



CODE OF CONDUCT AND ETHICS POLICY

Definitions

1. The following capitalized terms shall have the following meanings in the Code of Conduct and Ethics Policy:
 - a) *“Policy”* shall refer to this Code of Conduct and Ethics Policy unless otherwise stated;
 - b) *“Individual(s)”* shall mean all categories of membership defined in the AthletesCAN Bylaws, as well as all individuals engaged in activities with AthletesCAN, including but not limited to, athletes, volunteers, directors, officers, employees, contractors and interns.
 - c) *“Complainant”* shall mean an Individual who makes a report of an incident of Maltreatment or suspicions of an incident of Maltreatment.
 - d) *“Consent by a Person over the Age of Majority”* Consent is defined in Canada’s Criminal Code as the voluntary agreement to engage in the sexual activity in question. The law focuses on what the person was thinking and feeling at the time of the sexual activity. Sexual touching is only lawful if the person affirmatively communicated their consent, whether through words or conduct. Silence or passivity does not equal consent. Sexual activity is only legal when both parties consent. The Criminal Code also says there is no consent when: Someone says or does something that shows they are not consenting to an activity; Someone says or does something to show they are not agreeing to continue an activity that has already started; Someone is incapable of consenting to the activity, because, for example, they are unconscious; The consent is a result of a someone abusing a position of trust, power or authority or someone consents on someone else’s behalf. A person cannot say they mistakenly believed a person was consenting if: that belief is based on their own intoxication; they were reckless about whether the person was consenting; they chose to ignore things that would tell them there was a lack of consent; or they didn’t take proper steps to check if there was consent. Sexual activity with a minor is a criminal offence as is sexual activity with a person under the age of 18 years when the other person is in a position of trust or authority.
 - e) *“Disclosure”* shall mean the sharing of information by an Individual regarding an incident or a pattern of Maltreatment experienced by that Individual. Disclosure does not constitute a formal report that initiates a process of investigation to address the Maltreatment.
 - f) *“Duty to Report under Child Protection Legislation”* A legal duty to report is mandated by law, and the requirement varies by province depending on provincial legislation. Everyone has a duty to report child abuse and neglect under Canadian child welfare laws. Professionals who work with children and youth have an added responsibility to report. Adults are obliged to report child Maltreatment if there is knowledge or suspicion that it is occurring. This is called the “duty to report.” Every person in Canada has the duty to report known or suspected child Maltreatment by law. Known or suspected abuse or Neglect of a child must be reported to: local child welfare services (e.g., children’s aid society or child and family services agency), or provincial/territorial social service ministries or departments, or local police.

- g) *“Duty to Report Concerns Outside of Child Protection Legislation”*
Individuals have a duty to report concerns of inappropriate conduct of other Individuals to uphold the ethical standards and values of Canadian sport. Reporting inappropriate conduct is important to ensure proper action is taken and expectations are re-established. By addressing inappropriate conduct, a collective responsibility to protect Individuals from Maltreatment is enacted.
- h) *“Grooming”* shall mean deliberate conduct by an Individual to sexualize a relationship with a Minor that involves the gradual blurring of boundaries and normalization of inappropriate and sexually abusive behaviour. During the grooming process, the Individual will gain the trust of the Minor and protective adults and peers around the Minor often under the guise of an existing relationship. Manipulation tactics are then used to blur perceptions and gain further access to and private time with the Minor in order to abuse or exploit the Minor. Grooming can occur whether or not harm is intended or results from the behaviour.
- i) *“Minor”* shall mean an Individual who is under the age of majority at the time and in the jurisdiction where the alleged Maltreatment occurred. It is the responsibility of the adult to know the age of a minor.
- j) *“Maltreatment”* shall mean volitional acts that result in harm or the potential for physical or psychological harm. Any of the various prohibited behaviours and conduct described in Sections 8 to 14.
- k) *“Neglect”* shall mean any pattern or a single serious incident of lack of reasonable care, inattention to an Individual’s needs, nurturing or well-being, or omissions in care. Neglect is determined by the objective behaviour but the behaviour must be evaluated with consideration given to the Individual’s needs and requirements, not whether harm is intended or results from the behaviour.
- l) *“Physical Maltreatment”* shall mean any pattern or a single serious incident of deliberate conduct that has the potential to be harmful to the physical well-being of an Individual. Physical Maltreatment includes, without limitation, contact or non-contact infliction of physical harm. Physical Maltreatment is determined by the objective behaviour, not whether harm is intended or results from the behaviour.
- m) *“Power Imbalance”* A Power Imbalance may exist where, based on the totality of the circumstances, an Individual has supervisory, evaluative, a duty of care, or other authority over another Individual. A Power Imbalance may also exist between an Athlete and other adults involved in sport in positions such as high-performance directors, sport specific health-care providers, sport science support staff, care or support persons, guides or pilots. Maltreatment occurs when this power is misused. A Power Imbalance may exist, but is not presumed, where an intimate relationship existed before the sport relationship commenced (e.g., a relationship between two spouses or life partners, or a sexual relationship between consenting adults that preceded the sport relationship).
- n) *“Psychological Maltreatment”* shall mean any pattern or a single serious incident of deliberate conduct that has the potential to be harmful to the psychological well-being of an Individual. Psychological Maltreatment includes, without limitation, verbal conduct, non-assaultive physical conduct, and conduct that denies attention or support. Psychological Maltreatment is determined by the objective behaviour, not whether harm is intended or results from the behaviour.
- o) *“Reporting (or Report)”* shall mean the provision of information in writing by any person or an Individual to a relevant independent authority (the independent person or position charged with receiving a report and determining next steps) regarding Maltreatment. Reporting may occur through either: (i) the Complainant (of any age) or the one who experienced the Maltreatment, or (ii) a witness – someone who witnessed the

Maltreatment or otherwise knows or suspects Maltreatment. In either case, the intention of Reporting is to initiate an independent investigative process, which could result in disciplinary action being taken against the Respondent.

- p) *“Respondent”* shall mean an Individual who is alleged to have engaged in Maltreatment and thereby to have violated the Policy.
- q) *“Sexual Maltreatment involving a Child”* Any form of adult/child sexualized interaction constitutes child sexual abuse. Sexual abuse of a child may occur through behaviors that do or do not involve actual physical contact.
- r) *“Sexual Maltreatment involving a person over the Age of Majority”* shall mean any sexual act, whether physical or psychological in nature, that is committed, threatened, or directed towards an Individual or group, without the Individual’s Consent. It includes any act targeting an Individual’s sexuality, gender identity or expression, that is committed, threatened or attempted against an Individual without that Individual’s Consent, and includes but is not limited to, the Criminal Code Offences of sexual assault, sexual exploitation, sexual interference, invitation to sexual touching, indecent exposure, voyeurism and non-consensual distribution of sexual/intimate images. Sexual Maltreatment also includes sexual harassment and stalking, cyber harassment, and cyber stalking of a sexual nature. Sexual Maltreatment can take place through any form or means of communication (e.g. online, social media, verbal, written, visual, hazing or through a third party).

Preamble

- 2. Membership in AthletesCAN, and participation in its activities, brings with it many benefits and privileges that are balanced by member and participant responsibilities and obligations.
- 3. This Policy defines the parameters for these responsibilities and obligations, and thus identifies a standard for behavior that is expected of all AthletesCAN members and participants.

Purpose

- 4. The purpose of this Policy is to ensure a safe and positive environment within AthletesCAN programs, activities and events, by making all Individuals aware that there is an expectation of appropriate behavior, consistent with the values of AthletesCAN, at all times.

Application of this Policy

- 5. This Policy applies to the conduct of Individuals during AthletesCAN programs, activities and events.
- 6. This Policy applies to conduct that may occur outside of AthletesCAN activities, programs and events when such conduct adversely affects relationships within the AthletesCAN work and sport environment and is detrimental to the image and reputation of AthletesCAN.

Types of Maltreatment

Psychological Maltreatment

- 7. It is a violation of this Policy for an Individual to engage in Psychological Maltreatment.
 - a) Psychological Maltreatment includes, without limitation, verbal acts, non-assaultive physical acts and acts that deny attention or support.
 - i. Verbal Acts: Verbally assaulting or attacking someone, including but not limited to: unwarranted personal criticisms; body shaming; derogatory comments related to one’s identity (e.g. race, gender identity or expression, ethnicity,

Indigenous status, ability/disability); comments that are demeaning, humiliating, belittling, intimidating, insulting or threatening; the use of rumours or false statements about someone to diminish that person's reputation; using confidential sport and non-sport information inappropriately. Verbal Maltreatment may also occur in online forms.

- ii. Non-assaultive Physical Acts (no physical contact): Physically aggressive behaviors, including but not limited to: throwing objects at or in the presence of others without striking another; hitting, striking or punching objects in the presence of others.
- iii. Acts that Deny Attention or Support: Acts of commission that deny attention, lack of support or isolation including but not limited to: ignoring psychological needs or socially isolating a person repeatedly or for an extended period of time; arbitrarily or unreasonably denying feedback, support or attention for extended periods of time and/or asking others to do the same.

Physical Maltreatment

8. It is a violation of this Policy for an Individual to engage in Physical Maltreatment.

- a) Physical Maltreatment includes, without limitation, contact or non-contact behaviours that have the potential to cause physical harm.
 - i. Contact behaviours: Including but not limited to: deliberately punching, kicking, beating, biting, striking, strangling or slapping another; deliberately hitting another with objects.
 - ii. Non-contact behaviours: Including but not limited to: isolating a person in a confined space; forcing a person to assume a painful stance or position for no athletic purpose (e.g., requiring an Athlete to kneel on a hard surface); the use of exercise for the purposes of punishment; withholding, recommending against, or denying adequate hydration, nutrition, medical attention or sleep; denying access to a toilet; providing alcohol to an Individual under the legal drinking age; providing illegal drugs or non-prescribed medications to an Individual.

Sexual Maltreatment

9. It is a violation of this Policy for a Participant to engage in Sexual Maltreatment.

- a) Sexual Maltreatment includes, without limitation, any act targeting a person's sexuality, gender identity or expression, that is committed, threatened or attempted against a person, and includes but is not limited to the Criminal Code Offences of sexual assault, sexual exploitation, sexual interference, invitation to sexual touching, indecent exposure, voyeurism and non-consensual distribution of sexual/intimate images. Sexual Maltreatment also includes sexual harassment and stalking, cyber harassment, and cyber stalking of a sexual nature.
- b) Examples of Sexual Maltreatment include, without limitation:
 - i. Any penetration of any part of a person's body, however slight, with any object or body part by a person upon another person, including but not limited to:
 - a) vaginal penetration by a penis, object, tongue, or finger; and
 - b) anal penetration by a penis, object, tongue, or finger.
 - ii. Any intentional touching of a sexual nature of any part of a person's body, however slight, with any object or body part by a person upon another person, including but not limited to:
 - a) kissing;

- b) intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching of another with any of these body parts;
- c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person, and
- d) making another touch themselves, the Individual, or someone else with or on any of the body parts listed in b).
- e) any intentional touching in a sexualized manner of the relationship, context or situation.

Neglect

10. It is a violation of this Policy for an Individual to engage in Neglect.
- a) Neglect, or acts of omission, includes but not limited to not being aware of and not considering an individual's physical or intellectual disability.

Maltreatment Related to Grooming

11. It is a violation of this Policy for a Participant to engage in Grooming.
- a) Grooming is often a slow, gradual and escalating process of building trust and comfort with a young person. Grooming includes, without limitation, the process of making inappropriate behaviour seem normal and gradually engaging in 'boundary violations' which have been professionally-identified to Canadian standards (e.g., a degrading remark, a sexual joke, sexualized physical contact; providing a massage or other purported therapeutic interventions with no specific training or expertise; private social media and text communications; sharing personal photographs; shared use of locker rooms; private meetings; private travel, and providing gifts).
 - b) Grooming usually begins with subtle behaviours that do not appear to be inappropriate. Many victims/survivors of sexual abuse do not recognize the grooming process as it is happening, nor do they recognize that this process of manipulation is part of the overall abuse process.
 - c) In the grooming process, the offender begins by gaining trust of adults around the young person. The offender establishes a friendship and gains the young person's trust. Grooming then involves testing boundaries (e.g. telling sexual jokes, showing sexually explicit images, making sexual remarks). Typically, behaviour moves from non-sexual touching to "accidental" sexual touching.
 - d) The young person is often manipulated into feeling responsible for the contact, is discouraged from telling anyone else about the relationship, and is made to feel obligated to protect the offender. The offender also builds trust with those close to the young person so that the relationship with the young person is not questioned.

Maltreatment Related to Process

12. The behaviors identified below also constitute Maltreatment and may give rise to a sanction.
- a) Interference with or Manipulation of Process: An Individual, violates this Policy by directly or indirectly interfering with the investigation of a complaint:
 - i. falsifying, distorting, or misrepresenting information, the resolution process, or an outcome;
 - ii. destroying or concealing information;
 - iii. attempting to discourage an individual's proper participation in or use of this Policy's processes;
 - iv. harassing or intimidating (verbally or physically) any person involved in this Policy's processes before, during, and/or following any hearings;

- v. publicly disclosing an Individual's identifying information, without the Individual's agreement;
 - vi. failing to comply with any temporary or provisional measure or other final sanction;
 - vii. distributing or otherwise publicizing materials an Individual gains access to during an investigation or hearing, except as required by law or as expressly permitted; or
 - viii. influencing or attempting to influence another person to interfere with or manipulate the process.
- b) **Retaliation:** Retaliation is prohibited. An Individual shall not take an adverse action against any person for making a good faith Report of possible Maltreatment or for participating in any process under this Policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging or participating in this Policy's processes. Retaliation after the conclusion of investigation and sanction processes is also prohibited. Retaliation may be present even where there is a finding that no Maltreatment occurred. Retaliation does not include good-faith actions lawfully pursued in response to a Report of possible Maltreatment.
- c) **Aiding and Abetting:** Aiding and Abetting is any act taken with the purpose of facilitating, promoting, or encouraging the commission of Maltreatment by a Participant. Aiding and Abetting also includes, without limitation, knowingly: a) allowing any person who has been suspended or is otherwise ineligible to be in any way associated with sport or to coach or instruct Participants; b) providing any coaching-related advice or service to an Athlete who has been suspended or is otherwise ineligible; and c) allowing any person to violate the terms of their suspension or any other sanctions imposed.

Maltreatment Related to Reporting

13. Failure to Report Maltreatment of a Minor:

- a) A legal duty to report is mandated by law, and the requirement varies by province depending on provincial legislation. An adult Individual who fails to Report actual or suspected Psychological Maltreatment, Sexual Maltreatment, Physical Maltreatment or Neglect involving a Minor Participant pursuant to this Policy's processes and to law enforcement or child protection services (when applicable) shall be subject to disciplinary action under the Discipline and Complaints Policy.
 - i. The obligation to Report requires the Reporting of any conduct which, if proven true, would constitute Psychological Maltreatment, Sexual Maltreatment, Physical Maltreatment or Neglect involving a Minor Participant. The obligation to Report is an ongoing one and is not satisfied simply by making an initial Report. The obligation includes Reporting, on a timely basis, all relevant information of which an adult Participant becomes aware.
 - ii. The obligation to Report includes making a direct Report.
 - iii. The obligation to Report includes personally identifying information of a potential Minor Complainant to the extent known at the time of the Report, as well as a duty to reasonably supplement the Report as to identifying information learned at a later time.
 - iv. Participants should not investigate or attempt to evaluate the credibility or validity of allegations involving Psychological Maltreatment, Sexual Maltreatment, Physical Maltreatment or Neglect. Participants making a good faith Report are not required to prove the Reports are true before Reporting.

- b) Failure to Report Inappropriate Conduct: Not all inappropriate conduct may meet the threshold for constituting Maltreatment under this Policy. However, such inappropriate conduct may represent behavior with the risk of escalating to Maltreatment under this Policy. Any Individual who suspects or becomes aware of another Individual's inappropriate conduct, even if it is not defined as Maltreatment under this Policy, has a duty to report such inappropriate conduct through the organization's internal procedures. Those in positions of trust and authority who become aware of another's inappropriate conduct have a responsibility for reporting the concern within their organization's policies and procedures. The person making the report does not need to determine whether a violation of this Policy took place: instead, the responsibility lies in reporting the objective behaviour.
- c) Intentionally Filing a False Allegation: In addition to constituting Maltreatment, filing a knowingly false allegation or influencing others to file a knowingly false allegation, that an Individual engaged in Maltreatment shall be subject to disciplinary action pursuant to the Discipline and Complaints Policy.
 - i. An allegation is false if the events Reported did not occur, and the person making the Report knows the events did not occur.
 - ii. A false allegation is different from an unsubstantiated allegation; an unsubstantiated allegation means there is insufficient supporting evidence to determine whether an allegation is true or false. Absent demonstrable bad faith, an unsubstantiated allegation alone is not grounds for a violation of this Policy.

Responsibilities

14. All Individuals have a responsibility to:

- a) Maintain and enhance the dignity and self-esteem of other Individuals by:
 - i. Demonstrating respect for others and refraining from negative comments or remarks;
 - ii. Focusing comments or criticism appropriately;
 - iii. Demonstrating the spirit of sportsmanship and ethical conduct.
- b) Refrain from any behavior which attempts to cover up or conceal any conduct of an Individual that is, or may be, in breach of this Policy;
- c) Refrain from the use of power or authority in an attempt to coerce another person to engage in inappropriate activities;
- d) Abide by the *Workplace Alcohol Policy* and *Hospitality Policy*, which includes, but is not limited to avoiding the consumption of alcohol and tobacco products in situations where minors are present, and taking reasonable steps to manage the responsible consumption of alcoholic beverages in social situations associated with AthletesCAN's events;
- e) Care for and respect the property and assets of AthletesCAN and others and not willfully or negligently cause damage;
- f) Abstain from the use of non-medical drugs or performance-enhancing drugs or methods and refrain from the possession of illegal drugs or substances as defined by the Criminal Code of Canada;
- g) Comply at all times with the Constitution, Bylaws, policies, rules and regulations of AthletesCAN, as adopted and amended from time to time and comply with any sanction imposed by AthletesCAN as a result of a breach of any of these;
- h) Adhere to all Federal, Provincial, Municipal or applicable laws.

15. A conviction for any indictable Criminal Code offence established by a decision of a court of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against an Individual to whom the decision pertained of that conviction. Such evidence, whenever obtained, will be a breach of this Policy and be subject to further review under the Discipline and Complaints Policy or any relevant provision of the Human Resources Policy.

Disciplinary Procedures:

16. Failure by an Individual to achieve the expected standard set out in this Policy may result in an infraction and the imposition of discipline. Please refer to the *AthletesCAN Discipline and Complaints Policy* for a breakdown on the types of infractions and procedures for dealing with same.