



ABUSE-FREE SPORT POLICY REGARDING MANDATORY MEDIATION PROCESS

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1 BACKGROUND AND PURPOSE

Mediation is an informal dispute resolution process, in which each party undertakes in good faith to negotiate with all other parties, with the assistance of a professional mediator, with a view to settling an issue or situation. In such instance, the mediator is a neutral third party, with no interest in the situation or the parties. The role of the mediator is mainly to help parties recognize opportunities for an agreed upon resolution and may not impose a solution upon the parties.

Mediation offers many well-known advantages including a timely and effective process, in which parties' wishes and interests are considered, with significant settlement rate. In some cases, mediation may offer more creative and satisfying outcomes to Complaints than a formal process.

Given the nature of Abuse-Free Sport, mediation is not appropriate for every matter. The objective of this Policy is to establish parameters for the OSIC to identify cases for which mediation appears suitable and require parties to attempt mediation in those cases (the "**Mandatory Mediation Process**"). Cases for which mediation is not deemed suitable shall not be subject to the Mandatory Mediation Process and will move forward through other avenues within the Complaint Management Process, unless all parties voluntarily ask to engage in mediation.

The intent of this Policy is to be respectful of parties' experiences, while finding a balance in effective resolution opportunities. The mediation process can also take a variety of forms based on the wishes of the parties and does not inherently require parties to interact in a joint session.

2 DEFINITIONS

For a complete list of definitions used in this Policy, please refer to the Inventory of Abuse-Free Sport Definitions at **Appendix I**. Other defined terms in this Policy have the meanings ascribed to them in the UCCMS.

3 SCOPE OF APPLICATION

This Policy applies to parties to the Complaint Management Process including Complainants, Respondents, Impacted Persons and any person or entity whose participation in the mediation process is required for a full and complete resolution of a Complaint.

4 PARAMETERS FOR IDENTIFYING CASES SUBJECT TO MANDATORY MEDIATION

Any parties to the Complaint Management Process can agree to attempt mediation at any stage of the process. From the beginning of the Complaint Management Process, Abuse-Free Sport will offer parties to a Complaint the opportunity to mediate, where appropriate.

The OSIC will conduct a thorough individualized analysis to determine whether the Mandatory Mediation Process is appropriate, based on the following non-exhaustive criteria:

- The nature of the alleged violation of the UCCMS, for which mediation must be appropriate;
- The safety and well-being of parties, participants and the sport community in general;
- The best interest of sport and those who participate in it, including the views of the person(s) directly impacted;
- There is no significant Power Imbalance between the parties, as defined in the UCCMS (for instance, the matter is between peers); and
- Resolution through mediation is likely possible.

In light of the above considerations, if the OSIC determines that mandatory mediation **is not suitable** for a case, the case will move forward to the next steps of the Complaint Management Process. Parties to such cases will still have the option to engage in mediation if they so wish.

On the other hand, if the OSIC determines that mandatory mediation **is suitable** for a case, please refer to the below section of the Policy. If a party wants to challenge this determination, it may request a review by the Sport Integrity Commissioner through the following available form, by providing reasons for review.

Regardless of the OSIC's determination, the parties will be informed of the next steps in writing.

5 PERSONS INVOLVED IN THE MANDATORY MEDIATION

The Mandatory Mediation Process may include relevant parties to the Complaint Management Process, such as Complainants, Respondents, Impacted Person and any person or entity whose participation is required for a full and complete resolution of a Complaint being mediated, to the necessary extent. A Complaint will not go through the Mandatory Mediation Process if the necessary parties cannot be identified.

Parties whose participation is required may be accompanied or assisted, in accordance with the Code.

The independent mediator, duly appointed by the SDRCC Dispute Resolution Secretariat from a list of specialized mediators, is to conduct the Mandatory Mediation Process.

The DSO will be involved to the extent provided in the Review of Mediated Settlements Policy.

6 MANDATORY MEDIATION PROCESS

Mediations under this Policy will be conducted in accordance with Article 4 of the Code, to which the following conditions will apply:

a. Administrative Steps to Open Mandatory Mediation Case

The OSIC will refer the case and relevant documentation to the SDRCC, which will open a mediation case.

b. Mandatory Participation

Designated parties shall take part in the Mandatory Mediation Process for a minimum duration of three (3) hours. Once this minimum duration has passed, a party may terminate the mediation at any point.

The mediation session will be adapted to the needs of the parties by the mediator (for instance, private caucus, plenary, use of technological means, etc.) Parties to a case within the Mandatory Mediation Process shall not be required to engage in joint sessions with other Party(ies).

c. Roles and Responsibilities of the Parties

Parties must engage in an honest and forthright manner and to make a good faith attempt to resolve the dispute. The parties agree to disclose all information which is pertinent to the issues subject to the Mandatory Mediation Process.

If a Complainant or Impacted Person refuses to participate in the Mandatory Mediation Process, the OSIC may, in its discretion, archive the case without further engaging the Complaint Management Process. In determining whether and how to proceed in such instances, the OSIC will consider the following factors: the severity of the allegations; the facts and circumstances of the matter; the safety and well-being of participants and the sport community; the potential risks and prejudice from action and inaction, with safety being paramount; and/or the best interest of sport and those who participate in it.

If a Respondent refuses to participate in the Mandatory Mediation Process, the OSIC may recommend that 'On Hold' Participant Status be applied to the Respondent by the DSO, in accordance with the [Abuse-Free Sport Policy Regarding "On Hold" Participant Status](#). The case may proceed through other avenues within the Complaint Management Process, such as investigation, at the OSIC's discretion.

d. Settlement

Any settlement agreement reached must be reviewed and approved by the DSO, in accordance with the [Review of Mediated Settlements Policy](#). If no settlement is reached or the settlement is not approved by the DSO, the matter will revert to the OSIC, which will direct next steps within the Complaint Management Process.

A settlement agreement will be filed with the OSIC by the DSO once approved, per the Review of Mediated Settlements Policy. A settlement agreement will not void a record of a Complaint or Report having been made to the OSIC.

Any sanction or other eligibility restriction agreed upon by the parties as part of a settlement or agreement may be included in the OSIC's Sanctions Registry and may be published, as per the [Policy regarding Abuse-Free Sport Registry](#).

7 CONFIDENTIALITY

The mediation process will be conducted in accordance with Article 4 of the Code, which addresses matters of confidentiality. In all cases of Mandatory Mediation under this Policy, the information disclosed to the mediator in a caucus will be considered by the mediator as confidential unless the party who has disclosed it expressly allows the mediator to communicate it to the other party/parties.

This Policy will be applied in a manner consistent with the OSIC Confidentiality Policy. At all times, the contents of any settlement agreement, discussions, and correspondence regarding the same will be kept confidential by all parties, unless otherwise agreed.

8 RELEVANT RESOURCES

[Review of Mediated Settlements Policy](#)
[UCCMS](#)
[OSIC Confidentiality Policy](#)
[Other OSIC policies](#)

[2023 Canadian Sport Dispute Resolution Code](#)

9 DOCUMENT REVIEW & DISCLAIMER

This Policy may be amended and updated from time to time in accordance with the applicable procedures of Abuse-Free Sport. This Policy will be applied and interpreted by the OSIC in its reasonable discretion.

Appendix I

Inventory of Abuse-Free Sport Definitions

Term	Definition
Abuse-Free Sport <i>Sport Sans Abus</i>	Means the program created by the Sport Dispute Resolution Centre of Canada ("SDRCC") according to the mandate it received from the Government of Canada, for preventing and addressing maltreatment in sport. SDRCC is a non-for-profit organization created under the Physical Activity and Sport Act (S.C. 2003, c.2). It comprises in particular but without limitations, the independent functions of the OSIC, DSO and Safeguarding Tribunal.
Abuse-Free Sport Participant <i>Participant de Sport Sans Abus</i>	Means a person who is under the jurisdiction of Abuse-Free Sport, pursuant to any applicable Abuse-Free Sport Participant Consent Form.
Abuse-Free Sport Participant Consent Form <i>Formulaire de consentement du Participant de Sport Sans Abus</i>	Means the consent terms and conditions regarding the administration and enforcement of the UCCMS for Abuse-Free Sport Participants as provided under Abuse-Free Sport, in force at any time.
Agent <i>Agent</i>	Means the relevant function, agents, designates, representatives and/or delegates of Abuse-Free Sport, pursuant to the applicable Policies and Procedures.
Applicable Information <i>Renseignements visés</i>	Means the type of information considered subject to the Policy regarding Confidentiality of the Complaint Management Process.
Code <i>Code</i>	Means the Canadian Sport Dispute Resolution Code, which is the set of procedural rules governing the resolution of sports-related disputes under the authority of the SDRCC, including the specific rules of the Safeguarding Tribunal.
Complainant <i>Plaignant</i>	Means the person who files a Complaint.
Complaint <i>Plainte</i>	Means a duly completed and submitted complaint intake form, the receipt by the OSIC of information expressly deemed by the OSIC to constitute a Complaint, or a Complaint initiated by the OSIC in accordance with the Policies and Procedures, in each case regarding an alleged violation of the UCCMS.
Complaint Management Process <i>Processus de traitement des plaintes</i>	Means the process administered under Abuse-Free Sport to address alleged Prohibited Behaviour under the UCCMS, in accordance with the applicable Policies and Procedures.

DSO DSR	<p>Means the office of the Director of Sanctions and Outcomes, an independent function of Abuse-Free Sport that is responsible for making decisions regarding Provisional Measures and violations of the UCCMS, imposing sanctions where relevant, appearing before the Safeguarding Tribunal or the Appeal Tribunal when decisions are challenged, and reviewing and approving mediated outcomes to ensure that they align with the objectives of the Abuse-Free Sport program. It reports to the Maltreatment in Sport Sanctions Council and includes the Deputy Director of Sanctions and Outcomes and their delegates.</p>
Identified Complaint <i>Plainte identifiée</i>	<p>Means a Complaint that is admissible pursuant to applicable Policies and Procedures, or which is inadmissible due to the Abuse-Free Sport Participant status of the Identified Respondent but would otherwise be admissible.</p>
Identified Respondent <i>Intimé identifié</i>	<p>Means an individual accused of alleged violation(s) of the UCCMS in a Complaint, which individual is either (i) not an Abuse-Free Sport Participant for purposes of administering the relevant Identified Complaint, or (ii) is an Abuse-Free Sport Participant, but is not currently involved in activities/programs of a Program Signatory and/or is not partaking in the Complaint Management Process for an Identified Complaint.</p>
Impacted Person <i>Personne affectée</i>	<p>Means a person having experienced the alleged Prohibited Behaviour.</p>
Interested Party <i>Partie intéressée</i>	<p>Means a person having acted as Complainant and/or having directly experienced the alleged Prohibited Behaviour under the UCCMS, and identified by the OSIC as an Interested Party in accordance with relevant Abuse-Free Sport Policies and Procedures. Pursuant to the UCCMS and relevant Policies and Procedures and for the purposes of the Code, the Agent shall take into consideration the following factors in identifying who may be an Interested Party:</p> <ul style="list-style-type: none"> • the person’s standing in the context of the Complaint Management Process (i.e., is the individual a party or Impacted Person in connection with a Complaint or the parent or guardian of a party or Impacted Person in connection with a Complaint); • the extent to which the person has engaged in the Complaint Management Process; • the person’s consent to the application of the Abuse-Free Sport Confidentiality Policy to the Complaint Management Process; • the facts and circumstances of the matter; and/or • the best interests of sport and those who participate in it, including the views of the Impacted Person(s), when feasible.
Independent Investigator <i>Enquêteur indépendant</i>	<p>Means the professional responsible for conducting the Investigation in respect of a Complaint in accordance with the terms of the Policies and Procedures and the professional obligations of the Independent Investigator.</p>
Investigation Report <i>Rapport d’enquête</i>	<p>Means the written report issued in accordance with the OSIC Guidelines Regarding Investigation of Complaints.</p>
Initial Review	<p>Means the initial review by the OSIC upon receipt of a Complaint or Report, in accordance with the applicable Policies and Procedures.</p>

Examen préliminaire	
Investigation <i>Enquête</i>	Means the independent investigation of a Complaint, initiated by the OSIC in accordance with the applicable Policies and Procedures.
Minor <i>Mineur</i>	For the purpose of the UCCMS, an individual who is under the age of 19 years old.
Mediator <i>Médiateur</i>	Means an independent mediator duly assigned by the Safeguarding Tribunal to a Complaint mediation process.
“On Hold” Participant Status <i>Statut de participant « en suspens »</i>	Means the “on hold” sport participation status of an Identified Respondent applied according to the process defined under the Policy Regarding “On Hold” Participant Status.
OSIC <i>BCIS</i>	Means the Office of the Sport Integrity Commissioner, an independent function under Abuse-Free Sport responsible for administering the UCCMS pursuant to the applicable Policies and Procedures.
Past Event <i>Événement passé</i>	Means an allegation of an event that occurred entirely prior to a Respondent becoming an Abuse-Free Sport Participant.
Policies and Procedures <i>Politiques et procédures</i>	Means the UCCMS, this Policy, applicable directives, policies and procedures of the OSIC and Abuse-Free Sport Program, applicable sections of the Code, and applicable law.
Preliminary Assessment <i>Évaluation préliminaire</i>	Means the assessment by the OSIC of admissibility, jurisdiction and other related considerations in relation to a Complaint or a Report, in accordance with the applicable Policies and Procedures.
Program Signatory(ies) <i>Signataire(s) du programme</i>	Means the applicable Abuse-Free Sport Program Signatory organization(s) that have entered into an agreement with the SDRCC for purposes of the Abuse-Free Sport program.
Prohibited Behaviour <i>Comportement prohibé</i>	Means conduct defined as Prohibited Behaviour in the UCCMS, as amended from time to time.
Provisional Measures <i>Mesures provisoires</i>	Means any provisional and/or temporary measures that may be imposed by the DSO in accordance with the UCCMS, and according to the process defined in the Abuse-Free Sport Policy Regarding Provisional Measures. Provisional measures are not Sanctions (as defined in the UCCMS). Provisional Measures seek to preserve parties’ rights, both substantive and procedural, pending the final resolution of the Complaint process.
Registry <i>Registre</i>	Means the registry of individuals whose eligibility to participate in sport has in

	some way been restricted, that is maintained by the OSIC for purposes of carrying out the objectives of the UCCMS and the Abuse-Free Sport program, in accordance with applicable law.
Report <i>Signalement</i>	Means a duly completed and submitted report intake form, the receipt by the OSIC of information expressly deemed by the OSIC to constitute a Report, or a Report initiated by the OSIC in accordance with the Policies and Procedures, in each case regarding an alleged violation of the UCCMS.
Reporter <i>Auteur(e) d'un Signalement</i>	Means the person who files a Report.
Respondent <i>Intimé</i>	Means the individual(s) accused of alleged violation(s) of the UCCMS in a Complaint/Report.
Safeguarding Tribunal <i>Tribunal de protection</i>	Means the specialized division of the Dispute Resolution Secretariat of the SDRCC that provides dispute resolution services by independent professionals qualified as mediators and/or arbitrators for matters related to the Abuse-Free Sport program and/or other matters related to the UCCMS.
SDRCC <i>CRDSC</i>	Means the Sport Dispute Resolution Centre of Canada
Sport Environment Assessment (SEA) <i>Évaluation du milieu sportif (EMS)</i>	Means an independent assessment of a sport environment initiated and/or commissioned by the OSIC in accordance with the applicable Policies and Procedures.
UCCMS <i>CCUMS</i>	Means the Universal Code of Conduct to Prevent and Address Maltreatment in Sport, as updated from time to time.