

**SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)**

No: SDRCC ST 25-0052

AB
(Claimant)

and

HOCKEY CANADA
(Respondent)

and

THE HOCKEY TEAM
(Affected Party)

Appearances:

For the Claimant:	Rahma Saidi
For the Respondent:	Adam Klevinas

REASONS FOR DECISION

I. Introduction and Background

1. Hockey Canada is the national governing body for amateur hockey in Canada and oversees the management and structure of programs in Canada from entry-level to high performance teams and competitions.
2. At the relevant time AB was a player on the 2024-2025 Hockey Team.
3. On or about October 25, 2024, the Hockey Team made a complaint to Hockey Canada's Independent Third Party, alleging AB had violated various Hockey Manitoba policies by engaging in sexual harassment, sexual maltreatment, and social media harassment of multiple minor females (the "Complaint").
4. The Complaint was considered under Hockey Canada's Maltreatment Complaint Management Policy (the "Policy") and referred for investigation.
5. On February 28, 2025, Paul Di Clemente of Certitude Workplace Investigations (the "Investigator") completed his investigation into the Complaint and issued an Investigation Report (the "Report").

6. The Report made findings of fact in respect of the allegations against AB and which included the Investigator's position on whether such findings disclosed violations of applicable policy.
7. Pursuant to Section 25 of the Policy, the Report was delivered to an Adjudicative Panel (the "Panel") for a determination as to whether a violation (or violations) of applicable policy had occurred and, if so, the sanctions to be imposed.
8. On May 7, 2025, the Panel released its decision (the "Decision").
9. In the Decision, the Panel declared AB had violated both Hockey Manitoba's Code of Conduct Policy, and its Social Media and Networking Policy, and imposed the following sanction:

Suspension: Mandatory permanent suspension from any Hockey Canada sanctioned activities in any capacity including but not limited to any program, activity, event or competition sponsored by, organized by, or under the auspices of Hockey Canada, such activities including but not limited to, coaching, volunteering, spectating, entering dressing rooms or stands or hallways in any arena hosting Hockey Canada sanctioned events, tournaments, tryouts, camps, practices and games.

10. This was predicated on the finding AB had engaged in sexual maltreatment involving a minor, which carried a presumptive sanction of permanent ineligibility under section 45 of the Policy, and that such presumption had not been rebutted.
11. On June 6, 2025, AB filed a Request with the Sport Dispute Resolution Centre of Canada (the "SDRCC") appealing the Decision and seeking instead a temporary suspension of two years from the date of the May 7, 2025 Decision (the "Appeal").
12. On June 16, 2025, Hockey Canada filed its Answer, disputing the Appeal on the merits and asking for the Decision to be upheld.
13. On July 4, 2025, we engaged in a preliminary conference call at which the parties agreed:
 - a) the case would proceed in English;
 - b) the SDRCC had jurisdiction to hear the case;
 - c) I had jurisdiction as arbitrator;
 - d) the 2025 Canadian Sport Dispute Resolution Code applied;

- e) the case would proceed by way of documentary review; and
 - f) on a timeline for all filings.
14. The parties filed documents and detailed submissions. I have summarized and paraphrased their most relevant portions as need be. While I do not refer specifically to everything provided, in making my decision I have in fact carefully considered it all.
15. AB was a minor at the time of the alleged misconduct, and so to protect their identity I have anonymized this decision and not identified anyone by name.

II. Standard of Review

16. The parties provided similar submissions on the standard of review in this Appeal, summarized as follows.
17. According to the Supreme Court of Canada in Canada (Minister of Citizenship and Immigration) v. Vavilov 2019 SCC 65:
- a) this is not to be a redetermination of things and should proceed as would a judicial review;
 - b) this is to be a "reasonableness review", to so ensure the Decision was "fair, reasonable and lawful";
 - c) a reasonableness review is a "robust" form of review and I must consider the Decision's outcome in light of its underlying rationale to ensure that as a whole, it is "transparent, intelligible and justified"; and
 - d) if the Decision falls within a range of reasonable outcomes, I ought not to disturb it even if I would have arrived at a different conclusion.
18. According to Arbitrator Peterson in Barch v. Hockey Canada, SDRCC 23-0680, the applicable standard of reasonableness does not mean I must agree with the Decision but I must determine whether the outcome and reasons outlined by the Panel are justifiable in the circumstances. An otherwise reasonable outcome cannot stand if reached on an improper basis. The onus lies on AB to show that any shortcomings or flaws are "sufficiently central or significant to render the decision unreasonable."
19. According to Arbitrator Roberts in Bui v. Tennis Canada, SDRCC 20-0457, the Panel must have "considered the facts and governing scheme relevant to the decision as well as any past practices". As such, AB must satisfy me there are "serious shortcomings" in the Panel's decision.

20. According to Arbitrator Roberts in Jackson v. Hockey Canada SDRCC 24-0748, this is not a “do over”. It is not to be a reconsideration of the arguments or processes that led to that Decision, simply because AB is dissatisfied.

III. Claimant’s Submissions

21. On or about October 22, 2024, AB exchanged a number of text messages (the “Text Exchange”) with an individual (“CD”).
22. In the Text Exchange AB asked CD whether she had any younger siblings and asked about whether CD liked incest. At no time did AB converse with or interact with CD’s younger siblings.
23. Paragraph 45 of the Policy states that sexual maltreatment involving a minor shall carry a presumptive sanction of permanent ineligibility.
24. AB acknowledges the Text Exchange did constitute sexual maltreatment and so violated the Policy, but says it was not involving a minor and so does not carry a presumptive sanction of permanent ineligibility.
25. The Investigator took the following steps in investigating the Complaint and the Text Exchange:
 - a) reviewing the Hockey Team’s written complaint;
 - b) interviewing eight witnesses;
 - c) reviewing AB’s written Statement of Defence;
 - d) interviewing AB; and
 - e) reviewing all documentation, including interview notes, online messages, and documentation forwarded by the parties.
26. In the Report, the Investigator stated:

...the only potential contact the Investigator for [CD] was a social media handle and given her status as a minor female, the decision was made, in conjunction with the ITP, not to directly contact this individual through social media and as such [CD] did not participate in this investigation, other than through the documentary evidence provided by other parties.
27. While appreciating the trauma that may be involved in interviewing a minor in this investigation, AB submits no steps were taken by the Investigator to determine the age of CD.
28. The Report concluded that a minor (i.e. CD) was “involved” in events that warranted a permanent suspension. Given that the Investigator did not

ascertain CD's age, there was no basis to conclude CD was a minor, no basis for the presumptive sanction and so "serious shortcomings" in the Decision.

29. At the time of the Text Exchange, AB was 17 years of age. Throughout, AB has maintained the belief CD was also 17 years of age and that AB took all reasonable steps to ascertain CD's age.
30. Prior to engaging, AB asked how old she was. She advised she was 17. AB also reviewed CD's SnapChat account and after doing so was satisfied she was 17 years of age.
31. AB submits that under section 150.1(2.1)(a) and 150.1(4) of the Canadian Criminal Code, an accused may rely on the availability of the defence of mistaken age.
32. The Canadian Criminal Code contains a "close in age exception" to sexual activity under section 150.1(2.1)(a) of the Code. For instance, a 14 or 15-year-old can consent to sexual activity if their partner is less than five years older and there is no relationship of trust, authority or dependency, or any other exploitation of the young person.
33. It should be noted that the present Appeal does not involve sexual activity, and there was no relationship of trust, authority or dependency, or any other exploitation of a young person.
34. In *R. v. Morrison*, 2019 SCC 15 the Supreme Court of Canada held that in order to convict on a charge under s. 152 of the Canadian Criminal Code the Crown must prove the accused believed (or was willfully blind) that the complainant was under 16, or was reckless as to her age. Recklessness includes a failure to advert to the age of the complainant, save where the circumstances did not permit the inference that in proceeding without regard to the complainant's age, the accused decided to treat her age as irrelevant to their conduct.
35. The Court in *Morrison* further noted that while one can imagine circumstances in which the failure to advert to the age of the complainant would not be characterized as a decision to treat the complainant's age as irrelevant and take the risk, those circumstances would seldom occur in the real world. For practical purposes, those circumstances will be the same rare circumstances in which the "reasonable steps inquiry" in s. 150.1(4) will be satisfied, even though the accused took no active steps to determine the complainant's age.
36. In *R. v. Carbone*, 2020 ONCA 394, the Ontario Court of Appeal held that the Crown was required to prove beyond a reasonable doubt the accused believed the complainant was underage, and not simply to undertake the "reasonable steps inquiry".

37. AB submits that the principles in these criminal cases (which would hold AB to a higher standard than in the present civil case) would allow AB to serve a lesser sanction under the Policy, such as a continued interim suspension or educative program, based on the fact CD held herself out to be 17 years of age.
38. AB therefore submits that the Panel did not consider the fact that the Text Exchange did not involve a minor, on a balance of probabilities, and so issue a reasonable sanction befitting AB's actions.
39. AB has been suspended from any Hockey Canada activities for the better part of nine months and has not violated any of the terms of the interim suspension imposed by Hockey Canada.
40. AB acknowledges violating the applicable policies and appreciates the gravity of their mistakes.
41. AB has been clinically diagnosed with ADHD. They have disclosed this diagnosis not to provide a cause for the misconduct. Rather, it is well-founded that individuals diagnosed with ADHD may exhibit poor impulse control at times. At the time of the Text Exchange, AB exhibited poor impulse control, acted impulsively and without thought to their actions. Following this poor lapse in judgment, AB expressed remorse, accepted an interim suspension, and fully cooperated with the impending investigation.
42. Following receipt of the Hockey Team's complaint, AB has taken steps at rehabilitation through weekly sessions with a counsellor and therapist. AB has continued to receive weekly counselling sessions for the past nine months. A report from the caregiver dated May 26, 2025 reads as follows:

To whom it may concern,

I have been working with [AB] since November 2024 and have seen [AB] for a total of 20 sessions. The nature of our work has been focused on making good choices surrounding communication via social media and addressing what healthy relationships look like. We have also been working on implementing coping tools and strategies for anxiety, given the circumstances of [AB's] life this past year. [AB] has always shown up on time for [their] appointments, with a positive attitude, and seemingly committed to [their] own self-improvement. I have enjoyed my time with [AB] and have found [them] respectful and engaged in our time together.

43. The purpose of the applicable policies is to ensure a safe environment and to instill Hockey Canada's core values.
44. AB submits their behavior would not pose an on-going threat to Hockey Canada's activities given that AB has expressed remorse, acknowledged

wrongdoing, acknowledged their deficiencies, complied with the Sanctions, and has sought continuous counselling to manage behavioral deficiencies and ADHD.

45. AB submits that a permanent suspension is not warranted, and instead there should be an alternative discretionary sanction that would befit the offence pursuant to the Policy.

IV. Respondent's Submissions

46. Hockey Canada highlights the following facts:

- a) The concerns raised about AB related to online activity and, in particular, exchanges with two minor females, CD and EF.
- b) As it relates to CD, screenshots evidenced that AB had asked CD if she had siblings. She stated that she did and gave their ages as 16, 12, 7, 5, and 3.
- c) AB stated (in reference to themselves) that they "like incest" and asked if the older two of CD's siblings had Snapchat. CD responded that they did not. AB then asked for photographs of CD's 12-year-old sister's feet, which CD refused. AB went on to ask CD to "do stuff" with her siblings and allow AB to watch, alluding to sexual activity.
- d) AB has emphasized that they believed CD was 17 years-old.
- e) AB engaged in an online conversation with EF (a minor) in which AB expressed a foot fetish, which caused EF to be "creeped out".
- f) As it relates to a further allegation that AB tried to make contact with younger sisters of players on the Hockey Team, AB denied ever trying to do this. The Investigator found, however, that AB had sent the 15-year-old sister of one witness a message that stated "snap?", given that the Investigator had reviewed, amongst other evidence, a screenshot of such a message.

47. Hockey Canada agrees that the question at issue in this Appeal is the appropriateness of the Sanctions.

48. Whatever the age of CD, Hockey Canada submits the Panel and the Sanctions properly took into consideration the other relevant factors, including the ages of CD's younger, minor siblings;

...[t]he sexual maltreatment occurred, in part, as a result of [AB's] requests relating to younger siblings, who were specifically enumerated as all being minors. The comments relating to incest and request for actions were tied

to a group of minors, thus engaging the presumption of permanent ineligibility.

49. Hockey Canada submits that an individual who is 17 years of age remains a minor in all jurisdictions in Canada and, more particularly, is explicitly defined as a minor for the purposes of the Policy. Section 6. j. of the Policy states, “‘Minor’ means an individual who is under the age of 19 years old”.

50. AB “acknowledges that the Text Exchange constitutes ‘sexual maltreatment’”, and that that “[d]uring the Text Exchange, [AB] made inappropriate comments toward an individual [they] thought was 17 years old”.

51. Given that:

- a) AB admits the conduct in relation to CD constitutes sexual maltreatment;
- b) AB understood CD to be 17 years old;
- c) section 45 of the Policy states that “Sexual Maltreatment involving a Minor shall carry a presumptive sanction of permanent ineligibility”;

the presumptive sanction clearly applies with respect to AB.

52. Whether based on AB’s direct interaction with CD, or AB’s requests relating to her younger siblings, the answer to the issue framed by AB (whether the Text Exchange “involved” a minor) must be answered in the affirmative.

53. In the Decision, the Panel specifically considered the question of CD’s age based on the challenge raised by AB in submissions responsive to the Report. The Panel concluded that the points made by AB (which included the same point regarding CD’s age as has been brought forth in this Appeal) failed to demonstrate a significant flaw in the process followed by the Investigator, and failed to demonstrate the Report contained conclusions that were not consistent with the facts as found by the Investigator.

54. More particularly, the Panel determined that section 45 was engaged because:

...[t]he sexual maltreatment occurred, in part, as a result of [AB’s] requests relating to younger siblings, who were specifically enumerated as all being minors. The comments relating to incest and requests for actions were tied to a group of minors, thus engaging the presumption of permanent ineligibility.

55. The Panel stated:

70) For the purpose of my assessment, I accept that [AB] may not have thought [they were] speaking with a minor. It does not change the fact that [they] were asking about minors. This is no different than one adult asking another adult for graphic images of minors. The Policy states that “[s]exual maltreatment involving a Minor shall carry a presumptive sanction of permanent ineligibility”. In this case, the request relating to younger siblings involved a minor even if [AB] thought [they were] making the request of someone who was not a minor.

71) With this conclusion in mind, I also note that the Investigator conducted a reasonable and procedurally fair investigation and failing to request the messages or screenshots as indicated by [AB] does not constitute a breach of procedural fairness, as my interpretation of the presumption of permanent ineligibility does not turn on perceived age of CD, but rather turns on the stated ages of her siblings. (emphasis in original)

56. Hockey Canada adopts this reasoning and further submits that since “minor” is a defined term in the Policy (meaning an individual under 19 years of age) AB’s conversations with someone perceived to be 17 years old necessarily “involved” a minor. This remains true notwithstanding AB’s allegation there was “an omission on the part of the Investigator to determine the age of the individual involved in the Text Exchange”.

57. Even if the Investigator did not directly verify the age of CD, this is immaterial, given that AB has readily and repeatedly confirmed an understanding the Text Conversation was with a 17-year-old.

58. As the Panel’s reasoning makes clear, any alleged failure on the part of the Investigator to verify the age of CD did not impact the Panel’s determination that section 45 applied.

59. Although AB argues they did not “converse with or interact with the younger siblings of [CD]”, section 45 states only that sexual maltreatment “involving” a minor will engage the presumption. “Involving” is a broad term which does not impose a requirement of direct engagement. Section 45 is therefore capable of bearing the meaning ascribed to it by the Panel (i.e. that it encompasses “inappropriate communications relating to young children and attempting to engage young children in inappropriate behaviours”).)

60. As the Panel analogized, AB was:

...asking about minors. This is no different than one adult asking another adult for graphic images of minors. The Policy states that “[s]exual maltreatment involving a minor shall carry a presumptive sanction of permanent ineligibility”. In this case, the request relating to younger siblings

involved a minor even if [AB] thought [they were] making the request of someone who was not a minor.

61. Sections 150.1(4) and 150.1(2.1)(a) of Canada's Criminal Code, and case law, provide possible defences or exceptions to criminal sanction based on an accused's mistaken belief as to age. Respectfully, Hockey Canada submits these defences and exceptions are of no application and have no directive or persuasive value to this Appeal. Likewise, AB's arguments regarding the Crown's burden of proof in relation to charges brought under the Criminal Code are of no consequence.
62. This Appeal relates to an internal administrative process, and not to criminal charges brought pursuant to statute. The criminal standard of proof beyond a reasonable doubt is inapplicable, and the "law" that is applicable in this case – being the Policy – is clear with respect to the presumption that applies where a matter involves a minor, as well as the additional factors that may be considered in assessing a sanction.
63. Sections 42 and 44 of the Policy set out the potential sanctions and the factors relevant to determining appropriate sanctions for someone who has been found to have breached applicable policy. In each case, the Policy uses discretionary ("may") language in respect of the Panel's decision to consider or afford particular weight to the sanctioning factors, or to apply any particular sanction, whether singularly or in combination with another.
64. The Panel explicitly acknowledged these directions in the Decision, noting the direction in Section 43 of the Policy that any sanction "must be proportionate and reasonable". From that starting point, the Decision reviews the factors to be considered when determining an appropriate sanction. The Panel went through each of the eleven factors listed in the Policy, providing an assessment of all.
65. Amongst other things, the Panel had regard for the fact AB and CD were similar ages, and that AB inquired after CD's younger siblings, who had been stated to range in age from 3 to 16.
66. The Panel also had regard for the fact AB indicated they suffered from ADHD, and depressive and anxiety disorders, and was undertaking counselling and treatment. This accords with the consideration outlined at Section 42. h. of the Policy, which invites the Panel to consider whether there are relevant "Circumstances specific to the Respondent being sanctioned (e.g. addiction; disability; illness)".
67. In materials submitted to the Investigator and to the Panel, AB invoked neurodivergence and mental health disorders as "contributing causes" to his conduct.

68. Hockey Canada is not aware of any medical evidence that either confirms the clinical diagnoses claimed by AB, or which demonstrates a nexus between such diagnoses and the conduct which formed the basis of the Complaint.
69. While AB has submitted a letter from a caregiver dated May 26, 2025, the letter confirms only the nature of the counselling sessions and not any particular diagnosed mental health condition
70. Even if it is accepted AB has obtained the clinical diagnoses claimed, there is no information in this Appeal that the diagnoses bear any nexus to the misconduct found by the Investigator. This was specifically recognized by the Panel, which stated:

I acknowledge these conditions but I wish to emphasize that it is not reasonable to draw a straight line from suffering from anxiety disorders to the commentary relating to incest and requesting sex acts with minors. Even if there were a causal relationship between ADHD and/or depressive and anxiety disorders and the findings of fact in this case, it does not absolve [AB] of the consequences of [their] actions.

71. While the Panel agreed in principle with AB's position that mental health diagnoses should not bar them from participating in sport, the Panel opined that it would be "highly unfair to suggest that suffering from an anxiety disorder results in requests for viewing incest or sex acts with minors". Therefore, while the presence of a disability was considered in the sanction, it did not outweigh the other factors considered by the Panel.
72. Importantly, the Panel emphasized that "to the extent [AB] is excluded from the sport, it is not because of [their] disability, but because of [their] behaviour". The Panel deemed such behaviour to represent an unacceptable, ongoing threat.
73. Hockey Canada emphasizes that the May 26, 2025, letter does not express any opinion on the risk posed by AB, and there is no objective, third-party evidence which validates AB's claim that they "pose no threat to the public".
74. The Panel recognized section 45 of the Policy, which states that "Sexual Maltreatment involving a Minor shall carry a presumptive sanction of permanent ineligibility". After considering AB's rebuttal submissions (which the Panel did not accept) the Panel concluded that it was appropriate to apply section 45's presumptive sanction;

77) The presumptive sanction is meant to apply unless rebutted. In the case of [AB] if subject to the presumptive sanction [they] would never participate in Hockey Canada sanctioned hockey again. In my view, this outcome would be appropriate given the nature of the violation.

75. The Panel's reasoning is fully explained in the Decision, but of particular note is the position that "[t]he presumptive sanction exists to protect other participants in the sport and address serious violations" and that "Hockey Canada cannot put minors at risk, now or in the future, by exposing them to [AB]." This follows the Panel's determination that there was "clear evidence that ongoing participation would be inappropriate".
76. In applying the presumptive sanction, the Panel had due regard for all relevant factors and potential options for sanctioning, and concluded the presumptive sanction was appropriate in the circumstances owing to AB's failure to rebut that presumption.
77. Hockey Canada submits that on the Policy language, and the factual findings and conclusions detailed in both the Report and the Decision, the Sanctions imposed are clearly justified and fall within a range of possible, acceptable outcomes.
78. Hockey Canada notes that pursuant to Section 44 of the Policy, it was open to the Panel to impose the same sanction even if the Panel had determined the sexual maltreatment did not involve a minor. Paragraphs d. and f. of that Section confirm that the Panel might apply suspensions or permanent ineligibility based on the factors set out at section 42, while paragraph g. indicates that the Panel had complete discretion to impose "other discretionary sanctions", "as deemed necessary or appropriate".
79. Therefore, while AB predicated this Appeal on the position that "a permanent sanction is not warranted, provided that the Investigator has not shown, beyond a balance of probabilities that the Text Exchange involved a minor", the age of the individuals "involved" was not the lone factor considered by the Panel. Rather, the nature of the conversation weighed heavily in the Panel's assessment.
80. Hockey Canada submits that the Panel's application of the sanctioning provisions of the Policy to the facts and circumstances of the Complaint was reasonable and justified in the circumstances. The conclusions reached and, specifically, the Sanctions ordered, stand up to a "robust review", as they were transparent, intelligible and justified.
81. Hockey Canada notes the reasoning of Arbitrator Skratek in *Greco v. Hockey Canada* SDRCC 24-0716. There it was determined the adjudication panel had appropriately weighed the aggravating and mitigating factors in determining the applicable sanctions, which were justified and fell within a range of possible, acceptable outcomes.
82. Hockey Canada also notes the reasoning of Arbitrator Roberts in *Saadi v. Gymnastics Canada* SDRCC 24-0703. The mere fact that a sanction imposed by a disciplinary panel was different than a sanction imposed in

the most comparable (known) case, did not mean the decision under appeal was unreasonable or manifestly wrong, as there were distinguishing factors present.

83. Hockey Canada further relies on Saadi for the proposition that unless a claimant can demonstrate that a sanction is not justified and fails to fall within a range of possible, acceptable outcomes, a reviewing tribunal ought not to interfere.

V. Analysis

84. The essential facts are not in dispute, but need to be stated and examined with precision and care to determine how the Policy applies and what Sanctions properly can flow.
85. The Panel was required to accept the facts as found by the Investigator, unless rebutted as allowed in the Policy. Here, AB tried to rebut some of these findings of fact. The Panel dismissed those challenges but did provide relevant clarification of the facts.
86. Particularly, when AB had spoken to a witness about “issues he had in the past”, the Panel accepted this as being in reference to past social awkwardness, missing social cues and behavioral etiquettes, and not relating to past misconduct or breach of any applicable policy.
87. The Decision concluded AB violated applicable policy in a number of ways;
- a) by engaging in behaviour that could reflect poorly on Hockey Manitoba, this violated Hockey Manitoba Code of Conduct Policy s. 4.1;
 - b) by not promoting the sport of hockey in the most constructive and positive manner, this violated Hockey Manitoba Code of Conduct Policy s. 4.4;
 - c) by engaging in Sexual Harassment, this violated Hockey Manitoba Code of Conduct Policy s. 4.5 e and f;
 - d) by engaging in remarks of an inappropriate nature that were offensive to both CD and EF, this violated Hockey Manitoba Social Media and Networking Policy s. 2(b); and
 - e) by engaging in comments that promoted the negative and criminal behavior of sexual exploitation, this violated Hockey Manitoba Social Media and Networking Policy s. 3(e)(V).
88. AB has acknowledged violating applicable policy.

89. These violations were based on the following specific facts, as taken from the Report and the Decision;
- a) AB did engage in an online conversation with CD in which AB expressed interest in incest, asked CD for her younger sibling's social media contact information, asked for photographs of her younger sister's feet, requested that CD engage in sexual activity ("do stuff") with her siblings while AB watched, and asked CD if she had ever been caught by any of her siblings doing "sexual things"; and
 - b) AB engaged in an online conversation with EF in which AB expressed a foot fetish, which caused EF (a minor) to be "creeped out".
90. AB has asserted the belief CD was 17 years old (i.e. a minor). Others such as the Investigator and the Panel have assumed she was a minor.
91. That said, we do not as a proven fact know she was a minor. The Investigator only had her social media handle as a means of contact, and "given her status as a minor female" the decision was made in conjunction with the ITP, not to directly contact her through social media. As such, she did not participate in this investigation, other than through the documentary evidence provided by other parties.
92. Respectfully, it is difficult to reconcile that on the one hand AB asserts there was a genuine and reasonable belief CD was 17 years old, but on the other asserts that her age was not proven and so that initial belief should not be held against AB. While there might be some merit to that in the context of a criminal prosecution, this is not a criminal prosecution.
93. In a criminal prosecution the systemic concern about avoiding wrongful convictions has considerable influence. In contrast, in this civil proceeding the focus is on protection and keeping everyone free from abuse.
94. I agree with Hockey Canada that the Canadian Criminal Code and the case law interpreting it, has no application here.
95. Whether or not for the purpose of the presumptive sanction of permanent ineligibility we properly should consider CD as a minor, the Panel also considered the fact that AB engaged in the Text Conversation with CD, and spoke of her minor siblings.
96. The Panel applied a broad meaning to the phrase "sexual maltreatment involving a minor". This was on the premise that the comments relating to incest and the request for actions were tied to that group of younger (minor) siblings, and so were "involving" minors, and so engaged the presumption of permanent ineligibility.

97. There also is the fact AB engaged in an online conversation with EF (a minor) in which AB expressed a foot fetish, which caused EF to be “creeped out”. This too could be considered as sexual maltreatment “involving” minors.
98. Overall, the Panel’s determination there was sexual misconduct “involving” minors and so leading to the presumptive sanction of permanent ineligibility, falls within a range of reasonable outcomes and so cannot properly be disturbed here.
99. That does not determine the issue of what sanctions are appropriate here. While the presumptive sanction of permanent ineligibility applies in the case of sexual maltreatment involving a minor, that sanction can be rebutted.
100. As per the Policy, a sanction imposed must be proportionate and reasonable. Progressive discipline may be appropriate but is not required and a single incident may justify elevated or combined sanctions. The Policy states:
 42. Prior to determining sanctions, the Adjudicative Chair or the Adjudicative Panel, as the case may be, will consider factors relevant to determining appropriate sanctions which may include:
 - a) The severity of the Violation;
 - b) Where applicable, the nature and duration of the Respondent’s relationship with the Complainant, including whether there is a Power Imbalance;
 - c) The Respondent’s prior history and any pattern of inappropriate behaviour;
 - d) The respective age of the individuals involved;
 - e) Whether the Respondent poses an ongoing and/or potential threat to the safety of others;
 - f) The Respondent’s voluntary admission of the offense(s), acceptance of responsibility, and/or cooperation in the investigative and/or disciplinary process of Hockey Canada;
 - g) Real or perceived impact of the incident on the Complainant, Hockey Canada and/or its Members or the sporting community;
 - h) Circumstances specific to the Respondent being sanctioned (e.g. addiction; disability; illness);
 - i) Whether, given the facts and circumstances that have been established, continued participation in Hockey Canada-sanctioned programming is

appropriate;

- j) A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or
- k) Other mitigating and aggravating circumstances.

101. The available sanctions in the Policy range in severity from verbal or written warning all the way through to “permanent ineligibility”, along with “other discretionary sanctions”.

102. Permanent ineligibility is described as ineligible to participate in any capacity in any program, activity, event, or competition sponsored by, organized by, or under the auspices of Hockey Canada, for the remainder of the participant’s life.

103. Other discretionary sanctions include but are not limited to other loss of privileges, no contact directives, or other restrictions or conditions as deemed necessary or appropriate.

104. Here, the Sanctions extend beyond prohibiting participation and include a prohibition on even attending as a spectator, or entering stands or hallways in any arena.

105. It is hard to imagine more severe sanctions that would be permissible under the Policy. On the other hand, one can easily imagine misconduct far more egregious, and that based on the mandatory concepts of proportionality and reasonableness, properly would warrant sanctions that were much more severe than those imposed here. On that basis, and respectfully, the Sanctions are not “proportionate and reasonable”.

106. Do the Sanctions properly take into account the established facts and then reasonably analyze and apply the factors set forth in paragraph 42 of the Policy?

107. The Decision did address paragraph 42 of the Policy. Below is the Panel’s paragraph 42 analysis, followed by own analysis immediately following each factor;

From Panel’s Analysis: *The severity of the violation* – Sexual maltreatment, involving minors, has a presumption of permanent ineligibility. This is a most severe violation.

Arbitrator’s Analysis: I accept this as reasonable and agree it is an aggravating factor.

From Panel’s Analysis: *The nature and duration of the Respondent’s relationship with the Complainant, including whether there is a Power Imbalance* – The Panel stated “In this case, this factor must be assessed

as between [AB] and the parties [they were] corresponding or attempting to correspond with. The intention to exploit or involve minors suggests a power imbalance.

Arbitrator's Analysis: Respectfully, there is nothing on the facts to suggest a power imbalance between AB and CD, or AB and EF. There is no proper basis to treat this as an aggravating factor. It is neutral.

From Panel's Analysis: *The Respondent's prior history and any pattern of inappropriate behaviour* – As I have noted, the Investigator found that [AB] engaged in communications with [CD]. All other actions by [AB] or relating to [AB] were ancillary or found to not be Code violations. There is no evidence of a prior history or a pattern of inappropriate behaviour.

Arbitrator's Analysis: I accept this as reasonable and agree it is a mitigating factor.

From Panel's Analysis: *The respective age of the individuals involved* – [AB] and [CD] were similar ages. The Respondent inquired after [CD's] younger siblings who ranged in age from 3 to 16.

Arbitrator's Analysis: I accept this as reasonable but do note the involvement of the younger siblings was indirect in that AB was texting to CD about them, and at no time had contact with them. Further, there was no evidence they were even aware of AB's conduct. This factor properly should be treated as somewhat aggravating.

From Panel's Analysis: *Whether the Respondent poses an ongoing and/or potential threat to the safety of others* – Given the inappropriateness of [their] communications relating to minors, it is assumed that [AB] poses an ongoing threat.

Arbitrator's Analysis: Respectfully, and accepting without any hesitation the inappropriateness of AB's communications relating to minors, there is no other evidence supporting the assumption AB poses an ongoing threat. It is a possibility, but the opposite also is a possibility. There is no proper basis to make that assumption and so treat this as an aggravating factor. It is neutral.

From Panel's Analysis: *The Respondent's voluntary admission of the offence, acceptance of responsibility and/or cooperation in the disciplinary process* – [AB] did readily confess and express remorse. I acknowledge [AB's] candour and honesty in this regard.

Arbitrator's Analysis: I accept this as reasonable and agree it is a mitigating factor.

From Panel's Analysis: *Real or perceived impact of the incident on the Complainant, Hockey Canada and/or its Members or the sporting community* – The impact of the incidents in question is significant. Taking advantage of one's stature as a hockey player on a storied team with a long history and a source of numerous [professional] players is highly impactful and incredibly negative impact. This is exactly the type of behaviour that the Policies and Codes are intended to address, prevent and mitigate.

Arbitrator's Analysis: Respectfully, there is nothing on the facts to suggest AB was taking advantage of their stature, etc. The fact is AB was a hockey player, and engaged in sexual maltreatment that (by virtue of AB's status as a hockey player) negatively impacts the Hockey Team, Hockey Canada and/or its Members or the sporting community. Any violation of any of the policies also would negatively impact the Hockey Team, Hockey Canada and/or its Members or the sporting community. This is an aggravating factor but not to the extent the Panel considered it to be.

From Panel's Analysis: *Circumstances specific to the Respondent sanctioned (i.e. addiction, disability, illness)* – [AB] indicates that [they] suffer from "ADHD, depressive and anxiety disorders, and as a result, exhibited poor behavior when conversing with [CD]. [AB] has also dealt with social awkwardness, missing social cues and behavioral etiquette. [AB] suffers from clinically diagnosed depressive and anxiety disorders. I acknowledge these conditions but I wish to emphasize that it is not reasonable to draw a straight line from suffering from anxiety disorders to the commentary relating to incest and requesting sex acts with minors. Even if there were a causal relationship between ADHD and/or depressive and anxiety disorders and the findings of fact in this case, it does not absolve [AB] of the consequences of [their] actions.

Arbitrator's Analysis: I accept this as reasonable and agree that from the established facts it is a neutral factor. Candidly, we have no supporting evidence from any knowledgeable professional corroborating any diagnosis, or providing insight into the role (if any) of any particular disorder in this particular context.

From Panel's Analysis: *Whether, given the facts and circumstances that have been established, continued participation in Hockey Canada-sanctioned programming is appropriate* – There is clear evidence that ongoing participation would be inappropriate.

Arbitrator's Analysis: I agree that based on AB's actions, the established facts (and uncertainty on what the future would likely bring including the possibilities of recidivism) and the overriding desire to protect and keep everyone free from abuse, ongoing participation would be inappropriate at this stage. However, there is nothing on the facts confirming ongoing participation would be inappropriate forever.

From Panel's Analysis: *A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions*
– In this case [AB] is a Player, so this factor is not significant.

Arbitrator's Analysis: I accept this as reasonable and agree it is a neutral or slightly mitigating factor.

From Panel's Analysis: *Other mitigating and aggravating circumstances* – [AB] is undertaking counselling and treatment.

Arbitrator's Analysis: I accept this as reasonable and agree it is a mitigating factor.

108. Respectfully, the Panel's Decision does not take into account the established facts and then reasonably analyze and apply the factors set forth in paragraph 42 of the Policy.

109. AB submitted they had been suspended from any Hockey Canada activities for the better part of nine months, and had not violated any of the terms of the interim suspension imposed by Hockey Canada. The implication was this should be seen as a mitigating factor. Respectfully, it is not. Simply doing what one has been ordered to do, particularly pending this Appeal, is expected and simply a neutral factor.

110. AB had argued to the Panel that their ADHD diagnosis should not bar them from participating in a sport that promotes the inclusion of individuals with disabilities. Respectfully, the Panel reasonably addressed that in the Decision;

78) The Respondent engaged in troubling behaviour which would not be appropriate in any sort of Hockey Canada context, whether as a player, an official or a coach, all of which allow for access to minors. Hockey Canada cannot put minors at risk, now or in the future, by exposing them to the Respondent.

79) The factors considered when determining sanctions point to a more serious sanction in this instance. In particular, it is notable that the Respondent engaged in inappropriate communications relating to young children and attempting to engage young children in inappropriate behaviours.

80) Participating in hockey is a privilege. The presumptive sanction exists to protect other participants in the sport and address serious violations. This is a serious violation and encouraging incest and sex with and between minors ranging in age from 3 to 16 is not a joke, it is abhorrent.

111. Following receipt of the Hockey Team's complaint (and as part of the facts before the Panel), AB took steps at rehabilitation through weekly sessions with a counsellor and therapist. This is somewhat of a mitigating factor

(and was considered by the Panel). However, the rehabilitation was then and still is ongoing. Even at present we simply do not know enough about AB's condition when these events occurred, the possible impact of any disorders, the prognosis for the future, and the likelihood of recidivism.

112. There was and still remains the possibility then that future participation in the sport would be a reasonable conclusion consistent with the Policy's requirements, accepting that even now we do not know when and on what conditions that might be reasonable. The Panel's Decision on Sanctions imposing a permanent suspension failed to consider this possibility.

VI. Conclusions and Order

113. For the above reasons I conclude as follows:

- a) the Sanctions are not proportionate and reasonable;
- b) the Panel's Decision does not reasonably analyze the factors set forth in paragraph 42 of the Policy; and
- c) the Panel's Decision failed to consider the possibility that future participation in the sport would be a reasonable conclusion consistent with the Policy's requirements.

114. I therefore order as follows:

- a) the Appeal is allowed;
- b) the Sanctions are replaced with the following:

Suspension: Suspension from any Hockey Canada sanctioned activities in any capacity including but not limited to any program, activity, event or competition sponsored by, organized by, or under the auspices of Hockey Canada, such activities including but not limited to, coaching, volunteering, spectating, entering dressing rooms or stands or hallways in any arena hosting Hockey Canada sanctioned events, tournaments, tryouts, camps, practices and games.

This suspension shall be for a minimum of three (3) years from May 7, 2025, and continue until rescinded by Hockey Canada.

AB may apply to Hockey Canada for reinstatement effective any time after the expiry of the three (3) years.

In support of such application AB shall provide such evidence as Hockey Canada may reasonably require to allow it to consider and rule on such application reasonably, in good faith and consistently

with Hockey Canada's Maltreatment Complainant Management Policy (the Policy).

In accordance with Articles 53 and 54 of the Policy, the details of this suspension are to be provided to Hockey Canada and Hockey Manitoba, but not to be made public beyond those entities except to the extent the ITP exercises its discretion to advise other organizations, as applicable so they can take measures to ensure AB does not participate in other sports that may involve contact and interactions with minors.

115. I sincerely thank the parties for the thorough and helpful manner in which they presented their cases.

Signed in Winnipeg, Manitoba, this 4th day of September, 2025.

Jeffrey J. Palamar, Arbitrator