



POLICY CATEGORY:

POLICY TITLE: DISCIPLINE POLICY AND APPEAL PROCESS

POLICY NUMBER: 1.17

DATE APPROVED: NOVEMBER 3, 2018

Purpose:

- A. The Discipline Policy provides a process for Complainants to file a complaint.
- B. The Discipline Policy guides the “person in authority” or Panel in issuing sanctions, if applicable.
- C. The Discipline Policy outlines an appeals procedure for Parties to access if necessary.

Definitions:

The following terms have these meanings in this Policy:

- A. “Appeal Officer”: the individual appointed by the NSCA to oversee management and administration of appeals in accordance with this Policy
- B. “Appellant”: The Party appealing a decision of the Panel.
- C. “Case Manager”: the individual appointed by the NSCA to oversee management and administration of complaints in accordance with this Policy.
- D. “Complainant”: The Party alleging an infraction.
- E. “Days”: Days excluding weekend and holidays.
- F. “Member”: All categories of membership defined in the NSCA’s By-laws, as well as all individuals engaged in activities with the NSCA including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, Board Members, committee members and parents/guardians of athletes.

- G. “NSCA”: Nova Scotia Curling Association.
- H. “Parties”: The Complainant, Respondent, Appellant and any other Members, Participants or persons affected by the complaint.
- I. “Respondent”: In the complaints process, the alleged infracting Party; in the appeal process, the Party responding to the Appeal.
- J. “Panel”: A Panel consisting of one (1) or three (3) Adjudicators, none of whom need be members of the NSCA Board.

Policy Statement:

When Nova Scotia Curling Association members or competitors, coaches or other parties participating in NSCA events or activities fail to respect our values of:

- Sportsmanship
- Fairness
- Honesty
- Cooperation
- Excellence and
- Acceptable behaviour

Or, indulge in behaviours that do not comply with the Nova Scotia Curling Association’s Codes of Conduct, Bylaws, rules and regulations, complaints may be brought by any interested party for adjudication and determination as to whether the accused party should be subject to sanctions pursuant to this Policy.

This policy and related procedures provide respondents and complainants an opportunity to present their positions regarding the complaint(s) and appeal any disciplinary decisions made.

Confidentiality

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 involved persons will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

Record Keeping

The Executive Director shall keep a secure record of every complaint filed under this Policy. The record shall contain all relevant documentation including:

- a. Copies of the complaint, response, and rebuttal (if applicable).
- b. Copies of any witness statements (if applicable).
- c. Contact information for the NSCA Case Manager and Panel (if applicable).
- d. A description of the informal resolution of the complaint (if applicable).
- e. A copy of the written decision (if applicable).
- f. A description of the sanctions (if applicable).

Scope:

1. This Policy applies to all Members as defined in the 'Definitions' section of this Policy.
2. This Policy applies to discipline matters that may arise during the course of NSCA activities and events including, but not limited to, competitions, training camps, clinics or practices, travel associated with NSCA, and meetings, with the exception of NSCA Members' and Board meetings.
3. Discipline matters and complaints arising within the business, activities, or events organized by entities other than the NSCA will be dealt with pursuant to the policies of these other entities, unless such discipline matters and complaints adversely affect relationships within NSCA's work and sport environment or are detrimental to the image and reputation of NSCA, in which case the NSCA, in its sole discretion, may direct that the matter or complaint shall be dealt with pursuant to this policy.

Liability Disclaimer:

Except in cases of wilful misconduct, the Appeal Panel and the Appeal Officer will bear no liability in respect of either of the Parties for any act or omission in connection with the resolution of a dispute in accordance with this policy.

The Appeal Officer and the members of the Appeal Panel cannot be called as witnesses during an appeal or before any court of competent jurisdiction, including with respect to costs.

No action or proceeding may be brought against NSCA or its Members in respect of a dispute, unless NSCA is failing or refusing to comply with the provisions with regard to appeals or dispute resolution as provided in the policies of NSCA.

Related Procedure(s):

Procedure: 1.17-1 Reporting a Complaint

A Complainant wishing to file a complaint must do so within two (2) days of the alleged incident. Anonymous complaints may be accepted upon the sole discretion of NSCA.

A Complainant wishing to file a complaint beyond the two (2) day limitation 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 two (2) day period will be at the sole discretion of the NSCA and may not be appealed.

A complaint shall be in writing; the Complaint Form is provided in Appendix A and must:

- a. be signed by the Complainant, and submitted to the Executive Director
- b. be signed by the Executive Director if the complaint is brought on behalf of the NSCA, and submitted to the President,
- c. or, signed by the President if the complaint is against the Executive Director.

The complaint should include details of the incident or incidents, including dates, times, locations, description of action, account of dialogue, the name of the Respondent(s) and names of any witnesses. The complaint should detail any corrective action taken to date.

The Complainant may withdraw the complaint at any time; however, such a complaint may be continued by the Executive Director on behalf of the NSCA, if the NSCA does not consent to the withdrawal.

Procedure: 1.17-2 Processing the Complaint

Upon receipt of a complaint, NSCA will appoint a Case Manager and such appointment is not appealable. The Case Manager is not required to be a member of NSCA. 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 within the jurisdiction of this Policy or is frivolous or vexatious. 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 as to the acceptance or dismissal of the complaint may not be appealed;
- b. Determine if the complaint is potentially legitimate and whether the incident shall be dealt with as a **Minor** infraction or a **Major** infraction;
- c. Within two (2) days of receipt of the complaint, inform the Parties if the incident is to be dealt with as a **Minor** or **Major** infraction and the matter will be dealt with according to the applicable sections of this Policy relating to **Minor** or **Major** infractions;
- d. Appoint the Panel, if necessary, in accordance with this Policy;
- e. Determine the format of the hearing;
- f. Coordinate all administrative aspects of the complaint;
- g. Provide administrative assistance and logistical support to the Panel as required; and
- h. Provide any other service or support as may be necessary to ensure a fair and timely proceeding

This Policy does not prevent an appropriate person (the appropriate person may include, but is not restricted to: staff, officials, coaches, host chairs, event liaisons) having authority from taking immediate, informal, or corrective action in response to behaviour that constitutes either a **Minor** or **Major** infraction. Any infraction and resulting corrective action must be reported to the NSCA. Further sanctions may be applied in accordance with the procedures set out in this Policy.

Procedure: 1.17-2a Minor Infractions

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

- a. Unsportsmanlike or disrespectful comments or behaviour.
- b. Disrespectful conduct such as outbursts of anger or argument.
- c. Conduct contrary to the values of the NSCA.
- d. Being late for, or absent from, NSCA events and activities at which attendance is expected or required.
- e. Non-compliance with the NSCA's policies, procedures, rules, or regulations.

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. The person in authority can be, but is not restricted to being, NSCA staff, umpires, liaisons, coaches, organizers, or NSCA decision-makers.

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).

Penalties for **Minor** infractions, which may be applied singularly or in combination, include the following:

- a. Verbal and/or written reprimand from the NSCA to one of the Parties.
- b. Verbal and/or written apology from one Party to the other Party.
- c. Service or other voluntary contribution to the NSCA.
- d. Removal of certain privileges of membership for a designated period of time.
- e. Suspension from the current game, activity, competition or event.
- f. Any other sanction considered appropriate for the infraction.

Minor infractions that result in discipline will be recorded and records will be maintained by the NSCA. Repeat minor infractions may result in further such incidents being considered a **Major** infraction.

Procedure: 1.17-2b Major Infractions

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 the NSCA, or to the sport of curling. 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 the NSCA's image, credibility, or reputation.
- h. Contemptuous disregard for the NSCA's bylaws, policies, rules, and regulations.
- i. Intentionally damaging NSCA or event site property and facilities or improperly handling NSCA monies.
- j. Excessive use of alcohol or cannabis.
- k. Any use or possession of alcohol or cannabis by minors.
- l. Use or possession of drugs contrary to the prohibitions or limits established by the World Anti-Doping Agency.

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. 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.

Should the Case Manager be satisfied that the complaint is a **Major** infraction, the Case Manager will establish a Panel consisting of one (1) or three (3) adjudicators to hear the Complaint.

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, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:

- a. The hearing will be held within the appropriate time determined by the Case Manager.
- b. The Parties will be given appropriate 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 in accordance with the appropriate timeline.
- 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. Decisions will be by majority vote.

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 hold a hearing for the purpose of determining an appropriate sanction.

If the Respondent chooses not to participate in the hearing, the hearing will proceed in any event.

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 its outcome.

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

Decision

After hearing the matter, the Panel will determine whether a **Major** infraction has occurred and, if so, the sanction(s) to be imposed. The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager and the NSCA within fourteen (14) days of the conclusion of the hearing. The decision will be considered a matter of public record unless decided otherwise by the Panel.

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.

Dependent upon the decision taken by the Panel, the following disciplinary penalties for **Major** infractions may be applied singularly or in combination:

- a. Verbal or written reprimand from the NSCA to one of the Parties.
- b. Verbal or written apology from one Party to the other Party.
- c. Service or other voluntary contribution to NSCA.
- d. Expulsion from the NSCA;
- e. Removal of certain membership privileges;
- f. Suspension from certain NSCA teams, events, and/or activities;
- g. Suspension from all NSCA activities for a designated period of time;
- h. Payment of the cost of repairs for property damage;
- i. Suspension of funding from NSCA;
- j. Any other sanctions as may be considered appropriate for the infraction.

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 of membership in NSCA until such time as compliance occurs.

A written record will be maintained by NSCA at their head office for **Major** infractions that result in a sanction.

Serious Infractions Warranting Interim Measures

The NSCA may determine that an alleged incident is of such seriousness as to warrant interim measures pending a hearing and a decision of the Panel. Interim measures are not sanctions and they may take many forms including, but not limited to:

- a. Imposition of conditions upon continued participation in NSCA or related activities;
- b. Suspension from participation in NSCA or related activities;
- c. Suspension of membership privileges.

Criminal Convictions

A conviction for any of the following Criminal Code offences will be deemed a **Major** infraction under this Policy and will result in expulsion from the NSCA and/or removal from NSCA competitions, programs, activities and events upon the sole discretion of the NSCA:

- 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.

Procedure: 1.17-3 Appeals

1. Grounds for Appeal by Respondents

A Respondent may appeal a decision of the Panel to the NSCA Board on the following grounds only:

- a. that the investigation was conducted in an unfair or biased manner contrary to the rules of natural justice.
- b. that the findings of fact contained in the investigation report are insufficient to support a determination that an infraction has been established.

In an appeal by the Respondent from the Panel's determination(s), the Complainant shall be entitled to participate as a respondent in the appeal.

A Respondent may also appeal to the Board the sanction(s) imposed or recommended following a complaint. In such an appeal, the Complainant shall be advised by the Appeal Officer that an appeal has been filed, and shall be entitled to make written representations, but shall not be entitled to participate as a respondent in the appeal.

There shall be no appeal from any finding of fact contained in the investigation report.

2. Grounds for Appeal by Complainants

A Complainant may appeal to the Board from the determination(s) on the following grounds only:

- a. that the investigation was conducted in an unfair or biased manner contrary to rules of natural justice.
- b. that the findings of fact contained in the investigation report ought to have resulted in a determination that an infraction has been established.

In an appeal by the Complainant of the Panel's determination(s), the Respondent shall be entitled to participate as a Respondent during the appeal. (see Appendix B for the form)

A Complainant may also appeal to the Board from the Panel's decision not to deal with a complaint. In such a case, the Respondent shall not be identified in the appeal and shall not be entitled to participate as a respondent in the appeal.

There shall be no appeal from any finding of fact contained in the investigation report.

3. Notice of Appeal

The Notice of Appeal must be made in writing to the Executive Director of the NSCA within fourteen (14) days of the Appellant receiving notice of the Panel's decision with respect to sanctions and must state the specific grounds for the appeal.

4. Initial Screening of Appeal

Without delay, the Executive Director shall deliver the received Notice of Appeal to the Appeal Officer who will decide whether the appeal is properly brought, with regard to:

- a. Whether the Appellant is a member of NSCA;
- b. Whether the deadline for filing the Notice of Appeal has been met;
- c. Whether the decision being appealed stems from a disciplinary matter that arose during an event organized by entities other than NSCA which are dealt with under the policies of those other entities which have an appeal policy in place;
- d. Whether the grounds of appeal set out in the Notice of Appeal are among those mentioned in Section 32 or 36, as the case may be.

If the right to an appeal is denied on the basis of any of the admissibility criteria in Section 43, the Appellant will be notified in writing of this denial and its reasons, within two (2) days from the receipt of the Notice of Appeal.

5. Notification of the Appeal and Statement by the Respondent

If the right to an appeal is accepted, the Appeal Officer will forward a copy of the Notice of Appeal to the Respondent within a delay of no more than one (1) day and request a written Statement (see Appendix C) by the Respondent briefly outlining the justification for the decision being appealed.

The Respondent's Statement, completed and signed, shall be forwarded to the Appeal Officer within five (5) days from the date of receipt of the Appeal Officer's request or such shorter or longer period as the Appeal Officer may specify depending on the urgency of the matter.

The Appeal Officer shall forward a copy of the Respondent's Statement to the Appellant without delay.

Should the Respondent submit an incomplete Statement or fail to submit the Respondent's Statement within the time limit provided in Section 46, the Appeal Officer will initiate the establishment of the Appeal Panel, without further delay.

6. Appeal Panel

No later than ten (10) days after having received the Notice of Appeal, the Appeal Officer will initiate the establishment of an Appeal Panel as follows:

- a. The Appeal Panel must include three (3) persons named from a list of volunteers pre-established by NSCA for this purpose;
- b. The Appeal Panel will consist of one (1) person nominated by the Appellant, one (1) person nominated by the Respondent and the third person, who shall act as chair of the Panel, nominated by the Appellant's and Respondent's nominees to the Panel, or failing agreement by such nominees, appointed by the Appeal Officer; and
- c. Should the Respondent fail to submit the Respondent's Statement, as provided by Section 44, the Appeal Officer will nominate one (1) person on behalf of the Respondent.

All three (3) members of the Appeal Panel must be nominated respecting the following conditions:

- a. They must have no significant relationship with the Parties involved;
- b. They must have no involvement whatsoever with the decision being appealed;
- c. They must be free from any actual or perceived bias or conflict of interest. Being a "peer" of the Appellant or Respondent should not in itself constitute bias or conflict of interest.

As soon as they are nominated, the members of the Appeal Panel will be provided with a copy of the Notice of Appeal and the Respondent's Statement as well as any other exhibits filed by the Parties in support of their respective positions.

7. Identification of Interested Parties

Upon its appointment, the Appeal Panel shall notify potential Interested Parties of the existence of the appeal and invite them to take part in the proceedings.

The Interested Parties thus invited become Parties to the proceedings and therefore have the same rights as the Appellant and the Respondent to make submissions before the Appeal Panel with respect to the issues in dispute.

8. Pre-Hearing Planning

The Appeal Panel, in consultation with the Parties, and considering the relative urgency of the matter, shall determine the procedural steps to take place before the hearing.

No later than five (5) days after being established, the Appeal Panel shall communicate to all Parties the necessary information to enable their full participation, such as, but not limited to, the following:

- a. Timelines for exchange of documents;
- b. Format of the appeal (written or oral submissions or a combination of both);
- c. Date and location of the hearing, if applicable; and
- d. Any other matter that may assist in expediting the appeal proceedings.

The Appeal Panel may delegate to its chair the authority to deal with these preliminary matters.

Procedures for the Appeal

The Appellant has the burden of proof in an appeal and must prove, on a balance of probabilities, that the decision being appealed is the result of a procedural error as described in Section 34 or 38.

The Appeal Panel shall govern the hearing by such procedures as it deems appropriate, provided that the appeal is heard in a timely manner and that the principles of natural justice are applied at all relevant times.

Copies of any written documents which any of the Parties would like the Appeal Panel to consider shall be provided to the Panel, and to all Parties with an opportunity to reply.

Each party shall have the right to be represented at the hearing, at their own expense.

All three (3) members of the Appeal Panel shall hear the appeal, but a majority in favour of the same result shall be sufficient to effect a decision.

Disposition of an Appeal

The Appeal Panel's deliberations shall take place *in-camera*. None of the Parties nor the Appeal Officer shall be present during the deliberations.

Within five (5) days of the conclusion of the hearing, the Appeal Panel will issue its written decision, with reasons. Minority and dissenting reasons may also be provided. In making its decision, the Appeal Panel will have no greater authority than that of the Panel below, and cannot amend any NSCA policies, rules or other relevant documents. The Appeal Panel may decide:

- a. To dismiss the appeal and confirm the decision being appealed;

- b. To uphold the appeal and refer the matter back to the Panel below for a new decision; and/or
- c. To uphold the appeal and vary the decision where it is found that an error occurred, and such an error cannot be corrected by the Panel by reason of lack of clear procedure, lack of time, or lack of neutrality.

A copy of the decision, including reasons, shall be provided to each of the Parties.

In extraordinary circumstances, the Appeal Panel may issue an oral decision or a summary written decision, with reasons to follow, provided that the written reasons are rendered within the timelines specified in Section 61.

Appeal Summaries

A summary of each appeal and the reasons for disposition shall be published annually in such a form as to protect the identities of the individuals involved.

Appendix A: Complaint Form

Date:

DD MM YYYY

Complainant

Name

Address

Telephone (home)

Telephone
(office)

Telephone (cell.)

Email

Date of birth:

Representative of the Complainant *(if applicable)*

Note: An adult representative is mandatory for any Complainant who is a minor in the province where the proceedings are held.

Name

Address

Telephone (home)

Telephone
(office)

Telephone (cell.)

Email

Details of the incident(s)

Date of Incident

Time of Incident

Location of Incident

Name of Event where incident occurred (if applicable)

Respondent(s)

Who allegedly caused the incident for your complaint?

Description of the inactions that occurred to cause the complaint

Description of the action that occurred to cause the complaint

Account of any dialogue and verbal exchanges during the incident

Witness(es)

Provide the name(s) and contact information of your witness(es)

Name

Address

Telephone

Email

Name

Address

Telephone

Email

Name

Address

Telephone

Email

Detail any corrective action taken to-date

Signature

Signature:

Name (print):

Date:

Appendix B: Notice of Appeal Form

Date:

DD MM YYYY

Appellant

Name

Address

Telephone (home)

Telephone
(office)

Telephone (cell.)

Email

Date of birth:

DD MM YYYY

Representative of the Appellant *(if applicable)*

Note: An adult representative is mandatory for any Appellant who is a minor in the province where the proceedings are held.

Name

Address

Telephone (home)

Telephone
(office)

Telephone (cell.)

Email

Decision

What decision do you wish to appeal?

Why do you think the decision is wrong or unfair?

When was that decision rendered?

DD MM YYYY

Respondent

Who made the decision that you wish to appeal?

Grounds

Please provide:

- 1. Grounds for the appeal (arguments); and
- 2. Summary of the evidence that supports these grounds (documents, pictures, rules and by-laws, audio-visual material, etc.)

Recourse

What measure or decision do you ask the Nova Scotia Curling Association to take or make to correct the situation?

Designation of an Appeal Panel Member

According to the discipline and appeals policy, you may designate one person of your choice to sit as an appeal panel member. Please indicate the name and contact information of the person you choose to designate:

Name

Address

Telephone (home)

Telephone
(office)

Telephone (cell.)

Email

Signature

Signature:

Name (print):

Date:

Appendix C: Respondent's Statement

DD MM YYYY

Respondent

Name

Address

Telephone (home)

Telephone
(office)

Telephone (cell.)

Email

Date of birth:

DD MM YYYY

Representative of the Respondent *(if applicable)*

Note: An adult representative is mandatory for any Respondent who is a minor in the province where the proceedings are held.

Name

Address

Telephone (home)

Telephone
(office)

Telephone (cell.)

Email

Justification

Please provide:

1. Justification for the decision or practice being appealed (reasons); and
2. Summary of the evidence that supports this justification (documents, pictures, rules and by-laws, audio-visual material, etc.)

Interested Party(ies)

Please provide, to the best of your knowledge, the name and contact information of any person whose selection, carding, ranking, or other status could be affected by the decision. Please also indicate the reasons why this person might be affected by the outcome of the procedure. For each Interested Party, please provide the following information (if more than one Interested Party, please attach the information to the form):

Name	_____
Telephone1	_____
Telephone2	_____
Email	_____

Reasons why this person could be affected:

Designation of an Appeal Panel Member

According to the discipline and appeals policy, you may designate one person of your choice to sit as an appeal panel member. Please indicate the name and contact information of the person you choose to designate:

Name

Address

Telephone (home)

Telephone
(office)

Telephone (cell.)

Email

Signature

Signature:

Name (print):

Date:

Revision History	
Date Approved	Comments