

THE BASEBALL B.C. DISPUTE RESOLUTION AND DISCIPLINE POLICY

NOTE: IN THIS POLICY “MEMBER” REFERS TO all categories of members in Baseball B.C., as well as to all individuals engaged in activities with or employed by Baseball B.C., including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel).

PREAMBLE

- 1) Baseball B.C. is committed to the development of amateur baseball in B.C. and the establishment of a friendly and mutually rewarding relationship among the members of Baseball B.C. to better facilitate competition.
- 2) Membership in Baseball B.C. brings with it many benefits and privileges. At the same time, members are expected to fulfill certain responsibilities and obligations, including but not limited to, complying with the Code of Conduct, Harassment Policy, general policies, rules and regulations of Baseball B.C.
- 3) The Baseball B.C. Code of Conduct identifies the standard of behavior which is expected of members of Baseball B.C. Members who fail to meet this standard will be subject to the disciplinary sanctions identified within this Dispute Resolution and Discipline Policy (the “Policy”).

APPLICATION

- 4) This Policy applies to all categories of members in Baseball B.C.
- 5) This Policy applies to discipline, disputes and complaints that may occur during the course of all Baseball B.C. business, activities and events, including but not limited to, training camps, exhibitions, tournaments and international tours.
- 6) Discipline, disputes and complaints arising within the business, activities or events of local, provincial and territorial baseball associations, teams, and affiliated organizations of Baseball B.C. shall be dealt with first by using the discipline policies and procedures of such organizations. Thereafter, the Baseball B.C. Appeal Procedure will then apply. In the event that there are no discipline policies and procedures available or in place in such organizations then the Baseball B.C. Discipline and Dispute Policy, and if necessary, the Baseball B.C. Appeal Procedure will be utilized by those organizations.
- 7) This Policy applies to complaints regarding the failure to adhere to the Baseball B.C. Code of Conduct. In matters in of harassment, the Baseball B.C. Harassment Policy applies.

DISPUTE RESOLUTION

Reporting a Complaint

- 8) Any individual subject to this policy may report a complaint to the Executive Director of Baseball B.C. in writing, setting out a brief summary of the matters in dispute including but not limited to the date, time and location from which the dispute arises (“the Complaint”). Within 7 days of receiving the Complaint, the Executive Director shall forward it to the President, or President’s delegate, who shall determine whether the matter in dispute and the parties to the dispute are properly within the scope and application of this Policy, or are more properly to be dealt with pursuant to another policy of the Baseball BC. This decision regarding jurisdiction is final and may not be appealed.

Investigation

- 9) Depending on the nature of the Complaint, the President may appoint an independent individual to conduct an investigation. If this is the case, the Investigator shall carry out the investigation in timely manner and at the conclusion of the investigation shall submit a written report to the President.

Determination of category of infraction

- 10) Subsequent to receiving the Complaint and, where an investigation has been conducted and an Investigation Report completed and received, the Executive Director (or President or his designate) shall make a determination as to whether the Complaint would, if upheld, constitute a Minor Infraction or a Major Infraction. The decision regarding the nature of the infraction is final and may not be appealed.
- 11) Examples of Minor and Major Infractions are set out in Appendix A. These examples are not meant to be exhaustive and the Executive Director may determine that other conduct constitutes a Minor or Major Infraction.
- 12) Where the Executive Director (or President or his designate) determines that the Complaint would, if proven, constitute a Minor Infraction, the Executive Director (or President or his designate) will provide the individual to whom the Complaint applies with a copy of the Complaint and, if applicable the Investigation Report, and further provide the individual with an opportunity to respond to the allegation in writing within 7 days.
- 13) Upon receipt of the written response from the individual to whom the Complaint applies, the Executive Director (or President or his designate) shall determine whether the allegation has been proven on a balance of probabilities and where so determined, the Executive Director (or President or his designate) may apply a disciplinary sanction.
- 14) The following disciplinary sanctions may be applied, singly or in combination, for Minor Infractions:
 - a) Verbal reprimand;

- b) Written reprimand to be placed in individual's file;
 - c) Verbal apology;
 - d) Hand-delivered written apology;
 - e) Team service or other voluntary contribution to Baseball B.C.;
 - f) Suspension from the current competition; and
 - g) Other sanctions as may be considered appropriate for the offense.
- 15) Notice of the finding of the Executive Director (or President or his designate) and, if applicable, the disciplinary sanctions applied shall be in writing and provided to the individual to whom the complaint applies and the person who initiated the complaint.
- 16) A Minor Infraction which results in discipline shall be recorded using the Incident Report form in Appendix B.

Mediation

- 17) Opportunities for mediation may be pursued at any point in a dispute subsequent to the Complaint being reported to the Executive Director as set out in paragraph 8 and where the disputing parties agree that such a course of action would be mutually beneficial.
- 18) Where the disputing parties agree to attempt resolution of their dispute through mediation, each shall provide written direction to the Executive Director to refer the matter to Mediate BC in Vancouver, B.C. which shall be responsible for the appointment of a mediator.
- 19) The process for the mediation including but not limited to the appointment of the mediator shall occur pursuant to the mediation rules of Mediate BC.
- 20) All costs associated with mediation including the fees charged by the mediator, administrative costs incurred by Mediate BC or other similar expenses shall be borne equally between the disputing parties.

Hearing Panel

- 21) Where the Executive Director (or President or his designate) determines that the Complaint would, if proven, constitute a Major Infraction, the alleged offender shall be notified in writing no later than 3 days from date of the Executive Director's (or President or his designate's) decision that the Complaint constitutes a Major Infraction if proven, and shall be advised of the procedures outlined in this policy.
- 22) If the incident is to be dealt with as a Major Infraction, then within 14 days of having received the Incident Report, or within 14 days of receiving the written report of the Investigator if an investigation was carried out, the President shall establish a Hearing

Panel and select the members of the Panel as follows:

- a) The Hearing Panel shall be comprised of either one, or three, individual(s) who shall have no significant relationship with the affected parties, shall have had no involvement with the Complaint or the dispute, and shall be free from other actual or perceived bias or conflict. The decision regarding the size of the Hearing Panel shall be in the sole discretion of the President;
- b) In any case where a Complaint is brought by an athlete and where the Hearing Panel consists of three persons, one member of the Hearing Panel shall be an athlete's representative. The athlete may submit a list of three candidates from which the President shall select one candidate to be a member of the Hearing Panel. The athlete's representative shall have had no involvement with the complaint or dispute, and shall be free from any other actual or perceived bias or conflict; and
- c) If the Hearing Panel consists of three persons, the President, or designate, shall select the Chairperson of the Hearing Panel.

Preliminary Conference

- 23) Where the Hearing Panel determines that the circumstances of the Complaint warrant a preliminary conference, it shall be conducted by telephone. The issues that may be considered at a preliminary conference include:
 - a) The format of the hearing, as the hearing may proceed by a review of documentary evidence, an in-person hearing, an oral hearing by telephone, or a combination of these methods. The Hearing Panel, in coming to its decision regarding the format of the hearing, must ensure that the hearing process complies with the principles of natural justice and provides procedural fairness to all parties;
 - b) Timelines for the exchange of documents and the extent of disclosure required;
 - c) Clarification of issues in dispute;
 - d) Clarification of evidence to be presented to the Hearing Panel;
 - e) Order and procedure of the hearing;
 - f) Identification of witnesses; and
 - g) Any other procedural matter which may assist in expediting the hearing
- 24) Where the Hearing Panel consists of three persons, the Hearing Panel may delegate to its Chairperson the authority to deal with any or all of these preliminary matters.

The Procedure for an Oral Hearing

- 25) Where the Hearing Panel has determined that the hearing shall be held by way of oral hearing, whether in person or not, the Hearing Panel shall govern the hearing by such procedures as it deems appropriate and fair, provided that:
- a) The hearing shall be held within 21 days of the appointment of the Hearing Panel;
 - b) The parties involved shall be given 10 days written notice of the date, time and place of the hearing;
 - c) The parties shall receive a copy of the Complaint;
 - d) The parties shall receive a copy of the Investigator's report, where an investigation was carried out;
 - e) A quorum shall be the single Hearing Panel member or all three members, as the case may be;
 - f) If there are three Hearing Panel members, decisions shall be by majority vote, where the Chairperson carries a vote;
 - g) If the decision of the Hearing Panel may affect another party to the extent that the other party would have recourse to a hearing in their own right, that party shall become a party to the hearing in question;
 - h) Any of the parties at the hearing may be accompanied by a representative or advisor, including legal counsel; and
 - i) The Hearing Panel may direct that any other person participate in the hearing.

The Procedure for a Documentary Hearing

- 26) Where the Hearing Panel has determined that the hearing shall be held by way of documentary review, it shall govern the hearing by such procedures as it deems appropriate and fair provided that:
- a) All parties are given a reasonable opportunity to review the Complaint and the Investigator's report, where an investigation was carried out, to provide written submissions to the Hearing Panel, to review the written submissions of the other parties, to provide written rebuttal, and to provide written arguments, and
 - b) The applicable principles and timelines set out in Paragraph 25 are respected.

Evidence Which May Be Considered

- 27) As a general rule, the Hearing Panel shall consider any evidence that is relevant to the matters in dispute. The normal rules of evidence will be relaxed. The Hearing Panel has authority to consider hearsay evidence provided the Hearing Panel gives to such evidence weight as might be reasonable in light of the circumstances of its inclusion.

The Decision

- 28) Within 14 days of concluding the hearing, the Hearing Panel shall issue its written decision, with reasons. The Hearing Panel may decide:
- a) Where it is found to be proven on a balance of probabilities, to uphold the Complaint and apply the appropriate sanction.
 - b) To dismiss the Complaint;
 - c) To design a remedy that, in the opinion of the Hearing Panel, will resolve the dispute. However, in so doing the Hearing Panel is not authorized to change or alter any rule, criteria, policy, procedure or bylaw of the Baseball B.C. that has been properly passed and implemented by the appropriate governing body; and
 - d) To determine how costs of the hearing, excluding legal fees and legal disbursements of any of the parties, shall be allocated, if at all.
- 29) A Major Infraction which results in discipline shall be further recorded using the Incident Report form in Appendix B.
- 30) Where the Hearing Panel is comprised of three members and the decision is not unanimous, the written decision shall include the dissenting panel member's reasons.
- 31) The Hearing Panel may apply the following disciplinary sanctions singly or in combination, for Major Infractions:
- a) Written reprimand to be placed in individual's file;
 - b) Hand-delivered written apology;
 - c) Forfeiture of certain games;
 - d) Suspension from certain Baseball B.C. events which may include suspension from the current competition or from future teams or competitions;
 - e) Payment of a financial fine, amount to be determined by the Discipline Panel;
 - f) Suspension of Baseball B.C. or Sport B.C. funding;
 - g) Suspension from certain Baseball B.C. activities (i.e. competing, coaching or officiating) for a designated period of time;
 - h) Suspension from all Baseball B.C. activities for a designated period of time;
 - i) Expulsion from Baseball B.C.; and

- j) Other sanctions as may be considered appropriate for the offense, including notification to law enforcement authorities if appropriate in all of the circumstances.
- 32) The preceding sanctions may be modified, or added to, as required by the provisions of any other pertinent Baseball B.C. policy, such as those dealing with harassment, doping, personnel or event-specific matters.
- 33) Unless the Hearing Panel decides otherwise, any disciplinary sanctions shall commence immediately.
- 34) In applying sanctions, the Hearing Panel may have regard to the following aggravating or mitigating circumstances:
- a) The nature and severity of the offense;
 - b) Whether the incident is a first offense or has occurred repeatedly;
 - c) The individual's acknowledgment of responsibility;
 - d) The individual's extent of remorse;
 - e) The age, maturity or experience of the individual; and
 - f) The individual's prospects for rehabilitation.
- 35) Notwithstanding the procedures set out in this policy, any member who is convicted of a criminal offense involving sexual exploitation, invitation to sexual touching, sexual interference, sexual assault, shall face automatic suspension from Baseball B.C. for a period of time corresponding to the length of the criminal sentence imposed by the Court, and may face further disciplinary action by Baseball B.C. in accordance with this policy.
- 36) A copy of the decision shall be provided to each of the parties and to the President. This decision shall be binding on all parties to the dispute. Failure by any party to comply with a decision and remedy shall result in automatic suspension of membership in Baseball B.C. and participation in any of the programs of Baseball B.C., until such time as the decision and remedy are complied with.
- 37) Where the individual acknowledges the facts of the incident, he or she may waive the hearing, in which case the Hearing Panel shall determine the appropriate disciplinary sanction. The Hearing Panel may hold a hearing for the purpose of determining an appropriate sanction.
- 38) If the individual being disciplined does not participate in the hearing without a reasonable explanation for the absence, the hearing shall proceed.

Timelines

- 39) If the circumstances of a Complaint or a dispute are such that this policy will not allow a timely resolution of the matter, or if the circumstances of a dispute are such that the matter

cannot be resolved within the timelines dictated in this Policy, the Hearing Panel may direct that these timelines be revised.

Disputes at Competition or Where There Is A Critical Lack of Time

- 40) Complaints regarding conduct and disputes that arise during competitions, events or in any situation where this Policy applies, but where there is no time to implement the process set out above, may be dealt with immediately by the person having been given the authority to act by Baseball B.C.
- 41) For every competition, event or activity, the Baseball B.C. President shall formally designate a person to represent the Baseball B.C. who shall have the authority to act pursuant to paragraphs 40 through 46 only. This person shall be referred to as "The Baseball B.C. Person in Authority". Notwithstanding any other process contained in this Policy, nothing shall prevent such a person from taking and imposing, on an interim basis, immediate, informal, corrective disciplinary action where appropriate).
- 42) Any interim sanction, discipline or remedy imposed by the Baseball B.C. Person in Authority shall:
 - a) Be reasonable and proportionate to the conduct complained of after hearing the athlete's version of events;
 - b) Remain in effect only for the duration of the competition, event or activity; and
 - c) Where the decision is to remove an athlete, coach or official from competition or from the Baseball B.C. team, such a decision may only be made after consultation with the President or Executive Director of the Baseball B.C.
- 43) Minor or Major infractions as determined by the Baseball B.C. Person in Authority which occur within competition may be dealt with immediately if necessary, provided the individual to whom the Complaint applies being disciplined is told of the nature of the infraction and has an opportunity to provide information concerning the incident. In such situations, disciplinary sanctions shall be for the duration of the event only. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this policy for major infractions. This review does not replace the appeal provisions of this policy.
- 44) Further sanctions or remedies may be applied to, or imposed on the athlete, coach or official after the competition.
- 45) The decision of the Baseball B.C. Person in Authority shall be binding on all parties to this Agreement. Failure by any party to comply with a decision of the Baseball B.C. Person in Authority shall result in an automatic suspension of membership in Baseball B.C. and no further right to any participation in the Baseball B.C. Team or in Baseball B.C. Team-related activities. The suspension shall continue until such time as the interim sanctions, discipline or other remedies are complied with.

- 46) A decision of the Baseball B.C. Person in Authority, made pursuant to paragraphs 40 through 46, is effective immediately and may not be appealed until the interim sanction, discipline or remedy has been reviewed in accordance with this Policy.

Confidentiality

- 47) Where the dispute is of a highly sensitive nature, Baseball B.C. shall keep all proceedings under this Policy confidential, except where disclosure is directed by the Hearing Panel as part of the remedy to resolve the dispute, is required by law, or is in the best interests of the public as determined by a majority of the Hearing Panel.

Location

- 48) The hearing shall take place in the location designated by the President, unless the Hearing Panel decides the hearing is to be held by way of telephone conference or unless at the specific request of a party, a different location is mandated by the Panel as a preliminary matter.

Appeals Procedure

- 49) Except where otherwise provided, the decision of the Hearing Panel may be appealed in accordance with the procedures set out in the Baseball B.C. Appeal Policy.
- 50) The preceding provisions may be modified, or added to, as required by the provisions of any other pertinent Baseball B.C. policy, such as those dealing with harassment, doping, personnel or event-specific matters.

Irregularities, Procedural Objections and Time Requirements

- 51) Notwithstanding any provision in this Dispute Resolutions and Discipline Policy:
- a) A hearing, decision of, or disciplinary action by Baseball B.C., the President of Baseball B.C. (or designate), any appointed Panel, or any appeal related thereto, is not invalidated or defeated by an irregularity or preliminary procedural objection or failure to meet a time requirement under this Policy.
 - b) If an irregularity, procedural error, or failure to meet a time requirement has occurred, Baseball B.C., the President of Baseball B.C. (or designate), or the Panel, may determine that the hearing, decision, disciplinary action or appeal shall remain in place, or proceed as the case may be, and may impose such conditions, including the granting an adjournment of further proceedings, as deemed appropriate in all of the circumstances.

APPENDIX A

Minor infractions may include:

- 1) A single incident of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, spectators and sponsors;
- 2) Unsportsmanlike conduct such as angry outbursts or arguing;
- 3) A single incident of being late for or absent from Baseball B.C. events and activities at which attendance is expected or required; and
- 4) Non-compliance with the rules and regulations under which Baseball B.C. events are conducted, whether at the local, provincial, national or international level.

Major infractions may include:

- 1) Repeated incidents of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, spectators and sponsors;
- 2) Playing under an assumed name, falsifying an affidavit or roster, or giving false information to tournament officials;
- 3) Knowingly participating while ineligible;
- 4) Knowingly competing with or against players who have been disqualified;
- 5) Repeated unsportsmanlike conduct such as angry outbursts or arguing;
- 6) Repeated incidents of being late for or absent from Baseball B.C. events and activities at which attendance is expected or required;
- 7) Activities or behaviour which interfere with a competition or with any athlete's preparation for a competition;
- 8) Pranks, jokes or other activities which endanger the safety of others;
- 9) Deliberate disregard for the rules and regulations under which Baseball B.C. events are conducted, whether at the local, provincial, national or international level;
- 10) Abusive use of alcohol where abuse means a level of consumption which impairs the individual's ability to speak, walk or drive; causes the individual to behave in a disruptive manner; or interferes with the individual's ability to perform effectively and safely;
- 11) Any use of alcohol by minors;
- 12) Use of illicit drugs and narcotics;
- 13) Hazing; and
- 14) Use of banned performance enhancing drugs or methods.

Signature of writer: _____

Date: _____

To Be Completed by the Executive Director, President or President's Designate:

This incident is a: _____ minor infraction

_____ major infraction