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

Citation: CD v. Hockey Canada, 2026 CASDRC 36
File No: SDRCC ST 26-0076
(Safeguarding Tribunal)
Date: 2026-08-07

CD
(Claimant)

and

HOCKEY CANADA
(Respondent)

and

[ASSOCIATION]
(Affected Party)

REASONS FOR DECISION

Before:
Jeffrey J. Palamar (Arbitrator)

Appearances:

For the Claimant:	CD's Parent
For the Respondent:	Adam Klevinas (counsel)
	Christy Cooper (counsel)

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, CD was a player on a hockey team (the "Team") that competed in a particular minor hockey association (the "Association") within the jurisdiction of Hockey [name of province].

3. On February 25, 2026, the Association submitted a complaint (the "Complaint") to Hockey Canada's Independent Third Party (the "ITP"). The Complaint was prompted by reports CD had engaged in bullying and harassment, sexual harassment, sexual maltreatment, and physical maltreatment of other minor players on the Team on an ongoing and repetitive basis over the course of the 2025-2026 season.

4. The Complaint was subsequently expanded to include a threat that CD had posted in the team Snapchat "Someone finna die; They know its (sic) coming; Ask [Redacted] and [Redacted]; They are the ones who snitched".

5. The ITP appointed Kathleen Simmons (the "Adjudicator") as Adjudicative Chair under Process #1 of the Hockey Canada Maltreatment Complaints Management Policy (the "Policy"), and on May 1, 2026, she issued her decision (the "Decision").

6. In the Decision, the Adjudicator found that CD, a leader on the Team, had repeatedly engaged in unwelcome, physically and sexually inappropriate behaviour in the dressing room, and had posted the Snapchat message.

7. The Adjudicator found such conduct to be in violation of applicable standards of conduct including the Association's Code of Conduct, its Social Media Policy, the Hockey Canada Dressing Room Policy, and the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (the "UCCMS").

8. The Adjudicator sanctioned CD with:

    a) a 24-month suspension preventing participation in any capacity in any program, activity, event, or competition sponsored by, organized by, or under the auspices of Hockey Canada (to run from March 4, 2026, to March 4, 2028);

    b) a written warning to be placed on his disciplinary record;

c) a requirement to complete anti-bullying and harassment education in the form of the Respect in Sport *Stay in the Game* course prior to reinstatement; and

d) the requirement to provide written letters of apology to each of the players and the Head Coach of the Team.

9. On May 17, 2026, CD filed a Request with the Safeguarding Tribunal of the Sport Dispute Resolution Centre of Canada (the "SDRCC") challenging both the findings and sanctions in the Decision (the "Appeal").

10. On May 27, 2026, Hockey Canada filed its Answer, disputing the Appeal on the merits and asking for the Decision to be upheld.

11. On June 9, 2026, the parties and I had a preliminary conference call at which they 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 (the "Code") applied;

e) the case would proceed by way of documentary review; and

f) to follow a set timeline for all filings.

12. The parties later 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.

13. CD was a minor at the time of the alleged misconduct, and so, to protect his identity, I have anonymized this decision and not identified anyone by name.

II. Claimant's Submissions

14. CD submitted a number of grounds for his appeal;

a) procedural unfairness;

b) unreliable and biased evidence; and

c) the Adjudicator's findings and sanctions did not match.

Procedural Unfairness

15. CD argued that based on *Kane v. Bd. of Governors of U.B.C.*, [1980] 1 SCR 1105 ("Kane"), a decision maker cannot rely on evidence that was not disclosed to him.

16. While the Adjudicator did interview CD, mere participation in this way was not enough. The law required an "informed" participation. CD had attended, cooperated, and answered openly, but did so without knowing the evidence to which he was expected to respond.

17. The Decision expressly stated that "…the players who had come forward expressed a strong desire to remain anonymous…Accordingly, the content of the Complaint's evidence is aggregated below."

18. CD was not provided with full transcripts, recordings, or the underlying statements forming those aggregated summaries. Without access to this, CD could not assess accuracy, consistency, context, or credibility. He could not meaningfully test or challenge the evidence.

19. This prevented any meaningful response as CD was forced to respond to conclusions rather than facts.

20. The Adjudicator's approach effectively insulated the evidence from scrutiny while still using it to support serious adverse conclusions. This deprived CD of a genuine opportunity to be heard.

21. *Baker v. Canada*, [1999] 2 SCR 817 ("Baker") established that the duty of fairness was heightened when the consequences are serious, meaning the process must be especially rigorous and transparent. That standard was not met here. The issue was not simply the severity of the sanction; it was that the findings themselves arose from an unfair and incomplete process.

22. This was a clear breach of procedural fairness and based on *Cardinal v. Kent Institution*, [1985] 2 SCR 643 ("Cardinal"), this invalidated the Decision.

Unreliable and Biased Evidence

23. CD argued the evidentiary foundation of the Decision was limited, incomplete, and unreliable in several areas.

24. The investigation relied on only one other direct participant witness, and that witness had admitted engaging in the same conduct.

25. A participant witness had an inherent incentive to minimize their own role, and shift responsibility or frame events in a way that reduced their exposure. The Adjudicator acknowledged this yet still relied heavily on this evidence to support broad findings. This reliance was unreasonable and inconsistent with established

principles of credibility assessment, which must take into account a witness's personal interest in the outcome.

26. The remaining witnesses did not observe the conduct directly. Their accounts were secondhand as based on what they were told by others, and so inherently limited. Several of these witnesses were parents of players who had also engaged in the behaviour.

27. This created a clear conflict of interest as these parents had an obvious incentive to protect their own children from scrutiny, minimize their involvement, and shift responsibility to CD. Their evidence could not be treated as neutral or independent.

28. Bias did not require bad faith—only a personal stake in the outcome. Here, the parental role of these witnesses introduced a structural bias that was neither acknowledged nor addressed in the Decision, despite its direct impact on reliability.

29. The Adjudicator did not interview everyone on the Team, and so the Decision extrapolated from a small subset of interviews and made sweeping findings about CD's conduct. This was methodologically unsound and legally improper. A decision of this magnitude required a complete, transparent, and balanced evidentiary foundation. That standard was not met.

30. Taken together, the reliance on undisclosed interviews, a potentially biased participant witness, second-hand accounts from others with parental conflicts of interest, and a limited pool of evidence, resulted in an evidentiary record that was neither reliable nor verifiable.

31. The Decision was built on a foundation that could not withstand scrutiny and could not reasonably support the findings made.

Findings and Sanctions Did Not Match

32. This ground of appeal had several inter-related aspects to it;

    a) the sanctions were disproportionate and unreasonable, and contrary to youth justice principles;

    b) the Adjudicator had failed to properly weigh systemic adult failures and policy violations;

    c) the Adjudicator had conflated group behaviour with individual responsibility; and

    d) the Adjudicator had imposed an unreasonable, punitive, and unsafe requirement to apologize to adults who had failed in their duties, and to peers who were equally involved.

33. Even if some findings in the Decision were supportable, the sanctions imposed did not align with the Adjudicator's own conclusions.

34. The Decision acknowledged a lack of supervision, multiple breaches of mandatory adult-led policies, including the Hockey Canada Dressing Room Policy, the Rule of Two, Safe Sport Standards, Minimum Attire Requirements, and the Duty to Report.

35. The Adjudicator even stated that "had the Dressing Room Policy been enforced, [CD] may have been deprived of the opportunity to engage in much of the conduct."

36. This was a direct admission that adult negligence created the unsafe environment, yet the sanctions placed full responsibility on CD (a minor) and overlooked the systemic failures of the adults and organization responsible for safety. This was inconsistent with safe sport principles, which required organizations—not children—to create safe environments.

37. The Decision acknowledged both that multiple players were involved, and that there was no ongoing risk, yet the sanctions on CD still were extremely severe.

38. A 24-month suspension for a 14-year-old was extreme and inconsistent with the principles that should guide youth sanctions, including:

    a) education;

    b) accountability;

    c) proportionality;

    d) rehabilitation and reintegration;

    e) age-appropriate consequences; and

    f) the requirement that youth sanctions must not be punitive beyond what is necessary.

39. The Adjudicator acknowledged how CD had admitted the misconduct, accepted responsibility, expressed remorse, did not act alone, and did not pose an ongoing threat.

40. Despite all this, the Adjudicator imposed one of the harshest sanctions available.

41. The Adjudicator found CD to be "highly credible," remorseful, forthcoming, and accepting of responsibility. Such findings were typically associated with reduced sanctions, not heightened ones. Imposing a severe penalty despite positive credibility and mitigation findings created an internal contradiction that rendered the Decision unreasonable.

42. According to *AB v. Hockey Canada,* SDRCC ST 25-0052 ("AB"), sanctions must logically reflect the actual findings and relative responsibility of the individual in question. Here, they do not.

43. The Decision acknowledged that several players engaged in the same behaviour, yet CD alone received severe sanctions. This violated any sense of fairness. When multiple youth engage in the same conduct, singling out one child for disproportionate punishment is arbitrary and discriminatory.

44. The apology requirement was unreasonable, unsafe, and inconsistent with safe sport and trauma-informed principles.

45. The sanctions force a minor to apologize to adults whose negligence contributed to the environment in which the conduct occurred, which was inappropriate and contrary to youth-protection standards. The sanctions also require CD to apologize to peers who were equally involved and never sanctioned, which is discriminatory and punitive.

46. Safe sport authorities reinforce these conclusions. The U.S. Center for SafeSport states that apologies must be voluntary and not coerced. This is because compelled apologies are not restorative, can be re-traumatizing, and can expose minors to retaliation or public shaming. The Canadian Safe Sport Standards emphasize power imbalance, adult responsibility, and trauma-informed practice—principles fundamentally incompatible with requiring a child to apologize to adults who had failed in their duties.

47. Requiring a written apology from a 14-year-old creates a serious confidentiality risk. Once produced, a written apology can be copied, circulated, or posted publicly, without CD's knowledge or consent. This can expose CD to reputational harm, online harassment, and long-term stigma. This is an unacceptable breach of privacy for a minor. Given the procedural unfairness, the systemic adult failures acknowledged in the Decision, the unreliable evidentiary foundation, and the inherent confidentiality risks, the apology requirement must be removed in its entirety.

48. The mismatch between the evidence, the findings, and the sanctions underscored the unreliability of the Decision. As confirmed both in Cardinal, and in *G v. Hockey Canada*, 2026 CASDRC 21 ("G"), when a decision is reached through a procedurally unfair process, the appropriate remedy is to set that decision aside.

III. Respondent's Submissions

49. Hockey Canada submitted that the Decision and sanctions were fair and reasonable in the circumstances. It said CD had not demonstrated the Adjudicator had made any findings of fact or credibility that amounted to an "error of law" under sections 8.5.2(b)(i) or (ii) of the Code. It asked that CD's Request be denied, and the Decision and sanctions be upheld.

Procedural Unfairness

50. Hockey Canada said the Adjudicator's findings of fact were derived from the Adjudicator's interviews with CD, CD's parents, a representative of the Association, and four other witnesses, as well as a review of written submissions and video recorded interviews with several Team players and/or their parents.

51. The Association's evidence included a screenshot of the threatening Snapchat message, as well as interviews that it had conducted with five players and/or their parents in the days after the allegations came to light. Four of these interviews were video recorded. One was not recorded owing to it being the first interview conducted, and the Association still figuring out the appropriate process. All interviews were accompanied by written transcripts and/or notes.

52. While the Association's video and transcript evidence was not directly provided to CD "the content of the allegations were provided to [CD], and [CD] was given opportunity to address the contents of the allegations."

53. The Adjudicator explained the rationale behind this approach; "The players who had come forward expressed a strong desire to remain anonymous, stating a fear of retribution. As the ITP takes a trauma-informed approach to its work, player anonymity is preserved in this Complaint."

54. One or more of the players the Association interviewed confirmed the following:

    a) CD had made the comment in the Team Snapchat;

    b) CD would expose himself, call the name of another player, and then say "my eyes are up here" if the player looked at his exposed penis;

    c) CD also encouraged another player (Minor Player A) when Minor Player A would expose himself and say the same things;

    d) CD spit on players in the shower; and

    e) CD aggressively threatened other players not to "rat" or to tell anyone what was happening in the dressing room.

55. All interviewed players indicated they avoided the shower whenever possible.

56. The interviewed players were reluctant to speak, and parents informed the Association that much of the information had come out over the course of several difficult conversations. Several had expressed fears about telling the truth. One player was unable to speak about the allegations at all, agreeing only to write down what had happened to him and declining to comment on anything he had observed happening to other players.

57. All players indicated CD had engaged in this conduct for most of the season, and that it had happened almost every time the players were in the dressing room.

58. CD admitted that he, alongside Minor Player A, would spit water on other players in the shower. He recalled someone asking Minor Player A to stop.

59. CD admitted that he, alongside Minor Player A "and a group of other kids," would urinate on each other in the shower, and this "happened almost every single time in the shower".

60. CD admitted that he had both observed and participated in the behaviour where he and Minor Player A would each expose their penis then call out to other players. He stated others participated as well.

61. CD admitted that he did send the Snapchat message. He stated that he was angry on behalf of his friend Minor Player A but denied trying to "scare" anyone.

62. Evidence provided by the remaining witnesses was generally consistent with this evidence.

63. Hockey Canada acknowledged that in making a decision, a decision maker would be making a fundamental error in relying on evidence that was not disclosed to an affected respondent (as per Kane).

64. However, that did not occur in our case. The Adjudicator's Decision made it clear that although the video recording and transcripts were not provided to CD he was provided with "the contents of the allegations" and was "given opportunity to address the contents of the allegations".

65. This was done because some players who had come forward expressed a strong desire to remain anonymous, stating a fear of retribution. As the ITP took a trauma-informed approach to its work, player anonymity was properly preserved in this context.

66. As noted in Kane:

> In any particular case, the requirements of natural justice will depend on the "circumstances of the case, the nature of the inquiry, the rules under which the Tribunal is acting, the subject-matter which is being dealt with, and so forth." (at p. 1113)

67. Accordingly, natural justice was served here.

68. Hockey Canada said that Baker stood for the proposition that the duty of procedural fairness is not unlimited. What it means is to be decided in the specific context of each case.

69. Here, the Adjudicator's Decision was rendered through an internal administrative process, applying the Policy and applicable codes of conduct, and in circumstances involving minor athletes who specifically expressed a fear of reprisal. In this specific context, natural justice was served.

70. Baker recognized that the duty of fairness "is flexible and variable, and depends on an appreciation of the context of the particular statute and the rights affected."

71. Several factors determine what is required by the common law duty of procedural fairness in a given set of circumstances, including:

    1) the nature of the decision being made and the process followed in making it;

    2) the nature of the "statutory scheme" and the "terms of the statute pursuant to which the body operates";

    3) the importance of the decision to the individual affected;

    4) the legitimate expectations of the person challenging the decision; and

    5) the choices of procedure made by the "agency" itself.

72. Hockey Canada did not contest that the Decision was and remains important to CD, but asserted that participation in organized sport is a privilege, not a right.

73. Further, CD did not derive his livelihood from hockey, nor was his residency or health status in jeopardy (as was the case in Baker). On the balance of the "Baker factors," the Decision was rendered through an internal administrative process and policy, which had the primary purpose of safeguarding Hockey Canada participants from maltreatment.

74. CD's legitimate procedural expectations were circumscribed by the Policy itself, which set out the processes that may be followed and the sanctions that may be applied. Nothing in the Decision suggests there was an inadequate level of procedural fairness afforded, or showed a disconnect between the findings and the sanctions ultimately applied.

75. Hockey Canada accepted that Cardinal established that the right to a fair hearing "must be regarded as an independent, unqualified right which finds its essential justification in the sense of procedural justice which any person affected by an administrative decision is entitled to have."

76. However, Cardinal involved the administrative segregation of prisoners without a hearing or independent inquiry into their alleged involvement in a hostage-taking incident. Those facts bear no resemblance to the present matter.

77. Although CD asserted he did not receive full disclosure of all witness evidence, he was afforded full participation, in writing and through an oral interview, in the investigation of the allegations against him.

78. CD also relied on *G.* as authority for the argument that any breach of fairness invalidates the entire decision. Hockey Canada said that case had no factual resemblance to the present case.

79. In *G.*, the claimant was a hockey coach and father of minor players. He did not participate at all in the investigation or adjudication process, despite having been notified by the ITP that a complaint had been made against him and that the process was ongoing. G. was ultimately suspended from participation in Hockey Canada activities for a period of over two years, which included being banned from spectating in arenas when his children were involved in practices or games.

80. Arbitrator Wilson concluded that the ITP notifications did not sufficiently inform G. of the allegations against him, nor the seriousness of the sanctions he could face. Consequently, G did not receive "effective notice" of the proceeding, and so sanctioning in the absence of his participation was deemed procedurally unfair.

81. Rather than dismiss the matter altogether, however, Arbitrator Wilson directed that the complaint be sent back to Hockey Canada for determination of whether a new investigative and adjudicative process should be engaged.

82. Hockey Canada said that in the present case, it was not alleged CD was unaware of the allegations against him or was prevented from participating in the process.

83. Hockey Canada asserted that CD's challenge to the use of "anonymous and aggregated evidence" had previously been considered and rejected by the Safeguarding Tribunal.

84. It said that in *Anonymous v. Hockey Canada*, 2025 CASDRC 35 ("Anonymous"), Arbitrator Bennett specifically declined to find that the use of anonymous witness evidence was procedurally unfair.

85. In other very recent Hockey Canada decisions evidence from anonymous witnesses was also accepted. These included *Allen v. Hockey Canada,* 2026 CASDRC 7 ("Allen"), *Wingfield v. Hockey Canada*, 2025 CASDRC 42, *Danton v. Hockey Canada,* 2025 CASDRC 39 ("Danton"), and *Armstrong v. Hockey Canada*, 2025 CASDRC 32.

Unreliable and Biased Evidence

86. Hockey Canada denied that the "evidentiary foundation" for the Decision was limited, incomplete, or unreliable. The Adjudicator did not rely on any single source of evidence. Rather, she acted on the basis of all evidence received.

87. The Decision demonstrated how the Adjudicator had considered the credibility and reliability of the evidence.

88. The Adjudicator had stated how Witness 1 was "motivated to present his actions in a positive light" and that other witnesses often were not direct witnesses to the conduct.

89. When weighing the evidence of Witness 2, she had noted that "Witness 2 demonstrated a high degree of sympathy for the affected players, which indicated some bias against the [CD]". Given this and other limitations, Witness 2's evidence was "weighted accordingly."

90. As related to Witness 3, she had observed that this individual "had no apparent motive to deceive or any apparent biases", but that their evidence was "limited."

91. She found that "Witness 4 did not appear to have any bias against the [Claimant] and did not have any apparent motivation to deceive."

92. According to the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 ("Vavilov"), "reasons are the means by which the decision maker communicates the rationale for its decision" and any inquiry into the reasonableness of a decision begins by "examining the reasons provided with 'respectful attention' and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion".

93. Here, the summaries of evidence and reasons set out in the Decision clearly tracked the Adjudicator's procedural choices, her assessment of the evidence, the connection between the evidence and her factual findings and, subsequently, the sanctions applied.

94. In each case the Adjudicator went well beyond what was reasonably necessary in her assessment of witness credibility, making specific inquiries into possible biases or motivations to withhold the whole truth.

95. In assessing the allegations before her, the Adjudicator explicitly noted and applied the applicable standard of proof (the balance of probabilities).

96. The Adjudicator recognized that "a finding of maltreatment is a serious matter," and accepted that "[t]he standard for reaching such a finding is therefore equally high, meaning that the evidence must be sufficient for me to establish on a balance of probabilities that the allegations have been substantiated."

97. In considering the relevant evidence, the Adjudicator had recognized the need to assess credibility, properly cited and applied the applicable legal tests set out in *Faryna v. Chorny*, [1952] 2 DLR 354 ("Faryna") and *R v. Taylor*, 2010 ONCJ 396 (CanLII) ("Taylor"), and properly considered both the honesty of the witness and the reliability of their evidence.

98. The Association advanced the Complaint in accordance with its duty to report. The Adjudicator described its representative as “professional” and “credible”, and the evidence the Association produced as “generally reliable to the extent it included firsthand accounts from the players who were directly subject to or witness to the alleged conduct.”

99. Hockey Canada said the Adjudicator assessed the credibility of all witnesses, finding on the whole that all were reliable. However, where witnesses did not directly observe conduct, the Adjudicator acknowledged that this affected the weight that could be afforded to their evidence.

100. In summary, the Adjudicator found as facts that:

    a) CD, a leader on the Team, repeatedly engaged in physically and sexually inappropriate behaviour in the dressing room, that was unwelcome by the majority of his teammates; and

    b) CD sent a message to the Team Snapchat including the words “someone finna die” and then naming two players.

Findings and Sanctions Did Not Match

101. Hockey Canada took issue with CD’s allegation that the sanctions imposed did not align with the Adjudicator’s own conclusions, because she had imposed a “severe” sanction for behaviour that involved multiple players, where there was a lack of supervision, and where there was no ongoing risk.

102. Based on the findings of fact, the Adjudicator properly found that CD had violated the Association’s Code of Conduct and Social Media Policy, the Hockey Canada Dressing Room Policy, and the UCCMS.

103. The Adjudicator properly held the conduct – specifically the “my eyes are up here” comments, in combination with CD laughing at the impacted players – met the definition of Psychological Maltreatment under Section 5.2 of the UCCMS, as verbal conduct that was objectively demeaning, intimidating, insulting, or humiliating.

104. The Adjudicator properly held this also constituted Sexual Maltreatment for the purposes of the UCCMS, as it was a joke of a sexual nature, satisfying the definition of sexual harassment.

105. The Adjudicator properly held that despite the player relationships being peer-to-peer, there was a Power Imbalance (as defined in the UCCMS). This was because CD occupied a leadership position on the Team due to his size, age, personality, and skill. Evidence that other players felt too afraid or intimidated to address CD’s actions in the dressing room, was also indicative of this Power Imbalance.

106. The Adjudicator properly held that in addition to constituting a violation of policy, CD's Snapchat comments were perceived as a threat, and so constituted an additional instance of Psychological Maltreatment under the UCCMS.

107. Hockey Canada said the Policy established a presumptive sanction of permanent ineligibility where there was a finding of Sexual Maltreatment involving a minor or minors. This was the case even where a respondent was a minor.

108. The Adjudicator properly undertook an assessment of Section 5 (paragraph 42) of the Policy, which outlined the factors relevant to determining appropriate sanctions. She considered each of the eleven individual factors, applying them to the relevant factual findings.

109. The Adjudicator considered that:

a) the violations were "widespread and serious" but application of the presumptive sanction of permanent ineligibility would be "disproportionate to the violation";

b) CD was young enough that he may not have fully considered his actions or understood them to be wrong in the context of the dressing room conduct, but he was old enough to have known that much of his conduct, including posting a death threat in the Team Snapchat, was unacceptable;

c) there were aggravating factors, including that:

   i. CD occupied a leadership position on the Team;

   ii. the inappropriate dressing room behaviour spanned most of the season and constituted a "clear pattern of inappropriate behaviour;" and

   iii. the negative impact on the Team, the players, the parents, and the community;

d) there were mitigating factors, including that:

   i. CD had admitted the conduct and demonstrated a "willingness to be accountable;"

   ii. CD was not the only player engaged in much of the conduct;

   iii. CD was not perceived to pose an ongoing threat; and

   iv. the coaching staff had failed to properly supervise the dressing room which, while not absolving CD of responsibility, may have permitted the opportunity to engage in much of the misconduct he was found to have committed.

110. Taking all this into account, the Adjudicator declined to apply the presumptive sanction of permanent ineligibility. She imposed a significantly lesser sanction, being a 24-month suspension (accounting for time served under an imposed interim suspension), together with a written warning, education, and apology requirements.

111. CD admitted the behaviour supporting this finding, which was also clearly sustained by the evidence of the other witnesses. It was open to the Adjudicator to apply a sanction demonstrably more "severe" than the time-limited suspension imposed. That she did not do so demonstrated that she appropriately turned her mind to the applicable mitigating factors and the accompanying Policy requirement that any sanction be proportionate and reasonable. Her Decision was express on this;

> *88…*
>
> e) *Whether the Respondent poses an ongoing and/or potential threat to the safety of others* – There was a stated concern that the Respondent poses an ongoing threat to the safety of the other players, particularly given that this conduct went unchecked for such a long period of time. Several parents expressed concern about their child playing hockey with or attending school with the Respondent. I have some concerns that the Respondent did not understand this type of behaviour was wrong prior to the Complaint. However, it was apparent to me that the Respondent now understands that this type of behaviour is unacceptable, and I do not believe that he poses an ongoing threat.
>
> f) *The Respondent's voluntary admission of the offence, acceptance of responsibility and/or cooperation in the disciplinary process* – The Respondent admitted his conduct and stated that he understood his behaviour had made his teammates uncomfortable. The Respondent admitted to having participated in conduct that was beyond the scope of the allegations originally levied against him. His openness and willingness to be accountable for his actions is a mitigating factor. The Respondent's parents expressed that they felt the Respondent was being unfairly maligned but they were highly cooperative with the process…
>
> k) *Other mitigating and aggravating circumstances* – The evidence in this case is that the Respondent was not the only player engaged in much of the alleged dressing room conduct, and that several players laughed and went along with the Respondent on many occasions. That the Respondent believed he was part of a group and was not acting as the sole perpetrator in spitting on teammates, urinating on teammates, and the "eyes up here" conduct is a mitigating factor in sanctioning for those activities.
>
> In addition, the evidence in this case is that the coaching staff failed to properly supervise the dressing room in accordance with the Hockey Canada Dressing Room Policy. That policy exists to prevent and address situations like these. While the lack of supervision does not absolve the Respondent

> from his responsibility, had the Dressing Room Policy been enforced, the Respondent may have been deprived of the opportunity to engage in much of the conduct he was found to have committed.
>
> 89. In this matter, the severity of the violation, the pattern of inappropriate behaviour, the Power Imbalance, and the impact on the players and perceived impact on Hockey Canada call for more stringent sanctions. However, the admission of his conduct, the acceptance of responsibility, the lack of ongoing threat, the lack of dressing room supervision, and the fact that he did not act alone in some of the dressing room conduct are mitigating factors…

112. Sanctions are designed to take into account the factors specified in the Policy, and to strike a balance between the determined aggravating and mitigating factors. That the Claimant considered the sanctions too harsh did not on its own mean the sanctions were, in fact and law, too harsh.

113. Hockey Canada noted the approach of Arbitrator Skratek in *Greco v. Hockey Canada*, SDRCC 24-0716. There, the adjudicator in the underlying matter had appropriately weighed the factors in making his determination on the sanctions. As a result, the sanctions fell within a range of possible, acceptable outcomes, and were justified. Unless a claimant could demonstrate otherwise, a reviewing tribunal ought not to interfere.

114. Hockey Canada acknowledged that youth sanctions must not be punitive beyond what is necessary, but said the sanctions imposed here were not merely or disproportionately punitive. Rather, they were clearly and collectively designed to recognize the severity of the violations and to hold CD appropriately accountable, while also serving rehabilitative purposes.

115. Hockey Canada said that CD's position ignored that the Policy did not establish a separate process for sanctioning youth respondents, and did not direct an adjudicator to apply a different scheme on the basis that the respondent being sanctioned is a youth.

116. Paragraph 42 of the Policy set out what must properly be considered in sanctioning. Some of the factors there were named by CD as principles guiding youth sanctions (such as respective age of the individuals involved, and the nature of the relationship(s), including whether there is a Power Imbalance). Paragraph 43 also directed that "Any sanction imposed must be proportionate and reasonable".

117. Hockey Canada noted that in *A.B.* a sanction of permanent ineligibility was replaced by a minimum three-year suspension, with an additional requirement that the Claimant satisfy certain conditions prior to reinstatement.

118. This had followed the determination that the lifelong ban had failed to appropriately consider all relevant mitigating factors, including how the minor

claimant was enrolled in weekly therapy and had demonstrated a reasonable prospect of future rehabilitation.

119. Hockey Canada said that *A.B.* did not establish that the sanctions here were disproportionate and/or unreasonable. Rather, the award in *A.B.* and the Decision are logically consistent. In both cases and due to proper application of a mitigating factor, the presumptive sanction was not applied.

120. Hockey Canada disputed that the apologies sanction was unreasonable, unsafe, or inconsistent with Safe Sport and trauma-informed principles.

121. The direction to provide apologies was consistent with the Adjudicator's authority under the Policy to impose "other discretionary sanctions…as deemed necessary or appropriate" and was intended to have a restorative and educational purpose, given the significant impacts of CD's behaviour on the Team.

122. Hockey Canada disputed that accountability on the part of CD implied that Team players or coaches bore no culpability for similar misconduct or other policy failings. The fact was that CD was the subject of this specific complaint and adjudication process, and not those other individuals.

123. Hockey Canada disputed that any guidance issued by the U.S. Center for SafeSport would be of application here. Hockey Canada was not subject to that organization's jurisdiction, nor was this process conducted under any of its policies.

124. Hockey Canada argued that, had CD genuinely been concerned about the risk of confidentiality breaches or public exposure resulting from a written apology, it had been open to him to address such concerns with the ITP and/or within the Team or Association framework. There was no indication CD had proposed to provide copies in a closed-door environment, after which they could be collected and destroyed, nor took any other steps to explore how any perceived risk could be addressed.

125. Hockey Canada argued that CD's actual concern was and is with the perceived unfairness of the sanction, rather than the belief that it was "unsafe".

IV. Analysis

Standard of Review of Decision

126. According to the Supreme Court of Canada in Vavilov:

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.

127. According to Arbitrator Peterson in *Barch v. Hockey Canada*, SDRCC 23-0680, for the Decision to be reasonable does not mean I must agree with it, but rather, the question is whether the outcome and reasons outlined in it are justifiable in the circumstances. An otherwise reasonable outcome cannot stand if reached on an improper basis. The onus here lies on CD to show that any shortcomings or flaws are “sufficiently central or significant” to render the Decision unreasonable.

128. According to Arbitrator Roberts in *Bui v. Tennis Canada*, SDRCC 20-0457, the Adjudicator must have “considered the facts and governing scheme relevant to the decision as well as any past practices.” As such, CD must satisfy me there are “serious shortcomings” in the Decision.

129. 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 CD is dissatisfied.

Review of Decision

130. In Kane, the Supreme Court of Canada spoke of the requirement for procedural fairness:

> 1. It is the duty of the courts to attribute a large measure of autonomy of decision to a tribunal, such as a Board of Governors of a University, sitting in appeal, pursuant to legislative mandate.
>
> 2. As a constituent of the autonomy it enjoys, the tribunal must observe natural justice. To abrogate the rules of natural justice, express language or necessary implication must be found in the statutory instrument.
>
> 3. A high standard of justice is required when the right to continue in one's profession or employment is at ' stake. A disciplinary suspension can have grave and permanent consequences upon a professional career.
>
> 4. The tribunal must listen fairly to both sides giving the parties to the controversy a fair opportunity for correcting or contradicting any relevant statement prejudicial to their views.
>
> 5. Unless expressly or by necessary implication empowered to act ex parte, an appellate authority must not hold private interviews with witnesses or, a fortiori, hear evidence in the absence of a party whose conduct is impugned and under scrutiny.

> 6. The Court will not inquire whether the evidence did work to the prejudice of one of the parties; it is sufficient if it might have done so. (from headnote)

131. Also in Kane, the Supreme Court of Canada spoke of the need for flexibility in terms of what procedural fairness means:

> In any particular case, the requirements of natural justice will depend on the "circumstances of the case, the nature of the inquiry, the rules under which the Tribunal is acting, the subject-matter which is being dealt with, and so forth."(at p. 1113)

132. The Supreme Court of Canada also addressed this need for flexibility in procedural fairness in Baker:

> The duty of procedural fairness is flexible and variable and depends on an appreciation of the context of the particular statute and the rights affected. The purpose of the participatory rights contained within it is to ensure that administrative decisions are made using a fair and open procedure, appropriate to the decision being made and its statutory, institutional and social context, with an opportunity for those affected to put forward their views and evidence fully and have them considered by the decision-maker. Several factors are relevant to determining the content of the duty of fairness: (1) the nature of the decision being made and process followed in making it; (2) the nature of the statutory scheme and the terms of the statute pursuant to which the body operates; (3) the importance of the decision to the individual or individuals affected; (4) the legitimate expectations of the person challenging the decision; (5) the choices of procedure made by the agency itself. This list is not exhaustive. (from headnote)

133. I fully accept that in making a decision, a decision maker would be making a fundamental error in relying on evidence that was not disclosed to an affected respondent or by otherwise not allowing procedural fairness.

134. That did not occur here. The Adjudicator provided CD with "the contents of the allegations" and he was "given opportunity to address the contents of the allegations."

135. The Adjudicator explained how some players expressed a strong desire to remain anonymous, expressing fear of retribution. That was a valid reason for not providing the specific words of each identified individual witness. However, the essence of what these witnesses were saying was provided to CD, who had the full opportunity to respond and put forward his position on what occurred. In the context of this process, in this case, that was reasonable.

136. We do not have a situation where there was clear acrimony between CD and certain specific individuals, such that the evidence of such individuals (against CD) should have been considered with a degree of skepticism, and been open to challenge.

137. We do not have a situation where objectively the Adjudicator should have interviewed certain other identified witnesses because they had information which plainly was relevant to the matters at hand, that could not be obtained from others.

138. We do not have a situation where there were significant discrepancies in what witnesses were saying, and findings of credibility were seriously at play. Indeed, we have CD himself acknowledging the substance of the allegations.

139. To the extent necessary, the Adjudicator recognized the need to assess credibility and properly cited and applied the applicable legal tests set out in Faryna and Taylor;

> 13…In assessing the credibility of each party, I rely on the following test outlined in Fayna (sic) v. Chorny, [1952] 2 DLR 354 by the British Columbia Court of Appeal:
>
> > The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanor of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of the witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions. Only thus can a Court satisfactorily appraise the testimony of quick-minded, experienced and confident witnesses, and those of shrewd persons adept in the half-lie and of long and successful experience in combining skilful exaggeration with partial suppression of the truth.
>
> 14. The Ontario Court of Justice addressed the assessment of credibility in R v. Taylor, 2010 ONCJ 396 (CanLII) at paragraph 58 as follows:
>
> > [58] “Credibility” is omnibus shorthand for a broad range of factors bearing on an assessment of the testimonial trustworthiness of witnesses. It has two generally distinct aspects or dimensions: honesty (sometimes, if confusingly, itself called credibility) and reliability. The first, honesty, speaks to a witness’ sincerity, candour and truthfulness in the witness box. The second, reliability, refers to a complex admixture of cognitive, psychological, developmental, cultural, temporal, and environmental factors that impact on the accuracy of a witness’ perception, memory and, ultimately, testimonial recitation. The evidence of even an honest witness may still be of dubious reliability.
>
> 15. In assessing credibility, one is required to consider both the honesty of the party and the reliability of their evidence.

140. The Decision was rendered as the concluding event in a specific administrative process, which to the knowledge of all concerned, granted considerable

discretion as to how things were to unfold. This was to ensure a situation-specific, fair and expeditious conclusion to matters of importance to those involved.

141. In *Allen*, Arbitrator Wilson said "An Adjudicator is not tasked with mapping every inch of the forest to find the path." Similarly, in *Danton*, Arbitrator Blais said "Courts have held that investigators have 'wide latitude' and are not required to turn over every stone."

142. The Policy established a presumptive sanction of permanent ineligibility where there was a finding of Sexual Maltreatment involving a minor or minors. This was the case even where (like here) the respondent is a minor.

143. The Adjudicator expressly addressed the factors required to be considered by the Policy, including mitigating factors, and imposed sanctions which were significant but far less than the presumptive penalty.

144. CD's misconduct was serious, and he was sanctioned seriously. The serious misconduct of others does not exonerate CD. It does however provide a mitigating context for what CD did. I find nothing inappropriate about the sanctions he received, which in context were within a range of reasonable outcomes.

145. In *A.B.,* a minimum suspension of three years coupled with the added requirement that the Claimant had to satisfy certain conditions prior to reinstatement, was substituted for a permanent suspension. The individual had demonstrated a reasonable prospect of future rehabilitation and so there remained the possibility that future participation in the sport would be a reasonable conclusion consistent with the Policy's requirements. This was a relevant mitigating factor which had not properly been considered.

146. That is not at all the same as here, as the Adjudicator already considered all applicable mitigating factors and so imposed a reduced 24-month (not permanent) suspension.

147. Requiring someone to apologize to others who have misconducted themselves is not unreasonable. The question is not whether these other persons are blameless, but rather, whether the person subject to the requirement has done something for which it is appropriate to apologize. Here, it is appropriate, and serves as a recognition of wrongdoing by that person.

V. Conclusions and Order

148. The Decision withstands a "robust" reasonableness review. It is transparent, intelligible, justified on its face, and falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and the applicable legal requirements.

149. To the extent that there are any shortcomings or flaws, they are not serious, or sufficiently central or significant to render the Decision unreasonable.

150. Accordingly, I dismiss the Request and deny the Appeal.

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

Signed in Winnipeg, Manitoba, this 7th day of August, 2026.

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Jeffrey J. Palamar, Arbitrator