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

Citation: Minor A v. Hockey Canada, 2026 CASDRC 40

NO. SDRCC ST 26-0079
DATE OF DECISION: 2026-08-30

(SAFEGUARDING TRIBUNAL)

Minor A
(Claimant)

AND

Hockey Canada (HC)
(Respondent)

AND

Minor B
(Affected Party)

DECISION WITH REASONS

COUNSEL:

For the Claimant:	Torrey Clarke Kevin Marshall
For the Respondent:	Adam Klevinas Cristy Cooper

ARBITRATOR: Janice D. Johnston

Background

1. On June 5, 2026, the Claimant requested a review, appeal or challenge of a decision made by a Sport Organization or its designated third party before the SDRCC's Safeguarding Tribunal.

2. The Respondent, Hockey Canada, is the national governing body for amateur hockey in Canada. Hockey Canada oversees the management and structure of hockey programs in Canada from entry-level to high-performance teams and competitions. At the time of the incidents relevant to this appeal, the Claimant, also referred to as Minor A, was a player on a U15 Rec Team 1 (the "Team") with the British Columbia Minor Hockey Association (the "Association"). On November 2, 2025, a teammate, also referred to as Minor B, submitted a complaint about Minor A to Hockey Canada's Independent Third Party (the "ITP") containing a number of allegations against Minor A with regard to his treatment of Minor B.

3. The ITP accepted jurisdiction over the complaint in an order issued on November 7, 2025 (the "Jurisdiction Order"). The Jurisdiction Order determined that the complaint would proceed under Process #1 in Hockey Canada's Maltreatment Complaint Management Policy (the "Policy").

4. The Jurisdiction Order provided Minor A with an opportunity to respond to the allegations. On November 18, 2025, counsel for Minor A provided a written response to the allegations set out in the Jurisdiction Order. Minor B provided a written reply on November 24, 2025. On November 22, 2025, the ITP appointed Adjudicator Scott McAnsh as the Adjudicative Chair for the process. On November 25, 2025, he issued a procedural order advising the parties that he would proceed with interviews.

5. The allegations against Minor A were set out by the Adjudicator in his decision. They were that:

    (a) On September 28, 2025, at a recreation evaluation, Minor A belittled Minor B on the ice, telling him he had to work harder, he wasn't playing 'right' and generally telling him what to do.

(b) On November 1, 2025, Minor A told Minor B: “why don’t you shut the f*ck up!”, when Minor B had asked questions to himself, out loud, about a decision made by his coaches.

(c) On October 15, 2025, Minor A physically attacked Minor B at a practice.

(d) On October 25, 2025, at a team-building dinner, Minor A took images of Minor B on his phone, drew penises on them aimed at Minor B’s mouth, gloated and boasted about it at the dinner out loud, then proceeded to share one such image on Snapchat to the Team’s group chat.

6. At the outset of his decision, the Adjudicator dismissed the November 1, 2025 allegation, stating that he did not find that the November 1, 2025 allegation, even if proven, could amount to a violation. He concluded that comments like that between young men are not uncommon and that the process is not in place to police that behaviour. He was left therefore with three main incidents for investigation.

7. The Adjudicator interviewed a total of seven witnesses. After interviewing four witnesses, he prepared a Statement of Facts for Minor A, which was sent to Minor A on January 13, 2026. Minor A was interviewed, with his counsel present, on February 6, 2026.

8. The Adjudicator, in assessing the credibility of the seven individuals he interviewed, applied the following test summarized by Justice Green in *R. v. Taylor*, 2010 ONCJ 396 (CanLII), at paragraph 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.

9. In his decision, the Adjudicator indicated that in coming to his conclusions, he must look at the honesty and reliability of the evidence provided by each witness. In his decision, he then set out his findings with regard to the credibility of each of the witnesses he interviewed. He found all of the witnesses other than Minor A to be

largely credible, credible, very credible or not entirely credible. In assessing the credibility of Minor A, he stated:

> Minor A was not credible. The accounts Minor A provided of the October 15, 2025, fight did not align with any of the other evidence that I heard. For instance, Minor A described skating away from the altercation and then coming back because Minor B was punching the other teammates who came to separate the parties. No other witness described anything like that. Minor A's evidence on that point seemed designed to provide a plausible explanation for Minor A punching Minor B. Similarly, Minor A's description of the photo on October 15, 2025, where they describe a teammate as entirely responsible for the photo alteration and posting, while Minor A tried to stop this teammate, did not match what I heard from others. That evidence also seems designed to put Minor A in the best light possible. While this is far from determinative of credibility, I also found that Minor A looked away frequently while answering questions and had a demeanor that did not appear credible. While this may be contributable to Minor A's youth, it is an additional reason that I do not find Minor A credible. For those reasons I do not rely on the evidence of Minor A.

10. With those credibility assessments in mind, he then went on to set out and review the evidence in the case. I am not going to set out all of the evidence which took up 10 pages in the decision. Suffice it to say that I am satisfied that the interviews conducted were very thorough and thoughtful and that, based on the evidence given in the interviews, the Adjudicator came to some entirely reasonable and valid conclusions. He considered all of the evidence before him which was material to the decision he came to.

11. There were three separate allegations in the complaint (as he dismissed one of the four original allegations). The first occurred on September 28, 2025, the second on October 15, 2025, and the third on October 25, 2025. With regard to the incident on September 28, the Adjudicator concluded simply that Minor A and Minor B had unkind words for each other during a game on that day.

12. In terms of the October 15th incident, he concluded that Minor A and Minor B got into a pushing match near the beginning of the October 15, 2025 practice. Minor A escalated that confrontation to punching Minor B and Minor B went into a defensive posture at that point. He found that Minor A threw at least three punches at Minor B before coaches intervened.

13. The October 25 allegation of misconduct took place at a team dinner. The Adjudicator found that Minor A took a photo of Minor B with the intention of adding a penis to the photo. That penis was drawn on by a teammate. Minor A posted the photo to Snapchat and did not delete it until directed to do so. The photo was deleted the next day.

14. In this case, the Adjudicator was appointed to make a determination as to whether a violation (or violations) of the applicable policies had in fact occurred and if so, the sanctions to be imposed. On May 5, 2026, the Adjudicator released his written decision (the "Decision"). In the Decision, the Adjudicator found that Minor A had violated the Policy and that his conduct was a breach of:

    (a) The Association Code of Conduct (the "Association Code");
    (b) The British Columbia Amateur Hockey Association ("BC Hockey") Maltreatment, Bullying and Harassment Protection and Prevention Policy (the "Harassment Policy");
    (c) The BC Hockey Social Media Policy (the "Social Media Policy"); and
    (d) The British Columbia Universal Code of Conduct (the "BC UCC").

15. As a result of his findings, the Adjudicator concluded that a three-month suspension from hockey programming was an appropriate sanction. He suspended Minor A from all Hockey Canada-sanctioned programming from September 1, 2026, through to November 30, 2026. He prohibited Minor A from participation, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of Hockey Canada, including any try-out sessions. The suspension did not apply to spectating Hockey Canada-sanctioned events.

16. The 2025 Canadian Sport Dispute Resolution Code ("Code") provides as follows:

8.5.2 Review of a Decision on Violation or Sanction Pursuant to the SO Safe Sport Policies

(a) The Safeguarding Panel shall not conduct a hearing *de novo* and the hearing is not a redetermination of the investigation. The findings of fact and credibility made in the investigation report shall be accepted by the Safeguarding Panel, except where the findings are successfully challenged by a Party in accordance with Subsection 8.5.2(b).

(b) A review of the findings of fact or credibility by the investigator or the decision that a Party did or did not violate the UCCMS may only be made on the following grounds:

(i) Error of law that has a material impact on the findings and/or decisions made. For greater clarity, an error of law includes:

(1) a misinterpretation of a section of the UCCMS;

(2) a misapplication of an applicable principle of general law;

(3) acting without any evidence;

(4) acting on a view of the facts which could not reasonably be entertained; or

(5) failing to consider all the evidence that is material to the decision being challenged.

(ii) Substantive failure to observe the principles of procedural fairness and natural justice in the investigative process and in reaching a determination on whether there was a violation of the UCCMS, or in reaching a conclusion on the appropriate sanction (if any). The extent of natural justice rights afforded to a Party will be less than that afforded in criminal proceedings and may vary depending on the nature of the alleged violation and sanction that may apply.

(iii) Fresh evidence where such evidence:

(1) could not, with the exercise of due diligence, have been discovered and presented during the investigation and prior to the decision being made;

(2) is relevant to a material issue arising from the allegations;

(3) is credible in that it is reasonably capable of belief; and

(4) has high probative value, in the sense that, if believed, it could, on its own, or when considered with other evidence, have led to a different conclusion on the material issue.

(iv) For greater clarity, fresh evidence in this section may not be admitted where the evidence was available with the exercise of due diligence and, absent compelling justification, was not produced during the investigation, or where the party did not participate in the investigation.

(c) When assessing a review of a finding of violation, the Safeguarding Panel shall apply the standard of reasonableness.

(d) When assessing a review of a sanction imposed, the Safeguarding Panel shall determine whether it is unreasonable having regard to the purposes of sanction under UCCMS Sections 7.3 and 7.4.

(e) An award of the Safeguarding Panel on a violation or sanction under this Section 8.5.2 shall be final and binding and shall not be appealable to the Appeal Tribunal.

17. The parties agree that the applicable standard of review on this appeal is reasonableness and that the appeal should proceed in the fashion of a judicial review. Counsel for the Claimant asserts that:

> 6. Administrative decisions are subject to a reasonableness review unless expressly indicated otherwise in legislation. This requires a robust form of review which necessitates a consideration of the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified.
>
> 7. The Adjudicator must have "considered the facts and governing scheme relevant to the decision as well as any past practice."
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> 8. Reasonableness is the appropriate standard by which to conduct this review.
>
> 9. In order to conclude that a decision is unreasonable, one must be convinced that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency."

18. Counsel for the Respondent argued:

> 27. Hockey Canada agrees with the Claimant that the standard of review applicable to the present Request is reasonableness, as dictated by Subsections 8.5.2(c) and (d) of the *Code*.
>
> 28. The overarching application of the standard of reasonableness in a review by a Safeguarding Panel has been repeatedly confirmed in SDRCC jurisprudence. For example, in *Danton v. Hockey Canada*, Arbitrator Blais held that "*As indicated in the Code, the Tribunal shall apply the standard of reasonableness for this Appeal … This is consistent with the jurisprudence of the SDRCC Tribunal under the previous Code, where appeals of ITP and/or adjudicator decisions proceeded as judicial reviews, applying a reasonableness standard rather than correctness*". In the context of a Request challenging both the finding of a Violation and the related sanction, it was further confirmed that "*the Tribunal must apply the standard of reasonableness as prescribed by the Code and jurisprudence.*"
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> 29. SDRCC Tribunals have also held that, where an appeal is in the nature of a judicial review, it should proceed as a review of the Decision rendered by the Adjudicator to ensure that it is a fair, reasonable and lawful decision. The guidance provided by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov* is that a reasonableness review is a "*robust form of review*" and that, when conducting a reasonableness review, "*a court must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified*". In addition, "*a court conducting a*

> *reasonableness review must focus on the decision the administrative decision maker actually made, including the justification offered for it, and not on the conclusion the court itself would have reached in the administrative decision maker's place.*"
>
> 30. As such, the Claimant is required to satisfy the present Arbitrator that there are "*serious shortcomings*" in the Adjudicator's Decision. Stated differently, *"[u]nder the precedents of the SDRCC Tribunal, the burden lies on the Claimant to show that shortcomings are sufficiently central or significant to render the decision unreasonable*."
>
> 31. For the reasons described herein, Hockey Canada submits that the Claimant has not, and cannot, satisfy his burden of showing that the Decision, including the duration of the sanction, was tainted by any serious shortcoming that would warrant the present Arbitrator's intervention.

19. I agree with the submissions made by both counsel with regard to the applicable standard of review in this case. Accordingly, it is my job to assess the Decision reached by the Adjudicator to determine whether, in all the circumstances, it is reasonable. For example, if I conclude that the Decision is justifiable and justified in the circumstances, falls within a range of possible, acceptable outcomes and that the Decision as a whole is transparent, intelligible and justified, I will conclude that the Decision was reasonable. It is not my role to substitute the decision I might have come to for that reached by the Adjudicator, unless I conclude that the decision of the Adjudicator was unreasonable.

20. In addition, the Code makes it very clear that the proceeding before me is not a hearing *de novo* and that I am to accept the findings of fact and credibility unless they are successfully challenged (see subsection 8.5.2(a)). That subsection goes on to state that a challenge, to be successful in accordance with subsection 8.5.2(b), must prove that the investigator or decision maker: committed an error of law that has a material impact on the findings and/or decisions made; or, engaged in a substantive failure to observe the principles of procedural fairness and natural justice in the investigative process and in reaching a determination on whether there was a violation of the UCCMS, or in reaching a conclusion on the appropriate sanction (if any). Subsection 8.5.2(b) also provides for the introduction of fresh evidence. In

order for fresh evidence to be considered, it must meet all four of the clear criteria which are set out above.

21. The Claimant's counsel does not in his submissions assert that the Adjudicator engaged in a substantive failure to observe the principles of procedural fairness and natural justice in the investigative process and in reaching a determination on whether there was a violation of the UCCMS, or in reaching a conclusion on the appropriate sanction (if any). He also does not assert that the Adjudicator committed an error of law that had a material impact on the findings and/or decisions made. He does assert that the Adjudicator made an error in assessing the credibility of Minor A which resulted in a flawed analysis and a disproportionate penalty. I will address this latter point in detail below.

Submissions of the parties

22. I am going to summarize the submissions made by counsel and do not intend to set out all of the detailed and lengthy submissions made in this case. I have carefully read and considered them and will address the ones I feel are relevant. I will deal with the submissions and set out my conclusions as I go along.

23. The primary thrust of the submissions made by counsel for Minor A focused on the fact that Minor A had a disability, and the failure of the Adjudicator to consider the disability as required by the Policy, paragraph 42(h), which states that:

> 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:
>
> […]
> h. Circumstances specific to the Respondent being sanctioned (e.g. addiction; disability; illness)

Counsel asserts that the Adjudicator exercised his discretion with an incomplete analysis of the circumstances, resulting in a sanction that was not reasonable and an analysis that was incomplete and incorrect.

24. Counsel for Minor A argued that Minor A has been diagnosed with severe anxiety, ADHD, Autism Spectrum Disorder, and has learning disabilities (the “Disability”). He points out that Minor A’s diagnoses have been confirmed by his treating pediatrician, occupational therapist and staff from his middle school. Minor A has been receiving professional help and medication for the management of the Disability. Prior to the adjudication, Minor A’s mother provided documentation that informed the Adjudicator about the Disability and requested that the Adjudicator consider the Disability in the context of his decision. Despite being directly informed about the Disability, counsel asserted that the Adjudicator failed to consider the Disability at any point when determining the appropriate sanction to be applied and when determining the credibility of Minor A, contrary to paragraph 42(h) of the Policy.

25. Counsel for Minor A asserted that the Disability was directly relevant to the conduct at issue. In particular, he stated that the Disability impacted Minor A’s ability to understand social boundaries and regulate his emotions during the physical confrontation and fully appreciate the seriousness of the Snapchat incident. He also suggested that Minor A’s denial of responsibility and inability to acknowledge and address his conduct was caused in part by his Disability.

26. I have carefully reviewed the letters filed by counsel that were written by Minor A’s treating pediatrician, occupational therapist and staff from his middle school. The letter from the pediatrician is dated July 6, 2026; the letter from the Vice Principal is dated June 25, 2026; the letter from someone who signed as Student Support Room CEA is dated June 24, 2026; and the letter from the occupational therapist does not appear to be dated. The Adjudicator rendered his Decision on May 5, 2026. Therefore, clearly at least three of the letters were written after the Decision was issued and therefore constitute fresh evidence that was not before the Adjudicator when he made his Decision.

27. All of the letters appear to be addressing the comment made by the Adjudicator that “While this is far from determinative of credibility, I also found that Minor A looked away frequently while answering questions and had a demeanor that did not appear

credible." All of the letters deal with what I will call the "eye contact" issue and Minor A's communication abilities and style.

28. I have also reviewed the medical information which was provided to the Adjudicator. That information sets out the diagnosis of Minor A's Disabilities. It does not connect the Disabilities with the allegations of misconduct leveled against Minor A. Minor A's counsel was involved in this exchange of information and was also present when Minor A was interviewed.

29. None of the letters or the diagnosis referred to above indicate, as asserted by counsel, that "the Disability impacted [Minor A's] ability to understand social boundaries and regulate his emotions during the Physical Confrontation and fully appreciate the seriousness of the Snapchat Incident" and "that Minor A's denial of responsibility and inability to acknowledge and address his conduct was caused in part by his disability". These submissions appear to be an attempt to provide fresh evidence at this stage of the proceedings with regard to how Minor A's Disability could have impacted upon his behavior.

30. It is not disputed that the Adjudicator had been made aware of Minor A's Disability prior to or at the interview. But there is no evidence to suggest, nor does counsel for the Claimant assert, that the Adjudicator was made aware that due to the diagnosis, Minor A might manifest the diagnosis with an inability to make or sustain eye contact. However, even though the Adjudicator was aware of the diagnosis, that fact is not fatal to the Adjudicator's assessment of Minor A's credibility. It is made clear by the Adjudicator and is not disputed by counsel, that the Adjudicator prefaced his comment by noting that the fact that Minor A looked away frequently was far from determinative of credibility. The main reasons he rejected the evidence of Minor A were set out in his Decision. He noted that:

> The accounts Minor A provided of the October 15, 2025, fight did not align with any of the other evidence that I heard. For instance, Minor A described skating away from the altercation and then coming back because Minor B was punching the other teammates who came to separate the parties. No other witness described anything like that. Minor A's evidence on that point seemed designed to provide a plausible explanation for Minor A punching Minor B. Similarly, Minor

> A's description of the photo on October 15, 2025, where they describe a teammate as entirely responsible for the photo alteration and posting, while Minor A tried to stop this teammate, did not match what I heard from others. That evidence also seems designed to put Minor A in the best light possible.

31. There is no explanation provided which meets the criteria in subsection 8.5.2(b)(iii) for the admission of fresh evidence in the proceeding before me. The Claimant has neither addressed nor satisfied the applicable "tests" for the admission of fresh evidence. In particular, there is no explanation as to why all of the assertions currently being made by counsel for the Claimant were not provided to the Adjudicator prior to his making his Decision. I conclude therefore that the evidence which counsel now seeks to put before me could have been discovered with the exercise of due diligence and provided to the Adjudicator prior to the Decision being made.

32. I am satisfied that, in coming to the conclusions that he did with regard to the credibility of Minor A, the Adjudicator did not violate the Code, and that his findings were entirely fair and reasonable.

33. I would now like to turn to the submissions with regard to the sanction imposed by the Adjudicator.

34. Paragraphs 42 and 43 of the Policy, in dealing with the issue of sanctions, provide as follows:

> 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.

43. Any sanction imposed must be proportionate and reasonable. Progressive discipline may be appropriate but is not required. A single incident may justify elevated or combined sanctions.

35. Counsel for Minor A argued that by failing to consider the Disability as required by the Policy, the Adjudicator exercised his discretion with an incomplete analysis of the circumstances, resulting in a sanction that was not reasonable and an analysis that was incomplete and incorrect.

36. Hockey Canada acknowledged that the Adjudicator did not expressly name or consider the Claimant's Disability in his review of the paragraph 42 sanctioning factors. However, on the information before him at the time, he was not required to do so. Nothing established that such Disability was a "factor relevant to determining appropriate sanctions", which the Policy mandates be considered. Specifically, nothing in counsel's emails or the "ASD Assessment Summary" connected the Claimant's Disability to the alleged conduct and none of the present information being provided about the way the Claimant's Disability presents, was made available to the Adjudicator at the relevant time. In particular, while the Claimant apparently notified the Adjudicator of his ADHD and Autism Spectrum Disorder diagnoses, nowhere in that notification were the characteristics/manifestations of his disorders stated, nor were they connected to the misconduct specifically alleged against the Claimant. Consequently, Hockey Canada denies that the Adjudicator failed to consider any relevant circumstances, and therefore denies that he improperly exercised his discretion or assessed an unreasonable penalty as alleged.

37. In addressing the sanction imposed, counsel for Minor A argued that while Minor A's conduct warranted a sanction, the sanction imposed was disproportionate in all the circumstances. He argued that:

(a) The sanction effectively makes it such that Minor A will miss nearly half of the hockey season and will be unable to compete at the level that he is accustomed to playing at.

(b) The price of hockey enrollment and equipment is such that with Minor A potentially missing this much of the season, the cost imposed on his family is substantially higher in relation to the benefits Minor A receives from participation.

(c) Playing hockey provides Minor A with confidence, interpersonal connections, and is an important part of how he relates with his peers. Playing high-level hockey specifically challenged Minor A physically and mentally, and his interpersonal skills as well as his athletic ability have improved as a result of involvement in the same.

(d) By suspending Minor A for the period sought in the sanction, Minor A is unable to play hockey with the group he is used to playing with, and will forfeit important connections, as well as the ability to play a sport at a level that is challenging and rewarding to him. This will certainly negatively impact Minor A's development interpersonally and athletically.

(e) Moreover, the Adjudicator failed to properly consider the surrounding circumstances, Minor A's individual characteristics, rehabilitation potential, and sanctions imposed in similar cases. Minor A has participated in other hockey activities since January 2026 without incident.

(f) A sanction must be proportionate to the seriousness of the misconduct and the individual circumstances of Minor A. The objective of discipline is not solely punitive; it must promote fairness, accountability, and rehabilitation.

(g) The Adjudicator referred to past sanctions, including conduct outside of the scope of the investigation as an aggravating factor in concluding that Minor A poses a potential ongoing threat to the safety of others.

38. Counsel for Hockey Canada pointed out that in determining the appropriate sanction, the Adjudicator's review included the following salient points, which resonate directly with the considerations named in paragraph 42:

• The breaches committed by the Claimant were “serious”, as carrying a risk of harm and as humiliating a teammate in a public forum.

• The Claimant has faced sanctions in the past, including for “several months of the 2025/2026 season by the Association for conduct outside the scope of this investigation”.

• The Claimant poses a potential ongoing threat to the safety of others, given that “other efforts to curb [the Claimant’s] behaviour have been unsuccessful”.

• The Claimant generally denied responsibility and gave evidence on the allegations “that did not align with that of others in order to minimize his actions”.

• Fighting teammates at practice and posting altered photographs of teammates is conduct that reflects poorly on the hockey community.

39. Respondent’s counsel argued that under paragraph 43 of the Policy, any sanction must be proportionate and reasonable. However, the Policy contains no direction that considerations such as costs or a respondent’s opportunities for personal fulfillment or improvement be accounted for. He suggested that consideration of the same would introduce extraneous factors with no discernible connection to the preventive and punitive purposes of sanctioning recognized by previous Safeguarding Panels. To the same end, counsel noted that the Claimant referred to no Policy section, nor any other relevant authority, which establishes that the Adjudicator was required to apply a disciplinary sanction which promoted “fairness, accountability, and rehabilitation” of the Claimant as alleged. Counsel acknowledged that the Claimant also alleged that the sanction was disproportionate owing to an alleged failure to “consider the surrounding circumstances, [the Claimant’s] individual characteristics, rehabilitation potential, and sanctions imposed in similar cases”. Counsel repeated that the Adjudicator considered all factors relevant to sanctioning in accordance with the Policy and information available to him at the time.

40. In relation to the Adjudicator’s consideration of past sanctions, including conduct that occurred in the same season but that was outside the scope of the Adjudicator’s

investigation, counsel for Hockey Canada denied that this should not have been considered. As explicitly stated at paragraph 42(c) of the Policy, a respondent's "prior history and any pattern of inappropriate behaviour" is a factor to be considered where relevant. Such history and patterns bear a clear relationship to the further consideration stated at paragraph 42(e), being whether a respondent poses an ongoing and/or potential threat to the safety of others. Accordingly, counsel rejected the Claimant's assertion that his pattern of behaviour "should not be reasonably included in the scope of this analysis", or the bald and unsupported assertion that the Claimant "does not present an ongoing risk to others".

41. I completely agree with the submissions of counsel on behalf of Hockey Canada. It is my view that the Adjudicator exercised his discretion appropriately, his analysis was reasonable and was based on the information which was before him at the time of his Decision. He considered the factors set out in paragraph 42 and applied them to the facts before him.

42. In reply, counsel for the Claimant disagreed with the Respondent's submission that the Disability was not sufficiently disclosed to warrant the Adjudicator's consideration. As acknowledged by the Respondent, the Adjudicator was informed about the Disability. In his written submissions, counsel attached an email chain which included an email from the Claimant's former counsel dated February 3, 2026 which stated:

> Would you please advise the Adjudicator as follows:
>
> Minor A has been diagnosed with severe anxiety, ADHD, Autism Spectrum Disorder, and learning disabilities (dyslexia, dyscalculia, and dysgraphia). Minor A has been under the care of a pediatrician since spring 2022 for his severe anxiety and ADHD and has been consistently medicated and monitored since that time. He has received regular counselling from early 2023 through December 2025. We ask that the Adjudicator consider this information when addressing the complaint and when conducting the interview.
>
> If the Adjudicator has any questions about this, I can make myself available for a call before the interview.

43. Attached to the email was a document titled "ASD ASSESSMENT SUMMARY" which stated: "Minor A is a 12-year old boy previously diagnosed with ADHD, a

Specific Learning Disorder, and an Anxiety Disorder…Based on the current assessment, Minor A meets criteria for the diagnosis of an Autism Spectrum Disorder (as per DSM-5-TR criteria).” (Note that I removed reference to Minor A’s name or initials).

44. Counsel for the Claimant argued that the Adjudicator had been informed of the Disability and it had been requested that the Adjudicator consider the Disability for the decision and in conducting the interview. The Claimant’s former counsel further specified she would be available for a call before the interview to answer any questions the Adjudicator may have. In these circumstances, it was suggested that the disclosure email was sufficient to put the Adjudicator on notice that the Claimant had disabilities that would be relevant to the interview and to the Adjudicator’s analysis. The Adjudicator failed to consider information that had been expressly brought to his attention and that the Claimant specifically requested be considered in addressing the complaint and conducting the interview.

45. While it is true that the Adjudicator received a one-page outline of the Disability, he was not provided with any analysis whatsoever with regard to how the various disabilities could have impacted Minor A’s behaviour or credibility during the interview, or how it could have impacted his behaviour that led to the complaint. When Minor A was interviewed, his counsel was present. The Claimant has not alleged, nor does the Adjudicator’s Decision support, that either he or his accompanying counsel provided any further, expanded submissions on his diagnoses and the potential impact they could have had on his behaviour, during or following his oral interview, despite having an opportunity to do so.

46. Counsel for the Claimant does not suggest that the Adjudicator was provided with any additional evidence with regard to Minor A’s Disability during this interview, the impact the Disability could have had on his behaviour or on his credibility. It is not incumbent on the Adjudicator to research potential impact(s) of Minor A’s Disability. It is up to Minor A or his counsel to put before the Adjudicator any and all relevant evidence (such as the letters now being provided or a medical report from a

physician) that is relevant to a material issue arising from the allegations. All of this evidence could and should have been put before the Adjudicator for his consideration prior to the rendering of his Decision. But this was not done and pursuant to Subsection 8.5.2(b)(iv) of the Code, fresh evidence may not be admitted "where the evidence was available with the exercise of due diligence and, absent compelling justification, was not produced during the investigation". No justification for the failure to provide the evidence which counsel for the Claimant now seeks to put before me was given, let alone a "compelling justification". Accordingly, it is not appropriate at this stage of the proceedings to provide documents and make submissions that could and should have been provided to the Adjudicator. I am not prepared to consider them in the circumstances.

47. In reply, counsel for the Claimant also suggests that prior history and any pattern of inappropriate behaviour is a factor to be considered only where relevant. Prior sanctions must be shown to be relevant to the conduct and circumstances before they can be relied on as an aggravating factor. The mere existence of a prior sanction does not establish that the prior conduct is relevant to the present matter. The Adjudicator referred to past sanctions but did not identify the nature of the alleged prior conduct, the circumstances, or explain how that conduct was connected to the conduct at issue. In the absence of reasons establishing a connection between the Claimant's past conduct and the conduct at issue, the past sanctions could not reasonably support the conclusion that the Claimant posed an ongoing threat to others.

48. Paragraph 42 of the Policy states that the decision maker will consider factors relevant to determining appropriate sanctions which may include:

> (c) The Respondent's prior history and any pattern of inappropriate behaviour;
> […]
> (e) Whether the Respondent poses an ongoing and/or potential threat to the safety of others.

49. In considering the appropriate sanction, the Adjudicator stated in his Decision:

> The breaches here are serious. Punching a teammate multiple times at a practice is a serious Violation that clearly carries a risk of harm. The altered photograph is also a serious breach, humiliating a teammate in a public forum. This is an aggravating factor.

50. In dealing specifically with the Respondent's prior history, any pattern of inappropriate behaviour and whether the Respondent poses an ongoing and/or potential threat to the safety of others, he observed:

> Minor A has faced sanctions in the past. He was suspended for a game and a practice by the Association for the October 25, 2025, photo. Minor A also received a four-game suspension in early November. I was also informed that Minor A was suspended for several months of the 2025/2026 season by the Association for conduct outside the scope of this investigation. This is an aggravating factor. I find that Minor A poses a potential ongoing threat to the safety of others. While I find it likely that this formal process will aid Minor A in finding respectful ways to work with teammates in the future, other efforts to curb Minor A's behaviour have been unsuccessful. On balance I find it likely that Minor A poses on ongoing threat. This is an aggravating factor.

51. There is nothing in this section that requires the elaborate analysis suggested by counsel for the Claimant. There is no requirement in paragraph 42 to identify the nature of the alleged prior conduct, the circumstances, or explain how that conduct was connected to the conduct at issue. The Adjudicator in this case wrote a thirty-page decision which thoroughly detailed the evidence he obtained from the interviews, his conclusions and a thoughtful analysis with regard to the appropriate sanction to impose.

52. Both counsel in their submissions made reference to SDRCC jurisprudence and other case law. I have carefully reviewed the cases but do not feel that it is necessary to set them out. Every case is unique and turns on its own facts. That is true in this case as well. However, it is helpful to refer to *Randall v. Hockey Canada,* SDRCC 23-0694, at paras. 39 and 51 where the arbitrator stated that "…the issue before me is not whether the Adjudicator's decision to impose a sanction, or the length of the sanction, was "correct". Rather, the issue is whether the Adjudicator's sanction fell within a range of possible, acceptable outcomes", and "[e]ven if I may have decided on a different sanction, I find the Adjudicator's decision to be

transparent, intelligible, and justified and to fall within a range of possible, acceptable outcomes. In short, I find it to be reasonable and I decline to interfere with it".

53. I agree with this observation. I find that the Adjudicator's Decision on the appropriate sanction is transparent, intelligible, reasonable and justified. I decline to interfere with it.

54. Accordingly, for all of the reasons stated, I am satisfied that the Decision reached by the Adjudicator was reasonable in all aspects and I decline to interfere with it.

55. The appeal is dismissed and the Decision of the Adjudicator is upheld.

Dated in Toronto, this 30th day of August, 2026

Janice Johnston

Arbitrator