

<i>Policy Name</i>	<i>Date of Approval</i>	<i>Activation Date</i>
COMPLAINTS AND DISCIPLINE POLICY AND PROCEDURES	03/30/2019	05/01/2019
<i>Approved By</i> Gymnastics Newfoundland & Labrador Board of Directors	<i>Linking To</i> 1. National Safe Sport Policy 2. Code of Ethics and Conduct Policy 3. Abuse, Maltreatment, and Discrimination Policy	
<i>Review Cycle</i> Reviewed annually by the Executive Director with recommendations to the Board of Directors		

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1. Introduction

The Gymnastics Newfoundland & Labrador *Complaints and Discipline Policy and Procedures* outlines the support offered by the association, and the procedures involved for investigating and resolving reported contraventions of the Gymnastics Newfoundland & Labrador *Code of Ethics and Conduct Policy* as well as remedying situations where such contraventions occur.

2. Linking Code of Ethics and Conduct to Complaints and Discipline

Compliance with the Gymnastics Newfoundland & Labrador *Code of Ethics and Conduct Policy* and the *Abuse, Maltreatment, and Discipline Policy* is expected of all individuals within the Policy scope as set out under section 3 below. Compliance with the various Codes of Conduct depends primarily on each individual's awareness and understanding of the behavioural standards expected from all gymnastics participants. Compliance is also reinforced by peer groups, the policy alignment of clubs and Member Associations, and when necessary, upon enforcement through this *Complaint and Discipline Policy and Procedures*.

Any person who believes that an individual or member within the Policy scope has failed to meet their obligations under the *Code of Ethics and Conduct Policy*, or has demonstrated behaviour that is prohibited under the *Abuse, Maltreatment, and Discrimination Policy*, is strongly encouraged to follow the reporting procedures outlined in this *Complaints and Discipline Policy and Procedures*. Failure to comply with the *Code of Ethics and Conduct Policy* and/or the *Abuse, Maltreatment, and Discipline 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.

3. Scope of Policy

3.1 Policy Application

Gymnastics Newfoundland & Labrador's *Complaints and Discipline Policy and Procedures* applies to all persons and members listed below:

- a. All full-time and part-time employees (permanent, temporary, or fixed-term) of Gymnastics Newfoundland & Labrador and all consultants, contractors, and other service providers who may provide services to Gymnastics Newfoundland & Labrador;
- b. Members of the Gymnastics Newfoundland & Labrador Board of Directors and committees;
- c. Athletes, coaches, managers, integrated support team members, judges and technical observers participating in Gymnastics Newfoundland & Labrador competitions, training camps, tryouts, programs, and activities;
- d. Parents, guardians, and spectators observing Gymnastics Newfoundland & Labrador training and competitions;

- e. All members of Gymnastics Newfoundland & Labrador;
- f. Coach developers;
- g. Volunteers at events owned or hosted by Gymnastics Newfoundland & Labrador;
- h. Volunteers appointed to accompany teams to events, training camps, competitions, or other activities;
- i. Affiliate organizations, international guests, and members of visiting delegations; and
- j. Members of the public whose behaviour is directed at the persons and members listed above and occurs at any Gymnastics Newfoundland & Labrador competitions, training camps, tryouts, programs, events (including social events), or other activities.

3.2 The Multi-Jurisdictional Structure of Gymnastics in Canada

Gymnastics Newfoundland & Labrador works within a multi-jurisdictional sport structure with member provincial and territorial associations having their own Conduct and Discipline policies. Many gymnastics clubs belonging to the provincial and territorial member associations have also developed their own codes of conduct and expectations for participants, members, coaches, parents, and volunteers, among others. Gymnastics Newfoundland & Labrador encourages member associations and clubs to manage allegations of misconduct and complaints occurring in the programs and activities in their jurisdiction. However, Gymnastics Newfoundland & Labrador must be informed of any serious complaints received by a member association or club in order to maintain appropriate records and offer assistance, support, and/or escalate the complaint, if needed.

Where there is a question of jurisdiction, the Gymnastics Newfoundland & Labrador Board of Directors shall determine which jurisdiction shall address the alleged misconduct. The Board of Directors may seek legal counsel prior to making this determination.

4. Definitions

4.1 Registered Participants

Each member association registers individual athletes, coaches, judges, volunteers, and other classes of members from within the applicable provincial or territorial association with Gymnastics Newfoundland & Labrador on an annual basis. These individuals are referred to as “registered participants”. A “minor registered participant” refers to a registered participant under the age of majority in the selected province or territory.

4.2 Complainant

The individual(s) alleging an infraction or contravention of any of the applicable policies and/or standards of conduct. This includes any individual acting on behalf of a registered participant, namely in the case of minors.

4.3 Respondent

The individual(s) alleged to have engaged in misconduct.

4.4 Case Manager

An individual appointed by Gymnastics Newfoundland & Labrador to receive, advise, investigate, and/or direct certain complaints under this Policy. The Case Manager should be a disinterested and neutral individual and must not be a member of Gymnastics Newfoundland & Labrador.

5. Reporting of Complaints to Gymnastics Newfoundland & Labrador

Every individual covered by this Policy has a responsibility to help promote a Safe Sport environment. This means not engaging in, allowing, condoning, or ignoring behaviour that violates the *Code of Ethics and Conduct Policy* or the *Abuse, Maltreatment, and Discrimination Policy*. Every individual has a responsibility to support this program by taking measures to report incidents of misconduct.

Failure to report a violation of the law or this Policy is in itself a violation of this Policy and may result in disciplinary action.

A formal complaint may be initiated by Gymnastics Newfoundland & Labrador, any current or former registered participant of Gymnastics Newfoundland & Labrador, and/or in the case of minors, any individual acting on behalf of the registered participant. A former registered participant must have been a registered participant at the time of the misconduct occurrence. Gymnastics Newfoundland & Labrador may have an obligation to investigate misconduct once becoming aware of an incident, even without a formal complaint.

Persons holding a position of trust or authority in a Gymnastics Newfoundland & Labrador 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 have been made aware.

If an individual files a complaint on behalf of a minor registered participant, the individual also has the right to receive notices on behalf of the Complainant and be present at all dealings with the Complainant. In the event that the individual filing a complaint on behalf of the minor registered participant is not the participant's parent or legal guardian, the participant's parent or legal guardian must be informed and kept apprised of all matters at all stages in the process.

Complaints must be made by the Complainant or, particularly in the case of minors, an individual acting on behalf of the minor registered participant. While Gymnastics Newfoundland & Labrador encourages that complaints be made in writing, a complaint can also be made verbally to the Director, Safe Sport or the Executive Director.

All written infractions must be reported through Gymnastics Newfoundland & Labrador using the *Complaint Form*, if possible, and filed to the address noted on the form and online on the Gymnastics Newfoundland & Labrador website. Additional attachments may be filed at the same time as the *Complaint Form*, if applicable.

An individual who files a complaint, i.e., the Complainant, has the following responsibilities:

- To report the incident(s) as soon as possible, especially if their safety and/or the safety of others is at risk.
- 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.
- To cooperate fully in the investigation and resolution of any concerns, incidents, and complaints.
- To uphold the strict confidentiality of all individuals involved in the matter and only discuss the matter to the extent which is necessary, e.g. with their legal counsel or representative, as is necessary to obtain advice with respect to any legal issues, or as directed by Gymnastics Newfoundland & Labrador, for the purposes of investigating or taking corrective action with respect to the incident or complaint, or as otherwise required by law.
- To refrain from knowingly submitting a false, malicious, vexatious, or spurious report of misconduct or complaint to Gymnastics Newfoundland & Labrador; any individual found to have made a mischievous, intentionally false, or malicious complaint will render themselves liable to disciplinary action.

An individual who makes a complaint has the right to obtain a fair and timely investigation of the complaint without fear of retaliation and to be represented by another (uninvolved) individual of their choice, including legal counsel, at any stage in the process.

Gymnastics Newfoundland & Labrador will also accept reports from Complainants who wish to remain anonymous, but it may not be possible for Gymnastics Newfoundland & Labrador, in such an event, to conduct an appropriate investigation and/or adequately address and remedy the situation.

6. Reporting and Handling Minor Infractions

Minor infractions are a single incidence of behaviour resulting in a breach of the expected standards of conduct that generally does not have the potential to result in significant harm to others.

Examples of minor infractions include, but are not limited to:

- a. a single instance of disrespectful comments or behaviour directed towards others;
- b. a single instance of unsportsmanlike conduct;

- c. a single instance of a team member or support staff member breaking team rules that do not constitute a major infraction;
- d. conduct contrary to the values of Gymnastics Newfoundland & Labrador;
- e. minor violations of Gymnastics Newfoundland & Labrador's *Code of Ethics and Conduct*; or
- f. a single instance of non-compliance with the policies, procedures, rules, or regulations of Gymnastics Newfoundland & Labrador.

The definition of a minor infraction excludes *any* instance of abuse, harassment, or discrimination as outlined in the Gymnastics Newfoundland & Labrador *Abuse, Maltreatment, and Discrimination Policy*. Such an allegation is automatically considered a major infraction (see section 6 below). Note however that a single incidence of the behaviour describe above, in the event it has a lasting harmful effect on a person or a group of people, may also constitute a major infraction.

6.1 Procedures to Resolve Minor Infractions

6.1.1 Minor Infraction Outside of Competitions

Procedures for dealing with minor infractions outside of competitions shall be determined at the discretion of the person responsible for the program or activity during which the infraction occurred. Such minor infractions must be addressed as soon as possible.

6.1.2 Minor Infractions during a Competition Time-Period

Minor infractions that occur within a competition time-period will be dealt with immediately by the appropriate Gymnastics Newfoundland & Labrador person having authority over the event, activity, or team in question. The competition time-period starts with travel to the competition and ends with the conclusion of travel from a competition.

Misconduct that occurs during a competition and results in disciplinary action will be reported to Gymnastics Newfoundland & Labrador as soon as possible, but no later than 2 days after the competition, by the Head of Delegation/Program Manager, using the Gymnastics Newfoundland & Labrador *Incident Report Form*.

6.1.3 Disciplinary Procedures for a Minor Infraction

A disciplinary meeting with the individual accused shall be held as soon as reasonably possible and arranged by the designated person of authority. The disciplinary meeting may take place in person, by phone, or other electronic means, such as videoconferencing.

Prior to the disciplinary meeting, the individual accused of the minor infraction, i.e. the respondent, must:

- a. be informed in a timely manner once a complaint has been made;

- b. cooperate fully in the investigation and resolution of any concerns, incidents, and complaints;
- c. refrain from any form of reprisal against anyone involved in the investigation;
- d. be provided with a written summary of the allegation(s), including the nature of the infraction and the specific clause within the *Code of Ethics and Conduct Policy* that has allegedly been contravened;
- e. 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;
- f. 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
- g. 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.

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 person of authority 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 person of authority must inform the parties, in writing, of the results of the investigation and of any corrective action that will be taken as a result of the investigation.

6.2 Disciplinary Measures for Minor Infractions

The following conduct sanctions may be applied, individually or in combination, for minor infractions:

- a. verbal reprimand;
- b. written reprimand to be placed in the individual's file;
- c. verbal apology to recipient(s) of infraction and/or Gymnastics Newfoundland & Labrador;
- d. hand-delivered written apology to recipient(s) of infraction and/or Gymnastics Newfoundland & Labrador;
- e. suspension from current or upcoming competitions;
- f. other penalties as may be considered appropriate for the offence.

7. Reporting and Handling Major Infractions

Major infractions are instances of misconduct that result or have the potential to result in harm to other persons, to Gymnastics Newfoundland & Labrador or its reputation, and/or to the sport of gymnastics. Examples of major infractions include, but are not limited to:

- a. Repeated minor infractions;
- b. Behaviour that constitutes abuse of any kind, harassment (including psychological harassment), discrimination, or other serious misconduct;
- c. Major incidents of violence (e.g., fighting, attacking);
- d. Pranks, jokes, or other activities that endanger the safety and well-being of others;
- e. Major or repeated violations of Gymnastics Newfoundland & Labrador's *Code of Ethics and Conduct Policy*;
- f. Any violations of Gymnastics Newfoundland & Labrador's *Abuse, Maltreatment, and Discrimination Policy*;
- g. Conduct that interferes with a competition or with any athlete's preparation for a competition;
- h. Consistent or deliberate disregard for the policies, procedures, rules or regulations of Gymnastics Newfoundland & Labrador and/or the rules of the Fédération Internationale de Gymnastique (FIG);
- i. Intentional damage to Gymnastics Newfoundland & Labrador's property or improper handling of Gymnastics Newfoundland & Labrador's finances;
- j. Conduct that intentionally damages the image, credibility, or reputation of Gymnastics Newfoundland & Labrador, including actions taken despite a clear conflict of interest;
- k. Excessive use of alcohol, any use of alcohol or cannabis by minors, use of illicit drugs and narcotics, or use of banned performance enhancing drugs or methods; and
- l. A conviction for any offence under the *Criminal Code*, R.S.C., 1985, c. C-46.

Major infractions will be reviewed, investigated, and decided using the disciplinary procedures set out in this Policy. Allegations of a major infraction should be reported as soon as possible after the alleged misconduct has occurred. Historical reports of major infractions may also be reported to Gymnastics Newfoundland & Labrador.

7.1 A Minor Filing or Responding to a Complaint

If the Complainant or Respondent is a minor registered participant, the Case Manager 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:

- a. providing assistance with filing or responding to the Complaint;
- b. receiving all notices and correspondence on behalf of the Complainant or Respondent; and
- c. being present at all dealings with the Complainant or Respondent, at all stages in the process.

The “Responsible Adult” should be 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”, but the parent or legal guardian must always be aware and kept apprised of the filing and proceedings at all stages of the process.

7.2 Reviewing Complaints of Major Infractions

The designated recipient at Gymnastics Newfoundland & Labrador will receive the *Complaint Form* and any attachments submitted, and review the content 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.

If the Executive Director is named as a party to the complaint, or is in conflict of interest due to his or her relationship with the Complainant or Respondent, another senior staff member will be designated by the Gymnastics Newfoundland & Labrador Chair to fulfill and assume the Executive Director’s responsibilities within the process.

7.3 Suspension of Activity While Complaint is Under Review

The Executive Director, on behalf of Gymnastics Newfoundland & Labrador, may determine that an allegation is sufficiently serious to warrant a provisional suspension of the responding registered participant, pending investigation of the complaint. In addition to the Case Manager, 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.

7.4 Major Infraction Occurring During a Competition

If a major infraction is alleged to have occurred during a competition by an athlete or member of the team personnel, that individual may similarly be provisionally suspended or removed from the competition at the discretion of the Executive Director, Head of Delegation, or other designated person of Gymnastics Newfoundland & Labrador. The individual may also be sent back to their home residence. The complaint process will then proceed as outlined in this Policy.

7.5 Case Manager Investigation and Report

Upon review by the designated recipient at Gymnastics Newfoundland & Labrador, the completed *Complaint Form* and any attachments are forwarded directly to the external Case Manager for review. The external Case Manager is an individual with expertise in athlete welfare and protection who volunteers or is contracted by Gymnastics Newfoundland & Labrador to independently review the complaint, investigate the allegations, and report findings and conclusions.

The Case Manager will proceed as follows:

- a. review the complaint and determine whether the documented concerns must be reported to the relevant law enforcement authorities, if not yet contacted;
- b. contact the person who filed the Complaint (now called the Complainant), 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;
- c. contact the person(s) against whom the complaint has been filed (now called the Respondent), provide them with a copy of the *Complaint and Discipline Policies and Procedures* 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 Case Manager 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;
- d. conduct the investigation in a timely manner; wherever possible, commence investigating within five (5) days of receipt of the formal complaint and complete the investigation within one month (unless not reasonably possible in the circumstances)*;
- e. advise both the Complainant and the Respondent of their right to be represented or accompanied throughout the process by another individual of their choice, including legal counsel;
- f. 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.
- g. 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;
- h. keep both the Complainant and the Respondent informed as the investigation progresses;
- i. review the interviews, document any inconsistencies, and compile a Case Manager Report taking into consideration all of the information made available by all parties, including information discovered in the course of an external investigation that may have taken place; and
- j. make any recommendations and forward the report to the Executive Director for review and discussion.

7.6 Refusal to Participate in the Investigation

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 Case Manager shall nonetheless proceed based on the information made available to them by the Complainant and any witnesses interviewed as part of the process.

*In cases of sufficiently serious alleged misconduct, wherein the GymCan Harassment Officer or an 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.

7.7 Notification to the Respondent's Member Association

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 Case Manager's Report by Gymnastics Newfoundland & Labrador, in order to uphold confidentiality, unless required for the purposes of investigating the matter, taking corrective action, or as otherwise required by law.

7.8 External Investigation

For complaints of abuse, harassment, or any other serious complaint thought to require the involvement and expertise of a third-party investigator, Gymnastics Newfoundland & Labrador will engage a qualified external expert to investigate the circumstances of the complaint. The investigator's findings will be made available to the Case Manager for inclusion in the Case Manager's Report, and if appropriate, will be shared with the police and other law enforcement officials.

7.9 Filing a Complaint with External Bodies

A number of government agencies have been established to prevent and redress discrimination, harassment, and violence. 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 government body, from any human rights commission or tribunal, or any court.

7.10 Case Manager's Report

7.10.1 Timing of the Case Manager's Report

The Case Manager will work quickly to collect all pertinent information from the Complainant, the Respondent, any pertinent witnesses, and external investigators (if applicable) to produce the Case Manager's Report summarizing the findings, conclusions, and recommendations.

7.10.2 Case Manager Recommendations

Once the investigation is completed, the Case Manager will determine whether the acts complained of are substantiated. The Case Manager's Report will make one of four recommendations:

1. the complaint should be dismissed as it is unsubstantiated, trivial, or vexatious; or
2. the complaint does not fall within the jurisdiction of this Policy, and it should be referred to the appropriate body having jurisdiction, e.g., the member association or local club; or
3. the complaint should be dealt with as a minor infraction and referred to the appropriate person of authority as per section 5 of this Policy; or

4. the complaint should be referred to a Discipline Committee as per section 10 of this Policy for Gymnastics Newfoundland & Labrador to take appropriate disciplinary and corrective action.

Where a concern, incident, or complaint is not substantiated, there will be no repercussions against the Complainant as long as the complaint was made in good faith.

7.10.3 Report Submission

The Report is submitted to the Gymnastics Newfoundland & Labrador Executive Director who will inform the Complainant and Respondent in writing of the results of the investigation and of the recommendations set out in the Case Manager's Report. Depending on the recommendations found in the Case Manager's Report, the Executive Director may convene a Discipline Committee under section 10 of this Policy for appropriate disciplinary and corrective action to be taken.

8. Responsibility for the Costs of Filing and Dealing with Complaints

8.1 Complainant Responsibilities Regarding Costs

The Complainant shall be responsible for all costs associated with the filing of a complaint or an appeal, any communications with the Case Manager, travel and accommodation to attend a disciplinary hearing or an appeal hearing, as well as those costs associated with any legal or any other type of representation.

8.2 Respondent Responsibilities Regarding Costs

The Respondent shall be responsible for all costs associated with the filing of a response to a complaint or an appeal, any communications with the Case Manager, travel and accommodation to attend a disciplinary hearing or an appeal hearing, as well as those costs associated with any legal or any other type of representation.

8.3 Gymnastics Newfoundland & Labrador Responsibilities Regarding Costs

Gymnastics Newfoundland & Labrador shall be responsible for the costs associated with the administration of the process including the costs of an external investigation, the hosting of the electronic or in-person disciplinary hearing or appeal hearing, as well any travel or accommodation costs for the Discipline or Appeal Committee members, Gymnastics Newfoundland & Labrador staff support, or Gymnastics Newfoundland & Labrador legal representation.

9. Illegal Activity/ Criminal Charges and Offenses

9.1 Illegal Activity to be Reported

If Gymnastics Newfoundland & Labrador receives a complaint that involves allegations that may be of an illegal nature, such allegations will immediately be reported to the appropriate law enforcement and/or child welfare authorities. In that event, Gymnastics Newfoundland & Labrador will cooperate fully with, and take direction from, the authority with which jurisdiction over the allegations resides.

9.2 Individual Charged with or Convicted of a Criminal Offence

If any person under the scope of this Policy is charged with or convicted of a criminal offence, the Executive Director may provisionally suspend that person, pending the resolution of the criminal charges and any subsequent investigation by Gymnastics Newfoundland & Labrador. A suspension revokes all participation privileges for the duration of time stated in the suspension order.

The Executive Director will forward all information in Gymnastics Newfoundland & Labrador's hands regarding the charge or conviction, as well as any suspension order to the complaint Case Manager, at which time the Case Manager will follow the process of building a Case Report and, if applicable, make any recommendations to the Discipline Committee. If appropriate, such information will also be shared with the appropriate law enforcement authorities.

10. The Discipline and Appeal Panel

Gymnastics Newfoundland & Labrador will maintain a Discipline and Appeal Panel roster of 10 to 15 qualified individuals from across the country, from which a Discipline or Appeal Committee of three will be struck when required, depending on the circumstances of each case.

The Committee must be able to fully function in the selected official language of both the Complainant and the Respondent. Where the Complainant and the Respondent do not speak the same official language, the Committee must be bilingual.

No current member of the Gymnastics Newfoundland & Labrador Board of Directors, committees, or current Director of a Gymnastics Newfoundland & Labrador Member or Club can be on the Discipline and Appeal Panel. Current staff members or contractors are also restricted from sitting on the Discipline and Appeal Panel.

11. Discipline Committee and Procedures

11.1 Discipline Committee

The Discipline Committee is convened by the Executive Director from the Discipline and Appeal Panel roster per section 9 above.

The composition of the Discipline Committee shall be as follows:

- a. Three persons will be appointed, of which one is named as Chair, and one as committee secretary;
- b. the Chair shall not be a registered participant of Gymnastics Newfoundland & Labrador;
- c. No more than one of the remaining two committee members may be a registered participant of Gymnastics Newfoundland & Labrador.

In making the appointments, every attempt will be made to ensure the following:

- a. that no association exists between the Complainant or the Respondent and a Discipline Committee member, either actual or apparent;
- b. that no Discipline Committee member has been involved in any preliminary stage of the complaint;
- c. that no Discipline Committee 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"*);
- d. that the Discipline Committee members speak the official language selected for the hearing; and
- e. that there is appropriate gender representation amongst the members of the Discipline Committee.

11.2 Proceedings for Discipline Committee Hearings

The Committee Chair will be responsible for all communications with the Complainant and Respondent regarding the discipline hearing and decisions made.

11.2.1 Timing of the Discipline Hearing

The discipline hearing will be called by the Committee Chair on a timely basis, but no later than 15 days after the Discipline Committee is convened.

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 15 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 Committee Chair may extend the timelines.

11.2.2 Principles for the Hearings of the Discipline Committee

The Committee shall be empowered to conduct the hearing in accordance with this Policy.

- a. Prior to the commencement of the hearing, the Chair shall inform the participants of their language rights. In the event a bilingual hearing is required, the Discipline Committee

members must be able to speak both official languages. The parties and the witnesses may be able to address the committee and testify in the official language of their choice.

- b. 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 the 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;
 - vii. Both parties have the right to receive a written decision following the hearing.

11.2.3 Use of the Case Manager’s Report

The original complaint, the submissions by the Complainant and Respondent, and the Case Manager’s Report will form the written documentation submitted to the Discipline Committee. All members of the Discipline Committee must receive the documentation at least 12 days prior to the discipline hearing.

11.2.4 Discipline Hearing Procedures

The Disciplinary Committee may choose to meet in person or via videoconferencing, but if the meeting takes place through videoconference, all Committee members, the Complainant, the Respondent and all attending witnesses must have two-way audio contact with all other persons attending the meeting.

- a. All participants must have in their possession copies of all written materials;
- b. 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;
- c. 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 Committee Members may similarly cross-examine or request any information from either party or any registered participant of Gymnastics Newfoundland & Labrador;
- d. A minor Complainant, Respondent, or witness can only be questioned at a discipline hearing if a “Responsible Adult” is also present on their behalf;
- e. The Committee will then deliberate to reach a decision and make its decision on the basis of the written and verbal evidence presented at the Hearing;
- f. The Committee shall provide written reasons for its decision, which reasons shall be delivered within 15 days, via email, to each party and the Executive Director of Gymnastics Newfoundland & Labrador;

- g. Notwithstanding subsection f), the Committee may render a verbal decision immediately at the hearing provided that a written decision is delivered following the hearing in accordance with subsection f);
- h. The date on which the Committee sends the written decision via email to the parties shall be deemed to be the date on which the decision was rendered;
- i. The Committee, on its own discretion, may grant monetary relief to either party in the form of expenses (limited to documented travel costs);
- j. Any Member or Registered Participant shall be entitled to obtain a copy of the decision rendered, unless the Committee considers the matter to be sensitive or confidential in nature.

11.3 Powers of the Discipline Committee

The Discipline Committee 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:

- a. verbal or written reprimand placed on the Respondent's file;
- b. verbal or written apology to be issued to all affected parties;
- c. removal of certain privileges of registration or contracting with Gymnastics Newfoundland & Labrador;
- d. participation in behavioural counselling, education, training, or other similar activities;
- e. suspension from certain events, including suspension from current or future competitions;
- f. suspension from certain Gymnastics Newfoundland & Labrador activities such as competing, coaching, or officiating for a designated period of time;
- g. removal and discontinuance of Gymnastics Newfoundland & Labrador, SportNL or Sport Canada funding;
- h. suspension from all Gymnastics Newfoundland & Labrador activities for a designated period of time;
- i. expulsion from membership; and/or
- j. publication of the disciplinary sanction.

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.

11.4 Discipline Material

After completion of its duties, the Discipline Committee will turn over all copies of the documentation from the discipline hearing, including a copy of the complaint and details about the incident, the Case Manager'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 Committee members during the Hearing, and a copy of the decision and any corrective action taken to address

the complaint, to Gymnastics Newfoundland & Labrador, for safe-keeping in a secure location for a minimum of 10 years.

After 10 years, only the Case Manager's Report and the decision will be kept in perpetuity.

12.0 Appeal Committee and Process

12.1 Submission of Appeals

A Complainant or Respondent may file an Appeal of the Discipline Committee decision only in accordance with this Policy.

The Appeal must be filed in writing within 15 days from the date the Discipline Committee sends its decision by email to the Complainant and Respondent. The Appeal must be submitted using the *Appeal Submission Form* along the following lines:

12.1.1 Appeal by a Respondent

The Respondent may appeal any disciplinary decision if the decision:

- a. will limit or remove the Respondent access to program or committee activities;
- b. will suspend or expel the Respondent from registered participant status; or
- c. if the complaint process did not properly follow the procedures set out in this Policy.

12.1.2 Appeal by a Complainant

A Complainant may similarly appeal a Discipline Committee decision if the complaint process did not properly follow the procedures set out in this Policy.

The Complainant does NOT have grounds to file an appeal if the complaint was not upheld, or if a complaint was upheld but the Complainant nonetheless disagrees with the type of disciplinary action taken against the Respondent.

12.2 The Appeal Committee

The Appeal Committee is convened by the Executive Director from the Discipline and Appeal Panel roster per section 9 of this Policy.

The composition of the Appeal Committee shall be as follows:

- a. three persons will be appointed, of which one is named as Chair, and one as committee secretary;
- b. the Chair shall not be a Registered Participant of Gymnastics Newfoundland & Labrador; and

- c. no more than one of the remaining two committee members may be a Registered Participant of Gymnastics Newfoundland & Labrador.

In making the appointments, every attempt will be made to ensure the following:

- a. that no association exists between the Complainant or the Respondent and an Appeal Committee member, either actual or apparent;
- b. that no Appeal Committee member has been involved in any preliminary stage of the complaint;
- c. that no member of the Appeal Committee sat on the Disciplinary Committee for the complaint;
- d. that no Committee 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"*);
- e. that the Appeal Committee members speak the official language selected for the hearing; and
- f. that there is appropriate gender representation amongst the members of the Appeal Committee.

12.3 Validating the Grounds for Appeal

The Appeal Committee Chair will first review the written appeal submission and, in his or her own discretion, determine if there are sufficient grounds for appeal. In the event there are sufficient grounds, the Appeal Hearing process will be initiated.

Any Appeal by the Respondent based on disciplinary action taken against them will automatically be referred to an Appeal Hearing without the need for the Appeal Committee Chair to review the appeal submission.

12.4 Proceedings for Appeal Hearings

12.4.1 Timing of the Appeal Hearing

The Appeal Hearing will be called by the Appeal Committee Chair on a timely basis, but no later than 15 days after the Appeal is received.

12.4.2 Principles for the Appeal Hearing

The Committee shall be empowered to conduct the Appeal Hearing in accordance with this Policy.

- a. With respect to language rights, the Appeal Hearing shall be conducted in the official language or languages that had previously been selected by the parties unless the Appeal is based on an alleged breach of a party's language rights.
- b. The principles of natural justice will be applied:

- i. Everyone has the right to a fair hearing in the course of determining an outcome for the Appeal;
- ii. The issue should be clearly and concisely stated so that both parties are aware of the essentials of the Appeal;
- 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;
- vii. Both parties have the right to receive a written decision following the hearing.

12.4.3 Appeal Hearing Procedures

The Appeal Committee may choose to meet in person or via videoconferencing, but if the meeting takes place through videoconference, all Committee members, the Complainant, the Respondent, and all attending witnesses must have two-way audio contact with all other persons attending the meeting;

- a. All participants must have in their possession copies of all written materials, including a copy of the decision under appeal;
- b. 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;
- c. The Hearing will deal only with the reasons for the Appeal. If the submission is based on an alleged contravention of this Policy, the facts of the original complaint and misconduct will not be heard.
- d. The Committee will then deliberate to reach a decision and make its decision on the basis of the written and verbal evidence presented at the hearing;
- e. The Committee shall provide written reasons for its decision, which reasons shall be delivered within three (3) days, via email, to each party and the Board of Directors of Gymnastics Newfoundland & Labrador;
- f. Notwithstanding subsection e), the Committee may render a verbal decision immediately at the hearing provided that a written decision is delivered following the hearing in accordance with subsection e);
- g. The date on which the Committee sends the written decision via email to the parties shall be deemed to be the date on which the decision was rendered;
- h. The Appeal Committee, on its own discretion, may grant monetary relief to either party in the form of expenses (limited to documented travel costs); and
- i. Any Member or Registered Participant shall be entitled to obtain a copy of the decision rendered, unless the Committee considers the matter to be sensitive or confidential in nature.

12.5 Appeal Decision

The Appeal Panel may, by a majority vote of its members:

- a. dismiss the appeal and uphold the decision of the Discipline Committee; or

- b. substitute its own decision for that of the Discipline Committee.

12.6 Final and Binding Decision

The Appeal Panel's decision is final on all parties in relation to registered participation in programs and activities offered by Gymnastics Newfoundland & Labrador.

12.7 Appeal Material

After completion of its duties, the Appeal Committee will turn over all copies of the documentation from the Appeal Hearing, including all materials received from the discipline hearing any notes taken by Committee members during the hearing, and a copy of the decision, and any corrective action taken to address the complaint, to Gymnastics Newfoundland & Labrador for safe-keeping in a secure location for a minimum of 10 years. After this time, only the decision will be kept in perpetuity.

13. Confidentiality

The Complaints and Discipline process is confidential and involves only those within Gymnastics Newfoundland & Labrador with a need to know, including a limited number of staff members, the Registered Participant(s) acting as the Complainant(s) and Respondent(s) and individuals acting on their behalf, the Case Manager, the Discipline Panel, and any independent advisors to the Discipline Panel.

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.

Despite any duty of confidentiality, Gymnastics Newfoundland & Labrador is legally obligated to contact the child's parents or legal guardian and/or the relevant law enforcement officials and/or child welfare authorities in certain appropriate situations, including where circumstances of physical and/or sexual abuse are reported and form the basis of the complaint or investigation.

14. Reprisal Prohibited

Under no circumstances will Gymnastics Newfoundland & Labrador condone acts of retaliation or reprisal by registered participants, by parents or legal guardians or other supporters of registered participants against those individuals who have reported inappropriate behaviour or actions to Gymnastics Newfoundland & Labrador.

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***.

Any individual who believes that they, or someone else has been subjected to unlawful reprisal must promptly report those concerns to Gymnastics Newfoundland & Labrador.

15. Training and Policy Review

Gymnastics Newfoundland & Labrador will provide information and training sessions to ensure that all staff and members are aware of and understand this Policy and related policies. Gymnastics Newfoundland & Labrador will also ensure that said policies are maintained and reviewed annually or when gaps or deficiencies are identified as a result of an investigation.

