



Canadian Fencing Federation Dispute Resolution Policy and Procedures

Preamble

The Canadian Fencing Federation (hereafter referred to as the CFF) is committed to providing a sport environment that is characterized by honesty, excellence, fairness, integrity, sincerity, transparency, open communications and mutual respect.

Introduction

1. The CFF believes that these values and ideals should guide all of its decisions, actions and communications, as well as the decisions, actions and communications both internally with CFF Participants and externally with all individuals, organisations, and associations who do business or have affiliations with the CFF and/or CFF Participants in connection with CFF.
2. However, the CFF recognises that there will be incidences of differences of opinion and consequential disputes which will require resolution at the highest levels, either from within the CFF or by referral to an external, unbiased advisor such as the Sport Dispute Resolution Centre of Canada (SDRCC).
3. This Policy on Dispute Resolution and its associated procedures are considered part of the Code of Conduct to which all CFF Participants are expected to adhere. The Policy on Dispute Resolution is also considered a core document of the CFF's policy framework and is therefore subject to change as directed by the CFF Board of Directors in order to protect the interests of the CFF and CFF Participants.

Purpose

4. This Policy on Dispute Resolution, with its associated procedures, establishes the basis for the resolution of any disputes arising in the course of the operations of the CFF.

Scope and Applicability

5. This policy applies to all CFF Participants, as defined below and in all CFF policy documents.

6. This policy on Dispute Resolution supersedes any previous policy on Dispute Resolution of the Canadian Fencing Federation effective the date of approval of the policy by the Board of Directors.

7. This Policy on Dispute Resolution should be read in conjunction with policy documents prepared and approved by the CFF, including the Policies on Conflict of Interest, Discrimination and Harassment, and Access and Equity.

Definitions

8. The following definitions are presented in the context of the CFF Dispute Resolution Policy:

- a. CFF Participants: Without limiting the reach of the policy, CFF participants for the purpose of this policy are defined as:
 - i. All individual athletes, and those eligible for, nomination to, or forming part of, any team participating in sport competitions over which the CFF has jurisdiction;
 - ii. All persons working with those teams or athletes, including coaches, medical and paramedical personnel, and other support persons;
 - iii. CFF employees and persons under contract with the CFF;
 - iv. All fencing coaches certified and/or recognised by the CFF;
 - v. All fencing officials and referees certified and/or recognised by the CFF;
 - vi. All CFF license-holders (and their parents, grandparents and/or guardians if minor); and
 - vii. Members of the CFF Board of Directors, officers of the CFF, staff members of the CFF, committee members and volunteers working for or serving with or on behalf of or appointed by the CFF.
- b. Person in Authority: Any CFF participant holding a position of authority over, or trusted by, a person who may be experiencing discrimination or harassment, and can include such persons as team leaders, coaches, trainers, medical or paramedical personnel, parents or other volunteers and supervisors.
- c. Discrimination: A distinction, whether intentional or not but based on prohibited grounds, which has the effect of imposing burdens, obligations or disadvantages on an individual that are not imposed on others, or which withholds or limits access to opportunities, benefits and advantages available to other.
- d. CFF Official: The person responsible, on behalf of the CFF, for processing a complaint based on an alleged discriminatory act.

- e. CFF Activities: Activities over which the CFF has jurisdiction, both in Canada and abroad.

Dispute Resolution Policy

9. The CFF recognises that disputes will inevitably arise in any work or sport environment, and that conflict is an unavoidable fact of life. It also recognises that conflict is not always bad, and can be a force for change to the benefit of the organisation. Through conflict, problems are exposed and misunderstandings are brought into the open. The resolution of the conflict brings with it the potential for greater understanding and growth for all participants in the conflict.

10. Accepting that conflicts will occur will enable the organisation to resolve any conflicts or disputes in a fair, open and transparent manner, following recognised legal and extra-legal procedures.

11. The Dispute Resolution Policy for conflict resolution is mandatory in all cases where a written complaint has been made, except in the case of a charge of sexual abuse (sexual harassment, sexual exploitation, or sexual assault). Those sexual abuse related complaints continue to be dealt with through the approved policies and procedures for sexual abuse (sexual harassment, sexual exploitation, or sexual assault).

12. The Dispute Resolution Policy may also be used as a resource for the resolution of conflicts within the CFF that do not involve the making of a complaint. The parties to any kind of dispute may voluntarily agree to resolve their dispute by following the Dispute Resolution Policy or by incorporating some of the steps of the Dispute Resolution Policy in their own process. A major focus of the Dispute Resolution Policy is to allow the parties involved in a dispute to have the greatest participation possible in the resolution of their dispute.

13. Any dispute involving civil or criminal actions will not be considered. If during an investigation of a dispute there are reasonable grounds to suspect legal or criminal activity, the case will be immediately suspended and referred to the appropriate authorities.

Formal Dispute Resolution Procedures

14. Disputes may be resolved in a number of manners, both formal and informal. Formal dispute resolution procedures may be confrontational and legalistic in nature, while informal procedures may include alternate dispute resolution methods. Examples of such procedures are:

- a. Mediation.
- b. Arbitration.
- c. Mediation and arbitration combined.
- d. Appeal to an external agency such as the SDRCC.

Dispute Resolution Facilitators – CFF Official

15. A CFF Official may be appointed to serve as a third party facilitator, either from within the CFF or from an external agency, to investigate the dispute and to suggest remedies for the resolution of any dispute involving any member of the CFF, its community or its partners. The CFF Official may be appointed at the request of the President, Executive Director or Board of Directors of the CFF, or by any or all of the parties to the dispute.

Complaint Procedures

Receiving Reports

16. Any CFF participant may report a suspected dispute, including cases of discrimination or harassment. Such reports may be made to the Executive Director of the CFF, or to any other person in authority.

17. All such reports shall be brought promptly to the attention of the Executive Director by whoever receives the report, unless the report is by or against the Executive Director, in which case the report would go to the President of the CFF.

Assistance to Complainants

18. A complainant may request the assistance of a CFF resource person in understanding this policy. A resource person may be a paid member of the CFF staff, a member of the Board of Directors, or a qualified volunteer recognised by the CFF.

19. Should a complainant choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the complainant's own expense.

The Complaint

20. Anyone may report, to the Executive Director, President or persons designated by the Executive Director or President, a potential or actual conflict or dispute between parties affiliated with the CFF, or members of the CFF, including suspected cases of discrimination or harassment.

21. A complaint may be made only by persons affected by the alleged dispute.

22. A complaint shall be in writing, and signed by the complainant. The complaint shall be submitted to the Executive Director of the CFF, or in the case where the complaint is in regards to the Executive Director, the complaint shall be submitted to the President of the CFF.

23. The complaint should include particulars of the dispute, including details of the incident or incidents, including dates, times, locations, description of action, account of dialogue, the name of the perpetrator(s) and any witnesses or names of other individuals who may also have experienced discrimination or harassment. The complaint should detail any corrective action taken to date.

24. The complainant may withdraw the complaint at any time. However, such a complaint may be continued as a complaint by the Executive Director on behalf of the CFF, if the CFF does not consent to the withdrawal.

Processing the Complaint

25. The CFF Official named responsible for processing a complaint shall be the Executive Director except in cases involving the Executive Director, when the CFF Official shall be the President. Where a complaint involves conduct by the President, the complaint will be considered by the Board of Directors.

Complaint Investigation

24. The CFF Official may decide not to deal with a complaint if, in the opinion of the CFF Official:

- a. The facts alleged in the complaint would be insufficient, if proven, to establish discrimination or harassment under the CFF's Policy; or
- b. The investigation of the complaint would not advance the purpose of the CFF's Policy in the circumstances, because of a significant delay (e.g., a delay of more than two years) between the alleged events and the time of the complaint.

25. In all other cases, the CFF Official shall investigate the complaint or appoint and provide terms of reference to an investigator who shall investigate the complaint and make findings of fact.

26. Should the dispute in question be a suspected case of discrimination or harassment, before the investigation begins, the CFF Official shall advise each respondent of the complaint and shall provide each complainant and respondent with a copy of the written complaint, the CFF's Policy on Discrimination and Harassment, and the investigator's terms of reference, if any.

27. Before an investigative report is issued, each respondent shall have a reasonable opportunity to respond to the allegations. If a respondent declines to do so, or does not respond within the time-frame provided, the investigator's report may nonetheless be issued.

28. All CFF participants involved or implicated in the investigation, including the respondent(s), must co-operate fully in any investigation under these policy.

29. The CFF Official may consult with the investigator during the course of the investigation, may review the investigation report in draft and may provide additional terms of reference to, or request clarification from, the investigator.

30. A copy of the investigation report shall be provided to the complainant(s) and the respondent(s) upon completion.

Assistance to Respondents

31. A respondent may request the assistance of a CFF resource person without previous involvement in the complaint in understanding this policy. The CFF resource person shall refer the respondent to counselling upon request, and may explore the possibility of alternative forms of dispute resolution with the respondent.

32. Should a respondent choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the respondent's own expense.

Determinations Following Investigation

33. The CFF Official shall determine whether a dispute has been established in light of the findings of fact contained in the investigation report, and if so, the nature and particulars of the dispute. The CFF Official's determinations shall be communicated to the complainant(s) and the respondent(s), and to the Chef de Mission if the complaint involves conduct at an international competition including the Olympic Games.

Settlement

34. A complaint arising from a dispute may be settled at any stage. A resolution agreement shall be in writing and signed by all parties. A complaint is considered formally withdrawn, when a copy of such signed agreement is provided to the CFF.

Mediation

35. The CFF may provide a mediator, if the CFF Official views mediation as appropriate and if the complainant and respondent are willing to enter a mediation agreement.

36. If appropriate, the CFF may recommend proceeding to a form of Alternate Dispute Resolution that is in keeping with the particular situation and the Code of Conduct or level of acceptable behaviour expected of members of the CFF.

Sanctions

37. The CFF Official shall have the authority to impose sanctions, if warranted, in light of the determinations. When the complaint arises from conduct at an international event, the CFF Official shall consult with the Chef de Mission before imposing sanctions, unless the complaint involves conduct by the Chef de Mission.

38. The complainant(s) and the respondent(s) shall be given a reasonable opportunity to make submissions to the CFF Official prior to the imposition of sanctions.

39. Sanctions may include, but are not limited to:

- a. A recommendation that a person's CFF license be revoked in accordance with the by-laws of the CFF.
- b. Temporary or permanent suspension from employment with the CFF, or from participation in some or all of the activities over which the CFF has jurisdiction.

- c. The imposition of such temporary or permanent conditions on continued employment with CFF, or participation in CFF activities as the CFF Official may view as appropriate in the circumstances.
 - d. The issuance of a warning and/or reprimand.
40. The CFF Official shall provide the complainant(s) with such information about any sanctions imposed as is appropriate in the circumstances.

41. Should any sanction that the CFF Official views as appropriate require a resolution to be passed by the CFF Board of Directors, the CFF Official shall take such action as is appropriate to have the matter placed before the CFF Board of Directors as expeditiously as possible for consideration. However, the matter will not be considered prior to any appeal under this policy.

Interim Measures

42. The CFF Official may impose interim measures pending the investigation and disposition of a complaint, if the CFF Official is of the view that the imposition of such measures is in the best interest of the complainant(s), respondent(s) and/or the CFF.

43. Interim measures are not sanctions, and they may take many forms, including but not limited to:

- a. The imposition of conditions upon the continued participation of the respondent(s) in the activities or work of the CFF.
- b. Suspension of the respondent(s) from participation in the activities or work of the CFF, with or without pay, or under such other terms as are seen to be appropriate.
- c. Security arrangements.

Complaints Made in Bad Faith

44. In the rare event that the complaint was made in bad faith, that is, the person making it had absolutely no basis and deliberately and maliciously filed the complaint, that person will be disciplined and a record of the incident will be put in her or his file.

45. Penalties for someone who complains in bad faith will be the same as for a case of harassment and will depend on the seriousness of the situation. Compensation for the person falsely accused may include steps to restore any lost reputation, and any of the remedies that would be available in a case of harassment.

Confidentiality

46. CFF will not disclose a complainant's name, or any circumstances related to a complaint, to anyone, except as necessary to investigate the complaint or take disciplinary action related to the complaint, or as required by law. Managers involved in a complaint are reminded to keep all information confidential, except in the above circumstances.

47. Exceptions will be made to disputes referred to the SDRCC who may publish the results of the resolution of the dispute, in accordance with their policies and practices.

Appeals

Grounds for Appeal by Respondents

48. A respondent may appeal to the CFF Board of Directors related to the CFF Official's determination(s) 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 discrimination or harassment has been established.

49. In an appeal by the respondent from the CFF Official's determination(s), the complainant shall be entitled to participate as a respondent in the appeal.

50. A respondent may also appeal to the CFF Board of Directors related to the sanction(s) imposed or recommended following a complaint. In such an appeal, the complainant shall be advised by the CFF Official 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.

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

Grounds for Appeal by Complainants

52. A complainant may appeal to the CFF Board of Directors related to the CFF Official's determination(s) 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 ought to have resulted in a determination that discrimination or harassment has been established.

53. In an appeal by the complainant from the CFF Official's determination(s), the respondent shall be entitled to participate as a respondent in the appeal.

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

Notice of Appeal

55. The notice of appeal must be made in writing to the Executive Director, within fourteen days of the appellant receiving notice of the CFF Official's (or CFF's) decision with respect to sanctions, and must state the specific grounds for the appeal.

56. A copy of the notice of appeal shall be promptly provided to the Chair, the CFF Official, the Chef de Mission if the appeal involves conduct at an international event, and to every person entitled to participate as a respondent in the appeal.

The Hearing

57. The following persons may appear before the CFF Board of Directors at an camera hearing and make representations in the appeal:
- a. The appellant(s).
 - b. Any person entitled to participate as a respondent in the appeal.
 - c. The CFF Official who may make representations with respect to the investigation of the appeal, the determinations and any sanctions imposed and/or recommended.
 - d. The Chef de Mission who may make representations where the appeal involves conduct at an international event.
 - e. If the appeal is from a decision by the CFF, the CFF may designate a representative to make representations on behalf of the CFF. and
 - f. Any other person invited by the CFF Board of Directors to make representations.
58. No member of the CFF Board of Directors having had any personal involvement in the complaint, or who is otherwise in conflict of interest, shall participate in the deliberations or decision in the appeal.

Disposition of an Appeal

59. The CFF Board of Directors' deliberations shall take place in camera. The appellant(s), respondent(s) if any, and the CFF Official (or CFF representative) shall not be present during the deliberations.
60. The CFF Board of Directors, by a majority of votes cast, may:
- a. Dismiss the appeal.
 - b. Substitute its own determination for the determination under appeal.
 - c. Substitute a sanction for the sanction under appeal. or
 - d. Remit the complaint for further investigation and/or for re-determination in accordance with its directions.
61. The CFF Board of Directors shall provide reasons for its disposition. Minority and dissenting reasons may also be provided.
62. A copy of the reasons shall be provided to the appellant, to any respondent in the appeal, to the CFF if applicable, and to the Chef de Mission if the appeal involves conduct at an international event. In an appeal from sanctions, the CFF Official shall give the complainant(s) such information about the disposition of the appeal as is appropriate in the circumstances.

Record Keeping

63. The Executive Director shall keep a secure record of every report and complaint under this policy. The record shall contain all relevant documentation, including:
- a. Details of the report(s) and/or a copy of the complaint(s).
 - b. The response(s), if any.
 - c. The terms of reference of the investigator, if any.
 - d. The interim measures, if any.
 - e. Any witness statements.
 - f. The investigation report, if any.
 - g. The terms of any informal resolution or written resolution agreement.
 - h. The CFF Official's determinations, if any.
 - i. The sanctions imposed, if any.
 - j. All other correspondence.
 - k. Any appeal(s) filed.
 - l. Any material filed in an appeal. and
 - m. Any minutes of the CFF Board of Directors related to the complaint or the relevant portion thereof.

Confidentiality

64. To the extent not in conflict with the CFF by-laws and policies and subject to Section 65, reports, complaints, witness statements and other documents produced under this policy shall be held in confidence by the CFF.

65. However, no absolute guarantees of confidentiality may be made by the CFF. Circumstances in which information may be shared include:

- a. When criminal conduct may be involved.
- b. When child abuse may have occurred.
- c. When it is felt to be necessary to protect others from harassment or discrimination.
- d. When required to ensure fairness or natural justice in the procedures contemplated by these policy.
- e. In the course of an investigation by a law enforcement agency.
- f. To protect the interests of the CFF.
- g. When required by law.

Review and Approval

66. This policy is to be approved by the Board of Directors of the CFF and shall be reviewed on a regular basis, as and when required.

Recommended for Approval:



Brad Goldie
President, Canadian Fencing Federation

May 23, 2018

Date

Approved by the Board of Directors, 23 May 2018