES

1. To confirm the identification of any Affected Parties, the Appeal Manager will engage the PSO/MSO.
2. The Appeal Manager may determine whether a Participant or PSO/MSO is an Affected Party, in their sole discretion.

PROCEDURE FOR APPEAL HEARING

1. The Appeal Manager shall notify the Parties that the Appeal will be heard.
2. The Appeal Arbitrator shall then decide the format under which the Appeal will be heard. This decision is at the sole discretion of the Appeal Arbitrator and may not be appealed.
3. If a Party chooses not to participate in the hearing, the hearing will proceed.
4. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Appeal Manager and the Appeal Arbitrator deem appropriate in the circumstances. The following guidelines will apply to the hearing:
 - a) The hearing will be held within a timeline determined by the Appeal Arbitrator.
 - b) The Parties will be given reasonable notice of the day, time, and place of an oral, in-person hearing or oral hearing by telephone or electronic communications.
 - c) Copies of any written documents which any of the Parties wish to have the Appeal Arbitrator consider will be provided to all Parties in advance of the hearing.
 - d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense.
 - e) The Appeal Arbitrator may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
 - f) The Appeal Arbitrator may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the Appeal but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate.
 - g) If a decision in the Appeal may affect another Party to the extent that the other Party would have recourse to an Appeal in their own right, that Party will become an Affected Party to the Appeal in question and will be bound by its outcome.
5. In fulfilling its duties, the Appeal Arbitrator may obtain independent advice.

MED/ARB PROCESS

1. The Appeal Manager, if appropriate, may confirm whether the Parties wish to proceed under a Med/Arb process.
2. The Parties may agree, in writing, to proceed under the Med/Arb process as set out above, to attempt to resolve the Appeal.
3. The Appeal Arbitrator will determine the appropriate steps to follow under the Med/Arb process. This process must respect the rights of the Parties and comply with the principles of natural justice and procedural fairness.

APPEAL DECISION

1. The Appellant must demonstrate, on a balance of probabilities, that the PSO/MSO or the Mediator/Arbitrator, as applicable, made an error as described in the Grounds for Appeal section of this policy and that this error had a material effect on the decision or decision-maker.
2. The Appeal Arbitrator shall issue its decision, in writing and with reasons, within fourteen (14) working days after the hearing's conclusion. In making its decision, the Appeal Arbitrator will have no greater authority than that of the original decision-maker. The Appeal Arbitrator may decide to:
 - a) reject the Appeal and confirm the decision being appealed;
 - b) uphold the Appeal and refer the matter back to the initial decision-maker for a new decision;
or
 - c) uphold the appeal and vary the decision.
3. In extraordinary circumstances, the Appeal Arbitrator may also determine whether costs of the Appeal will be assessed against any Party. In assessing costs, the Appeal Arbitrator will consider the outcome of the Appeal, the conduct of the Parties, and the Parties' respective financial resources.
4. The Appeal Arbitrator's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and the PSO/MSO, as applicable.
5. In extraordinary circumstances, the Appeal Arbitrator may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter.

TIMELINES

1. If the circumstances of the Appeal are such that adhering to the timelines outlined by this policy will not allow a timely resolution to the Appeal, the Appeal Manager and/or Appeal Arbitrator may direct that these timelines be revised.

CONFIDENTIALITY

1. The Appeal process is confidential and involves only the Parties, the PSO/MSO, the Appeal Manager, the Appeal Arbitrator, and any independent advisors to the Appeal Arbitrator. Once initiated and until a final Appeal decision is released, none of the Parties (or their representatives or witnesses) will disclose confidential information relating to the Appeal to any person not involved in the proceedings, unless the PSO/MSO is required to notify an organization such as an international federation, Sport Canada or other sport organization or notification is otherwise required by law.
2. None of the Parties (or their representatives or witnesses) or organizations referred to in Section L.1 will disclose confidential information relating to the Appeal to any person not involved in the proceedings, unless the PSO/MSO is required to notify an organization such as an NSO or other sport organization, or notification is otherwise required by law.
3. Any failure to respect the confidentiality requirement may result in further sanctions or discipline by the Appeal Arbitrator.

APPENDIX A – REPORTING MECHANISM

All complaints and Appeals must be reported by using the online form, accessible 24 hours a day, every day: <https://app.integritycounts.ca/org/itpsport>

For individuals who would like to report a complaint via phone, please email nlaird@itpsport.ca with the subject heading: Sport NB – Complaint Phone Submission. In your email, please indicate preferred days, times and language for a case manager to do a phone intake.