

LUGE CANADA POLICY

Discipline and Complaints Policy

Department:	Human Resources	Section:	Code of Conduct
Effective Date:	January 27, 2023		
Version:	2.0	Replaces:	Discipline Policy

Approved:

Luge Canada Board

1 DEFINITIONS

1.1 The following terms have these meanings in this Policy:

- a) “*Complainant*” – The Party making a complaint
- b) “*Days*” – Calendar days¹
- c) “*Director of Sanctions and Outcomes*” – the individual(s) 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) within the jurisdiction of the OSIC.
- d) “*Discipline Chair*” – An individual appointed by the Independent Case Manager to handle complaints under Process #1 of this Policy. This individual will typically be Luge Canada’s President (or designate) unless the President is in a conflict of interest or the President’s appointment raises or could raise an inference of bias
- e) “*Discipline Panel*” – An individual or alternatively three people appointed by the Independent Case Manager to handle complaints under Process #2 of this Policy
- f) “*Event*” – An event sanctioned by Luge Canada, including any social Events
- g) “*Independent Case Manager*” – An individual appointed by Luge Canada (typically the Safe Sport Officer or designate) to administer certain complaints under this Policy. The Independent Case Manager does not need to be a member of, or affiliated with, Luge Canada
- h) “*Individuals*” – All categories of membership defined in Luge Canada’s Bylaws, as well as all individuals employed by, or engaged in activities with, Luge Canada including, but not limited to, Registered Participants (as defined in Luge Canada’s Bylaws), athletes, coaches,

¹ For the purpose of calculating deadlines, the following shall apply: the day of the act is not included in the calculation (i.e., the date of receipt of a decision is not Day 1); instead, the deadline would start on the day following receipt of the decision and would expire at midnight (in the location of the individual seeking to file an appeal) on the last day of the period. If the end date is a Saturday, a Sunday or a legal holiday, the period runs until the next day that is not a Saturday, a Sunday or a legal holiday. For example, if an Individual receives a decision on Thursday December 17, 2020, the 14-day deadline to appeal this decision starts on Friday December 18, 2020 and would expire on Friday January 1, 2021. However, since January 1, 2021 is a legal holiday, January 2, 2021 is a Saturday, and January 3, 2021 is a Sunday, the deadline to appeal would expire at midnight (in the location of the individual seeking to file an appeal) on January 4, 2021.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

convenors, race officials, volunteers, managers, administrators, committee members, directors and officers of Luge Canada, spectators, and parents/guardians of athletes

- i) *“Maltreatment”* – As defined in the UCCMS and as amended from time to time by the SDRCC
- j) *“Minor”* – As defined in the UCCMS and as amended from time to time by the SDRCC
- k) *“Organizations”* – Luge Canada’s provincial/territorial members as well as their affiliated clubs
- l) *“OSIC”* – The Office of the Sport Integrity Commissioner, an independent division of the SDRCC, which comprises the functions of the Sport Integrity Commissioner; also referred to as Abuse-Free Sport
- m) *“Party”* or *“Parties”* – The Complainant, Respondent, and any other individuals or persons involved in a process under this Policy
- n) *“Person in Authority”* – As defined in the UCCMS as amended from time to time by the SDRCC
- o) *“Power Imbalance”* - As defined in the UCCMS and as amended from time to time by the SDRCC.
- p) *“Prohibited Behaviour”* – As defined in the UCCMS and as amended from time to time by tge SDRCC
- q) *“Provisional Suspension”* – Means that the Individual is barred temporarily from participating in any capacity in any business, activities, or Events of Luge Canada (or as otherwise decided pursuant to this Policy), as described in this Policy
- r) *“Respondent”* – The Party responding to the complaint
- s) *“SDRCC”* – The Sport Dispute Resolution Centre of Canada
- t) *“UCCMS”* – the Universal Code of Conduct to Prevent and Address Maltreatment in Sport, as amended from time to time by the SDRCC
- u) *“UCCMS Participant”* - An Individual i) who has been designated by Luge Canada, and ii) who has signed the required consent form. For Luge Canada, UCCMS Participants are its athletes, coaches, officials, volunteers, administrators, directors, officers, employees, trainers, parents/guardians.
- v) *“Vulnerable Participant”* – As defined in the UCCMS and as amended from time to time by the SDRCC.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

2 PURPOSE

- 2.1 Individuals and Organizations are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Luge Canada's policies, Bylaws, Rules and Regulations, and the *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

3 SCOPE AND APPLICABILITY

- 3.1 This Policy applies to all Individuals and Organizations and to any alleged breaches of Luge Canada's policies, Bylaws, Rules or Regulations.
- 3.2 This Policy applies to matters that may arise during the business, activities, and Events of Luge Canada including, but not limited to, competitions, practices, tryouts, evaluations (including time trials and other forms of testing), treatment or consultations (e.g., massage therapy), training camps, travel associated with Luge Canada activities, and any meetings.
- 3.3 This Policy also applies to Individuals' conduct outside of the business, activities, and Events of Luge Canada when such conduct adversely affects relationships within Luge Canada (and its work and sport environment), is detrimental to the image and reputation of Luge Canada, or upon the acceptance of Luge Canada. Applicability will be determined by Luge Canada at its sole discretion.
- 3.4 This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy. Any infractions or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or Event only.
- 3.5 Without limiting the generality of the foregoing, this Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Individuals who have retired from the sport of luge where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Individual was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Individuals involved interacted due to their mutual involvement in the sport of luge or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Individual(s).

If an Individual makes a complaint or reports an incident that occurred at a time during which a different Luge Canada policy was in force (i.e., *Code of Conduct and Ethics*, *Discipline and Complaints Policy*), the matter will be governed by the substantive rules in the policy in force at the time that the incident occurred to determine whether an offense or breach of the policy has occurred, unless the panel hearing the matter determines that the principle of *lex mitior* applies to the circumstances of the case; however, for such cases, this Policy will apply retroactively, prior to its approval date, as it relates to procedural matters.

Applicability of this Policy will be determined by the Independent Case Manager at their sole discretion.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

- 3.6 An employee of Luge Canada who is a Respondent will be subject to appropriate disciplinary action per Luge Canada's policies for human resources, as well as the employee's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

Alignment

- 3.7 Luge Canada recognizes that Individuals may also be registered with provincial/territorial members and/or clubs. Luge Canada's provincial/territorial members and/or clubs should submit discipline decisions involving Individuals to Luge Canada.

Minors

- 3.8 Complaints may be brought for or against an Individual who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process. Any Individual who reports or brings a complaint on behalf of a Minor that involves known or suspected abuse, neglect, or Maltreatment of a Minor that is not Reported to the OSIC pursuant to sections 3.12 - 3.14 below must also report this to local child welfare services, the applicable provincial or territorial social service ministries or departments, or local police.
- 3.9 Communication from the Discipline Chair or Independent Case Manager, as applicable, must be directed to the minor's representative.
- 3.10 If the Minor's representative is not their parent/guardian, the representative must have written permission to act in such capacity from the Minor's parent/guardian.
- 3.11 A Minor is not required to attend an oral hearing, if held, or participate in an investigation, if conducted.

Reporting a Complaint

UCCMS Participant

- 3.12 Incidents that involve alleged Maltreatment or Prohibited Behaviour (as those terms are defined in the UCCMS) that occurred or continued as of January 31, 2023 involving a UCCMS Participant must be reported to the OSIC and will be addressed pursuant to the OSIC's policies and procedures.
- 3.13 Incidents that involve alleged Maltreatment or Prohibited Behaviour that occurred before January 31, 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, at their sole discretion, 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 Luge Canada as a UCCMS Participant.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

- 3.14 If the Independent Case Manager receives a complaint that they consider would otherwise fall within the above sections, they shall direct the Individual(s) to report the allegations to the OSIC or, with the written consent of the Individual(s) that made the report, refer the matter to the OSIC.

Individuals

- 3.15 Any complaints involving alleged breaches of the policies of Luge Canada or an Organization that do not fall within sections 3.12 - 3.14 above must be reported by an Individual (or Individuals) to Luge Canada's Independent Case Manager in writing within 30 days of the occurrence of the incident.² For the avoidance of doubt, this includes complaints referred back to the Independent Case Manager by the OSIC following a determination by the OSIC that a complaint initially reported to it does not fall within its jurisdiction. The OSIC is not required to comply with the deadline specified in this section.

Reporting to the Independent Case Manager shall be directed to:

Paule Armeneau
paule.armeneau@mac.com
Phone: (403) 813-6081

- 3.16 Notwithstanding any provision in this Policy, at the discretion of Luge Canada, Luge Canada may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Luge Canada will identify an individual to represent Luge Canada.
- 3.17 A Complainant who fears retribution or reprisal or who otherwise considers that their identity must remain confidential may report a complaint to the Independent Case Manager and request that their identity be kept confidential. If the Independent Case Manager considers that the Complainant's identity must remain confidential, the Independent Case Manager may ask that Luge Canada take carriage of the complaint and act as the Complainant.³
- 3.18 If the Independent Case Manager considers that it is unnecessary to keep the Complainant's identity confidential, they shall inform the Complainant, who may then decide whether or not to pursue the reported complaint. The Independent Case Manager may not reveal the identity of the Complainant unless the Complainant expressly informs them of their desire to pursue the complaint and has indicated, in writing, their approval to have their identity divulged.
- 3.19 In exceptional circumstances, if an Organization is unable to manage a complaint for valid and justifiable reasons, such as a conflict of interest, due to a lack of capacity or where the Organization does not have policies in place to address the complaint, the Organization may request that Luge Canada manage the complaint. In such circumstances, Luge Canada shall

² This timeline may be waived at the Independent Case Manager's sole discretion if they consider that there were extenuating circumstances that prevented the Individual from Reporting their complaint within 30 days of the occurrence of the incident. Any such decision by the Independent Case Manager is not subject to appeal.

³ In such circumstances, the Complainant(s) may be required to provide evidence during the disciplinary process.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

have the right to request that a cost-sharing agreement is entered into with the Organization as a pre-condition to Luge Canada managing the complaint.

3.20 Independent Case Manager Responsibilities

The Independent Case Manager has the following responsibilities when a complaint is submitted:

- a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy and whether it has been submitted in accordance with the deadlines indicated herein;
- b) Determine whether the complaint is frivolous, vexatious, or if it has been made in bad faith;⁴
- c) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and
- d) 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. Subject to sections 3.14 - 3.16, the Independent Case Manager decides which processes will be followed at their discretion, and such discretion is not appealable.

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

- i. Disrespectful comments, conduct, or behaviour
- ii. 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
- iii. Conduct contrary to the values of Luge Canada
- iv. Non-compliance with Luge Canada's policies, procedures, rules, or regulations
- v. Alleged violations of the policies or Bylaws of Luge Canada that do not fall within Process #2 below

**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:

- i. Repeated incidents as described in Process #1
- ii. Any incident of hazing
- iii. Abusive, racist, or sexist comments, conduct or behaviour
- iv. Behaviour that constitute Prohibited Behaviour, Maltreatment, or harassment
- v. Major incidents of violence (e.g., fighting, attacking)

⁴ As indicated in the Sport Dispute Resolution Centre of Canada's Investigation Guidelines, a reported complaint shall not be characterized as vexatious if the evidence demonstrates that there was a reasonable basis for filing and pursuing it. For a complaint to be considered to have been made in bad faith, the Independent Case Manager must consider that it was filed consciously for a dishonest purpose or due to the moral underhandedness of the Complainant and that there was an intention to mislead.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

- vi. Pranks, jokes, or other activities that endanger the safety of others
- vii. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- viii. Conduct that intentionally damages Luge Canada's image, credibility, or reputation
- ix. Consistent disregard for Luge Canada's Bylaws, policies, Rules or Regulations
- x. Major or repeated violations of the *Code of Conduct and Ethics* or any other Bylaws, policies, Rules or Regulations that designate this Policy as applicable to address such alleged breaches
- xi. Intentionally damaging Luge Canada's property
- xii. Improperly handling Luge Canada's monies
- xiii. Abusive use of alcohol or any other intoxicating substance, any use or possession of alcohol or any other intoxicating substance by Minors, or use or possession of illicit drugs and narcotics
- xiv. A conviction for any *Criminal Code* offense
- xv. Any possession or use of prohibited substances or prohibited methods

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

- 3.21 If the Independent Case Manager determines the complaint is frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately.
- 3.22 The Independent Case Manager's decision to accept or dismiss the complaint may not be appealed.

Process #1: Handled by Discipline Chair

- 3.23 Following the determination that the complaint or incident will be handled under Process #1, the Independent Case Manager will appoint a Discipline Chair. The Discipline Chair appointed must be unbiased and not in a conflict of interest situation. The Discipline Chair 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 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), subject to a direction by the Discipline Chair that a Party should not be present for a reason deemed appropriate by the Discipline Chair; and/or
 - c) Following receipt of the Parties' submissions, the 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/or to allow the Parties to ask questions of one another.
- 3.24 Following their review of the submissions and evidence related to the complaint, the Discipline Chair shall determine if any of the incidents listed in Process #1 above have occurred and, if so,

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

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

- 3.25 The Discipline Chair will inform the Parties of the Discipline Chair's decision, which shall be in writing and include reasons. The Discipline Chair's decision will take effect immediately, unless specified otherwise by the Discipline Chair. Should the circumstances require a decision to be rendered immediately or within a short timeline, the Discipline Chair may render a short decision, either verbally or in writing, followed by a written reasoned decision.
- 3.26 Any decision rendered by the Discipline Chair shall be provided to and maintained in the records of Luge Canada. Decisions will be kept confidential by the Parties and any involved organizations and shall be retained and discarded in accordance with the relevant and applicable privacy legislation and policies and practices of Luge Canada.

Process #2: Handled by Independent Case Manager

Independent Case Manager

- 3.27 Following the determination that the complaint or incident will be handled under Process #2, the Independent Case Manager will propose the use of alternative dispute resolution methods, if appropriate. If the dispute is not resolved using alternative dispute resolutions methods, the Independent Case Manager will appoint a Discipline Panel of one (1) person to hear the complaint. Thereafter, the Independent Case Manager shall have the following responsibilities :
- a) Coordinate all administrative aspects of the process and set reasonable timelines
 - b) Provide administrative assistance and logistical support to the Discipline Panel as required, including providing the Discipline Panel with any information related to previously imposed disciplinary sanctions against the Respondent under the policies of Luge Canada, any Organization, or any other sport organization that has authority over the Respondent
 - c) Provide any other service or support that may be necessary to ensure a fair and timely proceeding
- 3.28 The Independent Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
- 3.29 If warranted based on the nature of the case, the Independent Case Manager may, in their sole discretion, appoint a Discipline Panel of three(3) people. When a three-person Discipline Panel is appointed, the Independent Case Manager will appoint one of the Discipline Panel's members to serve as the Chair.
- 3.30 The Independent Case Manager, in cooperation with the 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.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

- 3.31 The hearing will be governed by the procedures that the Independent Case Manager and the Discipline Panel deem appropriate in 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-effective as possible in order to ensure that costs to the Parties and Luge Canada 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 wish to have the Discipline Panel consider will be provided to all Parties, through the Independent Case Manager, in advance of the hearing and in accordance with the timelines set by the Independent Case Manager
 - d) The Parties may engage a representative, advisor, translator, transcription services, or legal counsel at their own expense
 - e) The Discipline Panel may request that any other individual participate and give evidence at the hearing
 - f) If not a Party, Luge Canada 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 Discipline Panel, Luge Canada may make submissions at the hearing or may provide the Discipline Panel with clarifying information that may be required for the Discipline Panel to render its decisions
 - g) The Discipline Panel may exclude any evidence filed by the Parties that is unduly repetitious or otherwise an abuse of process. The Discipline Panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to any evidence filed by the Parties
 - h) Nothing is admissible in evidence at a hearing that:
 - i. would be inadmissible in a court by reason of any privilege under the law of evidence;
 - or
 - ii. is inadmissible by any statute
 - i) The decision will be by a majority vote of the Discipline Panel when the Discipline Panel consists of three people

5 The purpose of this provision is not to provide Luge Canada with the possibility to try to influence whether a sanction is imposed and, if so, the duration or nature of the sanction. Instead, this provision is intended to provide Luge Canada with the possibility to provide the Discipline Panel with clarifying information when the Parties have sought a particular sanction against an Individual, but they have misunderstood or misrepresented fundamental elements of the programming or membership structure (or other similar issues) and, if left unaddressed, could result in the Discipline Panel imposing a sanction that is unenforceable.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

- 3.32 If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
- 3.42 The hearing will proceed if a Party chooses not to participate in the hearing.
- 3.43 If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in their own right, that party will become a Party to the current complaint, shall be permitted to participate in the proceeding as determined by the Discipline Panel, and will be bound by the decision.
- 3.44 In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

- 3.45 After hearing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. If the Discipline Panel considers that an infraction has not occurred, the complaint will be dismissed.
- 3.46 Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision, with reasons, will be distributed to all Parties by the Independent Case Manager, including Luge Canada. In extraordinary circumstances, the Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period.
- 3.47 The Discipline Panel's decision will come into effect as of the date that it is rendered, unless decided otherwise by the Discipline Panel. The Discipline Panel's decision will apply automatically to Luge Canada and all of its Organizations.
- 3.48 Subject to section 3.49 below, unless a matter involves a Minor or Vulnerable Participant and subject to any determination made by the Discipline Panel that the name of any Party should remain confidential or be redacted, once the appeal deadline in the *Appeal Policy* has expired, Luge Canada will 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 Party(ies) 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.
- 3.49 If the Discipline Panel dismisses the complaint, the information referred to in section 3.48 above may only be published with the Respondent's consent. If the Respondent does not provide such consent, the information referred to in section 3.48 above will be kept confidential by the Parties, the Independent Case Manager, Luge Canada and the Organization (including the Respondent's club) and shall be retained and discarded in accordance with the relevant and applicable privacy legislation and policies and practices of Luge Canada. Failure to respect this provision may result in disciplinary action being taken pursuant to this Policy.
- 3.50 Other individuals or organizations, including but not limited to, Organizations, national and provincial/territorial sport organizations, sport clubs, etc., may be advised of the outcome of any decisions rendered in accordance with this Policy if appropriate in the circumstances.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

- 3.51 Records of all decisions will be maintained by the Luge Canada in accordance with its usual privacy policies and practices regarding private and/or confidential information.
- 3.52 When the Discipline Panel imposes a sanction, the decision shall include, at a minimum, the following details:
- a) Jurisdiction;
 - b) Summary of the facts and relevant evidence;
 - c) Where applicable, the specific provision(s) of Luge Canada's policies, Bylaws, Rules or Regulations that have been breached;
 - d) Which Party or organization is responsible for the costs of implementing any sanction;
 - e) Which organization is responsible for monitoring that the sanctioned individual respects the terms of the sanction;
 - f) Any reinstatement conditions that the Respondent must satisfy (if any);
 - g) Which organization is responsible for ensuring that the conditions have been satisfied; and,
 - h) Any other guidance that will assist the Parties to implement the External Discipline Panel's decision.

If necessary, a Party – or the organization that is responsible for implementing or monitoring a sanction – may seek clarifications from the Discipline Panel regarding the order so that it can be implemented or monitored appropriately.

Sanctions

- 3.53 When determining the appropriate sanction, the Discipline Chair or 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;

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

- 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 Luge 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 of Conduct and Ethics*; 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.
- 3.54 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.
- 3.55 The Discipline Chair or 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 an Individual (has violated the *Code of Conduct and Ethics* (or other Luge Canada policy, as applicable), and that more severe sanctions will result should the Individual be involved in other violations
 - b) **Education** - The requirement that an Individual undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics* or the UCCMS
 - c) **Probation** - Should any further violations of the *Code of Conduct and Ethics* 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 Luge Canada. A suspended Individual may be eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Individual 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

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

- e) **Permanent Ineligibility** - Ineligibility to participate in any capacity in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of Luge Canada
 - f) **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
- 3.56 The Discipline Chair or 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 related to 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.
- 3.57 An Individual's conviction for certain *Criminal Code* offences involving harmful conduct shall carry a presumptive sanction of permanent ineligibility from participating with Luge 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
- 3.58 Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.

Appeals

- 3.59 The decision of the Discipline Panel may be appealed in accordance with the *Appeals Policy*.

Provisional Suspension

- 3.60 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 Individual by the Executive Director of Luge Canada (or their designate), after which further discipline or sanctions may be applied according to this Policy.
- 3.61 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

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

duration of a competition, training, activity, or Event only, or as otherwise determined appropriate by the Independent Case Manager.⁶

- 3.62 Notwithstanding the above, the Executive Director of Luge Canada (or their 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/or investigation by the OSIC, criminal process, the hearing, or a decision of the discipline panel.
- 3.63 Any Respondent against whom a Provisional Suspension or interim measure is imposed may make a request to the Independent Case Manager or discipline panel (if appointed) to have the Provisional Suspension or interim measure lifted. In such circumstances, Luge 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.
- 3.64 Any decision not to lift a Provisional Suspension or interim measure shall not be subject to appeal.

OSIC Sanction

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

Appeals

- 3.66 The decision of a Discipline Chair or Discipline Panel, as applicable, may be appealed in accordance with the *Appeal Policy*.

Confidentiality

- 3.67 The discipline process is confidential and involves only Luge Canada, the Parties, the Independent Case Manager, the investigator (if appointed), the Discipline Chair or Discipline Panel (as applicable), and any independent advisors to the Discipline Panel.
- 3.68 None of the Parties (or their representatives or witnesses) or the organization referred to in section 3.67 above will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings, unless Luge Canada is required to notify an organization such as an international federation, Sport Canada or other sport organization (e.g.,

⁶ In-competition discipline or sanction imposed by the applicable official or authority does not prevent an Individual from facing additional disciplinary proceedings.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

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.

- 3.69 Any failure to respect the confidentiality requirement may result in further sanctions or discipline by the Discipline Chair or Discipline Panel (as applicable) against the Party(ies) in breach.

Timelines

- 3.70 If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a just resolution to the complaint, the Discipline Panel may direct that these timelines be revised.

Privacy

- 3.71 The collection, use and disclosure of any personal information pursuant to this Policy is subject to Luge Canada's usual privacy policies and practices regarding private and/or confidential information.
- 3.72 Luge Canada and any of its delegates pursuant to this Policy (i.e., Independent Case Manager, investigator (if applicable), Discipline Chair, Discipline Panel), shall comply with Luge Canada's usual privacy policies and practices regarding private and/or confidential information in the performance of their services under this Policy.

4 REVISION HISTORY

Noted below is the revision history of this document.

Version	Date	Comments
1	January 31, 2020	
2	January 27, 2023	

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

Appendix A – Investigation Procedure

Determination

1. When a complaint is submitted pursuant to the *Discipline and Complaints Policy* and is accepted by the Independent Case Manager, the Independent Case Manager will determine if the incident(s) should be investigated.
2. Investigations shall only be conducted when the Independent Case Manager considers that there is a need for an independent assessment to determine whether an allegation (or, where there are several allegations, which allegations) should be heard by a Discipline Panel pursuant to the *Discipline and Complaints Policy* because they constitute, if found to be true, a likely breach of the *Code of Conduct and Ethics* or any other relevant and applicable Luge Canada policy, or whether the allegation(s) are frivolous, vexatious or made in bad faith.

Investigation

3. If the Independent Case Manager 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.
4. Federal and/or Provincial/Territorial legislation related to Workplace Harassment may apply to the investigation if harassment was directed toward an employee in a Workplace. The investigator should review workplace safety legislation, the organization's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
5. 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:
 - 1) Interviews with the Complainant
 - 2) Witness interviews
 - 3) Statement of facts (Complainant's perspective) prepared by the investigator, acknowledged by the Complainant and provided to the Respondent
 - 4) Interviews with the Respondent
 - 5) Statement of facts (Respondent's perspective) prepared by investigator, acknowledged by the Respondent and provided to the Complainant

Investigator's Report

6. 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 a Discipline Panel pursuant to the

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

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 Luge Canada policy, or whether the allegation(s) are frivolous, vexatious, or made in bad faith.⁷ The investigator may also make non-binding recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review or investigation).

7. The investigator's report will be provided to the Independent Case Manager who will disclose, at their discretion, all or part of the investigation report to Luge Canada. The Independent Case Manager 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 Case Manager.
8. Should the investigator find that there are possible *Criminal Code* offences, the investigator shall advise the Complainant and Luge Canada to refer the matter to police.
9. The investigator must also inform Luge Canada of any findings of criminal activity. Luge Canada 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 or any suspected abuse of a Minor, fraud against Luge Canada, or other offences where the lack of reporting would bring Luge Canada into disrepute.

Reprisal and Retaliation

10. An Individual who submits a complaint to the Independent Case Manager 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

11. An Individual 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 Luge Canada that the Individual be required to pay for the costs of any investigation that comes to this conclusion. Any Individual 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 Luge Canada Events, activities or business. Luge Canada or the Individual against whom the allegations were submitted, may act as the Complainant with respect to making a complaint pursuant to this section.

⁷ As indicated in the Sport Dispute Resolution Centre of Canada's Investigation Guidelines, a Reported complaint shall not be characterized as vexatious if the evidence demonstrates that there was a reasonable basis for filing and pursuing it. For a complaint to be considered to have been made in bad faith, the investigator must consider that it was filed consciously for a dishonest purpose or due to the moral underhandedness of the Complainant and that there was an intention to mislead.

All Individuals are responsible for ensuring that they are using the latest version of this document.

Discipline and Complaints Policy

Confidentiality

12. The investigator will make reasonable efforts to preserve the anonymity of the Complainant, Respondent, and any other Party. However, Luge Canada recognize that maintaining full anonymity during an investigation may not be feasible.

Privacy

13. The collection, use and disclosure of any personal information pursuant to this Investigation Procedure is subject to Luge Canada's usual privacy policies and practices regarding private and/or confidential information.
14. Luge Canada and any of its delegates pursuant to this Investigation Procedure (i.e., Independent Case Manager, investigator), shall comply with Luge Canada's usual privacy policies and practices in the performance of their services under this Investigation Procedure.

All Individuals are responsible for ensuring that they are using the latest version of this document.