

ARTICLE 18-A
COMMISSIONER DISCIPLINE FOR OFF-ICE CONDUCT

18-A.1 *Commissioner Discipline for Off-Ice Conduct* shall mean discipline imposed by the Commissioner or his designee for Player conduct not governed by "Supplementary Discipline for On-Ice Conduct" as defined in Article 18 and that falls within the scope of the Commissioner's authority to discipline as set out in Section 18-A.2. Disciplinary proceedings for Commissioner Discipline for Off-Ice Conduct will be conducted in accordance with the procedural rules set forth in this Article.

18-A.2 *Commissioner Authority to Impose Discipline for Off-Ice Conduct* Whenever the Commissioner determines that a Player has violated a League Rule applicable to Players (other than Playing Rules subjecting the Player to potential Supplementary Discipline for On-Ice Conduct), or has been or is guilty of conduct (whether during or outside the playing season) that is detrimental to or against the welfare of the League or the game of hockey, he may discipline such Player in any or all of the following respects:

- (a) by expelling or suspending such Player for a definite or indefinite period;
- (b) by cancelling any SPC that such Player has with any Member Club; or
- (c) by imposing a fine on the Player not exceeding the maximum permissible fine under Section 18.7(b).

For the purpose of calculating compensation forfeited due to a suspension under this Article, the Player will forfeit all Paragraph 1 NHL Salary and Bonuses, but not Performance Bonuses, commencing on the effective date of the suspension through the completion of the last game or date of the suspension, inclusive of all intervening days.

18-A.3 *Procedures for Commissioner Discipline for Off-Ice Conduct* The following procedures shall govern investigations and hearings involving the potential imposition of Commissioner Discipline for Off-Ice Conduct.

- (a) **League Investigation.**
 - (i) The League agrees to notify the NHLPA immediately upon deciding to undertake an investigation that may result in Commissioner Discipline for Off-Ice Conduct.
 - (ii) No interview of any Player or Players potentially subject to Commissioner Discipline for Off-Ice Conduct will take place without first providing notice to the NHLPA that affords a reasonable opportunity for the NHLPA to participate.
 - (iii) With respect to the interviews of Players who are not potentially subject to Commissioner Discipline for Off-Ice Conduct, the NHL agrees that no

interview of such Players will be conducted without first providing notice to the NHLPA that affords a reasonable opportunity for the NHLPA to participate.

- (iv) In any interview of any Player, the NHL will explain the purpose of the inquiry and the potential for Commissioner Discipline for Off-Ice Conduct.
- (v) The NHL agrees to provide the NHLPA with advance notice of any non-Player interviews conducted as part of an investigation and further agrees to make its best efforts to schedule interviews in a manner that will allow the NHLPA to participate. In the event that an interview is conducted without the NHLPA's participation, the NHL agrees to provide the NHLPA with a copy of any notes or other recording relating to the interview.
- (vi) A Player shall be afforded a right to apply for a reasonable delay of any interview in order to obtain and consult with individual counsel, and consent to such a request shall not be unreasonably withheld.

(b) **Pre-Hearing Disclosures.** Prior to the hearing, the League will provide the NHLPA and the Player with a written statement that specifies the factual allegations against the Player and an explanation of why the League considers that the alleged conduct may give rise to Commissioner Discipline for Off-Ice Conduct. The League shall disclose to the NHLPA and Player all evidence and witnesses (including a summary of their testimony) that the League will present against the Player at the hearing. The NHLPA shall disclose to the League any evidence and witnesses (including a summary of their testimony) that the NHLPA and/or Player intend to introduce at the hearing. Such disclosures shall be provided (absent extraordinary circumstances) by the NHL at least two (2) days prior to the hearing, and by the NHLPA one (1) day following the NHL's disclosures.

(c) **Timing of Hearings.** Hearings will generally be held with no less than five (5) days' notice to the Player and the NHLPA. In unusual cases, where there is a compelling need, the League may seek to hold a hearing on an expedited basis. In such cases, an expedited hearing may be scheduled with reasonable notice to the NHLPA and the Player, provided, however, that the hearing may be continued if the NHLPA and/or Player establish that the Player would be prejudiced in the absence of a continuance.

In cases where the League holds an expedited hearing, the League agrees to provide the disclosures set forth in Section 18-A.3(b) as soon as such information is available to the League and, in any event, no later than one (1) day prior to the expedited hearing. The League agrees to respond to any NHLPA information requests relating to such hearing on an expedited basis so that the Player has an opportunity to present this evidence at the hearing.

(d) **Right to a Hearing.** Except with respect to discipline imposed pursuant to the procedures set forth in 18-A.5 and except as permitted by this subsection, the Commissioner or his designee will not impose Commissioner Discipline for Off-Ice Conduct without holding a

hearing. In cases involving an expedited hearing, the Commissioner may suspend the Player pending a hearing for a period not exceeding four (4) days if the failure to do so would create a substantial risk of material harm to the legitimate interests and/or reputation of the League. Such four (4) day period may be extended by the length of any continuance granted under Section 18-A.3(c) and if the failure to do so continues to present a substantial risk of material harm to the legitimate interests and/or reputation of the League. In cases where the failure to do so would create a substantial risk of material harm to the legitimate interests and/or reputation of the League, the Commissioner may continue the suspension at the conclusion of the hearing pending a determination, to be issued no later than one (1) day following the completion of the hearing. The NHL, the affected Player's Club, the Player and the NHLPA have the right to participate in the hearing. The NHLPA and the Player have the right to present testimony, evidence and argument in the Player's defense.

(e) **Pre-Hearing Public Statements by the League.** The parties recognize that pre-hearing public statements by League officials characterizing a Player's conduct create an appearance of partiality and might impact a Player's right to a fair and impartial hearing. The League, Clubs, the NHLPA and the Player agree to limit any statement to an acknowledgement that the situation is under review and will reserve further comment until a hearing is held; provided, however, that the League, Clubs, the NHLPA and the Player may comment substantively upon any suspension issued pending an expedited hearing pursuant to subsection 18-A.3(d) but only to the extent necessary to explain the basis for the decision to suspend pending a hearing.

(f) **Prohibition on Ex Parte Contact.** Any League official who is involved with the "prosecution" of a case will not discuss the case with any League officials (including, but not limited to, the Commissioner) who are involved in deciding the case.

18-A.4 Appeal from Commissioner Determination. In all cases involving Commissioner Discipline for Off-Ice Conduct under this Article, the NHLPA, on a Player's behalf, may file an appeal to the Impartial Arbitrator by giving notice to the League in writing. The proceeding shall thereafter be governed by the provisions of Article 17 of this Agreement. The standard of review in cases of Commissioner Discipline for Off-Ice Conduct shall be whether the Commissioner's determination was supported by substantial evidence and was not unreasonable based on the following considerations: (i) the facts and circumstances surrounding the conduct at issue; (ii) whether the penalty was proportionate to the gravity of the offense; and (iii) the legitimate interests of both the Player and the League. Players who are disciplined by the Commissioner for Off-Ice Conduct imposed pursuant to Section 18-A.2(a) or (b) and who file an appeal shall remain suspended and/or not permitted to play pending the appeal (but in the case of a suspension, for not longer than the duration of such suspension contained in the Commissioner's determination). Players who are fined by the Commissioner pursuant to Section 18-A.2(c) and who file an appeal shall not forfeit any compensation pending the outcome of the appeal. The parties may not make public statements in respect of the matter upon the commencement of the appeal procedure before the Impartial Arbitrator (provided there will be an absolute 48-hour period following the announcement of the Commissioner's decision in which the League can release public statements to explain the basis for the decision to discipline).

18-A.5 *Criminal Investigation.* A Player subject to Commissioner Discipline for Off-Ice Conduct may seek a reasonable delay in such proceedings in order to retain and seek the advice of counsel in the event his conduct may also be subject to a criminal investigation by any governmental authority, or in the event of an ongoing civil proceeding where the Player has been named as a defendant. The League may suspend the Player pending the League's formal review and disposition of the matter where the failure to suspend the Player during this period would create a substantial risk of material harm to the legitimate interests and/or reputation of the League.

18-A.6 *Use of Fine Money and Forfeited Salary.* Any fines collected from or Paragraph 1 Salary forfeited by Players pursuant to any discipline imposed by the League pursuant to Commissioner Discipline for Off-Ice Conduct shall be deposited in the NHL Players' Emergency Assistance Fund in accordance with the procedures set out in Article 18 of this Agreement.