

## Policies and Procedures

### 90 – Conduct and Enforcement

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<b>Policy Number:</b>	<b>90.30</b>
<b>Name:</b>	<b>Complaints, Investigation and Discipline Policy</b>
<b>Origin:</b>	<b>Board of Directors</b>
<b>Approved:</b>	<b>June 1999</b>
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90.30.1      DEFINITIONS

- 90.30.1.1      Complainant – can be U SPORTS or an individual or a member institution engaged in the activities of U SPORTS within the scope of this Policy who initiates a complaint or self-disclosure under this policy; in the case of a self-disclosure, the Complainant is also the Respondent.
- 90.30.1.2      Respondent – an individual against whom a complaint has been laid; or the respective Director of Athletics of a member institution against which a complaint has been laid.
- 90.30.1.3      Affected Parties – means one or more of the following: the Complainant, Respondent, the respective Director of Athletics (or equivalent), institution president (or equivalent), Regional Association president of both the Complainant and Respondent, the designate of the CEO of U SPORTS, or others, all at the discretion of the Discipline Committee Chairperson.
- 90.30.1.4      The Discipline Committee (the Committee) – There is no “committees” for these processes, although there is a standing pool of individuals who can be called upon to serve as a tribunal depending on the specific circumstances of each discipline or appeal situation.
- 90.30.1.5      Record – means the formal charge, the report of the Investigator, and any other documentation that the designate of the CEO may have considered in making its determination that a formal charge should be laid.

## 90.30.2 APPLICATION

90.30.2.1 As a legal entity, U SPORTS has the authority to establish policies to govern its own affairs and to prescribe, monitor and enforce the conduct of its member institutions and the conduct of other individuals involved in U SPORTS activities pursuant to such policies.

90.30.2.2 This Policy applies to (i) all U SPORTS member institutions, (ii) all individuals who are formally engaged in U SPORTS activities on behalf of U SPORTS, (iii) those individuals who are subject to proceedings under Policy 90.60, and (iv) all individuals involved, directly or indirectly, with an alleged eligibility violation pursuant to the Eligibility Policy Section 30, and (v) all individuals involved, directly or indirectly, with an alleged awards violation pursuant to the Award Policy Section 50, and (vi) all member institutions involved, directly or indirectly, with an Anti-Doping Rule Violation as determined by the Doping Tribunal (the Parties). The Parties shall conduct themselves in a manner consistent with the By-laws, principles, policies, rules, regulations and ethical standards set out in U SPORTS' governing documents. Those Parties who fail to meet or breach this standard, through a violation or infraction of any of the above, shall be subject to this Policy and the disciplinary sanctions identified within this Policy.

90.30.2.3 U SPORTS and Regional Associations accept a common set of rules and procedures that deal with U SPORTS eligibility and recruiting violations, which shall include joint participation of U SPORTS and Regional Associations in the determination of any sanctions for breaches of eligibility and recruiting regulations as detailed within this Policy.

90.30.2.4 Specific to Anti-Doping Rule Violations determined by the Doping Tribunal, and in accordance with the CADP, U SPORTS has the authority to levy additional sanctions above and beyond those determined by the Doping Tribunal. The decision to impose additional sanctions, or not, will be determined pursuant to Policy 90.30.6 Determination of Sanctions.

90.30.2.5 Subject to paragraph 90.30.2.2, this Policy shall not be used and shall not apply to those who are not Parties, including (i) non-members of U SPORTS, (ii) individuals who are not formally engaged in U SPORTS activities on behalf of U SPORTS or (iii) complaints where the matter or issue complained of relates directly or exclusively to the Complainant's institution or to matters solely involving the Complainant's relationship or involvement with students, employees, contractors, partners or agents of that institution. All such complaints shall be resolved using the dispute resolution processes and procedures adopted by the Complainant's institution. The **Chief Operating Officer** and Regional Association President of the Respondent, shall determine in their discretion, whether this Policy applies on a case by case basis and this decision may not be appealed. If any of these individuals is unavailable, has a conflict or is involved in the disciplinary matter, he/she shall be replaced by the CEO or Regional Association Executive Director.

## 90.30.3 COMPLAINTS and SELF-DISCLOSURES

90.30.3.1 Complainants should recognize the serious implications of initiating a formal complaint and the inherent need for confidentiality. A decision to initiate a formal complaint should only occur with the complete understanding of the ramifications for all parties concerned

and the Complainant's requirement to produce substantive evidence which justifies the formal complaint.

90.30.3.2 Complaints may also be initiated through self-disclosure, where a complainant voluntarily discloses a breach of U SPORTS rules by one or more individuals associated with the complainant's institution.

90.30.3.3 Complaints, which include self-disclosures, shall be directed to the **Chief Operating Officer**, who shall forward it within 7 days to the designate of the **CEO**. Complaints shall be in writing and shall:

- a) identify the date or dates of the alleged breach;
- b) identify the place of the alleged breach, if relevant;
- c) provide the name(s) and address of the Complainant and the name of the person to whom all future notices regarding the complaints and subsequent charges are to be sent;
- d) provide the name of the Member against whom the complaint is made;
- e) identify the By-law, principle, policy, rule, regulation, practice or ethical standard of U SPORTS alleged to have been breached;
- f) include a precise and concise statement of the facts and circumstances of the alleged breach;
- g) identify the alleged breach as either a Level 1, 2, or 3 violation in accordance with Policy 90.30.4.11;
- h) include any other information which the complainant considers relevant; and
- i) be signed by the Complainant.

90.30.3.4 As a condition of launching a complaint or an appeal the complainant and respondent agree to a total media ban during the proceedings. The intent of such a ban is to have the dispute resolved in a procedurally fair manner. The final result of a hearing/appeal shall be made public.

#### 90.30.4 DETERMINATION OF A FORMAL CHARGE

90.30.4.1 Within 7 days of receiving the written complaint, the designate of the **CEO** and the **Chief Operating Officer**, shall consider the complaint to determine whether or not to initiate an investigation and what the scope of that investigation should be in order to proceed with this policy, specifically, to determine whether or not to prepare a formal charge.

90.30.4.2 If an investigation is not deemed necessary, the designate of the **CEO and Chief Operating Officer** shall, within 14 days of receiving the complaint, determine whether or not a formal charge should be prepared; in these instances, this policy shall proceed to item 90.30.4.9.

90.30.4.3 If an investigation is deemed necessary, and depending on the nature and severity of the complaint, the designate of the **CEO**, in consultation with the **Chief Operating Officer**, may appoint a U SPORTS staff person and/or an independent investigator to investigate the complaint.

90.30.4.4 Upon the ordering of an investigation, the designate of the **CEO** shall send a letter to the Affected Parties, inclusive of the Regional Association President and Executive Director, indicating that an investigation into the matter has been authorized.

- 90.30.4.5 All individuals affiliated with a member institution shall cooperate fully with the investigation, shall allow the investigator to interview such personnel as he or she wishes, and shall provide copies of any documents which the investigator requests. The failure of any individual affiliated with a member institution to cooperate fully may itself give rise to a complaint and be grounds for a formal charge.
- 90.30.4.6 The investigator shall conduct the investigation in a timely manner and at the conclusion of the investigation shall provide a written report to the designate of the **CEO**.
- 90.30.4.7 The designate of the **CEO**, and **Chief Operating Officer** shall, within 7 days of receiving the investigation report, consider the report and determine whether or not a formal charge should be prepared.
- 90.30.4.8 If the investigation has revealed additional or different breaches by any other individual(s) affiliated with the member institution against whom the complaint has been made, then the designate of the **CEO** may, in his or her discretion, include these breaches in any formal charge.
- 90.30.4.9 If the designate of the **CEO and Chief Operating Officer**, determines that there are no grounds for a formal charge, the designate of the **CEO** shall immediately advise the Affected Parties. In consultation with the **Chief Operating Officer**, the **CEO** designate may levy costs of any investigation against the Complainant.
- 90.30.4.10 If it is determined that there are grounds for a formal charge, within 7 days, the designate of the **CEO**, with the support of the **Chief Operating Officer**, shall prepare the charge in writing setting out the same information as is required to be set out in a complaint under Section 90.30.3.3 of this policy.
- 90.30.4.11 Violations will be categorized into three levels, specifically;
- Level 1 : An inadvertent administrative error (or other reason that could be considered unintentional) associated with Eligibility and Recruiting regulations that did not result in the participation of an ineligible student-athlete in competition (non-conference, conference, playoff, etc.), and that has not been preceded by either a Level 1 or Level 2 violation in the previous 24 months;
  - Level 2 : An inadvertent administrative error (or other reason that could be considered unintentional) associated with Eligibility and Recruiting regulations that that did result in the participation of an ineligible student-athlete in competition, or the occurrence of a Level 1 violation that has been preceded by either a Level 1 or Level 2 violation in the previous 24 months, or the occurrence of a Level 2 violation that has been preceded by a Level 1 violation in the previous 24 months;
  - Level 3 : A serious violation that resulted in an ineligible student-athlete competing, or the reoccurrence of a Level 2 infraction within a 24-month period, or any other violation not categorized as Level 1 or Level 2.
- 90.30.4.12 Following preparation of the formal charge, a copy of the Record shall be sent immediately to the Affected Parties, inclusive of the Regional Association (via its President and Executive Director or equivalents) and the **Tribunal**.
- 90.30.5 LEVEL 1 VIOLATION (ELIGIBILITY AND RECRUITING)

- 90.30.5.1 As part of the formal charge for a Level 1 Violation, the designate of the **CEO** will identify the automatic sanctions to be applied as dictated by Policy 90.30.5.2.
- 90.30.5.2 The penalties to be automatically imposed for a breach by a member institution for a Level 1 Violation include all of the following:
- a) Probation for a period not exceeding two years during which time a member may continue to participate in a particular sport or sports, but will be subject to a higher level of violation if there is another eligibility violation;
  - b) Levying a U SPORTS fine of \$500;
  - c) Requiring that the member undertake any procedural, structural or other changes in order to minimize the chance of future violations; and,
  - d) The levying of administrative fee to cover the cost of investigation and process.
- 90.30.6.1 LEVEL 2 VIOLATION (ELIGIBILITY AND RECRUITING)
- 90.30.6.1.1 The Record associated with a Level 2 Violation will be reviewed by a panel of three individuals to confirm the formal charge and to determine the respective sanctions as per Policy. The three member review panel will consist of:
- CEO, or a U SPORTS staff member designated by the CEO;
  - one representative from the Regional Association (volunteer or staff), to which the Respondent is a member, as appointed by the Regional Association President; and,
  - one Eligibility Review Officer from beyond the Regional Association of the Respondent.
  - the U SPORTS Chief Operating Officer, or a designate of the COO, will serve as a non-voting resource to the panel.
- 90.30.6.1.2 Each U SPORTS member of the Regional Association of the Respondent, via its Athletic Director, as well as U SPORTS and the Regional Association, via an appropriate staff person, will be asked by the U SPORTS **Chief Operating Officer** to submit any claim for costs that have occurred as a result of the Level 2 violation. These submissions will supplement the Record that is to be provided to the three member review panel. In those instances where the ineligible athlete participated in a U SPORTS Championship or qualifying event involving member institutions from more than one Regional Association, the participating teams / institutions of the event(s), including those who may have been displaced from participating in the event, will also be asked to submit any claim for costs.
- 90.30.6.1.3 The penalties to be automatically imposed for a breach by a member institution for a Level 2 Violation, and which are not subject to appeal, include all of the following:
- a) Probation for a period not exceeding 24 months, during which time a member may continue to participate in a particular sport or sports, but will be subject to a higher level of violation if another violation occurs;
  - b) Requiring that the member undertake any procedural, structural or other changes in order to minimize the chance of future violations, and provide a reporting thereof;
  - c) Forfeiture of all competitions contested in the sport in which an ineligible student-athlete participated, which will be reflected in season standings;
  - d) Ordering that letters of apology be sent to members or individuals affected by the breach;

- e) Rescind any U SPORTS or Regional Association team or individual records or titles awarded to the team or the ineligible student-athlete; and,
- f) The levying of costs of the hearing against the Respondent, which may include but not limited to all travel and accommodation costs incurred by U SPORTS and Regional Associations, and all disbursements relating to the investigation, preparation of the charge, hearing and distribution of the decision including meeting space rental, long-distance telephone and fax charges, postage and courier costs, photocopying costs, legal consultation and other directly-related administrative expenses.

- 90.30.6.1.4 The penalties to be imposed that are at the discretion of the three member review panel, and which are subject to appeal, include all of the following:
- a) Levying a U SPORTS fine in the range of \$2,000 - \$10,000 ;
  - b) Requirement that the institution make restitution for any costs caused, based upon a review of submissions and claims as outlined in Policy 90.30.6.1.2;
  - c) Suspension of the ineligible individual from further participation in any or all U SPORTS or Regional Association sports or activities for the remainder of the season. For information, U SPORTS eligibility will be assessed based upon U SPORTS eligibility thresholds, unless the student-athlete is determined to be a willing participant in their ineligible participation.
- 90.30.6.1.5 Upon determining the sanctions to be imposed, the **CEO** will notify the Affected Parties. The Respondent will be provided an opportunity to appeal the discretionary sanctions imposed to the **CEO** or to accept the discretionary sanctions as presented. If the Respondent makes an appeal to the **CEO**, the **Tribunal** will either upheld or modify the sanctions to either a lesser or greater extent.
- 90.30.6.1.6 Upon confirmation of the sanctions imposed, either by acceptance of the Respondent or by determination of the **CEO** upon appeal, a notification letter will be forwarded to the Respondent that is co-signed by both the **CEO** and the respective Regional Association President outlining the sanctions. The U SPORTS **Chief Operating Officer** will consult with the Respondent with respect to public disclosure of the breach and its associated sanctions.
- 90.30.7 LEVEL 3 VIOLATION - PROCESS
- 90.30.7.1 The **CEO** shall convene a discipline hearing to hear the charge and to determine what sanctions, if any, are to be imposed as soon as possible, but not more than 28 days after receiving the Record. The parties to the hearing are the Affected Parties.
- 90.30.7.2 At its discretion, the **Tribunal** may determine that the circumstances of the formal charge warrant a preliminary conference among the parties. In addition to discussing all matters pertaining to the coordination of the discipline hearing during this conference, all questions regarding the scope of the formal charge are discussed so as to preclude the introduction of new information at the discipline hearing. The parties shall be given 14 days written notice of the time and place of the preliminary conference, and the Committee may delegate to one of its members the authority to deal with the matters of the preliminary conference.

- 90.30.7.3 The **Tribunal** shall conduct the discipline hearing by way of a review of documentary evidence and an oral hearing. The oral hearing may be conducted in-person or by means of telephone conference.
- 90.30.7.4 The **Tribunal** shall govern the discipline hearing as it sees fit, provided that:
- a) The Affected Parties shall be given 14 days written notice of the time and place of the hearing;
  - b) U SPORTS staff shall not be a voting member of the **Tribunal**;
  - c) Members of the **Tribunal** who are employees of the Complainant or the Respondent shall excuse themselves from the **Tribunal**;
  - d) Quorum shall be three voting members;
  - e) Decisions shall be by majority vote where the Chairperson carries a vote;
  - f) The hearing shall be held in private;
  - g) The parties to the hearing may be accompanied by legal counsel at their sole cost;
  - h) The **Tribunal** shall consider the Record and any other evidence submitted by the parties;
  - i) The **Tribunal** may request that the Investigator participate in the hearing;
  - j) The **Tribunal** may request that any witness, including the Complainant, be present at the hearing or submit written evidence in advance of the hearing;
  - k) Should the Respondent wish not to participate in the hearing or to waive the 14 day written notice, the Respondent must provide a written statement that is signed by all individuals named in the formal charge.
  - l) The Complainant bears the onus to prove that the complaint is substantiated on a balance of probabilities.
- 90.30.7.5 Upon hearing the matter, the **Tribunal** shall determine whether the charge has been satisfied, and if it has, the appropriate penalty to be imposed. The **Tribunal** written decision, with reasons, shall be distributed to the Affected Parties within 14 days of the conclusion of the hearing.

**90.30.8**      LEVEL 3 VIOLATION - DETERMINATION OF SANCTIONS

90.30.8.1      The penalties that may be imposed for a breach by a member institution, as opposed to an individual, include any one or combination of the following:

- a) Reprimand or warning;
- b) Probation for a period not exceeding two years during which time a member may continue to participate in a particular sport or sports, but may be subject to one or more of the following limitations:
  - The team in question may not be included in the Top Ten rankings for that sport or be ranked for purposes of selection for participation in playoffs;
  - The team in question may not be considered for an assigned berth position at a National Championship;
  - The team in question may not be accommodated in any regularly scheduled television package, exclusive of the final championship game;
- c) Suspension of a member from participating in all competition, or from competition in a particular sport or sports, for a period not exceeding two years;
- d) Forfeiture of all competition played in the sport in which the violation occurred, for the season in which the violation occurred;
- e) Forfeiture of all competition played by the member in all sports occurring during the season in which the violation occurred;
- f) Ineligibility for competition within the Regional Association;
- g) Ineligibility for national competition;
- h) Ineligibility for appearance on any television programs subject to U SPORTS contract;
- i) Recommendation to the membership for the suspension/termination of the member from U SPORTS;
- j) Levying a fine not less than \$500 and not more than \$5,000;
- k) Requirement that the institution make restitution for any damage caused;
- l) Requirement for written undertakings;
- m) Ordering that letters of apology be sent to members or individuals affected by the breach;
- n) Requiring that the member undertake any procedural, structural or other changes in order to minimize the chance of future violations;
- o) The levying of costs of the hearing against the Respondent, which shall include all travel and accommodation costs incurred by U SPORTS, and all disbursements relating to the investigation, preparation of the charge, hearing and distribution of the decision including meeting space rental, long-distance telephone and fax charges, postage and courier costs, photocopying costs and other directly-related administrative expenses;
- p) Other penalties as may be considered appropriate for the offense.

90.30.8.2      The penalties that may be imposed for a breach by an individual (whether that individual is affiliated with a member institution or is described in 9.30.2.2) include any one or combination of the following:

- a) Reprimand or warning;
- b) Suspension of the individual from further participation in any or all U SPORTS sports or activities, including U SPORTS committees, for a fixed or indefinite period of time, with or without conditions for reinstatement;
- c) Requirement that the individual make restitution for any damage caused;



- d) Ordering that the individual apologize in person or in writing to any person affected by the breach;
- e) Rescind any U SPORTS record or title awarded to the individual.
- f) Other penalties as may be considered appropriate for the offense.

90.30.8.3 In determining penalties, the **Tribunal** may have regard to the following aggravating or mitigating circumstances, where applicable:

- a) self-disclosure, or lack thereof, of the breach;
- b) the nature and severity of the breach;
- c) the extent to which others have been harmed by the breach;
- d) the cooperation of the Respondent in the proceedings under this policy;
- e) the degree to which the breach was pre-meditated;
- f) the degree to which the breach involved the cooperation of an employee of the Member institution, where the Respondent is an institution;
- g) the position and authority of the involved employee, where the Respondent is an institution;
- h) the age, maturity and experience of the Respondent, where the Respondent is an individual;
- i) the Respondent's acknowledgment of responsibility for the breach, where the Respondent is an individual;
- j) the Respondent's remorse and post-breach conduct, where the Respondent is an individual;
- k) prior findings and circumstances of similar or related breaches of the Respondent.

90.30.8.4 Decisions of the **Tribunal** regarding penalties for a breach shall be a matter of public record and shall be circulated to all member institution Directors of Athletics. In those instances where a student-athlete is an affected party, the following will be considered a matter of public record:

- a) the student-athlete's name
- b) the regulation(s) that the student-athlete had breached
- c) any general acknowledgements or self-disclosure by the athlete, excluding specific details contained within the student-athlete's academic transcript, and any other information deemed confidential by the **Tribunal**.

90.30.8.5 Unless the Committee decides otherwise, any penalty shall commence immediately. Penalties imposed by U SPORTS or a Regional Association or a member institution to take effect during league play shall, if outstanding, also be enforced during all or part of U SPORTS Championships.

90.30.8.6 Failure to comply with a penalty shall result in immediate suspension from participation in any and all activities of U SPORTS, until such time as the Respondent complies. Failure to comply may also give rise to a complaint and the laying of a formal charge.

## 90.30.9 APPEALS PROCEDURE

90.30.9.1 Decisions of the **Tribunal** may be appealed in accordance with Policy 90.40.

90.30.9.2 With respect to sanctions, automatic penalties as detailed with Level 1 or Level 2 Violations are not subject to appeal, other than on the basis outlined in U SPORTS Policy 90.40 (failure to follow procedure, etc), while variable sanctions associated with Level 2

Violations may be appealed based upon the variable sanctions assessed. As Level 3 Violations are determined by the **Tribunal**, the grounds for appeal are those detailed in Policy 90.40.