

**Safe Sport Policy Manual - Whistleblower Policy, Appeal Policy, Alternative
Dispute Resolution Policy, and Event Discipline Procedure - Speaking Notes for
Town Hall, Nov. 11, 2020**

***This is a summary only of some aspects of the AO Safe Sport Policy Manual. All
AO Members should read the Code of Conduct in its entirety and familiarize
themselves with the other policies in the Manual.***

Introduction

- Athletics Ontario's new Safe Sport Policy Manual was posted on the AO web site October 7, and over these last several weeks I have been highlighting a few aspects of it.
- This week I will be talking about the Whistleblower Policy, the Appeal Policy, the Alternative Dispute Resolution Policy and the Event Discipline Procedure.
- I am happy to take any questions you may have about the policies. Questions in advance of the Town Hall are most appreciated.

Whistleblower Policy

- As I have explained, the Complaints, Dispute Resolution and Discipline Policy, which I reviewed last week, and this new Whistleblower Policy anticipate the possibility of making an anonymous complaint. While these complaints can be difficult to investigate and resolve, we hope that these policies demonstrate that we recognize how difficult it can be to come forward and that we do not want issues to be left unattended to or unresolved.
- The lead in to the Whistleblower Policy says that its purpose is to allow people to have a discrete and safe procedure by which they can disclose incidents of wrongdoing without fear of unfair treatment or reprisal, but I want to remind you that there are strong provisions in the Complaints, Dispute Resolution and Discipline Policy Conduct concerning retaliation. Conduct that amounts to retaliation against anyone who submits a complaint or who gives evidence in an investigation may constitute Harassment and be subject to disciplinary proceedings under that Policy. AO itself or the Participant facing the retaliation may act as the Complainant.
- However, notwithstanding those provisions dealing with retaliation, and notwithstanding AO's commitment to fostering and maintaining a safe sport environment and to implement these policies fairly, we do understand how difficult it can be to come forward.
- With a view to alleviating concerns about coming forward and to reinforce AO's commitment, the Whistleblower Policy contains a pledge by AO not to penalize, discipline, or retaliate or discriminate against anyone who, in good faith, discloses information or submits a report under the terms of the Policy.
- The Policy sets out how to make a report and how it will be handled, including the authority of the Safe Sport Officer to launch an investigation.
- The report is made to a Safe Sport Officer. The Safe Sport Officers are there to help, and a person may consult with a Safe Sport Officer for advice on the process. The Safe Sport

Officer may need, indeed probably will need, to consult with the Chair of the Board and the CEO about the report.

- And the Chair, the CEO, the Governance Committee and the Board will be involved in determining what corrective action might be appropriate.
- **Confidentiality** - However, and this is key, the Safe Sport Officer will not disclose the identity of the person making the report without that person's consent, unless required by law. For example, if the person making the report is a minor and the report concerns sexual abuse of that minor, that must be disclosed to the police or child protection agencies. In any case where there is a question of the legal obligation to disclose the name of the person making the report, legal advice would certainly be sought.
- **Other Avenues for Dispute Resolution and Getting Help** - As is also made clear under the Complaints, Dispute Resolution and Discipline Policy, this Whistleblower Policy is not the only avenue. Athletics Canada also has a whistleblower policy. Your club may have a whistleblower policy.
- The Sport Dispute Resolution Centre of Canada (SDRCC) has a dispute resolution service that is free of charge for disputes arising from the activities of a federally-funded sport organization and available for a fee to other levels of sport. Their website indicates that their process is completely confidential: no information revealed or discussed during the resolution facilitation process can be used against the parties or released publicly without the agreement of all parties.
- There is also the Canadian Sport HELPLine. As indicated on their website, the HELPLine is offered in partnership by the Sport Dispute Resolution Centre of Canada (SDRCC) and the Canadian Centre for Mental Health in Sport (CCMHS), and this anonymous, confidential, independent service allows people to share and validate their concerns, obtain guidance on required next steps, and get referrals to other resources for follow up.

Appeal Policy

- **Scope and Application** - Critical to understanding this Policy is understanding its scope and application.
 - Provided that there are sufficient grounds, which I will get to in a moment, any Participant who is directly affected by a decision by AO relating to eligibility, selection, conflict of interest, discipline or membership has a right to appeal that decision.
 - The Policy does not apply to decisions relating to matters such as the rules of the sport, team selection criteria, coach appointments, or AO's budgeting and operational structure.
 - Where this Policy is going to most relevant to you is in the area of decisions relating to discipline - matters that have been decided under the Complaints, Dispute Resolution and Discipline Policy.

- **Grounds for Appeal** - I mentioned “grounds” for appeal. You cannot appeal a decision just because you don’t like the decision. You must have grounds.
- S.13 of the Appeal Policy provides that the following are the only grounds for appeal:
 - Athletics Ontario made a decision that it did not have the authority or jurisdiction (as set out in its governing documents) to make
 - Athletics Ontario failed to follow its own procedures (as set out in its governing documents)
 - Athletics Ontario made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views).
- To paraphrase - no authority, procedural failure, and/or bias.
- The Appellant must demonstrate, on a balance of probabilities, that Athletics Ontario made an error as described in the ‘Grounds for Appeal’ section of this Policy, and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.
- **Appeal Process** - As under the Complaints, Dispute Resolution and Discipline Policy, where a Case Manager stick handles the process for a complaint for which the “full procedure” is appropriate, under the Appeal Policy, an Appeal Case Manager will stick handle an appeal.
 - The Policy sets out the process to be followed.
 - At the end of the process, an appeal may be rejected and the original decision upheld, or the appeal may be upheld. If the appeal is upheld, that might mean that there could be, in effect, a new consideration of the matter or there could be different sanctions imposed.
- **Confidentiality and Publication of Decisions** - As I explained last week in connection with the Complaints, Dispute Resolution and Discipline Policy, confidentiality is very important. Complaints and the resolution of disputes are sensitive matters. Information will be provided only to those who have a need to know or as required in the course of any investigation or resolution of the matter or as required by law.
 - Breaches of the policy as regards confidentiality may amount to Harassment and be subject to disciplinary proceedings under this Policy.
 - Notwithstanding the provisions regarding confidentiality, decisions rendered under this Policy will generally be made public and other individuals and organizations may be advised of the decisions.
 - For example, if a coach is suspended as a result of a proceeding under this Policy, the decision will be posted on the AO website and Athletics Canada and any club with which the coach had an affiliation will be informed.
 - The extent to which the details in a decision will be made public or redacted will be made on a case by case basis.

Alternative Dispute Resolution Policy

- This one is short! One page!
- AO supports the principles of ADR. Negotiation, facilitation and mediation can be effective ways to resolve disputes.
- ADR may be pursued at any point in a dispute when all parties to the dispute and Athletics Ontario agree. Any negotiated decision will be binding on the parties.
- If a negotiated decision is not reached by the deadline specified by the mediator or facilitator at the start of the process, then the dispute will be considered under AO's Complaints, Dispute Resolution and Discipline Policy or Appeal Policy, as applicable.
- As they have experienced facilitators, it is most likely that the services of the SDRCC would be accessed for ADR and those services come with a fee for disputes arising in the context of AO-related activities.

Event Discipline Procedure

- This is a short but important policy that involves the type of process and discipline with which I am sure many of you are familiar.
- This policy deals with misconduct during events and an expedited procedure to determine if immediate discipline at the event is appropriate.
- It addresses the process of a meet director convening a jury of one or three people to quickly investigate an incident, talk to the individuals directly involved and others who may have witnessed the incident, and decide on a penalty that will apply at the event.
- A penalty under this Policy may not exceed the duration of the event.
- It is important to note that action under this policy does not prohibit a Participant from reporting the same incident to Athletics Ontario to be dealt with under the Complaints, Dispute Resolution and Discipline Policy.

Conclusion

- As I have said before, the new Safe Sport Policy Manual is just a part of the continued effort to foster and maintain a safe sport environment. Other critical aspects include the training of coaches, officials and members of club management. Safe Sport requires everyone in positions of authority to help to create a culture of mutual respect and safety, where people can feel safe questioning behaviours they perceive as inappropriate and reporting misconduct. It is a continuous and ongoing process, and the changes we are making will continue to be reviewed, questioned, tested and improved.

