

## INTRODUCTION

Softball Canada has a fundamental obligation and responsibility to protect the health, safety and physical and mental well-being of every individual that is involved in the Canadian softball community.

Softball Canada takes any situation involving misconduct or maltreatment very seriously. For this reason, Softball Canada is committed to enacting and enforcing strong, clear, and effective policies and processes for preventing and addressing all forms of misconduct or maltreatment.

The policies are intended to promote a Safe Sport environment in a manner that allows for consistent, immediate, appropriate, and meaningful action should any issues arise. The policies are also intended to prevent issues from arising in the first place by communicating expected standards of behaviour.

## Revision History

Policy/Policies	Date of Last Review
Code of Conduct and Ethics Abuse Investigations - Discrimination, Harassment and Event Discipline Social Media Policy Dispute Resolution Appeal	Approved September 2019
Whistleblower Discipline and Complaints	Approved October 2019
Safe Sport Athlete Protection Code of Conduct & Ethics Abuse Investigations Discipline and Complaints Dispute Resolutions Appeal Whistleblower Event Discipline Social Media	Approved October 2020
Screening	Approved December 2020
Athlete Protection Code of Conduct Investigations Discipline and Complaints Dispute Resolutions Appeal Whistleblower Event Discipline Screening	Revised & Approved March 2023

## APPEAL POLICY

### Purpose

1. Softball Canada is committed to providing an environment in which all Participants involved with Softball Canada are treated with respect and fairness. Softball Canada provides Softball Canada Participants with this *Appeal Policy* to enable fair, affordable, and expedient appeals of certain decisions made by Softball Canada.
2. Further, some decisions made through the process outlined in Softball Canada's *Discipline and Complaints Policy* may be appealed under this Policy.

### Scope and Application of this Policy

3. This Policy applies to all Participants. Any Participant who is directly affected by a decision by Softball Canada shall have the right to appeal that decision provided there are sufficient grounds for the appeal under the 'Grounds for Appeal' section of this Policy.
4. This Policy **will apply** to decisions relating to:
  - a) Eligibility
  - b) Selection
  - c) Conflict of Interest
  - d) Discipline
  - e) Membership
5. 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 Softball Canada
  - e) Substance, content and establishment of team selection criteria
  - f) Volunteer/coach appointments and the withdrawal or termination of those appointments

- g) Budgeting and budget implementation
- h) Softball Canada's operational structure and committee appointments
- i) Decisions or discipline arising within the business, activities, or events organized by entities other than Softball Canada (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by Softball Canada at its sole discretion)
- j) Decisions made by the Office for the Sport Integrity Commissioner ("OSIC")
- k) Commercial matters for which another appeals process exists under a contract or applicable law
- l) Decisions made under this Policy

### **Timing of Appeal**

6. Participants who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit, in writing to Softball Canada, the following:
  - a) Notice of the intention to appeal
  - b) Contact information and status of the appellant
  - c) Name 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
  - i) Requested remedy or remedies
  - j) An administration fee of two hundred and fifty dollars (\$250), which will be refunded if the appeal is upheld
7. A Participant who wishes to initiate an appeal beyond the seven (7) 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 seven (7) day period will be at the sole discretion of the Case Manager and may not be appealed.

## Grounds for Appeal

8. 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 the Respondent:
  - a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
  - b) Failed to follow its own procedures (as set out in the Respondent's governing documents)
  - c) Made a decision that was influenced by bias
  - d) Failed to consider relevant information or took into account irrelevant information in making the decision
  - e) Made a decision that was unreasonable
9. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

## Screening of Appeal

10. Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), Softball Canada and the Appellant may first attempt to resolve the dispute pursuant to Softball Canada's *Dispute Resolution Policy* or through the Early Resolution Facilitation services offered by the Sport Dispute Resolution Centre of Canada (SDRCC).
11. Should the appeal not be resolved by using the *Dispute Resolution Policy* or through resolution facilitation at the SDRCC, Softball Canada will appoint an independent Appeal Manager (who must not be in a conflict of interest) who has the following responsibilities:
  - a) Determine if the appeal falls under the scope of this Policy
  - b) Determine if the appeal was submitted in a timely manner
  - c) Decide whether there are sufficient grounds for the appeal
12. If the appeal is denied based on insufficient grounds, because 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. Appeals resolved by mediation under the *Dispute Resolution Policy* or through Early Resolution Facilitation at the SDRCC will result in the administration fee being refunded to the Appellant.

13. If the Appeal Manager is satisfied there are sufficient grounds for an appeal, the Appeal Manager will appoint an Appeals Panel which shall consist of a single person, to hear the appeal. In extraordinary circumstances, and at the sole discretion of the Appeal Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Appeal Manager will appoint one of the Panel's members to serve as the Chair.

#### **Procedure for Appeal Hearing**

14. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Appeal Manager and may not be appealed.

15. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.

16. 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 Panel deem appropriate in the circumstances, provided that:

- a) The hearing will be held within a timeline determined by the Appeal Manager
- b) The Parties will be given reasonable notice of the day, time and place of the hearing
- c) Copies of any written documents which the parties wish to have the Panel 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 Panel may request that any other individual participate and give evidence at the hearing
- f) The Panel 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 under this Policy, that party will become a party to the appeal in question and will be bound by its outcome
- h) The decision to uphold or reject the appeal will be by a majority vote of Panel members

17. In fulfilling its duties, the Panel may obtain independent advice.

## **Appeal Decision**

18. The Panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel 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
  - c) Uphold the appeal and vary the decision
  - d) Determine how costs of the appeal will be allocated between the Parties, if at all
  - e) Refund the appeal fee of \$250 to the Appellant
19. The Panel's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and Softball Canada. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel.
20. The Panel's decision may be appealed by any of the Parties to the SDRCC in accordance with the Canadian Sport Dispute Resolution Code.

## **Timelines**

21. 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 Panel may direct that these timelines be revised.

## **Confidentiality**

22. The appeals process is confidential and involves only Softball Canada, the Parties, the Appeal Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.
23. Notwithstanding the above, Softball Canada recognizes that it is required to notify Sport Canada of all reported complaints and reports of potential complaints.
24. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the appeals process, unless Softball Canada is required to notify an organization such as an international federation, Sport Canada or other sport organization (i.e., where a Provisional Suspension

or interim measures have been imposed and communication is required to ensure that they may be enforced), or notification is otherwise required by law.

### **Final and Binding**

25. No action or legal proceeding will be commenced against Softball Canada or Participants in respect of a dispute, unless Softball Canada has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in Softball Canada's governing documents.

### **SDRCC**

26. By agreement between the Parties, the internal appeal process may be bypassed, and the appeal may be heard directly by the SDRCC.

# ATHLETE PROTECTION POLICY

## Purpose

1. This Policy describe how Persons in Authority can maintain a safe sport environment for Athletes.
2. Violations of this Policy that may be considered “Prohibited Behaviour” or “Maltreatment” (as defined in the UCCMS) when the Respondent is an Organizational Participant who has been designated by Softball Canada as a UCCMS Participant (as defined in the Discipline and Complaints Policy), may be handled pursuant to the policies and procedures of the Office of the Sport Integrity Commissioner (“OSIC”), subject to the rights of Softball Canada as set out in the Discipline and Complaints Policy and any applicable workplace policies.

## Interactions between Persons in Authority and Athletes

3. For interactions between Persons and Authority and Athletes, Softball Canada strongly recommends the ‘Rule of Two’ for all Persons in Authority who interact with athletes. The ‘Rule of Two’ is a directive that says that an athlete must never be alone one-on-one with an unrelated Person in Authority.
4. Softball Canada recognizes that fully implementing the ‘Rule of Two’ in all circumstances may not be possible. Consequently, at a minimum, interactions between Persons in Authority and Athletes must respect the following:
  - a) Transparent
    - i. Encourage parents to appropriately support their children's involvement
    - ii. Allow the training environment to be open to observation by parents. Ensure an open and observable environment for all interactions between Persons in Authority and athletes. This could include leaving the door open when having a meeting, moving away from others in a public space but staying within eyesight.
    - iii. Avoid private or one-on-one situations unless they are open and observable by another adult or athlete.
  - b) Authorized
    - i. Limit any situation when a Person in Authority is alone with an athlete
    - ii. Ensure Persons in Authority do not invite or have an athlete(s) in the home without the written permission of the athlete's parent or guardian
    - iii. Ensure athletes do not find themselves in a situation where they are alone with a Person in Authority without another screened adult or athlete present unless prior written permission is obtained from the athlete’s parent or guardian
    - iv. When only one athlete and Person in Authority travel to a competition, at the competition the Person in Authority and athlete should attempt to establish a "buddy" club to associate with during the competition and away from the venue
  - c) Accountable
    - i. If a situation arises where an interaction that breaks the spirit of the ‘Rule of Two’ arises, Persons in Authority should make themselves accountable by reporting it to a staff or volunteer supervisor



## **Practices and Competitions**

5. Softball Canada strongly recommends:
  - a) Teams or groups of athletes will always have at least two Persons in Authority with them
  - b) For mixed gender teams or groups of athletes, there will be one Person in Authority from each gender identity
  - c) Screened parents or other volunteers will be available in situations when two Persons in Authority cannot be present
  - d) A Person in Authority should never be alone with an athlete prior to or following a competition or practice, unless the Person in Authority is the athlete's parent or guardian. If the athlete is the first athlete to arrive, the athlete's parent should remain until another athlete or Person in Authority arrives. Similarly, if an athlete would potentially be alone with a Person in Authority following a competition or practice, the Person in Authority should ask another Person in Authority (or a parent or guardian of another athlete) to stay until all the athletes have been picked up. If an adult is not available, then another athlete should be present in order to avoid the Person in Authority being alone with a single athlete
  - e) Persons in Authority giving instructions, demonstrating skills, or facilitating drills or lessons to an individual athlete should always be doing so within earshot and eyesight of another Person in Authority

## **Communications**

6. Softball Canada will strongly recommend the following communication guidelines for all Persons in Authority who interact with athletes:
  - a) Group messages, group emails or team pages are to be used as the regular method of communication between Persons in Authority and athletes
  - b) Persons in Authority may only send personal texts, direct messages on social media or emails to individual athletes when necessary and only for communicating information related to team issues and activities (e.g., non-personal information). Any such texts, messages or emails shall be professional in tone
  - c) Electronic communication between Persons in Authority and Athletes that is personal in nature should be avoided. If such communication occurs, it must be recorded and available for review by another Person in Authority and/or by the Athlete's parent/guardian (when the Athlete is a Vulnerable Participant)
  - d) Parents and guardians have the right to request that their child not be contacted by Persons in Authority using any form of electronic communication and/or to request that certain information about their child may not be distributed in any form of electronic communications
  - e) All communication between Persons in Authority and athletes must be between the hours of 6:00am and midnight unless extenuating circumstances exist
  - f) No communication concerning drugs or alcohol use (unless regarding its prohibition) is permitted
  - g) No sexually explicit language or imagery or sexually oriented conversation is permitted
  - h) Persons in Authority are not permitted to ask athletes to keep a secret for them
  - i) A Person in Authority should not become overly-involved in an athlete's personal life

## **Travel**

7. Softball Canada will strongly recommend the following travel guidelines for all Persons in Authority who travel with athletes:
  - a) No Person in Authority may drive an athlete alone unless the Person in Authority is the athlete's

- parent or guardian
- b) A Person in Authority may not share a room or be alone in a hotel room with an athlete unless the Person in Authority is the athlete's parent or guardian
  - c) Room or bed checks during overnight stays must be done by two Persons in Authority
  - d) For overnight travel when athletes must share a hotel room, roommates will be age-appropriate (e.g., within 2 years of age) and of the same gender identity

### **Locker Room / Changing Areas**

- 8. Softball Canada will strongly recommend the following guidelines for the locker room, changing area, and meeting rooms:
  - a) Interactions (i.e., conversation) between Persons in Authority and athletes should not occur in any room where there is a reasonable expectation of privacy such as the locker room, restroom or changing area. A second adult should be present for any necessary interaction between an adult and an athlete in any such room (e.g., adhering to the Rule of Two).
  - b) If Persons in Authority are not present in the locker room or changing area, or if they are not permitted to be present, they should still be available outside the locker room or changing area and be able to enter the room or area if required, including but not limited to team communications and/or emergency

### **Photography / Video**

- 9. Softball Canada will strongly recommend the following photography / video guidelines and the use of an Image Consent Form (**Appendix A – Image Consent Form**):
  - a) Parents/guardians should sign an image release form (i.e., as part of the registration process) that describes how an athlete's image may be used by Softball Canada
  - b) Photographs and video may only be taken in public view, must observe generally accepted standards of decency, and be both appropriate for and in the best interest of the athlete.
  - c) The use of recording devices of any kind in rooms where there is a reasonable expectation of privacy is strictly prohibited.
  - d) Examples of photos that should be edited or deleted include:
    - i. Images with misplaced apparel or where undergarments are showing
    - ii. Suggestive or provocative poses
    - iii. Embarrassing images

### **Physical Contact**

- 10. Softball Canada understands that some physical contact between Persons in Authority and athletes may be necessary for various reasons including, but not limited to, teaching a skill or tending to an injury. Softball Canada will strongly recommend the following touch guidelines:
  - a) Unless it is not possible because of serious injury or other circumstance, a Person in Authority should always clarify with an athlete where and why any touch will occur. The Person in Authority must make clear that he or she is *requesting* to touch the athlete and not *requiring* the physical contact
  - b) Infrequent, non-intentional physical contact, particularly contact that arises out of an error or a misjudgment on the part of the athlete during a training session, is permitted
  - c) Making amends, such as an apology or explanation, is encouraged to further help educate athletes on the difference between appropriate and inappropriate contact
  - d) Hugs lasting longer than 5 seconds, cuddling, physical horseplay, and physical contact initiated by the Person in Authority is not permitted. Softball Canada is aware that some athletes may initiate hugging or other physical contact with a Person in Authority for various reasons (e.g.,

such as crying after a poor performance), but this physical contact should always be limited to circumstances where the Person in Authority believes it is in the best interest of the athlete.

## Appendix A – Image Consent Form

1. I hereby grant to Softball Canada (collectively the “Organizations”) on a worldwide basis, the permission to photograph and/or record the Participant’s image and/or voice on still or motion picture film and/or audio tape (collectively the “Images”), and to use the Images to promote the sport and/or Softball Canada through traditional media such as newsletters, websites, television, film, radio, print and/or display form, and through social media such as Instagram, Facebook, YouTube, and Twitter. I understand that I waive any claim to remuneration for use of audio/visual materials used for these purposes. This consent will remain in effect in perpetuity.
2. I hereby fully release, discharge, and agree to save harmless Softball Canada for any and all claims, demands, actions, damages, losses or costs that might arise out of the collection, use or disclosure of the Images or taking, publication, distortion of the Images, negatives, and masters or any other likeness or representation of the Participant that may occur or be produced in the taking of said Images or in any subsequent processing thereof, including without limitation any claims for libel, passing off, misappropriation of personality or invasion of privacy.
3. **I UNDERSTAND AND AGREE**, that I have read and understood the terms and conditions of this document. On behalf of me, my heirs, and assigns, I agree that I am signing this document voluntarily and to abide by such terms and conditions.

Signed at this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Print Name of Participant: \_\_\_\_\_

Signature of Participant: \_\_\_\_\_

Signature of Parent/Guardian (if Participant is younger than the age of majority):

\_\_\_\_\_

# **Code of Conduct and Ethics**

(the “Code”)

*Softball Canada has adopted the [Universal Code of Conduct to Prevent and Address Maltreatment in Sport](#) (“UCCMS”), as amended from time to time, which shall be incorporated into this Code by reference as if set out in full herein. Any modifications or amendments made to the UCCMS by the Sport Dispute Resolution Centre of Canada (“SDRCC”) shall come into effect immediately upon their adoption by the SDRCC and automatically without the need for any further action by Softball Canada.*

*Softball Canada has designated specific Softball Canada Participants within Softball Canada as ‘UCCMS Participants’. A full list of designated individuals is available by contacting [aballantyne@softball.ca](mailto:aballantyne@softball.ca).*

*It is important to note that the Code applies to all Softball Canada Participants, **but not all Softball Canada Participants are UCCMS Participants** and subject to the OSIC Process.*

## **A. Purpose**

1. The purpose of this Code is to ensure a safe and positive environment within the programs, activities, and Events of Softball Canada and its Members by making all Softball Canada Participants aware that there is an expectation, at all times, of appropriate behaviour consistent with Softball Canada’s core values, mission, and policies.
2. Softball Canada, its Members, and Softball Canada Participants support equal opportunity, prohibit discriminatory practices, and are committed to providing an environment in which all individuals can safely participate in sport and are treated with respect and fairness.

## **B. Application – General**

3. This Code applies to the conduct of all Softball Canada Participants during the business, activities, and Events of Softball Canada and its Members including, but not limited to competitions, practices, evaluations, treatment, or consultations (e.g., massage therapy), training camps, travel associated with organizational activities, the office environment, and any meetings.
4. This Code also applies to the conduct of all Softball Canada Participants outside of the business, activities, and Events of Softball Canada and its Members when such conduct adversely affects Softball Canada’s relationships (and the work and sport environment) or is detrimental to the image and reputation of Softball Canada or a Member. Such applicability will be determined by Softball Canada or the relevant Member, as applicable, at its sole discretion.
5. In addition, this Policy will apply to breaches of the Code that occurred when the Softball Canada Participants involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Individual(s).

6. This Code applies to Softball Canada Participants active in the sport or who have retired from the sport where any claim regarding a potential breach of this Code occurred when the Softball Canada Participants was active in the sport.
7. However, notwithstanding anything to the contrary contained herein or in the OSIC's policies and procedures, all incidents of Maltreatment involving Workers, may also be addressed pursuant to the processes set out in any applicable workplace policy. For greater certainty, where an allegation of misconduct is alleged to be a breach of a workplace policy and of the UCCMS, the matter may be referred for handling under the policies and procedures of the OSIC, provided the Worker is a UCCMS Participant, in addition to any applicable workplace policy.

### C. **Prohibited Behaviours**

8. All Softball Canada Participants must refrain from any behaviour that constitutes a Prohibited Behaviour as defined by the UCCMS and the Code.
9. Softball Canada Participants are responsible for knowing what actions or behaviours constitute Prohibited Behaviours and Maltreatment.
10. Prohibited Behaviours under the UCCMS include, but are not limited to:
  - a) Physical Maltreatment
  - b) Psychological Maltreatment
  - c) Neglect
  - d) Sexual Maltreatment
  - e) Grooming
  - f) Boundary Transgressions
  - g) Discrimination
  - h) Failing to Report
  - i) Aiding and Abetting
  - j) Retaliation
  - k) Interference with or Manipulation of Process
  - l) False Reports
11. In addition to the Prohibited Behaviours as defined by the UCCMS, this Code sets out other expected standards of behaviour and conduct for all Softball Canada Participants and any failure to respect these expected standards of behaviour by a Softball Canada Participants may constitute a breach of this Code.

### D. **Responsibilities of Softball Canada Participants**

12. All Softball Canada Participants have a responsibility to:
  - a) Conduct themselves in a manner consistent with the True Sport principles.
  - b) Refrain from any behaviour that constitutes Maltreatment and Prohibited Behaviour under this Code and the UCCMS.

- c) Maintain and enhance the dignity and self-esteem of other Softball Canada Participants by:
  - i. Treating each other with fairness, honesty, respect and integrity;
  - ii. Focusing comments or criticism appropriately and avoiding public criticism of Athletes, coaches, officials, organizers, volunteers, employees, or other Softball Canada Participants;
  - iii. Consistently demonstrating the spirit of sportsmanship, sport leadership, and ethical conduct; and
  - iv. Ensuring adherence to the rules of the sport and the spirit of those rules.
- d) Refrain from the use of power or authority to coerce another person to engage in inappropriate activities.
- e) Refrain from consuming tobacco products, cannabis, or recreational drugs while participating in the programs, activities, competitions, or Events of Softball Canada or a Member.
- f) In the case of Minors, not consume alcohol, tobacco, or cannabis at any competition or Event.
- g) In the case of individuals who are not Minors, not consume cannabis in the Workplace or in any situation associated with the Events of Softball Canada or a Member (subject to protections under applicable human rights legislation), not consume alcohol during training, competitions, or in situations where Minors are present, and take reasonable steps to manage the responsible consumption of alcohol in adult-oriented social situations.
- h) When driving a vehicle:
  - i. Have a valid driver's license;
  - ii. Obey traffic laws;
  - iii. Not be under the influence of alcohol or illegal drugs or substances;
  - iv. Have valid car insurance; and
  - v. Refrain from engaging in any activity that would constitute distracted driving.
- i) Respect the property of others and not wilfully cause damage.
- j) Promote sport in the most constructive and positive manner possible.
- k) Refrain from engaging in deliberate behaviour which is intended to manipulate the outcome of a para-classification, competition and/or not offer, receive or refrain from offering or receiving any benefit which is intended to manipulate the outcome of a competition or para-classification. A benefit includes the direct or indirect receipt of money or other anything else

of value, including, but not limited to, bribes, gains, gifts, preferential treatment, and other advantages.

- l) Adhere to all applicable federal, provincial/territorial, municipal and host country laws.
- m) Comply with the bylaws, policies, procedures, rules, and regulations of Softball Canada, its Members, as applicable, and as adopted and amended from time to time.

**E. Directors, Committee Members, and Employees**

13. In addition to section D (above), Directors, Committee Members, and employees of Softball Canada and its Members will have additional responsibilities to:

- a) Function primarily as a Director, committee member or employee of Softball Canada or the Member (as applicable) and ensure to prioritize their duty of loyalty to Softball Canada or the Member (and not to any other organization or group) while acting in this role.
- b) Act with honesty and integrity and conduct themselves in a manner consistent with the nature and responsibilities of the business and the maintenance of a Softball Canada Participant's confidence.
- c) Ensure that financial affairs are conducted in a responsible and transparent manner with due regard for all fiduciary responsibilities.
- d) Comply with their obligations under the *Screening Policy*, including understanding ongoing expectations under the *Screening Policy* and fully cooperating in the screening process
- e) Conduct themselves openly, professionally, lawfully and in good faith.
- f) Be independent and impartial and not be influenced by self-interest, outside pressure, expectation of reward, or fear of criticism influence their decision-making on behalf of Softball Canada.
- g) Exercise the degree of care, diligence, and skill required in the performance of their duties pursuant to applicable laws.
- h) Maintain required confidentiality of organizational information.
- i) When acting as a Director or Committee Member, respect the decisions of the majority (the Board or a Committee, as applicable) and resign if unable to do so.
- j) Commit the time to attend meetings and be diligent in preparation for, and participation in, discussions at such meetings.
- k) Have a thorough knowledge and understanding of all governance documents.



F. **Athlete Support Personnel**

14. In addition to section D (above), Athlete Support Personnel have additional responsibilities.

15. Athlete Support Personnel must understand and respect the inherent Power Imbalance that exists in this relationship and must not abuse it, either consciously or unconsciously.

16. Athlete Support Personnel will:

- a) Avoid any behaviour that abuses the Power Imbalance inherent in the position of the Athlete Support Personnel.
- b) Ensure a safe environment by selecting activities and establishing controls that are suitable for the age, experience, ability, and fitness level of the Athletes.
- c) Prepare Athletes systematically and progressively, using appropriate timeframes and monitoring physical and psychological adjustments while refraining from using training methods or techniques that may harm Athletes.
- d) Avoid compromising the present and future health of Athletes by communicating and cooperating with sport medicine professionals in the diagnosis, treatment, and management of Athletes' medical and psychological treatments.
- e) Support the Athlete Support Personnel of a training camp, provincial/territorial team, or national team, should an Athlete qualify for participation with one of these programs.
- f) Comply with all established responsibilities and obligations as set out by the Athlete Support Personnel's professional governing association or order, if any.
- g) Accept and promote Athletes' personal goals and refer Athletes to other coaches and sport specialists as appropriate.
- h) Provide Athletes (and the parents/guardians of Minor Athletes) with the information necessary to be involved in the decisions that affect the Athlete.
- i) Act in the best interest of the Athlete's development as a whole person.
- j) Comply with their obligations under the *Screening Policy*, including understanding ongoing expectations under this *Policy* and fully cooperating in the screening process.
- k) Under no circumstances provide, promote, or condone the use of drugs (other than properly prescribed medications) or prohibited substances or prohibited methods and, in the case of Minors, alcohol, cannabis, and/or tobacco.
- l) Respect Athletes competing for other jurisdictions and, in dealings with them, not encroach upon topics or take actions which are deemed to be within the realm of 'coaching', unless after first receiving approval from the coaches who are responsible for the Athletes.

- m) When a Power Imbalance exists, not engage in a sexual or intimate relationship with an Athlete of any age.
- n) Disclose to Softball Canada or the Member (as applicable) any sexual or intimate relationship with an Athlete over the age of majority and, if requested by Softball Canada, immediately discontinue any coaching involvement with that Athlete.
- o) Recognize the power inherent in the position of Athlete Support Personnel and respect and promote the rights of all Softball Canada Participants in sport. This is accomplished by establishing and following procedures for confidentiality (right to privacy), informed participation, and fair and reasonable treatment. Coaches have a special responsibility to respect and promote the rights of Softball Canada Participants who are in a vulnerable or dependent position and less able to protect their own rights.
- p) Dress appropriately.
- q) Use inoffensive language and take into account the audience being addressed (e.g., the age/maturity of the individuals).

#### **G. Athletes**

17. In addition to section D (above), Athletes will have additional responsibilities to:

- a) Follow their athlete agreement (if applicable).
- b) Report any medical problems in a timely fashion, when such problems may limit their ability to travel, practice, or compete.
- c) Participate and appear on-time and prepared to participate to their best abilities in all competitions, practices, training sessions, and evaluations.
- d) Properly represent themselves and not attempt to participate in a competition for which they are not eligible by reason of age, classification, or other reason.
- e) Adhere to any rules and requirements regarding clothing, professionalism, and equipment.
- f) Act in accordance with applicable policies and procedures and, when applicable, additional rules as outlined by Athlete Support Personnel.

## H. Officials

18. In addition to section D (above), officials will have additional responsibilities to:

- a) Maintain and update their knowledge of the rules and rules changes
- b) Not publicly criticize other Softball Canada Participants
- c) Adhere at all times to the rules of their international federation and any other sport NSO that has relevant and applicable authority.
- d) Place the safety and welfare of competitors, and the fairness of the competition above all else
- e) Strive to provide a fair sporting environment, and at no time engage in Maltreatment or Prohibited Behaviour toward any person on the field of play
- f) Respect the terms of any agreement that they enter with Softball Canada or a Member.
- g) Work within the boundaries of their position's description while supporting the work of other officials.
- h) Act as an ambassador of the sport by agreeing to enforce and abide by national and provincial/territorial rules and regulations.
- i) Take ownership of actions and decisions made while officiating.
- j) Respect the rights, dignity, and worth of all Softball Canada Participants.
- k) Act openly, impartially, professionally, lawfully, and in good faith.
- l) Be fair, equitable, considerate, independent, honest, and impartial in all dealings with others.
- m) Respect the confidentiality required by issues of a sensitive nature, which may include discipline processes, appeals, and specific information or data about Softball Canada Participants.
- n) Comply with their obligations under the *Screening Policy*, including understanding ongoing expectations under that Policy, and fully cooperate in the screening process.
- o) Honour all assignments unless unable to do so by virtue of illness or personal emergency, and in these cases inform a supervisor or Softball Canada or the Member at the earliest possible time.
- p) When writing reports, set out the actual facts to the best of their knowledge and recollection.
- q) Dress in proper attire for officiating

## **I. Parents/Guardians and Spectators**

19. In addition to section D (above), parents/guardians and spectators at events will:

- a) Encourage Athletes to compete within the rules and to resolve conflicts without resorting to hostility or violence.
- b) Condemn the use of violence in any form.
- c) Never ridicule a Softball Canada Participants for making a mistake during a competition or practice.
- d) Respect the decisions and judgments of officials and encourage Athletes to do the same.
- e) Support all efforts to stop and prevent verbal and physical abuse, coercion, intimidation, and excessive sarcasm.
- f) Respect and show appreciation to all competitors, and to coaches, officials and other volunteers
- g) Never harass Softball Canada Participants, competitors, Athlete Support Personnel, officials, parents/guardians, or other spectators.
- h) Never encourage, aid, covert up or assist an Athlete in cheating through doping, competition manipulation or other cheating behaviors.

### **Anti-Doping<sup>1</sup>**

20. Softball Canada and its Members adopt and adhere to the Canadian Anti-Doping Program. Softball Canada and its Members will respect any sanction imposed on an Individual as a result of a breach of the [Canadian Anti-Doping Program](#) or any other applicable Anti-Doping Rules.

21. All Softball Canada Participants shall:

- a) Abstain from the non-medical use of medications or drugs or the Use of Prohibited Substances or Prohibited Methods as listed on the version of the World Anti-Doping Agency's Prohibited List currently in force.
- b) Refrain from associating with any person for the purpose of coaching, training, competition, instruction, administration, management, athletic development, or supervision, who has been found to have committed an anti-doping rule violation and is serving a period of Ineligibility imposed pursuant to the Canadian Anti-Doping Program or any other applicable anti-doping rules

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<sup>1</sup> Any capitalized terms used in this Anti-Doping section shall, unless the context requires otherwise, have the meanings ascribed to them in the Definitions section of the Canadian Anti-Doping Program.

- c) Cooperate with any Anti-Doping Program that is conducting an investigation into any anti-doping rule violation(s)
- d) Refrain from any offensive conduct toward a Doping Control official or other individual involved in Doping Control, whether or not such conduct constitutes Tampering as defined in the Canadian Anti-Doping Program

22. All Athlete Support Personnel or other Persons who are Using a Prohibited Substance or Prohibited Method without a valid and acceptable justification shall refrain from providing support to Athletes that fall under the jurisdiction of Softball Canada or a Member n.

### **Retaliation, Retribution or Reprisal**

23. It is a breach of this *Code of Conduct and Ethics* for any Softball Canada Participant to engage in any act that threatens or seeks to intimidate another individual with the intent of discouraging that Softball Canada Participants from filing, in good faith, a complaint pursuant to any Softball Canada policy. It is also a breach of this *Code of Conduct and Ethics* for a Softball Canada Participant to file a complaint for the purpose of retaliation, retribution or reprisal against any other Softball Canada Participants. Any Softball Canada Participant found to be in breach of this section shall be liable for the costs related to the disciplinary process required to establish such a breach.

### **Privacy**

24. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Softball Canada's *Privacy Policy*.

### **J. Definitions**

25. Terms in this Code are defined as follows:

- a) **Athlete** – An individual who is an athlete participant in Softball Canada who is subject to the policies of Softball Canada and to this Code.
- b) **Athlete Support Personnel** - Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other person working with, treating or assisting an Athlete participating in or preparing for sports competition.
- c) **Bullying** – Offensive behaviour and/or abusive treatment of a Softball Canada Participant that typically, but not always, involves an abuse of power.
- d) **Event** – an event, which may include a social event, sanctioned by Softball Canada or a Member
- e) **Harassment** – A vexatious comment (or comments) or conduct against a Softball Canada Participant or group, regardless of whether the comment or conduct occurs in person or via any other media, including social media, which is known or ought to reasonably be known to

be unwelcome. Types of behaviour that constitute Harassment include, but are not limited to:

- i. Written or verbal Abuse, threats, or outbursts;
  - ii. Persistent unwelcome remarks, jokes, comments, innuendo, or taunts;
  - iii. Racial harassment, which is racial slurs, jokes, name calling, or insulting behaviour or terminology that reinforces stereotypes or discounts abilities because of racial or ethnic origin;
  - iv. Leering or other suggestive or obscene gestures;
  - v. Condescending or patronizing behaviour which is intended to undermine self-esteem, diminish performance or adversely affect working conditions;
  - vi. Practical jokes which endanger a person's safety, or which may negatively affect performance;
  - vii. Hazing, which is any form of conduct which exhibits any potentially humiliating, degrading, abusive, or dangerous activity expected of a junior-ranking individual by a more senior individual, which does not contribute to either individual's positive development, but is required to be accepted as part of a team or group, regardless of the junior-ranking individual's willingness to participate. This includes, but is not limited to, any activity, no matter how traditional or seemingly benign, that sets apart or alienates any teammate or group member based on class, number of years on the team or with the group, or ability;
  - viii. Unwanted physical contact including, but not limited to, touching, petting, pinching, or kissing;
  - ix. Deliberately excluding or socially isolating a person from a group or team;
  - x. Persistent sexual flirtations, advances, requests, or invitations;
  - xi. Physical or sexual assault;
  - xii. Behaviours such as those described above that are not directed towards a specific person or group but have the same effect of creating a negative or hostile environment; and
  - xiii. Retaliation or threats of retaliation against a person who Reports harassment to Softball Canada
- f) **Maltreatment** – As defined in the UCCMS.
- g) **Member** – Refers to the provincial/territorial organizations that are admitted as Members of Softball Canada per the By-laws.

- h) **OSIC** – The Office of the Sport Integrity Commissioner, an independent division of the Sport Dispute Resolution Centre of Canada (SDRCC) which comprises the functions of the Sport Integrity Commissioner
- i) **Person in Authority** – Any Softball Canada Participant who holds a position of authority within Softball Canada including, but not limited to, coaches, instructors, officials, managers, support personnel, chaperones, committee members, or Directors and Officers.
- j) **Power Imbalance** – As defined in the UCCMS
- k) **Softball Canada Participants**– Refers to all categories of individual members and/or registrants defined in the By-laws of Softball Canada who are subject to the policies of Softball Canada, as well as all people employed by, contracted by, or engaged in activities with, Softball Canada including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, umpires, volunteers, managers, administrators, committee members, parents or guardians, spectators, or directors and officers.
- l) **UCCMS** – *The Universal Code of Conduct to Prevent and Address Maltreatment in Sport*, as amended from time to time by the SDRCC.
- m) **UCCMS Participant** – A Softball Canada Participant affiliated with Softball Canada who has been a) designated by Softball Canada and b) who has signed the required consent form. UCCMS Participants may include 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 Softball Canada in any capacity.

To clarify, at presented Softball Canada has identified the following categories of participants as being UCCMS Participants: Softball Canada Board of Directors, employees, committee members, National team coaches and support staff, National technical officials (including the ODC), National team athletes (NAP Identified), contractors, event delegates as well as coaches, athletes, and working umpires of Canadian Championships. For a full list of designated individuals, please email [safesport@softball.ca](mailto:safesport@softball.ca).

- n) **Vulnerable Participant** – As defined in the UCCMS
- o) **Workers** – all individuals who perform work for Softball Canada including employees, managers, supervisors, temporary workers, volunteers, student volunteers, part-time workers, and independent contractors.
- p) **Workplace** – Any place where business or work-related activities are conducted. Workplaces include but are not limited to, the registered office(s), work-related social functions, work assignments outside the registered office(s), work-related travel, the training and competition environment, and work-related conferences or training sessions.
- q) **Workplace Harassment** – A course of vexatious comment or conduct against a Softball Canada Participants in a Workplace that is known or ought reasonably to be known to be unwelcome. Workplace Harassment should not be confused with legitimate, reasonable

management actions that are part of the normal work/training function, including measures to correct performance deficiencies, such as placing someone on a performance improvement plan, or imposing discipline for workplace infractions.

- r) **Workplace Violence** – The use of or threat of physical force by a person against a worker in a Workplace that causes or could cause physical injury to the worker; an attempt to exercise physical force against a worker in a Workplace that could cause physical injury to the worker; or a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker in a Workplace that could cause physical injury to the worker.



## **Discipline and Complaints Policy**

(the “Policy”)

### **PURPOSE**

1. Softball Canada Participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with all policies, by-laws, rules, and regulations of Softball Canada, as updated, and amended from time to time.
2. Non-compliance with any of Softball Canada’s policies, by-laws, rules, or regulations, or those of its Members, as applicable, may result in the imposition of sanctions pursuant to this Policy.

### **APPLICATION**

#### **Application – General**

3. This Policy applies to all Softball Canada Participants and to any alleged breaches of Softball Canada’s policies, by-laws, rules or regulations, or any of those of its Members, that designate this Policy as applicable to address such alleged breaches.
4. In addition to being subject to disciplinary action pursuant to this Policy, an employee of Softball Canada who is a Respondent to a complaint may also be subject to consequences in accordance with the employee’s employment agreement or Softball Canada’s human resources policies, if applicable
5. A Softball Canada Participant, who is a Worker, who believes that a staff member or Director has committed Wrongdoing (as described in the *Whistleblower Policy*) may report the alleged incident(s) to the Independent Third Party (as further described in the *Whistleblower Policy*).

### **REPORTING**

#### **UCCMS Participants**

5. Incidents that involve alleged Maltreatment or Prohibited Behaviour (as those terms are defined in the UCCMS) that occurred or continued as of April 1, 2023, involving a UCCMS Participant must be reported to the [OSIC](#) and will be addressed pursuant to the OSIC’s policies and procedures.
6. Incidents that involve alleged Maltreatment or Prohibited Behaviour that occurred before April 1, 2023 may be reported to the OSIC; however, the OSIC shall determine the admissibility of such complaints in accordance with the relevant and applicable OSIC Guidelines regarding the initial review and preliminary assessment, and the matter may only proceed pursuant to the

OSIC's procedures with the express consent of the Parties involved where the Parties have not been designated by Softball Canada as a UCCMS Participant.

7. If the Independent Third Party receives a complaint that they consider would otherwise fall within the above sections, they shall refer the matter to the OSIC and notify the individual(s) that made the complaint of such action.

### **Softball Canada Participant**

8. Any complaints involving alleged breaches of Softball Canada's policies that do not fall within Sections 5 or 6 above may be reported by a Softball Canada Participant to the Independent Third Party in writing. For the avoidance of doubt, this includes complaints referred back to the Independent Third Party by the OSIC following a determination made by the OSIC that a complaint initially reported to it does not fall within its jurisdiction.

Cristy Nurse

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Hammond LLP

9. Notwithstanding any provision in this Policy, Softball Canada may, at its discretion, or upon request by the Independent Third Party, act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Softball Canada will identify an individual to represent the organization.

10. A Complainant who fears retribution or reprisal or who otherwise considers that their identity must remain confidential may file a complaint with the Independent Third Party and request that their identity be kept confidential. If the Independent Third Party considers that the Complainant's identity must remain confidential, the Independent Third Party may ask that Softball Canada take carriage of the complaint and act as the Complainant.

11. In exceptional circumstances, the Independent Third Party may direct a complaint to be managed by Softball Canada if a Member is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest, due to a lack of capacity or where the Member does not have policies in place to address the complaint. In such circumstances, Softball Canada shall have the right to request that a cost-sharing agreement is entered into with the Member as a pre-condition to Softball Canada managing the complaint.<sup>1</sup>

12. Where the Independent Third Party refers a matter to be managed by a Member or affiliated organization, or where a Member or affiliated organization is otherwise responsible for managing a matter (i.e., because they received the matter directly), and the Member and/or affiliated organization fails to conduct disciplinary proceedings within a reasonable timeline, Softball Canada may, at its discretion, take jurisdiction over the matter and conduct the necessary

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<sup>1</sup> In such circumstances, the Complainant(s) may be required to provide evidence during the disciplinary process.

proceedings. In such circumstances, if the Internal Discipline Chair or External Discipline Panel decides that Softball Canada acted reasonably in taking jurisdiction over the matter, Softball Canada's costs to conduct the proceedings, including legal fees, shall be reimbursed by the Member and/or affiliated organization to Softball Canada.

### **MINORS**

13. Complaints may be brought by or against a Softball Canada Participant who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.

14. Communication from the Independent Third Party, Internal Discipline Chair or External Discipline Panel (as applicable) must be directed to the Minor's representative.

15. If the Minor's representative is not their parent/guardian, the representative must have written permission to act in such a capacity from the Minor's parent/guardian.

16. A Minor is not required to attend 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.

### **INDEPENDENT THIRD PARTY RESPONSIBILITIES**

17. Upon receipt of a complaint, the Independent Third Party has a responsibility to:

- a) Determine whether the complaint falls within the jurisdiction of this Policy;
- b) Determine the appropriate jurisdiction to manage the complaint by considering the following:
  1. whether the incident occurred within the business, activities, or Events of Softball Canada, or one of its Members or affiliated organizations; and
  2. if the Member or affiliated organization can manage the complaint process.<sup>2</sup>

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<sup>2</sup> In making this assessment, the Independent Third Party may determine that the Member or affiliated organization lacks the capacity to manage the complaint (which may include financial and human resource capacity), that the Member or affiliated organization is not the appropriate jurisdiction to manage the complaint due to its seriousness (for example, clubs should not be expected to manage serious complaints due to the complexity of conducting such a process), or that a real or perceived conflict of interest exists within the Member or affiliated organization.

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

- c) Determine whether the complaint is frivolous, vexatious or if it has been made in bad faith;
- d) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and
- e) Choose which process (Process #1 or Process #2, as outlined below) should be followed to hear and adjudicate the matter.

### **Available Process**

There are two different processes that may be used to hear and adjudicate complaints. The Independent Third Party decides which process will be followed at their discretion, and such decision is not appealable.

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

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

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

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

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

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

### **PROVISIONAL SUSPENSIONS**

18. If it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of a Provisional Suspension or interim measures may be imposed against any Softball Canada Participant by Softball Canada’s Safe Sport Officer or designate after which further discipline or sanctions may be applied according to this Policy.

19. If an infraction occurs at a competition, it will be dealt with by the procedures specific to the competition, if applicable. Provisional Suspensions or interim measures may be imposed for the duration of a competition, training, activity, or Event only, or as otherwise determined appropriate by the Independent Third Party.

20. Notwithstanding the paragraph above, Softball Canada’s Safe Sport Officer or designate may determine that an alleged incident is of such seriousness as to warrant the imposition of a

Provisional Suspension of a Respondent pending completion of an investigation, assessment and/investigation by the OSIC, criminal process, the hearing, or a decision of the External Discipline Panel.

21. Any Respondent against whom a Provisional Suspension or interim measure is imposed may make a request to the Independent Third Party or External Discipline Panel (if appointed) to have the Provisional Suspension or interim measure lifted. In such circumstances, Softball Canada shall be provided with an opportunity to make submissions, orally or in writing, regarding the Respondent's request to have their Provisional Suspension lifted. Provisional Suspensions or interim measures shall only be lifted in circumstances where the Respondent establishes that it would be manifestly unfair to maintain the Provisional Suspension or interim measures against them.

22. Any decision not to lift a Provisional Suspension or interim measure shall not be subject to appeal.

### **Procedural Steps**

#### **PROCESS #1: Handled by Internal Discipline Chair**

##### **Internal Discipline Chair**

23. Following the determination that the complaint or incident should be handled under Process #1, the Independent Third Party will appoint an Internal Discipline Chair<sup>3</sup> who may:

- a. Propose alternative dispute resolution techniques, if appropriate; and/or
- b. Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident. Both Parties shall also have the right to submit to the Internal Discipline Chair any relevant evidence, including, but not limited to witness statements, documentary evidence or evidence from other media (i.e., photos, screenshots, videos or other recordings). Each Party shall have the right to receive the other Party's submissions and evidence, including the Complainant's complaint. In the case of oral submissions, each Party shall be present when such submissions are made (unless waived by a Party); and/or
- c. Following receipt of the Parties' submissions, the Internal Discipline Chair may convene the Parties to a meeting, either in person or by way of video or teleconference to ask the Parties questions and to allow the Parties to ask questions of one another.

24. Following their review of the submissions and evidence related to the complaint, the Internal Discipline Chair shall determine if any of the incidents listed in Process #1 above have occurred and, if so, determine whether to impose a sanction and, if so, determine the

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<sup>3</sup> The appointed Internal Discipline Chair must be unbiased and not in a conflict of interest.

appropriate sanction (see: **Sanctions**). If, after hearing the Parties and reviewing their submissions, the Internal Discipline Chair considers that none of the incidents listed in Process #1 above have occurred, they shall dismiss the complaint.

25. The Internal Discipline Chair will inform the Parties of the Internal Discipline Chair's decision, which shall be in writing and include reasons. The Internal Discipline Chair's decision will take effect immediately, unless specified otherwise by the Internal Discipline Chair. Should the circumstances require a decision to be rendered immediately or within a short timeline, the Internal Discipline Chair may render a short decision, either orally or in writing, followed by a written reasoned decision.

26. Any decision rendered by the Internal Discipline Chair shall be provided to and maintained in the records of the relevant club, Member and Softball Canada. Decisions will be published in accordance with the provisions of this policy as set out below, and will be retained and discarded in accordance with the relevant and applicable privacy legislation.

## **PROCESS #2: Handled by Independent Third Party and External Discipline Panel**

### **Independent Third Party**

27. Following the determination that the complaint should be handled under Process #2, the Independent Third Party will propose the use of alternative dispute resolution methods, if appropriate. Alternatively, the Independent Third Party may appoint a designate to handle the responsibilities described in this section. References to 'Independent Third Party' in Process #2 then apply to the Independent Third Party's designate, if appointed, instead. If the dispute is not resolved using alternative dispute resolution methods, the Independent Third Party will appoint an External Discipline Panel of one (1) person to hear the complaint. Thereafter, the Independent Third Party shall have the following responsibilities:

1. Coordinate all administrative aspects of the process and set reasonable timelines
2. Provide administrative assistance and logistical support to the External Discipline Panel as required, including providing the External Discipline Panel with any information related to previously imposed disciplinary sanctions against the Respondent(s) of the policies of Softball Canada, any Member or any other sport organization that had authority over the Respondent
3. Provide any other service or support that may be necessary to ensure a fair and timely proceeding

28. The Independent Third Party will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

29. If warranted based on the nature of the case, the Independent Third Party may, in their sole discretion, appoint an External Discipline Panel of three (3) people. When a three-person

External Discipline Panel is appointed, the Independent Third Party will appoint one of the External Discipline Panel's members to serve as the Chair.

30. The Independent Third Party, in cooperation with the External Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods.

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

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



1. would be inadmissible in a court by reason of any privilege under the law of evidence; or
  2. is inadmissible by any statute.
- i. The decision will be by a majority vote of the External Discipline Panel when the Panel consists of three people.

32. If the Respondent acknowledges the facts of the incident(s), the Respondent may waive the hearing, in which case the External Discipline Panel will determine the appropriate sanction. The External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.

33. The process will proceed if a Party chooses not to participate in the hearing.

34. In fulfilling its duties, the External Discipline Panel may obtain independent advice.

## **DECISION**

35. After hearing the matter, the External Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. If the External Discipline Panel considers that an infraction has not occurred, the complaint will be dismissed.

36. Within fourteen (14) days of the conclusion of the hearing, the External Discipline Panel's written decision, with reasons, will be distributed to all Parties by the Independent Third Party, including to Softball Canada and the relevant Member(s).

37. In extraordinary circumstances, the External Discipline Panel may first issue a verbal or summary decision soon after the conclusion of the hearing, with the full written decision to be issued before the end of the fourteen (14) day period.

38. The External Discipline Panel's decision will come into effect as of the date that it is rendered, unless decided otherwise by the External Discipline Panel. The External Discipline Panel's decision will apply automatically to Softball Canada and all of its Members and associated organizations.

39. Once the appeal deadline in the *Appeal Policy* has expired, Softball Canada or the Member (as applicable) shall publish on their website the outcome of the case, the provision(s) of the relevant policies that have been violated, the name(s) of the Softball Canada Participant(s) involved and the sanction(s) imposed, if any. If the matter is appealed, the publication provisions in the *Appeal Policy* shall apply. Identifying information regarding Minors or Vulnerable Participants will never be published by Softball Canada or one of its Members.

40. If the External Discipline Panel dismisses the complaint, the information referred to in the above section may only be published with the Respondent's consent. If the Respondent

does not provide such consent, the information referred to in the above section above will be kept confidential by the Parties, the Independent Third Party, Softball Canada and the Member and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to this *Policy*.

41. Other individuals or organizations, including but not limited to, Members, Provincial/Territorial sport organizations, sport clubs, etc., may be advised of the outcome of any decisions rendered in accordance with this Policy.
42. Records of all decisions will be maintained by Softball Canada in accordance with their Privacy Policy.
43. When the External Discipline Panel imposes a sanction, the decision shall include, at a minimum, the following details:
  1. Jurisdiction;
  2. Summary of the facts and relevant evidence;
  3. Where applicable, the specific provision(s) of Softball Canada's policies, bylaws, rules or regulations that have been breached;
  4. Which Party or organization is responsible for the costs of implementing any sanction;
  5. Which organization is responsible for monitoring that the sanctioned individual respects the terms of the sanction;
  6. Any reinstatement conditions that the Respondent must satisfy (if any);
  7. Which organization is responsible for ensuring that the conditions have been satisfied; and,
  8. Any other guidance that will assist the Parties to implement the External Discipline Panel's decision.
44. If necessary, a Party – or the organization that is responsible for implementing or monitoring a sanction – may seek clarifications from the External Discipline Panel regarding the order so that it can be implemented or monitored appropriately.

## **SANCTIONS**

45. When determining the appropriate sanction, the Internal Discipline Chair or External Discipline Panel, as applicable, will consider the following factors (where applicable):

- a. The nature and duration of the Respondent's relationship with the Complainant, including whether there is a power imbalance;
- b. The Respondent's prior history and any pattern of misconduct, Prohibited Behaviour or Maltreatment;
- c. The respective ages of the individuals involved;
- d. Whether the Respondent poses an ongoing and/or potential threat to the safety of others;
- e. The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the misconduct, Prohibited Behaviour or Maltreatment, and/or cooperation in the investigative and/or disciplinary process of Softball Canada;
- f. Real or perceived impact of the incident on the Complainant, sport organization or the sporting community;
- g. Circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in the *Code*; addiction; disability; illness);
- h. Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate;
- i. A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or
- j. Other mitigating or aggravating circumstances.

46. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required, and a single incident of Prohibited Behaviour, Maltreatment or other misconduct may justify elevated or combined sanctions.

47. The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly or in combination:

- a. **Verbal or Written Warning** - A verbal reprimand or an official, written notice that a Softball Canada Participant(s) has violated the *Code* and that more severe sanctions will result should the Softball Canada Participant(s) be involved in other violations
- b. **Education** - The requirement that a Softball Canada Participant(s) undertake specified educational or similar remedial measures to address the violation(s) of the *Code* or the UCCMS

- c. **Probation** - Should any further violations of the *Code* or the UCCMS occur during the probationary period, this may result in additional disciplinary measures, including, without limitation, a period of suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period
  - d. **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of Softball Canada. A suspended Softball Canada Participant(s) may be eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Softball Canada Participant(s) satisfying specific conditions noted at the time of suspension
  - e. **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
  - f. **Permanent Ineligibility** - Ineligibility to participate in any capacity in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of Softball Canada
  - g. **Other Discretionary Sanctions** - Other sanctions may be imposed, including, but not limited to, other loss of privileges, no contact directives, a fine or a monetary payment to compensate for direct losses, or other restrictions or conditions as deemed necessary or appropriate
48. The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed Maltreatment:
- a. Sexual Maltreatment involving a Minor Complainant, or a Complainant who was a Minor at the time of the incidents complained of, shall carry a presumptive sanction of permanent ineligibility.
  - b. Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.
  - c. While a Respondent has pending charges allegations of a crime against a person, if justified by the seriousness of the offence, the presumptive sanction shall be a period of suspension until a final determination is made by the applicable process.
49. A Softball Canada Participant(s) 's conviction for certain *Criminal Code* offenses involving harmful conduct shall carry a presumptive sanction of permanent ineligibility from participating with Softball Canada. Such *Criminal Code* offences may include, but are not limited to:

- a. Any child pornography offences
- b. Any sexual offences
- c. Any offence of physical violence

50. Unless the External Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal.

51. Failure to comply with a sanction as determined by the External Discipline Panel will result in an automatic suspension until such time as compliance occurs.

### **OSIC SANCTION**

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

### **APPEALS**

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

### **CONFIDENTIALITY**

54. The disciplinary process is confidential and involves only Softball Canada, the Member (where applicable) the Parties, the Independent Third Party, the Internal Discipline Chair, the External Discipline Panel (as appropriate), and any independent advisors to the External Discipline Panel.

55. Notwithstanding the above, Softball Canada recognizes that it is required to notify Sport Canada of all reported complaints and reports of potential complaints.

56. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings, unless the Organization is required to notify an organization such as an international federation, Sport Canada or other sport organization (i.e., where a Provisional Suspension or interim measures have been imposed and communication is required to ensure that they may be enforced), or notification is otherwise required by law.

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

## **TIMELINES**

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

## **STATISTICAL REPORTING**

59. Softball Canada and Members may maintain a general statistical report of the activity that has been conducted pursuant to this *Discipline and Complaints Policy*. This report shall not include any information that is confidential under this Policy, or that has been ordered to be kept confidential by a discipline or appeal panel, but may include the number of complaints Reported to the Independent Third Party (for Softball Canada and Members), and statistics regarding the number of cases that were resolved through alternate dispute resolution, the Internal Discipline Chair process, the discipline panel process, and the number of appeals filed pursuant to the *Appeal Policy* and whether the appeals were upheld, partially upheld or dismissed.

## **PRIVACY**

60. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Softball Canada's Privacy Policy.

61. Softball Canada, its Members, or any of their delegates pursuant to this Policy (i.e., Independent Third Party, Internal Discipline Chair, External Discipline Panel), shall comply with Softball Canada's *Privacy Policy* (or, in the case if a Member, the Member's Privacy Policy) in the performance of their services under this Policy.

## Definitions

Terms in this Policy are defined as follows:

- a. **Athlete** – An individual who is an Athlete participant in Softball Canada who is subject to the policies of Softball Canada.
- b. **Complainant** – A Softball Canada Participant who makes a report of an incident, or a suspected incident, of alleged Maltreatment, Prohibited Behaviour or other misconduct that may be a violation of the standards described in Softball Canada’s policies, by-laws, rules or regulations, or the UCCMS.
- c. **Days** – calendar days
- d. **Director of Sanctions and Outcomes** – Responsible for overseeing the imposition of Provisional Measures, agreed outcomes, Sanctions and appearing before the Safeguarding Tribunal or the Appeal Tribunal in cases arising from a potential breach of the UCCMS (or other conduct rules, as applicable)
- e. **External Discipline Panel** – A Panel of one or three people who are appointed by the Independent Third Party to decide on complaints that are assessed under Process #2 of this Policy.
- f. **Event** - An event, which may include a social event, sanctioned by Softball Canada or a Member.
- g. **Independent Third Party** – the individual retained by Softball Canada to receive reports and complaints, and to fulfill the responsibilities outlined in the *Discipline and Complaints Policy*. This individual must not be in a real or perceived conflict of interest or have a direct relationship with any of the Parties.
- h. **Internal Discipline Chair** – An individual appointed by Softball Canada to decide on complaints that are assessed under Process #1 of this Policy. The Internal Discipline Chair may be a Director, head coach, staff member, or other individual affiliated with Softball Canada but must not be in a conflict of interest or have a direct relationship with any of the Parties.
- i. **Maltreatment** – as defined in the *UCCMS*
- j. **Minor** – as defined in the *UCCMS*.
- k. **OSIC** - Office of the Sport Integrity Commissioner, an independent division of the SDRCC which comprises the functions of the Sport Integrity Commissioner
- l. **Parties** – the individuals involved in a dispute.



- m. **Softball Canada Participant** - Refers to all categories of individual members and/or registrants defined in the By-laws of Softball Canada who are subject to the policies, rules and regulations of Softball Canada, as well as all persons employed by, contracted by, or engaged in activities with, Softball Canada including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, umpires, volunteers, judges, managers, administrators, parents or guardians, spectators, committee members, or directors and officers.
- n. **Person in Authority** – Any Organizational Participant who holds a position of authority within the Organization including, but not limited to, coaches, instructors, officials, managers, support personnel, chaperones, committee members, or directors and officers.
- o. **Power Imbalance** – as defined in the *UCCMS*
- p. **Provisional Suspension** – means that the Softball Canada Participant is barred temporarily from participating in in any capacity in any Event or activity of Softball Canada and its Members, or as otherwise decided pursuant to the *Discipline and Complaint Policy*, prior to the decision rendered in a hearing conducted pursuant to this Policy.
- q. **Respondent** – The Party responding to the complaint.
- r. **UCCMS** - *Universal Code of Conduct to prevent and address Maltreatment in Sport*, as amended from time to time by the SDRCC
- s. **UCCMS Participant** - A Softball Canada Participant affiliated with Softball Canada who has been a) designated by Softball Canada and b) who has signed the required consent form. UCCMS Participants may include 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 Softball Canada in any capacity.
- t. **Vulnerable Participant** – as defined in the *UCCMS*

## **Appendix A – Investigation Procedure**

### **Determination**

1. When a complaint is submitted pursuant to the *Policy* and is accepted by the Independent Third Party, the Independent Third Party will determine if the incident(s) should be investigated.

### **Investigation**

2. If the Independent Third Party considers that an investigation is necessary, they will appoint an investigator. The investigator must be an independent third-party with experience in investigating. The investigator must not be in a conflict-of-interest situation and should have no connection to either party.

3. Federal and/or Provincial/Territorial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a employee in a Workplace. The investigator should review workplace safety legislation, the organization's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.

4. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial/Territorial legislation. The investigation may include:

- a. Interviews with the Complainant
- b. Witness interviews
- c. Statement of facts (Complainant's perspective) prepared by investigator, acknowledged by the Complainant and provided to the Respondent
- d. Interviews with the Respondent
- e. Statement of facts (Respondent's perspective) prepared by investigator, acknowledged by the Respondent and provided to the Complainant

### **Investigator's Report**

5. Upon completion of their investigation, the investigator shall prepare a written report that shall include a summary of evidence from the Parties and any witnesses interviewed. The report shall also include a non-binding recommendation from the investigator regarding whether an allegation or, where there are several allegations, which allegations, should be heard by an External Discipline Panel pursuant to the *Discipline and Complaints Policy* because they constitute a likely breach of the Code of Conduct and Ethics, the UCCMS or any other relevant and applicable NSO or Member policy. The investigator may also make non-binding

recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review or investigation).

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

7. Should the investigator find that there are possible *Criminal Code* offences, the investigator shall advise the Parties, Softball Canada and, where applicable, the Member, and the matter shall be referred by the Independent Third Party to the police.

8. The Investigator must also inform Softball Canada or the Member (as applicable) of any findings of criminal activity. Softball Canada or the Member (as applicable) may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of prohibited substances or methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any sexual crime involving Minors, fraud against Softball Canada or any Member(s) (as applicable), or other offences where the lack of reporting would bring Softball Canada or the Member (as applicable) into disrepute.

### **Reprisal and Retaliation**

9. A Softball Canada Participant who submits a complaint to the Independent Third Party or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute Prohibited Behaviour be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy* or, as applicable, the policies and procedures of the OSIC.

### **False Allegations**

10. A Softball Canada Participant who submits allegations that the Investigator determines to be malicious, false, or for the purpose of retribution, retaliation or vengeance may be subject to a complaint under the terms of the *Discipline and Complaints Policy* and may be required to pay for the costs of any investigation that comes to this conclusion. The investigator may recommend to Softball Canada or the Member (as applicable) that the Softball Canada Participant be required to pay for the costs of any investigation that comes to this conclusion. Any Softball Canada Participant who is liable to pay for such costs shall be automatically deemed to be not in good standing until the costs are paid in full and shall be prohibited from participating in any Member and Softball Canada Events, activities or business. Softball Canada or any Member(s) (as applicable), or the Softball Canada Participant against whom the allegations were submitted, may act as the Complainant with respect to making a complaint pursuant to this Section 10.

## **Confidentiality**

11. The Investigator will make reasonable efforts to preserve the anonymity of Softball Canada, Respondent, and any other Party. However, Softball Canada and its Members recognizes that maintaining full anonymity during an investigation may not be feasible.

## **Privacy**

12. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Softball Canada's Privacy Policy.

13. Softball Canada, its Members, or any of their delegates pursuant to this Policy (i.e., Independent Third Party, Internal Discipline Chair, External Discipline Panel), shall comply with Softball Canada's Privacy Policy (or, in the case if a Member, the Member's Privacy Policy) in the performance of their services under this Policy.

## **DISPUTE RESOLUTION POLICY**

### **Purpose**

1. Softball Canada supports the principles of Alternative Dispute Resolution (ADR) and is committed to the techniques of negotiation, facilitation, and mediation as effective ways to resolve disputes. Alternative Dispute Resolution also avoids the uncertainty, costs, and other negative effects associated with lengthy appeals or complaints, or with litigation.
2. Softball Canada encourages all Participants to communicate openly, collaborate, and use problem-solving and negotiation techniques to resolve their differences. Softball Canada believes that negotiated settlements are usually preferable to outcomes resolved through other dispute resolution techniques. Negotiated resolutions to disputes with and among Participants are strongly encouraged.

### **Application of this Policy**

3. This Policy applies to all Participants.
4. Opportunities for Alternative Dispute Resolution may be pursued at any point in a dispute when all parties to the dispute agree that such a course of action would be mutually beneficial.

### **Facilitation and Mediation**

5. The Case Manager may request that the parties consider Alternative Dispute Resolution and/or mediation with the objective of resolving the dispute.
6. If all parties to a dispute agree to Alternative Dispute Resolution or mediation, the Case Manager may refer the alternate dispute resolution process to a resolution facilitator of the Sport Dispute Resolution Centre of Canada (SDRCC).
7. If all parties to a dispute agree to Alternative Dispute Resolution, a mediator or facilitator, acceptable to all parties, shall be appointed to mediate or facilitate the dispute.
8. The mediator or facilitator shall decide the format under which the dispute shall be mediated or facilitated and shall specify a deadline before which the parties must reach a negotiated decision.
9. Should a negotiated decision be reached, the decision shall be reported to, and approved by Softball Canada. Any actions that are to take place as a result of the decision shall be enacted on the timelines specified by the negotiated decision, pending Softball Canada's approval.
10. Should a negotiated decision not be reached by the deadline specified by the mediator or facilitator at the start of the process, or if the parties to the dispute do not agree to Alternative Dispute Resolution, the dispute shall be considered under the appropriate section of the *Discipline and Complaints Policy* or *Appeal Policy*, as applicable.

### **Final and Binding**

11. Any negotiated decision will be binding on the parties. Negotiated decisions may not be appealed.

## EVENT DISCIPLINE PROCEDURE

**\*\* This Event Discipline Procedure does not supersede or replace Softball Canada's Discipline and Complaints Policy\*\***

### **Purpose**

1. Softball Canada is committed to providing a competition environment in which all Participants are treated with respect. This Procedure outlines how alleged misconduct during an Event will be handled.

### **Scope and Application of this Policy**

2. This Procedure will be applied to all Softball Canada-sanctioned and operated Events. Changes to this Procedure must also be outlined in the event Competition Guide, when and if applicable.
3. If the Event is being sanctioned by an organization other than Softball Canada, the Event Discipline Procedure of the sanctioning organization will replace this procedure. Incidents involving Participants connected with Softball Canada (such as athletes, coaches, members, and Directors and Officers) must still be reported to Softball Canada to be addressed under Softball Canada's *Discipline and Complaints Policy*, if necessary.
4. This Procedure does not replace or supersede Softball Canada's *Discipline and Complaints Policy*. Instead, this Procedure works in concert with the *Discipline and Complaints Policy* by outlining, for a designated person with authority at an event sanctioned and operated by Softball Canada, the procedure for taking immediate, informal, or corrective action in the event of a possible violation of Softball Canada's *Code of Conduct and Ethics*.

### **Misconduct During Events**

5. Incidents that violate or potentially violate Softball Canada's *Code of Conduct and Ethics*, which can occur during a competition, away from the area of competition, or between parties connected to the Event, shall be reported to the Event Discipline Committee.
6. The Discipline Committee will be comprised of the supervisor, the Umpire in Chief (UIC) and a third person appointed by the supervisor. The Discipline Committee will make rulings on any incidents that occur during the Event. Incident Report Forms must be completed by all parties. These forms will be available in the umpires' change rooms during the tournament or can be obtained from the supervisor.
7. All incidents must be reported even if no further action is required. Provincial/Territorial Associations wish to be informed of all incidents involving its teams at Events. Incident reporting may be for both on and off field incidents. Please see the *Discipline and Complaints Policy* for more information.
8. In all matters of Event discipline, the supervisor shall have final authority.

### **Reporting Process**

9. An Incident Report must be completed by the umpire(s) or any affected Participant(s).

10. The Incident Report must be given to the UIC, who shall ensure that it is complete. If the report is incomplete, the UIC will gather the missing information.
11. The UIC must provide the complete report to the supervisor.
12. The supervisor must ensure that all relevant information is contained in the Incident Report, including the full names of any Participant involved, the full names of witnesses and their contact information (phone number, email address), and a detailed description of the incident from both parties (i.e. a written account of the incident from the umpire(s) and the Participant(s) in question).
13. The supervisor must ensure that all parties have written a description of the incident.
14. The supervisor must convene a meeting of the Discipline Committee within 24 hours of the incident, or sooner if warranted by the circumstances. If it is deemed necessary, additional information shall be gathered (such as additional witnesses and their statements) and provided to the Discipline Committee. The supervisor will be the chairperson of this meeting.
15. The committee will interview any relevant Participant involved in the incident and ask questions to clarify the reports submitted and allow the parties to add information to the report previously submitted.
16. All relevant parties (as determined by the supervisor) involved in the incident will be in attendance at this meeting. Each person will be allowed to give a ten (10) minute explanation of the events. Questions will be directed to any witnesses present at the incident by the Discipline Committee. After each person has spoken, the other party is allowed a 5-minute rebuttal. The supervisor has the right to modify this agenda as the situation dictates.
17. Upon hearing all of the evidence, the Discipline Committee will make a decision regarding whether a breach of any Softball Canada policy has occurred and, if so, impose the appropriate sanction. The Discipline Committee will provide a written decision to any Participant involved in the incident, as well as to Softball Canada, as soon as reasonably possible.
18. If warranted by the circumstances, the Discipline Committee may render an oral decision or a summary written decision, with a full reasoned decision to follow.
19. For the purpose of taking disciplinary action during the Event, the Discipline Committee will determine the appropriate action to be taken regarding the infraction(s) in accordance with Softball Canada's Discipline and Complaints Policy.

#### **Authority**

20. The Discipline Committee does not have the authority to determine a suspension that exceeds the duration of the Event. A full written report of the incident shall be submitted to Softball Canada following the conclusion of the Event. Further discipline may then be applied in accordance with Softball Canada's *Discipline and Complaints Policy* if necessary.
21. Decisions made in the scope of this Procedure may not be appealed.

22. This Procedure does not prohibit other Participants from reporting the same incident to Softball Canada to be addressed as a formal complaint pursuant to Softball Canada's *Discipline and Complaints Policy*.

23. Softball Canada shall record and track all reported incidents.



# SCREENING POLICY

## Definitions

1. The following terms have these meanings in this Policy:
  - a) *“Criminal Record Check (CRC)”* – A search of the RCMP Canadian Police Information Centre (CPIC) system for adult convictions
  - b) *“Local Police Information (LPI)”* – additional conviction and selected non-conviction information in national and local police data sources which may be relevant to the position sought
  - c) *“Enhanced Police Information Check (E-PIC)”* – a Criminal Record Check plus a search of local police information, available from Sterling Backcheck
  - d) *“Vulnerable Sector Check (VSC)”* – a detailed check that includes a search of the RCMP Canadian Police Information Centre (CPIC) system, local police information, and the Pardoned Sex Offender database
  - e) *“Vulnerable Individuals”* – A person under the age of 18 years old and/or a person who, because of age, disability or other circumstance, is in a position of dependence on others or is otherwise at a greater risk than the general population of being harmed by people in positions of trust or authority

## Preamble

2. Softball Canada understands that screening personnel and volunteers is a vital part of providing a safe sporting environment and has become a common practice among sport organizations that provide programs and services to the community.

## Application of this Policy

3. This Policy applies to all individuals whose position with Softball Canada is one of trust or authority which may relate to, at a minimum, finances, supervision, or Vulnerable Individuals.
4. Not all individuals associated with Softball Canada will be required to obtain a criminal record check or submit screening documents because not all positions pose a risk of harm to Softball Canada or to its participants. Softball Canada will determine which individuals will be subject to screening using the following guidelines (Softball Canada may vary the guidelines at its discretion):

Level 1 – Low Risk - Individuals involved in low risk assignments who are not in a supervisory role, not directing others, not involved with finances, and/or do not have unsupervised access to Vulnerable Individuals. Examples:

- a) Parents, youth, or volunteers who are helping out on a non-regular or informal basis
- b) Committee members/representatives (no direct access)

Level 2 – Medium Risk – Individuals involved in medium risk assignments who may be in a supervisory role, may direct others, may be involved with finances, and/or who may have limited access to Vulnerable Individuals. Examples:

- a) Athlete support personnel
- b) Non-coach employees, managers or supervisors (National staff)
- c) Committee members/representatives (limited access)
- d) Coaches who are typically under the supervision of another coach

Level 3 – High Risk – Individuals involved in high risk assignments who occupy positions of trust and/or authority, have a supervisory role, direct others, are involved with finances, and those who have frequent or unsupervised access to Vulnerable Individuals. Examples:

- a) Full time coaches/managers/support personnel
- b) Coaches or support personnel who travel with athletes

- c) Coaches or support personnel who could be alone with athletes
- d) Umpires in Chief/Deputy Umpires in Chief
- e) Board of Directors/Supervisors

### Screening Committee

- 5. The implementation of this policy is the responsibility of Softball Canada's Screening Committee which is a committee of either one (1) or three (3) members appointed by Softball Canada. Softball Canada will ensure that the members appointed to the Screening Committee possess the requisite skills, knowledge and abilities to accurately screening documents and render decisions under this Policy.
- 6. The Screening Committee will carry out its duties, in accordance with the terms of this policy, independent of the Board.
- 7. The Screening Committee is responsible for reviewing all documents submitted and, based on the review, making decisions regarding the appropriateness of individuals filling positions within the Softball Canada. In carrying out its duties, the Screening Committee may consult with independent experts including lawyers, police, risk management consultants, volunteer screening specialists, or any other person.

### Screening Requirements

- 8. It is Softball Canada's policy that when an individual is first engaged by Softball Canada:
  - a) Level 1 individuals will:
    - i. Complete an Application Form (**Appendix A**)
    - ii. Complete a Screening Disclosure Form (**Appendix B**)
    - iii. Complete E-PIC provided by Softball Canada
    - iv. Participate in training, orientation, and monitoring as determined by Softball Canada
  - b) Level 2 individuals will:
    - i. Complete an Application Form
    - ii. Complete a Screening Disclosure Form
    - iii. Complete E-PIC provided by Softball Canada
    - iv. Provide one letter of reference related to the position, if requested
    - v. Participate in training, orientation, and monitoring as determined by Softball Canada
    - vi. Provide a driver's abstract, if requested
  - c) Level 3 individuals will:
    - i. Complete an Application Form
    - ii. Complete a Screening Disclosure Form
    - iii. Complete E-PIC provided by Softball Canada
    - iv. Complete VSC (only if direct involvement with vulnerable individuals)
    - v. Provide one letter of reference related to the position, if requested
    - vi. Participate in training, orientation, and monitoring as determined by Softball Canada
    - vii. Provide a driver's abstract, if requested
  - d) If an individual subsequently receives a charge, conviction for, or is found guilty of, an offense they will report this circumstance immediately to Softball Canada. Additionally, the individual will inform Softball Canada of any changes in their circumstance that would alter their original responses in their Screening Disclosure Form.

- e) If Softball Canada learns that an individual has provided false, inaccurate, or misleading information, the individual will immediately be removed from their position and may be subject to further discipline in accordance with Softball Canada's *Discipline and Complaints Policy*.

### **Young People**

9. Softball Canada defines a young person as someone who is younger than 18 years old. When screening young people, Softball Canada will:
  - a) Not require the young person to obtain a VSC or E-PIC; and
  - b) In lieu of obtaining a VSC or E-PIC, require the young person to submit up to two (2) additional letters of reference.
10. Notwithstanding the above, Softball Canada may ask a young person to obtain a VSC or E-PIC if Softball Canada suspects the young person has an adult conviction and therefore has a *criminal record*. In these circumstances, Softball Canada will be clear in its request that it is not asking for the young person's *youth record*. Softball Canada understands that it may not request to see a young person's youth record.

### **Renewal**

11. Unless the Screening Committee determines, on a case-by-case basis, to modify the submission requirements, individuals who are required to submit an E-PIC, Screening Disclosure Form, VSC, or Screening Renewal Form, are required to submit the documents as follows:
  - a) An E-PIC every three years
  - b) A Screening Disclosure Form every three years
  - c) A Screening Renewal Form (**Appendix C**) every year
  - d) A Vulnerable Sector Check once
12. The Screening Committee may request that an individual provide any of the above documents at any time. Such request will be in writing and reasons will be provided for the request.

### **Orientation, Training, and Monitoring**

13. The type and amount of orientation, training, and monitoring will be based on the individual's level of risk, at Softball Canada's discretion.
14. Orientation may include, but is not limited to: introductory presentations, facility tours, equipment demonstrations, parent/athlete meetings, meetings with colleagues and supervisors, orientation manuals, orientation sessions, and increased supervision during initial tasks or initial period of engagement.
15. Training may include, but is not limited to: certification courses, online learning, mentoring, workshop sessions, webinars, on-site demonstrations, and peer feedback.
16. At the conclusion of orientation and training, the individual will be required to acknowledge, in written form, that they have received and completed the orientation and training.
17. Monitoring may include but is not limited to: written or oral reports, observations, tracking, electronic surveillance (e.g., facility security cameras), and site visits.

### **How to Obtain an E-PIC or VSC**

18. Softball Canada has joined the Coaching Association of Canada's Responsible Coaching Movement and therefore has access to the E-PIC at a discounted rate. Individuals will be provided a link to obtain an E-PIC via Softball Canada's Screening Committee Chair as directed in application of this policy.

19. In Ontario, Softball Canada understands that the *Police Record Checks Reform Act, 2015* requires the individual to consent in writing before requesting a criminal record check (such as an E-PIC). The Act also requires the individual to consent in writing for any disclosure of the results to the requesting organization.
20. In BC, the process for obtaining a Criminal Record Check is different than in other provinces and territories and sections of this policy relating to obtaining a Criminal Record Check may not apply. In such cases, the Screening Committee will provide individuals with directions pursuant to the following website:  
<https://www.viasport.ca/free-criminal-records-checks>
21. Individuals may only obtain a VSC by visiting an RCMP office or police station, submitting two pieces of government-issued identification (one of which must have a photo), and completing any required paperwork. Fees may also be required.
22. Fingerprinting may be required if there is a positive match with the individual's gender and birth date.
23. Softball Canada understands that it may be required to assist an individual with obtaining a VSC. Softball Canada may need to submit a Request for VSC (**Appendix D**) or complete other documentation describing the nature of the organization and the individual's role with vulnerable individuals.

#### **Procedure**

24. Screening documents must be submitted to the Manager, Sport Development - Angela Ballantyne  
[aballantyne@softball.ca](mailto:aballantyne@softball.ca)
25. An individual who refuses or fails to provide the necessary screening documents will be ineligible to volunteer or apply for the position sought. The individual will be informed that their application and/or position will not proceed until such time as the screening documents are submitted.
26. Softball Canada understands that there may be delays in receiving the results of an E-PIC or a VSC. At its discretion, Softball Canada may permit the individual to participate in the role during the delay. Softball Canada may withdraw this permission at any time and for any reason.
27. Softball Canada recognizes that different information will be available depending on the type of screening document that the individual has submitted. For example, an E-PIC may show details of a specific offense, or not, and/or a VSC may be returned with specific information or simply a notification indicating 'cleared' or 'not cleared'. The Screening Committee will use its expertise and discretion when making decisions based on the screening documents that have been submitted.
28. Following the review of the screening documents, the Screening Committee will decide:
  - a) The individual has passed screening and may participate in the desired position;
  - b) The individual has passed screening and may participate in the desired position with conditions;
  - c) The individual has not passed screening and may not participate in the desired position; or
  - d) More information is required from the individual.
29. In making its decision, the Screening Committee will consider the type of offense, date of offense, and relevance of the offense to the position sought.
30. The Screening Committee must decide that an individual has not passed screening if the screening documentation reveals any of the following:
  - a) If imposed in the last three years:
    - i. Any offense involving the use of a motor vehicle, including but not limited to impaired driving

- ii. Any offense for trafficking and/or possession of drugs and/or narcotics
- iii. Any offense involving conduct against public morals
- b) If imposed in the last ten years:
  - i. Any crime of violence including but not limited to, all forms of assault
  - ii. Any offense involving a minor or minors
- c) If imposed at any time:
  - i. An individual's conviction for any of the following *Criminal Code* offenses:
    - a. Any offense of physical or psychological violence
    - b. Any crime of violence including but not limited to, all forms of assault
    - c. Any offense involving trafficking of illegal drugs
    - d. Any offense involving the possession, distribution, or sale of any child-related pornography
    - e. Any sexual offense
    - f. Any offense involving theft or fraud

### **Conditions and Monitoring**

31. Excluding the incidents above which, if revealed, would cause the individual to not pass screening, the Screening Committee may determine that incidents revealed on an individual's screening documents may allow the individual to pass the screening process and participate in a desired position with *conditions* imposed. The Screening Committee may apply and remove conditions at its discretion and will determine the means by which adherence to conditions may be monitored.

### **Records**

32. All records will be maintained in a confidential manner and will not be disclosed to others except as required by law, or for use in legal, quasi-legal, or disciplinary proceedings.

33. The records kept by Softball Canada as part of the screening process include but are not limited to:

- a) An individual's Vulnerable Sector Check
- b) An individual's E-PIC (for a period of three years)
- c) An individual's Screening Disclosure Form (for a period of three years)
- d) An individual's Screening Renewal Form (for a period of one year)
- e) Records of any conditions attached to an individual's registration by the Screening Committee
- f) Records of any discipline applied to any individual by Softball Canada or by another sport organization

## Appendix A – Application Form

*Note: Individuals who are applying to volunteer or work within certain positions with Softball Canada must complete this Application Form. Individuals need to complete an Application Form once for the position sought. If the individual is applying for a new position within Softball Canada, a new Application Form must be submitted.*

**NAME:** \_\_\_\_\_  
First Middle Last

**CURRENT PERMANENT ADDRESS:**

\_\_\_\_\_  
Street City Province Postal

**DATE OF BIRTH:** \_\_\_\_\_ **GENDER IDENTITY:** \_\_\_\_\_  
Month/Day/Year

**EMAIL:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**POSITION SOUGHT:** \_\_\_\_\_

By signing this document below, I agree to adhere to Softball Canada's policies and procedures, including but not limited to the *Code of Conduct and Ethics, Conflict of Interest Policy, Privacy Policy, and Screening Policy*. Softball Canada's policies are located at the following link: <https://softball.ca/policies>

I recognize that I must pass certain screening requirements depending on the position sought, as outlined in the *Screening Policy*, and that the Screening Committee will determine my eligibility to volunteer or work in the position.

**NAME (print):** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

## Appendix B – Screening Disclosure Form

**NAME:** \_\_\_\_\_  
First Middle Last

**OTHER NAMES YOU HAVE USED:** \_\_\_\_\_

**CURRENT PERMANENT ADDRESS:**

\_\_\_\_\_  
Street City Province Postal

**DATE OF BIRTH:** \_\_\_\_\_ **GENDER IDENTITY:** \_\_\_\_\_  
Month/Day/Year

**Local Association (if applicable):** \_\_\_\_\_ **EMAIL:** \_\_\_\_\_

*Note: Failure to disclose truthful information below may be considered an intentional omission and the loss of volunteer responsibilities or other privileges*

- 1. Do you have a criminal record? If so, please complete the following information for each conviction. Attach additional pages as necessary.**

Name or Type of Offense: \_\_\_\_\_

Name and Jurisdiction of Court/Tribunal: \_\_\_\_\_

Year Convicted: \_\_\_\_\_

Penalty or Punishment Imposed: \_\_\_\_\_

Further Explanation: \_\_\_\_\_

- 2. Have you ever been disciplined or sanctioned by a sport governing body or by an independent body (e.g., private tribunal, government agency, etc.) or dismissed from a coaching or volunteer position? If so, please complete the following information for each disciplinary action or sanction. Attach additional pages as necessary.**

Name of disciplining or sanctioning body: \_\_\_\_\_

Date of discipline, sanction or dismissal: \_\_\_\_\_

Reasons for discipline, sanction or dismissal: \_\_\_\_\_

Penalty or Punishment Imposed: \_\_\_\_\_

Further Explanation: \_\_\_\_\_

**3. Are criminal charges or any other sanctions, including those from a sport body, private tribunal or government agency, currently pending or threatened against you? If so, please complete the following information for each pending charge or sanction. Attach additional pages as necessary.**

Name or Type of Offense: \_\_\_\_\_

Name and Jurisdiction of Court/Tribunal: \_\_\_\_\_

Name of disciplining or sanctioning body: \_\_\_\_\_

Further Explanation: \_\_\_\_\_

**PRIVACY STATEMENT**

By completing and submitting this Screening Disclosure Form, I consent and authorize Softball Canada to collect, use and disclose my personal information, including all information provided on the Screening Disclosure Form as well as my Enhanced Police Information Check and/or Vulnerable Sector Check (when permitted by law) for the purposes of screening, implementation of Softball Canada’s *Screening Policy*, administering membership services, and communicating with National Sport Organizations, Provincial Sport Organizations, Sport Clubs, and other organizations involved in the governance of sport. Softball Canada does not distribute personal information for commercial purposes.

**CERTIFICATION**

I hereby certify that the information contained in this Screening Disclosure Form is accurate, correct, truthful and complete.

I further certify that I will immediately inform Softball Canada of any changes in circumstances that would alter my original responses to this Screening Disclosure Form. Failure to do so may result in the withdrawal of volunteer responsibilities or other privileges and/or disciplinary action.

**NAME (print):** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_



## Appendix C – Screening Renewal Form

**NAME:** \_\_\_\_\_  
First Middle Last

**CURRENT PERMANENT ADDRESS:**

\_\_\_\_\_  
Street City Province Postal

**DATE OF BIRTH:** \_\_\_\_\_ **GENDER IDENTITY:** \_\_\_\_\_  
Month/Day/Year

**EMAIL:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

By signing this document below, I certify that there have been no changes to my criminal record since I last submitted an Enhanced Police Information Check and/or Vulnerable Sector Check and/or Screening Disclosure Form to Softball Canada. I further certify that there are no outstanding charges and warrants, judicial orders, peace bonds, probation or prohibition orders, or applicable non-conviction information, and there have been no absolute and conditional discharges.

I agree that any Enhanced Police Information Check and/or Vulnerable Sector Check and/or Screening Disclosure Form that I would obtain or submit on the date indicated below would be no different than the last Enhanced Police Information Check and/or Vulnerable Sector Check and/or Screening Disclosure Form that I submitted to Softball Canada. I understand that if there have been any changes, or if I suspect that there have been any changes, it is my responsibility to obtain and submit a new Enhanced Police Information Check and/or Vulnerable Sector Check and/or Screening Disclosure Form to Softball Canada's Screening Committee instead of this form.

**I recognize that if there have been changes to the results available from the Enhanced Police Information Check and/or Vulnerable Sector Check and/or Screening Disclosure Form, and that if I submit this form improperly, then I am subject to disciplinary action and/or the removal of volunteer responsibilities or other privileges at the discretion of the Screening Committee.**

**NAME (print):** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

## Appendix D – Request for Vulnerable Sector Check

*Note: Softball Canada will be required to modify this letter to adhere to any requirements from the VSC provider*

### INTRODUCTION

Softball Canada is requesting a Vulnerable Sector Check for \_\_\_\_\_ [insert individual's full name] who identifies as a \_\_\_\_\_ [insert gender identity] and who was born on \_\_\_\_\_ [insert birthdate].

### DESCRIPTION OF THE SOFTBALL CANADA

Softball Canada is a not-for-profit national organization for the sport of softball located in Ottawa, Ontario.

### DESCRIPTION OF ROLE

\_\_\_\_\_ [insert individual's name] will be acting as a \_\_\_\_\_ [insert individual's role]. In this role, the individual will have access to vulnerable individuals.

### CONTACT INFORMATION

If more information is required from Softball Canada, please contact the Screening Committee Chair:

Angela Ballantyne [aballantyne@softball.ca](mailto:aballantyne@softball.ca)

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## WHISTLEBLOWER POLICY

### Purpose

1. The purpose of this Policy is to allow Workers to have a discrete and safe procedure by which they can disclose incidents of wrongdoing in the workplace without fear of unfair treatment or reprisal.

### Application

2. This Policy only applies to Workers who observe or experience incidents of wrongdoing committed by Directors or by other Workers.
3. Incidents of wrongdoing or misconduct observed or experienced by participants, volunteers, spectators, parents of participants, or other individuals not employed or contracted by Softball Canada can be reported under the terms of Softball Canada's *Discipline and Complaints Policy* and/or reported to Softball Canada's Board or Chief Executive Officer to be handled under the terms of the individual Worker's Employment Agreement or Contractor Agreement, as applicable, and/or any other relevant and applicable Softball Canada policy.
4. Matters reported under the terms of this Policy may be referred to be heard under Softball Canada's *Discipline and Complaints Policy*, at the discretion of the Compliance Officer.
5. Any violation of this Policy that may be considered "Prohibited Behaviour" or "Maltreatment" (as defined in the UCCMS) when the Respondent is a Softball Canada Participant who has been designated by Softball Canada as a UCCMS Participant (as defined in the *Discipline and Complaints Policy*), will be handled pursuant to the policies and procedures of the Office of the Sport Integrity Commissioner ("OSIC"), subject to the rights of Softball Canada as set out in the *Discipline and Complaints Policy* and any applicable workplace policies.

### Wrongdoing

6. Wrongdoing can be defined as:
  - a) Violating the law;
  - b) Intentionally or seriously breaching of Softball Canada's *Code of Conduct and Ethics*;
  - c) Intentionally or seriously breaching Softball Canada's policies for workplace violence and harassment;
  - d) Committing or ignoring risks to the life, health, or safety of a participant, volunteer, Worker, or other individual;

- e) Directing an individual or Worker to commit a crime, serious breach of a policy of Softball Canada, or other wrongful act; or
- f) Fraud.

### **Pledge**

- 7. Softball Canada pledges not to dismiss, penalize, discipline, or retaliate or discriminate against any Worker who discloses information or submits, in good faith, a report against a Worker under the terms of this Policy.
- 8. Any individual affiliated with Softball Canada who breaks this Pledge will be subject to disciplinary action.

### **Reporting Wrongdoing**

- 9. A Worker who believes that a Director or another Worker has committed an incident of wrongdoing should prepare a report that includes the following:
  - a) Written description of the act or actions that comprise the alleged wrongdoing, including the date and time of the action(s);
  - b) Identities and roles of other individuals or Workers (if any) who may be aware of, affected by, or complicit in, the wrongdoing;
  - c) Why the act or action should be considered to be wrongdoing; and
  - d) How the wrongdoing affects the Worker submitting the report (if applicable).

### **Authority**

- 10. Softball Canada has appointed the following Compliance Officer to receive reports made under this Policy:

**Cristy Nurse**

[cnurse@hammondllp.ca](mailto:cnurse@hammondllp.ca)

**Hammond LLP**

- 11. After receiving the report, the Compliance Officer has the responsibility to:
  - a) Assure the Worker of Softball Canada's Pledge
  - b) Connect the Worker to the Alternate Liaison if the individual feels that he or she cannot act in an unbiased or discrete manner due to the individual's role with Softball Canada and/or the content of the report

- c) Determine if the report is frivolous, vexatious, or not submitted in good faith (e.g., the submission of the report is motivated by personal interests and/or the content of the report is obviously false or malicious)
- d) Determine if Softball Canada's *Whistleblower Policy* applies or if the matter should be handled under Softball Canada's *Discipline and Complaints Policy*
- e) Determine if the local police service be contacted
- f) Determine if mediation or alternate dispute resolution can be used to resolve the issue
- g) Determine if Softball Canada's Chairperson and/or Chief Executive Officer should or can be notified of the report
- h) Begin an investigation

### **Alternate Liaison**

12. If the Worker feels that the Compliance Officer is unable to act in an unbiased or discrete manner due to the individual's role with Softball Canada and/or the content of the report, the Worker should contact the following individual who will act as an independent liaison between the Worker and the Compliance Officer:

**Steven J. Indig, LLB**

**Sport Law & Strategy Group**

**SJI@sportlaw.ca**

13. The Alternate Liaison will not disclose the Worker's identity to the Compliance Officer or to anyone affiliated with Softball Canada without the Worker's consent.
14. A Worker who is unsure if he or she should submit a report, or who does not want to have his or her identity known, may contact the Alternate Liaison for informal advice about the process.

### **Investigation**

15. If the Compliance Officer determines that an investigation should be launched, the Compliance Officer may decide to contract an external investigator. In such cases, Softball Canada's Chief Executive Officer and/or President may be notified that an investigation conducted by an external investigator is necessary without the nature of the investigation, content of the report, or identity of the Worker who submitted the report being disclosed. Softball Canada's Chief Executive Officer and/or President may not unreasonably refuse the decision to contract an external investigator.

16. An investigation launched by the Compliance Officer or by an external investigator should generally take the following form:
- a) Follow-up interview with the Worker who submitted the report
  - b) Identification of Workers, participants, volunteers or other individuals that may have been affected by the wrongdoing
  - c) Interviews with such-affected individuals
  - d) Interview with the Director(s) or Worker(s) against whom the report was submitted
  - e) Interview with the supervisor(s) of the Director(s) or Worker(s) against whom the report was submitted
17. In all stages of the investigation, the investigator will take every precaution to protect the identity of the Worker who submitted the report and/or the specific nature of the report itself. However, Softball Canada recognizes that there are some instances where the nature of the report and/or the identity of the Worker who submitted the report will or may be inadvertently deduced by individuals participating in the investigation.
18. The investigator will prepare an Investigator's Report – omitting names whenever possible and striving to ensure confidentiality – that will be submitted to Softball Canada's President and/or Chief Executive Officer for review and action.

### **Decision**

19. Within fourteen (14) days after receiving the Investigator's Report, Softball Canada's President and/or Chief Executive Officer will take corrective action, as required. Corrective action may include, but is not limited to including:
- a) Enacting and/or enforcing policies and procedures aimed at eliminating the wrongdoing or further opportunities for wrongdoing;
  - b) Revision of job descriptions; or
  - c) Discipline, suspension, termination, or other action as permitted by Softball Canada's Bylaws, provincial employment legislation, any relevant and applicable Softball Canada policy, and/or the Worker's Employment Agreement or Contractor Agreement.
20. The corrective action, if any, will be communicated to the investigator who will then inform the Worker who submitted the report.
21. Decisions made under the terms of this Policy may be appealed under the terms of Softball Canada's *Appeal Policy* provided that:

- a) If the Worker who submitted the initial report is appealing the decision, the Worker understands that his or her identity must be revealed if he or she submits an appeal, and
- b) If the Director or Worker against whom the initial report was submitted is appealing the decision, the Worker or Director understands that the identity of the Worker who submitted the report will not be revealed and that Softball Canada will act as the Respondent

### **Confidentiality**

22. Confidentiality at all stages of the procedures outlined in this Policy – from the initial report to the final decision – is assured for all individuals (the Worker, the Worker(s) against whom the report is submitted, and the individuals interviewed during the investigation). An individual who intentionally breaches the confidentiality clause of this Policy will be subject to disciplinary action.