



## Row Ontario - Investigations Policy – Discrimination, Harassment, and Maltreatment

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Replaces and/or amends	
Approved by and date	Board of Directors Sept. 15, 2021
Appendix(-ces) to this Policy	

### Purpose

1. The purpose of this Policy is to address how investigations will be conducted when necessary and as determined by the Independent Third Party pursuant to the *Harassment, Discipline and Complaints Policy*.
2. Investigations shall only be conducted when the Independent Third Party considers that there is a need for an independent assessment to determine whether an allegation (or, where there are several allegations, which allegations), should be heard by a discipline panel pursuant to the *Harassment, Discipline and Complaints Policy* because they constitute a likely breach of the *Code of Conduct and Ethics*, the *Social Media Policy*, the *Athlete Protection Policy*, or any other relevant and applicable Row Ontario policy, or whether the allegations are frivolous, vexatious or made in bad faith.

### Investigation

3. The Independent Third Party shall appoint the investigator, taking into consideration the financial resources of Row Ontario.
4. The investigator must be an independent third-party with training or investigation experience. The investigator must not be in a conflict of interest situation and should have no connection to either Party.
5. Provincial legislation related to Workplace Harassment or Workplace Violence will apply to the investigation if Harassment/Violence was directed toward a worker in a Workplace. The investigator should review workplace safety legislation, the Workplace Violence and Workplace Harassment Policy, Row Ontario's policies for human resources, and/or may consult independent experts to determine whether legislation applies to the Reported complaint.
6. The investigation may take any form as decided by the investigator, guided by any applicable Provincial legislation. The investigation may include:
  - a) Interviews with the Complainant(s);

- b) Witness interviews; and
- c) Interviews with the Respondent(s).

### **Investigator's Report**

7. Upon completion of their investigation, the investigator shall prepare a report that includes a summary of evidence from the Parties and any witnesses interviewed. The report shall include an executive summary, which Row Ontario may share separately from the full report with the Parties.
8. The investigator's report shall contain a non-binding opinion regarding whether an allegation or, where there are several allegations, which allegations, should be heard by a discipline panel pursuant to the *Harassment, Discipline and Complaints Policy* because they constitute a likely breach of the *Code of Conduct and Ethics*, the *Social Media Policy*, the *Athlete Protection Policy*, or any other relevant and applicable Row Ontario policy, or whether the allegations frivolous, vexatious or made in bad faith.<sup>1</sup> The investigator may also make non-binding recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review or investigation).
9. Where necessary to protect the identity of any person that participated in the investigation, the investigator may redact names and anonymize any witness testimony that may result in the identification of the individual.
10. The investigator's report will be provided to the Independent Third Party who will disclose it to Row Ontario, which may disclose, at its discretion, either the full report or only the executive summary to the Parties. If necessary, and at the discretion of the Independent Third Party, other relevant Parties may be provided with an executive summary of the investigator's findings. RCA will be provided with a copy of the investigator's full report if the investigation has been conducted under the authority of Row Ontario; however, RCA shall not disclose the report to any third party without Row Ontario's express written consent.
11. The investigator's report shall be used for the purposes described in this Policy and in the investigations section of the *Harassment, Discipline and Complaints Policy*.
12. The investigation report and any executive summary shall remain confidential once disclosed to Row Ontario, RCA, the Complainant and Respondent or any other relevant party. Any failure to respect this provision may be subject to a complaint and disciplinary measures being taken pursuant to the *Harassment, Discipline and Complaints Policy*.
13. Should the investigator find that there are possible instances of offence under the *Criminal Code*, particularly related to Criminal Harassment (or Stalking), Uttering Threats, Assault, Sexual Interference, or Sexual Exploitation, the investigator shall advise the Complainant or Row Ontario to refer the matter to police.
14. The investigator must also inform Row Ontario of any findings of criminal activity. Row Ontario may decide whether to report such findings to police but is required to inform the police if there are

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<sup>1</sup> The Sport Dispute Resolution Centre of Canada's *Investigation Guidelines* suggests that a Reported complaint shall not be characterized as vexatious if the evidence demonstrates that there was a reasonable basis for filing and pursuing it. For a complaint to be considered to have been made in bad faith, the investigator must consider that it was filed consciously for a dishonest purpose or due to the moral underhandedness of the Complainant and that there was an intention to mislead.

findings related to the trafficking of Prohibited Substances or Methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any sexual crime involving Minors, or any suspected child Maltreatment, fraud against Row Ontario, or other offences where the lack of reporting would bring Row Ontario into disrepute.

### **Reprisal and Retaliation**

15. An Individual who Reports a complaint to the Independent Third Party or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute Maltreatment and will be subject to disciplinary proceedings pursuant to the *Harassment, Discipline and Complaints Policy*.

### **False Allegations**

16. An Individual who submits allegations that the investigator determines to be malicious, false or for the purpose of retribution, retaliation, or vengeance (or that otherwise fall within the definition of Maltreatment) may be subject to a complaint under the terms of the *Harassment, Discipline and Complaints Policy*. The investigator may recommend to Row Ontario that the Individual be required to pay for the costs of any investigation that comes to this conclusion. Any Individual who is liable to pay for such costs shall be automatically deemed to be not in good standing until the costs are paid in full and shall be prohibited from participating in any Row Ontario Events, activities, or business. Row Ontario, the Member Organization, or the Individual against whom the allegations were submitted, may act as the Complainant with respect to making a complaint pursuant to this section.

### **Confidentiality**

17. The investigator will protect confidentiality to the extent possible and shall only share information on a need-to-know basis. However, the investigator may need to share information in order to ensure that natural justice has been served.

### **Privacy**

18. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Row Ontario's Privacy Policy.
19. The Independent Third Party, Row Ontario, or any of its delegates pursuant to this Policy (i.e., the investigator) shall comply with Row Ontario's Privacy Policy in the performance of their services under this Policy.

*Definitions of terms used in this policy can be found as a separate document in the Resource Library online on the Row Ontario website.*