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Integrating the UCCMS to University Sports

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The opinions expressed are those of the author. They do not necessarily correspond to the SDRCC position on any of the issues.

The Universal Code of Conduct to Prevent and Address Maltreatment in Sport (“UCCMS”) and the safe sport movement are intended to be implemented across all levels and organizations of the Canadian sport system. The UCCMS is a critical document to harmonizing behavioural rules across all levels of sport in Canada. The challenges for organizations that are not national sport organizations and that do not have a direct relationship with the Office of the Sport Integrity Commissioner (“OSIC”) can be considerable. This is the case for university sports in Canada and its different regional conferences (i.e., Canada West, Ontario University Athletics, Réseau du sport étudiant du Québec and Atlantic University Sport).

Breaking the challenges into smaller parts can help us look at this in a manageable way. The UCCMS holds two components that complement each other and can be looked at as distinct. First, there are behaviour expectations, outlined in sections 1 to 5. Then, there are procedural steps that are outlined in sections 6 to 8, including key elements such as intaking a complaint, having access to an independent complaint process and sharing information on outcomes.

Safe Sport - University Perspective

The best starting place for organizations that are not signatories to the OSIC system is to review and adopt sections 1 to 5, the behaviour expectations. These behaviours have quickly become the expectations in the

Canadian sport system, and it would be challenging for any organization to not expect following and being accountable to these behaviours. There are multiple online education tools developed to support implementation and all sport organizations should be moving to accept and communicate these behaviour expectations. It is important to note that the UCCMS does not include the “Rule of Two”; it is instead a recommendation developed by the Coaching Association of Canada (“CAC”).

Though universities are keen to align with the UCCMS and the safe sport movement, most have outlined a series of implementation challenges that prevent full adoption. The more challenging areas come in sections 6 to 8 where complaints, investigations, and information sharing are outlined.

Drafters of collective agreements and employer agreements may not be willing to recognize the authority of an external body and enforce the outcomes. Many universities have hired professionals to address sexual misconduct or other behavioural issues like harassment or hazing, and they are not wanting to have a second, different process for a small group of students. There is concern over how the duty to report affects sexual assault and the need to keep the survivor in control of the process. Many universities have ombudspersons and an independent process already. The conflict between privacy law and the expectations around information sharing presents a significant legal challenge. The OSIC has overcome this with signed agreements, but these may not be possible with existing staff and Human Resource agreements. Finally, there is a general concern that if all issues are directed to an independent complaint process, there may be an escalation

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effect, which for lower offences may decrease mitigation strategies such as education, warnings, and dialogue, which can constructively resolve many issues.

To address these challenges, we are leading a staged approach. Universities should adopt the behaviour expectations, provide education through the CAC training, and provide clarifications in areas that are grey or not yet clarified by the OSIC. This is possible because adjudication of complaints will not be managed by the OSIC. In the first stages, any complaints can be managed by the universities existing process. Each university should be updating their policies to provide an independent investigation process. This should therefore be completely external to the athletic department.

A key element in integrating the complaints procedure into the universities policies is to have a road map that outlines how complaints are received, who and what determines how they are investigated and reviewed, and what options are available based on factors such as scope, severity, criminality, and overlap between the UCCMS and existing university policies. In addition, there should be consideration with regards to the range of tools for addressing complaints, either formally, informally, with alternative dispute resolution or through restorative justice.

Finding the balance between the especially important independent process for extreme behaviours, and reasonable intervention for regular conflict or challenges in the sport environment, is critical to structuring a healthy, high-performing system.

Safe Sport - Regional Conference Perspective

For a conference that oversees university sport in a region, which is the case for Atlantic Canada, its jurisdiction is limited to the field of play and during the hosting of conference championships. The Atlantic University Sport ("AUS") conference is fully committed to adopting the behavioural sections (i.e., 1-5) of the UCCMS. It is also committed to working with member universities to encourage them to adopt these sections to enhance their

current institutional Codes of Conduct to align with the conference, once it has adopted them. The challenge remains to be that universities do not typically differentiate between students and student-athletes, as in the eyes of policies, a student is a student.

The other significant challenge is how complaints are managed and done so in a cost-effective manner. The AUS is fully supportive of third-party vetting and management of complaints. The understanding is that many organizations have adopted the UCCMS only to face challenges in the complaint management process which includes vetting, investigation and possibly legal action with most egregious allegations moving to criminal proceedings.

There are many great coaches and administrators in the university system that approach their jobs with respect, professionalism and integrity year in and year out. However, the new landscape of the UCCMS with more complaints moving to formal processes, creates fear that accusations can be reputation or career ending, even if no or mild fault is found.

We firmly believe that many, if not most, complaints can be resolved in a less punitive manner and are strong proponents of opportunities for restorative justice, or alternative dispute resolution such as mediation, when possible. This is primarily to safely support victims, but also to bring parties together through moderation, so the victim is heard in an effective and non-threatening way to get to an appropriate resolution. We need to do everything in our power to provide responsible approaches to complaint management that serves all participants, which starts with a high level of education and prevention.

Universities across the country are investing time and money in bringing these important behaviour expectations into their system and policies, and are deeply invested in changing culture where signs of maltreatment exist. The alignment to the safe sport movement in Canada is central to ensuring the best environment for student-athletes and sport leaders. ■

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SDRCC Roster Member Profile: Learning More About our Arbitrators and Mediators

They come from every region of Canada and beyond, and have extensive experience in alternate dispute resolution and sports-related issues, but how much do we really know about them? The SDRCC has an impressive list of 54 mediators and arbitrators and we will slowly be introducing you to some of them through our regular installments of “SDRCC Roster Member Profiles”. In this edition we would like to present **Paul Fauteux**, mediator from **Gatineau, in Quebec**.



What led you to a career in ADR?

After 30 years with the federal government, and having had positive personal experiences in mediation, I created a new career for myself in ADR. I first worked as a mediator in family, civil, commercial and labour matters, and in small claims, then as an arbitrator in civil and commercial matters. I have taught international commercial arbitration and

was a member of the Federal Public Sector Labour Relations and Employment Board and the Board of Directors of the *Institut de médiation et d'arbitrage du Québec*. I now practice law, mediation and arbitration in a firm specializing in business law and international trade, and I teach mediation and participatory justice.

As an SDRCC mediator, I...

...consider myself privileged to contribute to the mission of an institution that makes justice accessible, particularly in matters of safe sport for the sport community, by promoting dialogue and allowing quick, impartial and binding decisions to be made when necessary. Having spent a large part of my career in the international realm, I am very proud that the SDRCC is held in such high esteem abroad, that those responsible for sport dispute resolution in other countries call on its services, and that they see it as a model for setting up their own national systems.

Field of specialization/Area of expertise:

As a lawyer, I am a specialist in public international law. I also have expertise in transformative mediation, where the mediator

helps people in conflict to regain their strength and responsiveness, so that they can change the quality of their interactions.

Favourite sport(s):

Sailing, road and mountain biking, downhill and cross-country skiing.

Dispute prevention tips for athletes:

High-level athletes, and those who aspire to become so, are under enormous pressure. There's no shortage of situations in which disputes can arise. Here are a few suggestions for preventing and resolving them:

- 1) Observe the way you speak to the other person;
- 2) Be aware of the impact the conflict has on you;
- 3) Observe how this impact manifests itself in what you say and how you say it;
- 4) Speak to others as you would like to be spoken to, with kindness, humanity and openness; and
- 5) Listen to the other person and resist the temptation to mentally prepare your answer while they are speaking. ■

In our next edition, look for the profile of an SDRCC Arbitrator.

Follow Us on Social Media! Stay current on the Sport Dispute Resolution Centre of Canada's new decisions, activities and educational publications. Keep up with initiatives and updates from Abuse-Free Sport and the Office of the Sport Integrity Commissioner.

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 Sport Dispute Resolution Centre of Canada
Abuse-Free Sport Sans Abus



New SDRCC Staff Members



Meryem Lazrak joins the SDRCC as Accounting and Finance Specialist. She obtained her Bachelor's degree in accounting and is currently preparing her certification to the Quebec Chartered Professional Accountants Order. She joined the banking and industrial sectors for years, where she gained experience in both accounting and finance. Meryem is thrilled to provide support for all financial operations of the SDRCC and hope to implement new tools in order to align with the organization's goals.

Ariane Lamoureux joins the Office of the Sport Integrity Commissioner (OSIC) as Program Coordinator. With a recent Masters of Laws in Art, Business and Law from Queen Mary University of London, Ariane brings her legal expertise cultivated through her studies and roles in international organizations. Excited to take on this pivotal role and passionate for the intersection of law and culture, Ariane is committed to fostering and strengthen a safe sport environment across the country.



Guillaume Boisseau joins the SDRCC as Case Manager in the Dispute Resolution Secretariat. After completing a Master's degree in Sport Law and Management at the *Centre de Droit et d'Économie du Sport* in France, he dedicated his career working in sport in Canada, gaining experience in dispute resolution, disciplinary procedures and sport administration. He hopes to help bridge the gap between national sport organizations and their members, and to offer a fair resolution system for all sport participants.

Stéphanie Houle joins the SDRCC as Executive Assistant. She completed her studies in administration and held various executive assistant positions in the public service in Canada. Sport being an integral part of her life, she regularly practices running and weight training. She is delighted to participate in the development of the SDRCC by bringing her strong professional conscience, as well as her logical and analytical skills. She is also enthusiastic about expanding her knowledge of the Canadian sport system.



Spencer Walker joins the OSIC as Program Coordinator. With a Bachelor's degree in Sport Management and a dual degree program in law, Spencer concurrently obtained a Canadian and American Juris Doctor. Passionate about sport, he has held various roles in both professional and amateur sport. He is excited to join the OSIC team and hopes to contribute meaningfully to a positive culture shift in Canadian sport.

Isabelle Fraser joins the OSIC as Program Assistant. Previously a biologist, her scientific journey immersed her in the intricacies of biology, fostering analytical skills and a dedication for excellence. An unexpected detour led her to manage a touring dance ensemble which allowed her to hone organizational and leadership abilities. At the crossroads of science and performance, she is eager to apply her professional experiences to the dynamic world of sports.



Frédéric Raymond joins the OSIC as Program Coordinator. He completed his law studies at the University of Montreal, where he acquired good working methods and practical knowledge. He is passionate about chess and team sports such as hockey and soccer. He believes that a close-knit team has the power to achieve great things. ■

Notable Dates:

- **February 18, 2024:** Presentation to Taekwondo Canada, Ottawa, ON;
- **February 21, 2024:** SDRCC Webinar – Demystifying Types of Dispute Resolution Services (open to public);
- **February 27, 2024:** Virtual presentation to the Advanced Coaching Diploma at INS Quebec on Team Selection Policies (Part 1);
- **March 8, 2024:** Virtual presentation to students in the Sports Law class at the University of Calgary;
- **March 12, 2024:** Virtual presentation to the Advanced Coaching Diploma at INS Quebec on Team Selection Policies (Part 2);
- **March 19, 2024:** Virtual presentation to the Advanced Coaching Diploma at INS Quebec on Team Selection Policies (Part 3);
- **March 19, 2024:** Participation on an expert panel on the topic of sports arbitration - Paris Arbitration Week, Paris, France;
- **March 20-21, 2024:** Kiosk at the Sport for Life Summit, Quebec, QC;
- **April 9, 2024:** Presentation to law students at Laval University, Quebec, QC. ■



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