

BADMINTON ONTARIO
POLICY – COMPLAINTS/DISCIPLINE/DISPUTE RESOLUTION
February 2017

Definitions

1. The following terms have these meanings in this Policy:
 - a. “BON Mediator” means the person appointed from time to time by the board of directors of Badminton Ontario for the purpose of resolving disputes through mediation.
 - b. “Case Manager” has the meaning ascribed to it in Section 12.
 - c. “Complainant” means the Party alleging an infraction.
 - d. “Days” means calendar days irrespective of weekends and holidays.
 - e. “Individuals” means all categories of membership defined in Badminton Ontario’s Bylaws, as well as all individuals employed by, or engaged in activities with, Badminton Ontario including, but not limited to, athletes, coaches, convenors, referees, officials, volunteers, managers, administrators, committee members, directors and officers of Badminton Ontario, spectators at events, and parents/guardians of athletes.
 - f. “Panel” has the meaning ascribed to it in Section 25.
 - g. “Parties” means the Complainant, Respondent, and any other Individuals, persons, or organizations affected by the complaint.
 - h. “Respondent” means the alleged infracting Party.

Purpose

2. Badminton Ontario is committed to providing an environment in which all Individuals involved with Badminton Ontario are treated with respect. Membership in Badminton Ontario, as well as participation in its activities, brings many benefits and privileges. At the same time, Individuals and participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Badminton Ontario’s policies, bylaws, rules and regulations, and Code of Conduct and Ethics. Irresponsible behaviour by Individuals can result in severe damage to the integrity of Badminton Ontario. Conduct that violates these values may be subject to sanctions pursuant to this Policy. Since discipline may be applied, Badminton Ontario provides Individuals with the mechanism outlined in this Policy so that complaints are handled fairly, expeditiously, and affordably.

Application of this Policy

3. This Policy applies to all Individuals.
4. This Policy may be adopted by Badminton Ontario’s members to their own activities with the substitution of ‘Badminton Ontario’ with the name of the member organization.
5. This Policy applies to discipline matters that may arise during the course of Badminton Ontario’s business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Badminton Ontario activities, and any meetings.

6. This Policy does not prevent discipline from being applied, during a competition or event, according to specific procedures in place for the particular event. Further discipline may be applied according to this Policy.

7. Discipline matters and complaints arising within the business, activities, or events organized by entities other than Badminton Ontario will be dealt with pursuant to the policies of these other entities unless requested and accepted by Badminton Ontario at its sole discretion.

Reporting a Complaint

8. Any Individual may report any complaint to Badminton Ontario. Such a complaint must be in writing and signed, and must be filed within fourteen (14) calendar days of the alleged incident. Anonymous complaints may be accepted at the sole discretion of Badminton Ontario.

9. A Complainant wishing to file a complaint outside the fourteen (14) calendar day period must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the complaint outside of the fourteen (14) day period will be at the sole discretion of Badminton Ontario. This decision may not be appealed.

10. At Badminton Ontario's discretion, Badminton Ontario may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Badminton Ontario will identify an individual to represent Badminton Ontario.

Mediation

11. Before any complaint proceeds to the formal stage, the dispute may be referred to mediation upon the consent of the parties. Where appropriate, the BON Mediator can act as a mediator to assist the Complainant and Respondent to work towards a mutually agreed resolution. Where Badminton Ontario or a director of Badminton Ontario is a Party, the Parties may select a mutually agreed upon third party to serve as a mediator, with costs to be allocated as determined by the Parties.

Case Manager

12. Should mediation not resolve the dispute, Badminton Ontario will appoint a case manager (the "Case Manager") to oversee management and administration of complaints submitted in accordance with this Policy and such appointment is not appealable. The Case Manager is not required to be a member of Badminton Ontario and shall not be a member of Badminton Ontario where Badminton Ontario is a Party. In such circumstances, the Case Manager shall be an independent third-party with professional experience in matters of dispute resolution. Badminton Ontario shall bear the costs of such Case Manager, unless Badminton Ontario is the Respondent, in which case the Complainant shall bear the initial costs of the Case Manager but may be reimbursed by Badminton Ontario at the discretion of the Case Manager. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner. More specifically, the Case Manager has a responsibility to:

- a) Determine whether the complaint is frivolous or vexatious and within the jurisdiction of this Policy. If the Case Manager determines the complaint is frivolous or vexatious or outside the jurisdiction of this Policy, the complaint will be dismissed immediately. The Case Manager's decision to accept or dismiss the complaint may not be appealed

- b) Determine if the complaint is a minor or major infraction
- c) Appoint the Panel, if necessary, in accordance with this Policy
- d) Coordinate all administrative aspects of the complaint
- e) Provide administrative assistance and logistical support to the Panel as required
- f) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

13. The Case Manager will inform the Parties if the incident is to be dealt with as a minor infraction or major infraction and the matter will be dealt with according to the applicable section relating to the minor or major infraction.

14. This Policy does not prevent an appropriate person having authority from taking immediate, informal or corrective action in response to behaviour that constitutes either a minor or major infraction. Further sanctions may be applied in accordance with the procedures set out in this Policy.

15. 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. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this Policy.

Minor Infractions

16. Minor infractions are single incidents of failing to achieve expected standards of conduct that generally do not result in harm to others, Badminton Ontario, or the sport. Examples of minor infractions can include, but are not limited to, a single incident of:

- a) Disrespectful, offensive, abusive, racist, or sexist comments or behaviour
- b) Disrespectful conduct such as outbursts of anger or argument
- c) Conduct contrary to the values of Badminton Ontario
- d) Being late for, or absent from, Badminton Ontario events and activities at which attendance is expected or required
- e) Non-compliance with Badminton Ontario's policies, procedures, rules, or regulations
- f) Minor violations of Badminton Ontario's Code of Conduct and Ethics

17. All disciplinary situations involving minor infractions will be dealt with by the appropriate person who has authority over both the situation and the individual involved. If applicable, discipline specific to the particular event or competition shall be applied. The person in authority can be, but is not restricted to being, staff, officials, coaches, judges, organizers, or Badminton Ontario's decision-makers.

18. Provided that the Respondent being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident, procedures for dealing with minor infractions will be informal (compared to the procedures for major infractions) and will be determined at the discretion of the person responsible for discipline of such infractions (as noted above).

19. Penalties for minor infractions, which may be applied singularly or in combination, include the following:

- a) Verbal or written reprimand from Badminton Ontario to one of the Parties
- b) Verbal or written apology from one Party to the other Party
- d) Removal of certain privileges of membership for a designated period of time

- e) Suspension from the current competition, activity, or event
- f) Fines
- g) Any other sanction considered appropriate for the offense
- h) Discipline specific to the event or competition, if applicable

20. Minor infractions that result in discipline will be recorded and records will be maintained by Badminton Ontario. Repeat minor infractions may result in further such incidents being considered a major infraction.

Major Infractions

21. Major infractions are instances of failing to achieve the expected standards of conduct that result, or have the potential to result, in harm to other persons, to Badminton Ontario, or to the sport. Examples of major infractions include, but are not limited to:

- a) Repeated minor infractions
- b) Any incident of hazing
- c) Incidents of physical abuse
- d) Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- e) Pranks, jokes, or other activities that endanger the safety of others
- f) Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- g) Conduct that intentionally damages Badminton Ontario's image, credibility, or reputation
- h) Disregard for Badminton Ontario's bylaws, policies, rules, and regulations
- i) Major or repeated violations of Badminton Ontario's Code of Conduct and Ethics
- j) Intentionally damaging Badminton Ontario property or improperly handling Badminton Ontario monies
- k) Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
- l) Any possession or use of banned performance enhancing drugs or methods

22. Major infractions occurring within competition may be dealt with immediately, if necessary, by an appropriate person having authority. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only. If applicable, discipline specific to the particular event or competition shall be applied. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this Policy. This review does not replace the appeal provisions of this Policy.

23. Major infractions will be handled using the Procedure for Major Infraction Hearing set out in this Policy, except where a dispute resolution procedure contained within a contract, employee agreement, or other formal written agreement takes precedence.

Procedure for Major Infraction Hearing

24. The Case Manager shall notify the Parties that the complaint is potentially legitimate and the incident shall be dealt with as a major infraction. The Case Manager shall then decide the format under which the complaint will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.

25. The Case Manager will appoint a discipline panel (the “Panel”), which shall consist of a single Adjudicator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Panel’s members to serve as the Chair.

26. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Panel will determine the appropriate disciplinary sanction. The Panel may still hold a hearing for the purpose of determining an appropriate sanction.

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

28. The Case Manager will determine the format of the hearing, which may involve an oral in-person hearing, an oral hearing by telephone, 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 Case Manager deems appropriate in the circumstances, provided that:

- a) The Parties will be given appropriate notice of the day, time, and place of the hearing
- b) 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
- c) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
- d) The Panel may request that any other individual participate and give evidence at the hearing
- e) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate
- f) The decision will be by a majority vote of Panel members

29. 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 complaint in question and will be bound by the decision.

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

Decision

31. After hearing the matter, the Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) calendar days of the hearing’s conclusion, the Panel’s written decision, with reasons, will be distributed to all Parties, the Case Manager, and Badminton Ontario. 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 before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Panel.

Sanctions

32. The Panel may apply the following disciplinary sanctions, singularly or in combination, for major infractions:

- a) Verbal or written reprimand from Badminton Ontario to one of the Parties
- b) Verbal or written apology from one Party to the other Party
- c) Expulsion from Badminton Ontario

- d) Removal of certain membership privileges
- e) Suspension from certain teams, events, and/or activities
- f) Suspension from all Badminton Ontario's activities for a designated period of time
- g) Withholding of prize money or awards (if applicable)
- h) Payment of the cost of repairs for property damage
- i) Suspension of funding from Badminton Ontario or from other sources
- j) Any other sanction considered appropriate for the offense

33. Unless the Panel decides otherwise, any disciplinary sanctions will begin immediately. Failure to comply with a sanction as determined by the Panel will result in automatic suspension until such time as compliance occurs.

34. Major infractions that result in discipline will be recorded and records will be maintained by Badminton Ontario.

Suspension Pending a Hearing

35. Badminton Ontario may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending completion of the criminal process, a hearing or a decision of the Panel.

Criminal Convictions

36. An Individual's conviction for any of the following Criminal Code offenses will be deemed a major infraction under this Policy and will result in expulsion from Badminton Ontario and/or removal from Badminton Ontario's competitions, programs, activities and events upon the sole discretion of Badminton Ontario:

- a) Any child pornography offences
- b) Any sexual offences
- c) Any offence of physical or psychological violence
- d) Any offence of assault
- e) Any offence involving trafficking of illegal drugs

Confidentiality

37. The discipline and complaints process is confidential and involves only the Parties, the Case 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 relating to the discipline or complaint to any person not involved in the proceedings.

Timelines

38. 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 Panel may direct that these timelines be revised.

Records and Distribution of Decisions

39. Minor and major infractions that result in discipline, as well as decisions of any appeals, shall be recorded and maintained by Badminton Ontario.

40. Other organizations may be advised of any decisions and, if there was an appeal, the appeal decision.

41. Decisions and appeals are matters of public interest and shall be publicly available with the names of the individuals redacted. Names of persons disciplined may be disclosed to the extent necessary to give effect to any sanction imposed. The Panel may determine that disclosing the person's identity would unduly violate the person's privacy and may decide that the decision, or part of the decision, shall be kept confidential.

Appeals Procedure

42. The decision of the Panel may be appealed in accordance with Badminton Ontario's Appeal Policy.
