

# **FEDERATION OF BROOMBALL ASSOCIATIONS OF ONTARIO**



**• APPENDIX G •**

**CODE OF CONDUCT**

**“For Respect, Give Respect”**

# FEDERATION OF BROOMBALL ASSOCIATIONS OF ONTARIO

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## Appendix G – Code of Conduct: “For Respect, Give Respect”

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As of October 2023

### **AG1.0 OVERVIEW**

- AG1.1 This Code of Conduct identifies the standard of behaviour which is expected of all Federation of Broomball Associations of Ontario (F.B.A.O.) members and participants, including but not limited to: all players, parents, guardians, team officials, major and minor officials, volunteers, representatives, directors, committee members, conveners, and administrators involved in F.B.A.O. activities and events.
- AG1.2 The F.B.A.O. is committed to providing an environment in which all individuals are treated with respect. Members and participants of the F.B.A.O. shall conduct themselves at all times in a manner consistent with the values of the F.B.A.O., which include the guiding principles of fairness, integrity, and mutual respect.
- AG1.3 Participants and members will abide by the F.B.A.O. Constitution and By-Laws, including its policies, procedures, as well as the rules and regulations of the game. F.B.A.O. activities and competitions should demonstrate these standards of ethics and sportsmanship at all times. Members will not participate, comment, or behave in manners that constitute harassment, abuse, or bullying of which endangers the safety of others.
- AG1.4 Failure to comply with this Code of Conduct may result in disciplinary action(s) at the appropriate level(s) of the F.B.A.O., in accordance with the F.B.A.O. Code of Conduct policies and procedures.

### **AG2.0 INTRODUCTION**

- AG2.1 Membership in the Federation of Broomball Associations of Ontario (F.B.A.O.), as well as participation in the activities of the F.B.A.O., brings with it many benefits and privileges. At the same time, members and participants are expected to fulfill certain responsibilities and obligations, including but not limited to: complying with the Code of Conduct, regulations, and policies and procedures of the F.B.A.O.
- AG2.2 The F.B.A.O. Code of Conduct generally identifies the standard of conduct which is expected of members, and other persons involved in F.B.A.O. activities and events. Individuals who fail to meet this standard may be subject to the disciplinary sanctions identified within these policies and procedures.

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AG2.3 The F.B.A.O. is committed to providing a sport and work environment which promotes equal opportunities and prohibits discriminatory practices.

AG2.4 Harassment, Abuse, and Bullying (“H.A.B.”) is prohibited by human rights legislation. H.A.B. can also be an offense under Canada's Criminal Code. The F.B.A.O. has a zero tolerance policy in regard to H.A.B.

### **AG3.0 APPLICATION**

AG3.1 These policies and procedures are intended to deal with all matters relating to discipline for breaches or violations of the F.B.A.O. Code of Conduct and/or its policies and procedures. They are not intended to address matters related to the rules of competition as set out in the F.B.A.O. regulations and policies.

AG3.2 These policies and procedures apply to all categories of members and participants of the F.B.A.O.

AG3.3 These policies and procedures outline discipline for breach of the Code of Conduct including harassment, abuse, and bullying matters which may arise during the course of all F.B.A.O. activities and events, including but not limited to: competitions (including exhibition games), practices, meetings, and travel associated with these activities. Depending on the offence, and the policies and procedures set out herein, discipline shall be dealt with by the local association or the F.B.A.O.

AG3.4 Within these policies and procedures, the words harassment and harass shall include: bullying and bully; and abuse and abusing.

### **AG4.0 TYPES OF INFRACTIONS**

AG4.1 Under these policies and procedures, there shall be three types of infractions, which may warrant discipline:

a) **Minor Infractions**

These are infractions under the F.B.A.O. Code of Conduct which are less serious than major infractions. These infractions and/or complaints will in be dealt with at the local association level in most cases, after which they may be appealed to

the F.B.A.O. Code of Conduct Appeal Panel. These infractions may also warrant immediate corrective action by either the F.B.A.O. or the local association.

b) Major Infractions

These are infractions under the F.B.A.O. Code of Conduct which are more serious and may warrant disciplinary action as specified herein. These infractions and/or complaints are generally dealt with at the F.B.A.O. level, and at the discretion of the F.B.A.O., these infractions may be referred back to the local association.

c) Harassment, Abuse and Bullying (“H.A.B.”)

These are serious infractions under the F.B.A.O. Code of Conduct, which are considered a major infraction except as specifically set out herein. These infractions must be reported to the F.B.A.O. for direction. These infractions and/or complaints are dealt with at the F.B.A.O. level, unless at the discretion of the President or their designate, they are referred back to the local association.

**AG5.0 GENERAL PROCEDURE**

AG5.1 When a written complaint is received by the local association, or an infraction occurred to the knowledge of the local association, the said association must determine if the complaint or infraction ought to be considered minor or major. If the matter is a minor infraction, then the matter is dealt with at the local association level, unless the association refers the matter to the F.B.A.O., and the F.B.A.O. agrees to the referral.

AG5.2 When a complaint involving a minor or major infraction is received by the F.B.A.O. directly from the complainant, or the infraction occurred to the knowledge of the F.B.A.O., the President or their designate may refer the matter to the local association, or deal with the matter at the F.B.A.O. level in accordance with the policies and procedures set out herein.

AG5.3 When the local association determines that the matter is a major infraction, then the matter must be referred to the F.B.A.O. The President or their designate shall then determine the appropriate course of action, which may include one or more of the following:

- a) referring the matter back to the association;
- b) imposing interim sanction(s);
- c) requesting an investigation and/or a hearing; and/or

d) such other action(s) as the President or their designate deems necessary.

AG5.4 If the matter is heard at the local association level, the decision may be appealed to the F.B.A.O. Code of Conduct Appeal Panel.

AG5.5 These policies and procedures use the term "Complainant" to primarily refer to the person who makes the complaint, including but not limited to a victim of an infraction or their parent or guardian, or any other association member. The term "Respondent" refers to the person against whom a complaint is made.

## **AG6.0 MINOR INFRACTIONS**

AG6.1 Situations involving minor infractions shall include, but are not limited to the following:

- a) a single incident of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to: peers, opponents, players, parents, team officials, officials, managers, trainers, administrators, spectators and sponsors;
- b) unsportsmanlike conduct such as angry outbursts or arguing;
- c) a single incident of being late for or absent from F.B.A.O. events and activities at which attendance is required;
- d) non-compliance with the rules and regulations under which F.B.A.O. events are carried out; and/or
- e) any complaint or infraction considered minor in nature.

### AG6.2 Handling of Minor Infractions

- a) A minor infraction will be dealt with at the local association level by an association representative in a position of authority designated by the local association.
- b) The local association ought to have procedures in place to deal with minor infractions including an individual responsible for handling the same. The procedures ought to ensure the individual being disciplined is advised of the infraction and provided a reasonable opportunity to set out their position concerning the incident.
- c) Although minor infractions will generally be dealt with by the local association, the local association may refer a minor infraction to the F.B.A.O. The President or their designate may or may not agree to the referral. When handling the

complaint or infraction the local association ought to conduct a thorough internal investigation. The local association also has the power to discipline, sanction, and/or suspend any member or participant for the minor infraction.

- d) All sanctions and/or suspensions assessed by the local association must be reported in writing to the F.B.A.O. Executive Director, within seven (7) business days of the sanction being rendered.

**AG6.3**      Sanctions for Minor Infractions

Whether the matter is at the local association committee, or the Code of Conduct Appeal Panel, the committee or panel hearing the matter may apply disciplinary sanctions, which may include any or all of the following:

- a) Verbal reprimand;
- b) Written reprimand to be sent to the individual;
- c) Verbal apology by the individual;
- d) Written apology by the individual;
- e) Suspension from the current competition and/or for a specified number of games; and/or
- f) Any other sanction(s) as may be deemed appropriate in the circumstances.

**AG6.4**      Where the matter has been dealt with at the local association level, and a final decision rendered, on appeal can be made and will proceed by way of a Code of Conduct Appeal as set out in section 11.0 herein.

**AG7.0**      **MAJOR INFRACTIONS**

**AG7.1**      Situations involving major infractions could include, but are not limited to the following:

- a) repeated incidents of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, players, parents/guardians, team officials, major and minor officials, administrators, spectators and sponsors;
- b) repeated unsportsmanlike conduct such as angry outbursts or arguing;
- c) activities or behaviour which interferes with the organization of a competition or with any player's or team's preparation for a competition;
- d) pranks, jokes or other activities which endanger the safety of others;
- e) deliberate disregard for the rules and regulations under which F.B.A.O. events are conducted;

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- f) abusive use of alcohol where abuse means a level of consumption which impairs the individual's ability to speak, walk or drive; causes the individual to behave in a disruptive manner; or interferes with the individual's ability to perform effectively and safely;
- g) any use of alcohol by minors;
- h) use of illicit drugs and narcotics;
- i) use of, or condoning the use of, banned performance enhancing drugs or methods;
- j) any Harassment, Abuse or Bullying complaint;
- k) lack of reporting, activity or action of a local executive or association; and/or
- l) any other complaint or infraction which is considered serious.

AG7.2 Harassment, Abuse, and Bullying (“H.A.B.”)

AG7.2.1 It is the policy of the F.B.A.O. that there shall be no H.A.B., or neglect, whether physical, emotional or sexual of any participant in any of its programs. The F.B.A.O. expects every parent, volunteer, and staff member to take all reasonable steps to safeguard the welfare of its participants and protect them from any form of maltreatment.

AG7.2.2 As set out above, any complaint of H.A.B. shall be considered a major infraction and shall follow the same procedure as used with a major infraction, as set out herein, unless otherwise determined by the F.B.A.O., or as set out in the Criminal Code of Canada. H.A.B. in particular abuse shall also include neglect.

AG7.3 Definitions of Harassment, Abuse and Bullying

AG7.3.1 Harassment

Harassment is defined as conduct which is insulting, intimidating, humiliating, offensive or physically harmful. Types of behaviour which constitute harassment include, but are not limited to:

- a) Unwelcomed jokes, innuendo or teasing about a person's looks, body, attire, age, race, religion, sex or sexual orientation;
- b) Condescending, patronizing, threatening or punishing actions which undermine self-esteem or diminish performance;
- c) Practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;

- d) Unwanted or unnecessary physical contact including touching, patting or pinching;
- e) Any form of hazing;
- f) Any form of physical assault or abuse;
- g) Any sexual offence;
- h) Behaviours such as those described above which are not directed towards individuals or groups but which have the effect of creating a negative or hostile environment; and/or
- i) Unwelcomed behaviour of one individual towards another which the individual ought to have known would be unwanted.

AG7.3.2 Abuse

Child abuse is any form of physical, emotional and/or sexual mistreatment or lack of care which causes physical injury or emotional damage to a child. A common characteristic of all forms of abuse against children and youth is an abuse of power or authority and/or breach of trust.

Abuse is an issue of child protection. Protection refers to provincial, territorial or Aboriginal band appointed child protective services. A child may be in need of protection from harm if abuse or neglect is suspected.

AG7.3.2.1 Emotional Abuse

Emotional abuse may include a chronic attack on a child or youth’s self esteem; it is psychologically destructive behaviour by a person in a position of power, authority, or trust. It can take the form of name-calling, threatening, ridiculing, berating, intimidating, isolating, hazing, or ignoring the child or youth’s needs.

AG7.3.2.2 Physical Abuse

Physical abuse includes when a person in a position of power or trust purposefully injures or threatens to injure a child or youth. This may include, but is not limited to: slapping, hitting, shaking, kicking, pulling hair or ears, throwing, shoving, grabbing, hazing, or excessive exercise as a form of punishment.



AG7.3.2.3 Neglect

A general definition of neglect is the chronic inattention to the basic necessities of life such as clothing, shelter, nutritious diets, education, good hygiene, supervision, medical and dental care, adequate rest, safe environment, moral guidance and discipline, exercise, and fresh air.

Some examples of neglect occurring in a sport environment are:

- a) inadequate shelter/unsafe environments such as: lack of maintaining equipment or facility;
- b) forcing athletes to participate without proper protective equipment;
- c) inadequate clothing such as: preventing athletes from dressing adequately for weather conditions or making them stay in wet clothes as punishment following a game;
- d) inadequate supervision such as: leaving young athletes unsupervised in a facility or on a team trip;
- e) lack of medical/dental care such as: ignoring or minimizing injuries; ignoring medical advice; not seeking medical or dental attention when warranted;
- f) inadequate education such as: encouraging athletes to not do homework, to not attend school, or to drop out;
- g) inadequate rest such as: overdoing or increasing workouts as punishment; prohibiting adequate sleeping or resting time;
- h) inadequate moral guidance & discipline such as: not providing adequate supervision during team functions; and/or
- i) hiring strippers or prostitutes; offering pornography to young athletes.

AG7.3.2.4 Sexual Abuse

Sexual abuse may include a child or youth being used by an individual with more power for their own sexual stimulation or gratification. There are two categories of sexual abuse: contact and non-contact.

AG7.3.3 Bullying

Bullying is defined as hurtful interpersonal mistreatment of a person and is an act of hurting someone in order to insult, humiliate, degrade, or exclude them. Basically, it is

“mean” behaviour. Bullying may also take the form of cyber bullying which involves bullying over the internet. Bullying can be:

- a) hurting behaviour based on oppression and “meanness”;
- b) based on power differential;
- c) intentionally or non-intentional, but can be interpreted to be intentional;
- d) intense repeated over time (generally, but not necessarily);
- e) oppressive – isolates victims; and/or
- f) caused by many factors and behavioural challenges.

AG7.3.3.1 Hurtful actions may be:

- a) Physical – i.e.: hitting, kicking, grabbing, shoving, spitting on, beating others up, damaging, or stealing another person’s property
- b) Verbal – i.e.: name-calling, humiliating, degrading behaviour, hurtful teasing, threatening someone (this may happen in notes or in person, over the phone, through text messages, or the internet)
- c) Relational – i.e.: making others look foolish, excluding peers, spreading gossip, or rumours (this may happen in person, over the phone, through text messages, or the internet)
- d) Reactive – i.e.: engage in bullying as well as provoke bullies to attack by taunting them (this may happen in person, over the phone, through text messages, or the internet)

AG7.4 Reporting H.A.B.

AG7.4.1 When any person in authority has a reasonable belief that the possibility exists that a minor is being harassed, bullied, abused, or neglected, he or she shall report this to Ontario child protection authorities or police and shall advise the F.B.A.O. of having made this report.

AG7.4.2 The President or their designate, upon becoming aware of a H.A.B infraction shall take such action as deemed necessary in the circumstances, including but not limited to one or more of the following: conducting an investigation, a hearing, imposing interim sanction(s), suspending the person from participating in any activities of the F.B.A.O., and/or any other further disciplinary action.

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- AG7.4.3 The matter shall then be dealt with as a disciplinary matter and a major infraction. Any report of investigation carried out by authorities may be used as evidence under these Policies and Procedures.
- AG7.5 H.A.B. Complaint
- AG7.5.1 A person who experiences H.A.B., any person who witnesses H.A.B., or any person who believes that H.A.B. has occurred should make it known to the harasser that the behaviour is unwelcome, offensive, and contrary to the values of the F.B.A.O. and these Policies and Procedures.
- AG7.5.2 If confronting the harasser is not possible, or if after confronting the harasser the H.A.B. continues, the matter should be reported to an official of the F.B.A.O. For the purposes of these Policies and Procedures, an "official" may be a member of the F.B.A.O. Board, a Convenor, the Executive Director, or the Chairperson of any F.B.A.O. Standing Committee.
- AG7.5.3 An official who either becomes aware of an incident of H.A.B. or receives a complaint, written or otherwise, shall thereby advise the F.B.A.O. using the F.B.A.O. Complaint Form available from the F.B.A.O. office and/or website.
- AG7.5.4 Any member of an association may make a complaint directly to its association or directly to the F.B.A.O. If the complaint received at the association level is a Code of Conduct major infraction or a harassment, abuse or bullying infraction, it shall be forwarded to the F.B.A.O..
- AG7.6 Confidentiality
- The F.B.A.O. recognizes the sensitive and serious nature of H.A.B. and will strive to keep all matters relating to a complaint of H.A.B. confidential. However, if required by law to disclose information, the F.B.A.O. will do so.
- AG7.7 Handling of Major Infractions including H.A.B.
- AG7.7.1 Any member or representative of the F.B.A.O. must report a major infraction to the F.B.A.O. using the F.B.A.O. Complaint Form available from the F.B.A.O. Office and/or website.

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- AG7.7.2 The F.B.A.O. is not required to deal with all complaints. The F.B.A.O. may decide not to deal with the complaint if it is of the opinion that:
- a) could be more appropriately dealt with under another policy, rule or regulation within the F.B.A.O. or local association;
  - b) is frivolous, vexatious or made in bad faith;
  - c) is not within the governing body’s jurisdiction, i.e. player selection; or
  - d) is based on occurrences that are more than six months old.

If the decision is made not to investigate the complaint, the Complainant will be advised accordingly.

- AG7.7.3 When a major code of conduct or HAB complaint is to be investigated by the F.B.A.O., the President or their designate may determine if the complaint ought to be dealt with at the local association named in the complaint. The Complainant, Respondent, and President of the association named in the complaint must be advised that the complaint is being sent to the local association. The local association shall provide the F.B.A.O. with their Investigative report, as well as subsequent updates of the handling of the complaint including any sanctions imposed.

- AG7.7.4 If the President or their designate decides that the complaint will be dealt with by the F.B.A.O. the Complainant, Respondent, and President of the association named in the complaint will be advised that the complaint is being investigated by the F.B.A.O. and of any procedure or interim sanction(s) including but not limited to a fact finding investigation and/or hearing no later than five (5) business days from the date of the receipt of the complaint.

- AG7.8 Factors to be considered when sanctions are to be imposed for major infractions:
- a) In applying sanctions, the Code of Conduct Hearing Panel responsible for the matter may have regard to the following aggravating or mitigating circumstances:
    - i. the nature and severity of the offence;
    - ii. the individual's acknowledgment of responsibility;
    - iii. the individual's extent of remorse;
    - iv. the age, maturity, or experience of the individual;
    - v. the individual's prospects for rehabilitation;
    - vi. whether the incident involved any physical contact;

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- vii. whether the incident was an isolated incident or part of an ongoing pattern;
  - viii. the nature of the relationship between the complainant and the individual;
  - ix. whether the individual had been involved in previous incidents;
  - x. whether the individual admitted responsibility and expressed a willingness to change;
  - xi. whether the individual retaliated against the complainant; and/or
  - xii. any other factor(s) the Panel deems to be relevant.
- b) Notwithstanding the process set out herein, any member or participant of the F.B.A.O. who is convicted of, or being investigated for, a criminal offence including, but not limited to, matters involving sexual exploitation, invitation to sexual touching, sexual interference, or sexual assault, shall face an indefinite suspension from participating in any activities of the F.B.A.O. and may face further disciplinary action in accordance with the policies and procedures set out herein.
- c) Failure to comply with a sanction shall result in automatic suspension of membership in the F.B.A.O. or in organizations affiliated with the F.B.A.O., until such time as the sanction is fulfilled.

### AG7.9 Sanctions for Major Infractions

The Code of Conduct Hearing Panel, or the local association committee hearing the matter may apply the following disciplinary sanctions for major infractions, which may include, but are not limited to, any or all, or any combination thereof, of the following:

- a) written reprimand to be placed in individual's file;
- b) written or verbal apology by the individual;
- c) suspension from certain F.B.A.O. events which may include suspension from the current game or competition or from future competitions;
- d) suspension from certain or all F.B.A.O. activities (e.g., competing, coaching, or officiating) for a designated period of time;
- e) referral to counseling;
- f) removal of certain privileges of membership; and/or
- g) any other sanction(s) as may be deemed appropriate in the circumstances.

**AG8.0 F.B.A.O. FACT FINDING INVESTIGATION**

AG8.1 An F.B.A.O. representative in a position of authority who receives a major complaint written or otherwise shall advise the F.B.A.O. board immediately. The F.B.A.O. President or their designate shall request that the F.B.A.O. Risk Management Officer conduct an investigation. The F.B.A.O. Risk Management Officer will assign one of the F.B.A.O. Fact Finding Investigators to conduct an investigation.

AG8.2 The F.B.A.O. Investigator shall carry out the investigation within ten (10) business days (or such other reasonable time as the President or their designate shall allow) and at the conclusion of the investigation shall submit a written report to the Risk Management Officer.

AG8.3 The Risk Management Officer within seven (7) business days (or such reasonable time as the President or their designate shall allow) of receiving the report shall submit their report to the President or designate for review and a decision on the appropriate course of action which may include, but is not limited to, immediate action, interim sanctions if not already invoked, or calling for a Code of Conduct Hearing.

AG8.4 The following decisions resulting from an investigation may be made:

- a) the complaint is with merit;
- b) the complaint is without merit;
- c) there is insufficient information to enable a conclusive decision to be made; and/or
- d) the complaint is outside of the jurisdiction of the investigating body.

AG8.5 Any player, team official, major or minor official, parent/guardian, director, officer, volunteer, employee or chaperone within the F.B.A.O. and/or any of the F.B.A.O. member who knowingly brings false complaint against any F.B.A.O. member may be disciplined up to and including dismissal and/or revocation of membership in accordance with the F.B.A.O. By-Laws and Regulations.

**AG9.0 INCIDENTS REQUIRING IMMEDIATE RESPONSE**

AG9.1 These policies and procedures shall not prevent an F.B.A.O. representative in a position of authority from taking immediate action at an F.B.A.O. activity or event in response to behaviour that, in their view, constitutes a contravention of the F.B.A.O. Code of

Conduct where such action is deemed necessary. The F.B.A.O. representative must remove the alleged offender(s) from the F.B.A.O. activity and immediately report the incident to the F.B.A.O. An F.B.A.O. complaint form shall be filled out by the Complainant or the F.B.A.O. representative and sent to the F.B.A.O. board forthwith.

## **AG10.0 CODE OF CONDUCT HEARING**

- AG10.1 On receipt of a complaint written or otherwise or incident being investigated, and upon completion of the report and deciding a hearing is warranted, the President or their designate will appoint three individuals to serve as the Code of Conduct Hearing Panel and shall appoint one of these persons to serve as the chairperson of the Panel.
- AG10.2 The Code of Conduct Hearing Panel shall hold the hearing within fourteen (14) business days from receipt of the report or Complaint (written or otherwise) being received by the President or their designate, unless otherwise determined by the President or their designate acting reasonably in the circumstances
- AG10.3 The Code of Conduct Hearing Panel has the power to impose sanctions as set out herein.
- AG10.4 The Code of Conduct Hearing Panel shall govern the hearing as it sees fit, provided that:
- a) the individual being disciplined or the Complainant and Respondent shall be given seven (7) business days written notice (by email, courier, registered mail or fax) of the day, time and place of the hearing. The Panel may decide to conduct the hearing in person, by telephone, or video conference;
  - b) all parties shall receive a copy of the complaint, and any other relevant documentation unless otherwise determined by the President;
  - c) a quorum shall be all three (3) Panel members and decisions shall be by majority vote where the Chair carries a vote;
  - d) both the Complainant and Respondent shall be present at the hearing, and may have legal representation. The Panel or the F.B.A.O. may also require its own representative/counsel;
  - e) the individual being disciplined shall have a reasonable opportunity to present evidence and argument;
  - f) the hearing shall be held in public except for those matters dealing with HAB matters which ought to be held in private, or where the President or their designate determines the matter ought to proceed by way of a private hearing;

- g) the Panel may request that witnesses to the incident be present or submit written evidence which is certified by a Notary Public;
- h) if at any point in the proceedings, the Complainant becomes reluctant to continue, it shall be at the sole discretion of the Panel to continue the review of the complaint in accordance with the Policies and Procedures set out herein;
- i) once appointed, the Panel shall have the authority to abridge or extend timelines associated with all aspects of the hearing; and
- j) the parties will exchange and or provide disclosure of any and all documents or evidence intended to be relied upon three (3) business days prior to the hearing.

AG10.5 The Code of Conduct Hearing Panel shall render its decision within fourteen (14) business days of the hearing and submit a written report to the President or their designate. A copy of this decision shall be provided to all of the parties to the hearing.

This report shall contain but shall not be limited to the following:

- a) a summary of the relevant facts;
- b) a determination as to whether the acts complained of constitute an infraction;
- c) disciplinary action to be taken; and
- d) measures to remedy or mitigate the harm or loss suffered by the Complainant.

AG10.6 Where the facts of the incident can be agreed upon, the Respondent may waive the hearing, in which case the Panel shall be authorized to render the appropriate sanction(s) and may hold a hearing for the purpose of determining an appropriate sanction(s).

AG10.7 If the Respondent chooses not to participate in the hearing, the hearing may be held in their absence.

AG10.8 The decision of the Code of Conduct Hearing Panel may be appealed to the F.B.A.O.

## **AG11.0 CODE OF CONDUCT APPEAL**

AG11.1 Both the Complainant and Respondent shall have the right to appeal the final decision and/or sanctions of the local association to the Code of Conduct Appeal Panel, although the appeal will only be heard if sufficient grounds exist and procedures followed, determined by the President or their designate.



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- AG11.2 The decision of the Code of Conduct Appeal Panel or the F.B.A.O. in this matter may be appealed to the F.B.A.O.
- AG11.3 Timing of the Code of Conduct Appeal
- AG11.3.1 An individual (“Appellant”) who wishes to appeal the final decision rendered by their local association to the Code of Conduct Appeal Panel shall have seven (7) business days from the date the decision is received, to submit written notice of their intention to appeal, along with detailed reasons for the appeal, and a non-refundable appeal fee of \$100 by way of a certified cheque to the F.B.A.O.
- AG11.3.2 Any matter which is appealed to the Code of Conduct Appeal Panel and is to be presented in person shall be subject to a fee of \$200, by way of a certified cheque payable to the F.B.A.O.
- AG11.3.3 Where a matter is submitted to the Code of Conduct Appeal Panel, but is withdrawn at least 48 hours prior to the scheduled appeal date, the appeal fee less \$50 administration fee will be refunded.
- AG11.3.4 Any party wishing to initiate an appeal beyond the seven (7) day period must provide a written request stating reasons for an exemption to the requirement of AG11.3.1 above. The decision shall be at the sole discretion of the President or their designate.
- AG11.4 Grounds for a Code of Conduct Appeal
- AG11.4.1 A final decision of the local association cannot be appealed to the Code of Conduct Appeal Panel without sufficient grounds for the appeal which include:
- a) making a decision for which it did not have authority or jurisdiction as set out in the F.B.A.O. Code of Conduct policies and procedures;
  - b) failing to follow procedures as set out herein;
  - c) making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views;
  - d) exercising its discretion for an improper purpose;
  - e) making a decision which was grossly unreasonable; and/or
  - f) any other grounds which the President, or their designate deems sufficient to grant an appeal which grounds need not be disclosed.

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- AG11.5 Screening of the Code of Conduct Appeal
- AG11.5.1 Within seven (7) business days of receiving the notice of appeal, the President or their designate shall decide whether or not the appeal is based on one or more of the categories as set out in AG11.4.
- AG11.5.2 The President or their designate shall not make a decision as it relates to the merits of the appeal.
- AG11.5.3 If the request for an appeal is denied on the basis of insufficient grounds or reasons, the Appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President or their designate and may only be appealed to the F.B.A.O.
- AG11.6 Code of Conduct Appeal Panel
- AG11.6.1 If the President or their designate is satisfied that there are sufficient grounds for an appeal, within fourteen (14) business days of having received the original notice of appeal he shall appoint a Code of Conduct Appeal Panel (the “Panel”) comprised of three individuals who are at arm’s length with the affected parties, and have no involvement with the matter being appealed, and shall be free of any actual or perceived bias or conflict as determined by the President or their designate, who shall also select a chairperson.
- AG11.7 Code of Conduct Appeal Preliminary Conference
- AG11.7.1 The Panel may determine that the circumstances of the dispute warrant a preliminary conference:
- a) the matters, which may be considered at a preliminary conference include date and location of hearing, timelines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter, which may assist in expediting the appeal proceedings.
  - b) the Panel may delegate to its Chairperson the authority to deal with these preliminary matters.

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- AG11.8 Procedure for the Code of Conduct Appeal
- AG11.8.1 The Panel shall govern the appeal by such procedures as it deems appropriate, provided that:
- a) the appeal hearing shall be held within fourteen (14) business days of the Panel's appointment;
  - b) The Appellant, Respondent and affected parties shall be given seven (7) business days written notice of the date, time and place of the appeal hearing;
  - c) decisions shall be by majority vote, where the Chairperson carries a vote;
  - d) copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least five (5) business days in advance of the hearing;
  - e) a representative or advisor, including legal counsel, may accompany any of the parties;
  - f) the Panel may direct that any other individual participate in the appeal;
  - g) in the event that one of the Panel's members is unable or unwilling to continue with the appeal, the President of their designate shall appoint a replacement;
  - h) unless otherwise agreed by the parties, there shall be no communication between Panel members and the parties regarding the matter except in the presence of, or by copy to, the other parties; and
  - i) in order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone conference call at its discretion.
- AG11.9 Code of Conduct Appeal Decision
- AG11.9.1 Within seven (7) business days of concluding the appeal, the Panel shall issue its written decision, with reasons. In making its decision, the Panel shall have no greater authority than that of the original decision-maker.
- AG11.9.2 The Panel may decide:
- a) to void or confirm the decision being appealed;
  - b) to vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;  
or
  - c) such other action or decision it deems appropriate.

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- AG11.9.3 A copy of this decision shall be provided to each of the parties and to the President or their designates.
- AG11.10 Code of Conduct Appeal Timelines
- AG11.10.1 At its sole discretion, the President or designate or the Panel may abridge or extend the timelines in the Policies and Procedures set out herein.
- AG11.11 Code of Conduct Documentary Appeal
- AG11.11.1 Any party to the appeal may request that the Panel conduct the appeal by way of documentary or other evidence but without an in-person hearing. The Panel may seek agreement from all parties to proceed in this fashion. If agreement is not forthcoming, the Panel shall decide whether the appeal shall proceed by way of documentary evidence or in-person hearing.
- AG11.12 Code of Conduct Appeal Location & Jurisdiction
- AG11.12.1 Any appeal shall take place in the geographic region where the infraction originated or a location as determined by the President or their designate, unless held by way of telephone conference call or held elsewhere as may be decided by the Panel as a preliminary matter.
- AG11.12.2 These Procedures shall be governed and construed in accordance with the laws of the Province of Ontario.
- AG11.12.3 No action or legal proceeding shall be commenced against the F.B.A.O. in respect of a dispute, unless the F.B.A.O. has refused or failed to abide by the appeal provisions as set out in these Policies and Procedures and the matter has been heard by the F.B.A.O.
- AG11.13 Code of Conduct Appeal Referral of Dispute
- AG11.13.1 Any party may appeal the decision of the Code of Conduct Appeal Panel to the F.B.A.O.
- AG11.0 ABRIDGEMENT OF TIME**
- AG11.1 The President or their designate may abridge any time frame imposed by these policies.