



*Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique*

Disciplinary Commission

GEF 2022/01 AUS - Gymnastics Ethics Foundation v. Gymnastics Australia

DECISION

rendered on 13 January 2025 by the

GYMNASTICS ETHICS FOUNDATION DISCIPLINARY COMMISSION

sitting in the following composition:

President	Mr. Mike Cook (USA)
Members	Ms. Melanie Schärer (Switzerland) Mr. Thomas Hayn (Austria)
Ad hoc secretary	Ms. Yoana Yankova (United Kingdom)

In the disciplinary proceedings between:

The **Gymnastics Ethics Foundation**

- **Claimant** -

and

Gymnastics Australia

- **Respondent(s)** -



*Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique*

Disciplinary Commission

Table of contents

List of abbreviations	3
I. Parties to the proceedings.....	4
II. Factual Background and Procedural History	4
A. Summary of relevant facts	4
B. Procedural history	7
III. Jurisdiction	8
IV. Applicable Law.....	9
V. Position of the Parties and Requests for Relief.....	9
A. GEF.....	9
B. GA	11
VI. Merits	12
A. Issues	12
B. Analysis.....	12
i. Does the SCMP lack procedural fairness?.....	12
ii. Is the SCMP too limited in scope?.....	13
iii) Is the CDDP biased in relation to scope?	13
iv) Failing to implement the GEF Disciplinary Panel decision at the national level.	14
v) Did GA violate FIG rules in its handling of Case One?.....	15
vi) Did GA violate FIG rules in its handling of Case Two?.....	16
vii) Did GA violate FIG rules in its handling of Case Three?	17
VII. Sanction	18
VIII. Costs	19
IX. Publication.....	19
Notice of Appeal	20



Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique

Disciplinary Commission

List of abbreviations

<i>AHRC</i>	Australian Human Rights Commission
<i>Art.</i>	Article
<i>Arts.</i>	Articles
<i>CAS</i>	Court of Arbitration for Sport
<i>CC</i>	Swiss Civil Code
<i>CEO</i>	Chief Executive Officer
<i>cf.</i>	Confer (compare)
<i>CHF</i>	Swiss Franc
<i>CO</i>	Swiss Code of Obligations
<i>CoD</i>	FIG Code of Discipline
<i>CoE</i>	FIG Code of Ethics
<i>DC</i>	GEF Disciplinary Commission
<i>e.g.</i>	Exempli gratia (for example)
<i>et seq.</i>	Et sequens (and the following)
<i>FIG</i>	Fédération International Gymnastique
<i>GA</i>	Gymnastics Australia
<i>GEF</i>	Gymnastics Ethics Foundation
<i>i.e.</i>	Id est (this is)
<i>Mr.</i>	Mister
<i>Ms.</i>	Miss
<i>NCE</i>	National Center of Excellence
<i>NIF</i>	National Integrity Framework
<i>NST</i>	National Sports Tribunal
<i>OCU</i>	Oceanian Gymnastics Union
<i>p.</i>	Page
<i>para.</i>	Paragraph
<i>paras.</i>	Paragraphs
<i>pp.</i>	Pages
<i>SCMP</i>	Supplementary Complaints Management Policy
<i>SIA</i>	Sport Integrity Australia
<i>v.</i>	Versus



Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique

Disciplinary Commission

I. Parties to the proceedings

1. The Parties in these proceedings are the Gymnastics Ethics Foundation (“*GEF*”), Claimant, and, Gymnastics Australia (“*GA*”), Respondent.
2. The GEF, the Claimant, is the independent body established in 2019 by the Fédération Internationale de Gymnastique (“*FIG*”) to safeguard the integrity of Gymnastics worldwide, with headquarters in Lausanne, Switzerland.
3. GA is the national governing body for gymnastics in Australia. GA was founded in 1949 and its seat is in Albert Part, Victoria, Australia.
4. The Parties shall be referred herein collectively as the “Parties”.
5. While not a party to these proceedings, Ms. Kitty Chiller is an Australian gymnastics official who was CEO of GA from December 2017 to March 2022 and the President of Oceanian Gymnastics Union (“*OGU*”) from 2018 to March 2023. In that capacity she was ex officio a member of the FIG Executive Committee.

II. Factual Background and Procedural History

6. Below is a summary of facts and allegations drawn from the Parties’ written exchanges. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. In reaching its conclusion, the Panel has duly taken into consideration all arguments advanced by the Parties therein, although not specifically addressed in the below section of the present decision (the “Decision”).

A. Summary of relevant facts

7. The Panel now sets out the relevant factual background. The Panel has taken into consideration all the facts presented to it by the Parties, however, that which is set out below is, in its view, most relevant for the outcome of this case.
8. The National Sports Tribunal (“*NST*”) is an independent Australian government entity, created to resolve sports related disputes and integrity issues.
9. Sport Integrity Australia (“*SIA*”) is an independent Australian government entity, created to manage and investigate integrity issues in Australian sport.



Gymnastics Ethics Foundation
Fondation d'Éthique de la Gymnastique

Disciplinary Commission

10. The Commonwealth Ombudsman is the independent assurance body ensuring Australian Government entities (including those such as SIA and the NST) act with integrity and fairness. Individuals dissatisfied with an Australian Government entity, including GA, SIA and the NST can lodge a complaint with the Commonwealth Ombudsman.
11. On 3 May 2021, the Australian Human Rights Commission (“AHRC”) released a report entitled “Change the Routine: Report on the Independent Review into Gymnastics in Australia.” The AHRC report made twelve recommendations to GA. GA adopted all twelve of the recommendations.
12. On 22 September 2020, GA adopted the Supplementary Complaints Management Policy (“SCMP”). The SCMP was created as a temporary policy to provide individual complainants covered by the scope of the Australian Human Rights Commission (AHRC) Review with an avenue to further pursue those complaints. The SCMP was thereafter replaced by the National Integrity Framework (“NIF”).
13. GA is required to adopt integrity policies approved by SIA, which address member protection, child safeguarding, improper use of drugs and medicine, competition manipulation/sports wagering and complaints management. The NIF is a comprehensive suite of policies prepared by SIA for National Sporting Organizations in Australia. GA adopted the NIF.
14. According to the SCMP complaints were assessed and triaged by an Independent Assessor rather than by GA to determine whether a complaint was in or out of scope of the SCMP. The NST and SIA appointed the Independent Assessor.
15. Where the Independent Assessor determined that the complaint should be referred for investigation, that investigation was undertaken by SIA, independently of and without involvement from GA.
16. GA committed to adopting and implementing the Independent Assessor's and Independent Investigator's findings and recommendations.
17. In Case One, in December 2020, a 12-year-old Australian gymnast’s mother lodged a complaint pursuant to the SCMP. The gymnast alleged that the coach made her train despite pain, resulting in a broken back. The complaint further alleged that the club bullied and encouraged her to leave the club. The complaint named two coaches and two administrators. Pursuant to the SCMP, GA appointed an Independent Assessor who determined that only the “broken back” allegation was a complaint covered by the SCMP and recommended an Independent Investigator. The Independent Investigator failed to interview the doctor who examined the gymnast and failed to interview relevant witnesses and concluded that the medical evidence was inconclusive as to how the injury was sustained.
18. In Case Two, in June 2018, GA's then CEO, Kitty Chiller, opened an investigation into child maltreatment at the National Center of Excellence (“NCE”) in Melbourne with scope to include the coach and management issues.



Gymnastics Ethics Foundation
Fondation d'Éthique de la Gymnastique

Disciplinary Commission

19. GA appointed an independent investigator to investigate the culture of the NCE. Based on the results of the investigation, equipment and financial issues, GA decided to close the NCE. The investigator recommended closing the investigation, and GA followed the recommendation.
20. In Case Three, a gymnast alleged psychological abuse from her coach including belittling, humiliating and shaming her to think her life was not worth living anymore. A mediation was conducted in 2019 but was unsuccessful as the coach had moved to a different state. In September 2020, the gymnast complained through the SCMP process alleging coaching misconduct incidents including favoritism, relentless attacks toward her daughter, name calling and bullying, the coach losing her temper at gymnasts, humiliation of these young girls and inappropriate discipline. GA appointed an Independent Assessor who determined that the allegations were within the scope of the SCMP, and GA appointed an Independent Investigator. During the investigation, the complainant discovered that the coach had previously been disciplined by British Gymnastics at her former club in Northern Ireland. The Independent Investigator from SIA determined that of the five allegations raised by the complainant, three were unsubstantiated and two were neither substantiated nor unsubstantiated. GA informed the complainant of the outcome on 7 September 2021. Afterwards, the complainant and GA have engaged in a conciliation process regarding the complainant's concerns of how the complaint was handled. On 4 April 2024, the complainant's mother (on behalf of the complainant) lodged a discrimination complaint in the AHRC against GA and SIA.
21. On 13 June 2022, a different Disciplinary Commission Panel of the GEF issued a decision that held that Kitty Chiller breached Art. 5 of the FIG 2017-2020 General Judges' Rules on the qualification requirements (i.e., the category of brevet required) of FIG judges to serve in the function as Superior Jury for competitions and the integrity obligation in Art. 3 of the FIG 2021 Code of Discipline. She further breached her general duty of diligence and care enshrined in Art. 2e of the FIG 2019 Code of Ethics (reiterated in Part 2, Art. 2e of the FIG 2019 Code of Conduct) and Art. 11.14.10 of the FIG 2019 Statutes as described above and as a consequence, was suspended from representing the FIG or the OGU for two years.¹ The same decision also found that Ms. Chiller and Erin Pankoke had breached Art. 5 of the FIG 2017- 2020 General Judges' Rules and as a result suspended Ms. Pankoke's brevet for one year.
22. GA did not suspend Ms. Chiller or Ms. Pankoke from judging or participating in gymnastics in Australia during the period of their FIG suspensions.

¹ GEF DC 2022/06/13

https://www.gymnasticethicsfoundation.org/_files/ugd/992b6c_47662b7b93e747dcaa81939f7585f11d.pdf



Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique

Disciplinary Commission

B. Procedural history

23. On 27 August 2024, the GEF appointed a Disciplinary Commission Panel (the “Panel”) consisting of Mr. Mike Cook, Mr. Thomas Hayn and Ms. Melanie Schärer to hear this case. The Panel elected Mr. Mike Cook to be President of the Panel.
24. Pursuant to art. 16 of the FIG CoD, Ms. Yoana Yankova was appointed as Panel ad hoc secretary.
25. On 30 August 2024, the GEF notified the Parties of the opening of disciplinary proceedings and sent its Notice of Charges.
26. The GEF alleged that GA was negligent and had violated the following FIG rules:
- Article 5 of the FIG 2017-2020 General Judges’ Rules
 - Articles 1 and 2 of the Code of Ethics
 - Article 5 of the FIG Policy and Procedure for Safeguarding
 - FIG 2021 Code of Discipline (Article 3)
 - Article 6.4 of the FIG Policy and Procedure for Safeguarding
 - Article 5 of the FIG Statutes and the FIG Policy and Procedures for Safeguarding
 - Article 2e of the FIG 2019 Code of Ethics (reiterated in Part 2, Article 2e of the FIG 2019 Code of Conduct)
 - Article 11.14.10 of the FIG 2019 Statutes.
27. On 9 September 2024, the Panel sent a directions email to the Parties, requesting that:
- GA confirm receipt of the Opening of Disciplinary Proceedings and Notice of Charges issued on 30 August 2024;
 - GA indicate who is representing GA in this matter and provide contact information for them;
 - GA submit an Answer to the Notice of Charges within 30 days from the date of this communication;
 - The GEF submit a Reply to GA's Answer to the Notice of Charges within 30 days of GA's Answer;
 - GA submit a Response to GEF's Reply within 30 days of GEF's Reply;
 - After the submissions from both Parties, GA and GEF notify the Panel whether they wish the Panel to organize a hearing in this matter, pursuant to Article 20 of the FIG Code of Discipline, or if you wish the Panel to make a decision on written submissions. The Panel reserves the right to summon the Parties to a hearing on its own initiative.
28. On 10 September 2024, GA acknowledged receipt of the 30 August and 9 September communications, and informed the GEF that Alistar Edgar was the new CEO of GA.
29. On 8 October 2024 GA submitted its answer to the GEF’s Notification of Charges.



Gymnastics Ethics Foundation Fondation d'Éthique de la Gymnastique

Disciplinary Commission

30. On 7 November 2024, GA indicated that it would prefer a decision to be made on the papers, and reserved its right to file an answer to the GEF's submission.
31. On 8 November 2024, GEF submitted its reply to GA's Answer. In its submission, the GEF identified three cases in which it relied upon to request the declaratory relief. These cases will be referred to as Case One, Case Two and Case Three.²
32. On 7 December 2024, GA submitted its Response.
33. Having considered the submissions of both the GEF and GA, the Panel determined that it was well informed of the facts of this case and would make its decision without holding a hearing.

III. Jurisdiction

34. Under Article 19 of the FIG 2019 Statutes, the GEF has jurisdiction for conducting disciplinary proceedings under the FIG Code of Discipline that are subject to FIG rules.
35. Article 18 of the 2021 FIG Code of Discipline states:

The FIG, the Gymnastics Ethics Foundation's Disciplinary Section or other prosecuting authority under this Code shall have the burden of establishing that an infringement of this Code has occurred. The standard of proof in all matters under this Code shall be the balance of probabilities (a standard that implies that on the preponderance of the evidence it is more likely than not that an infringement of this Code has occurred).
36. Accordingly, the GEF has the burden of proof in this matter to show that GA has infringed the FIG rules and policies as asserted.
37. Article 24 of the FIG 2019 Code of Discipline states "Should the Disciplinary Authority deem that there is no breach or that the proceedings may be terminated, it shall issue a written and reasoned *nolle prosequi*."
38. GA is an affiliated FIG member federation bound by the FIG Statutes and subject to its rules and regulations.
39. For all these reasons, the Panel concludes that it has jurisdiction to hear the present case.

² Both the GEF and GA requested that the names of the gymnasts in Cases One, Two and Three be anonymized.



*Gymnastics Ethics Foundation
Fondation d'Éthique de la Gymnastique*

Disciplinary Commission

IV. Applicable Law

40. Pursuant to art. 32 of the FIG Statutes, the GEF shall manage disciplinary proceedings in accordance with the FIG Rules.
41. Pursuant to art. 1 of the FIG CoD, "in the absence of a specific provision in this Code, in the WADA Code or in other disciplinary provisions of the FIG Rules, the Disciplinary Authority shall rule according to the general principles set out in this Code and according to the general principles of justice, fairness and equality. It shall apply the general principles of Swiss law, and principles acknowledged internationally".

V. Position of the Parties and Requests for Relief

42. The Panel does not provide an exhaustive list of the Parties' contentions, but, rather, a summary of the Parties' main arguments. In considering and deciding upon the Parties' claims, the Panel has accounted for and carefully considered all the submissions made and evidence adduced by the Parties.

A. GEF

43. The GEF asserts that GA's SCMP complaint process breached the FIG Code of Discipline, the FIG Code of Ethics and the FIG Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics because its SCMP complaint process lacks procedural fairness, is biased in relation to scope and presents a conflict of interest.
44. Specifically, the GEF asserts that the SCMP complaint process lacks procedural fairness because complainants have only one chance to be heard, with no right to respond or appeal. Under the NST Act, the NST will only hear cases between GA and the individuals accused of the misconduct. Similarly, SIA's Article 8.8(d) limits rights of appeal to only "the Respondent and/or Gymnastics Australia." That means a complainant has no standing to bring their own case to the NST without GA's consent, and the harmed athlete has no recourse to protest the outcome of the investigation.
45. Next, the GEF asserts that the SCMP limits complaints to those concerning direct conduct towards an athlete, excluding complaints about GA officials who may have mishandled historical complaints or had knowledge of abuse and failed to act.
46. The GEF asserts that the SCMP complaint process is biased in relation to scope and presents a conflict of interest because the Complaint Dispute Disciplinary Policy (CDDP) of SIA (v 4) provides a complaint management process that can be run either by SIA or the sporting body, allowing GA to decide whether a complaint is in or out of scope.



Gymnastics Ethics Foundation Fondation d'Éthique de la Gymnastique

Disciplinary Commission

47. Next, the GEF asserts that GA breached the FIG Policy and Procedure for Safeguarding when it failed to implement the GEF Disciplinary Panel's decision at the national level.
48. In conclusion, the GEF asserts that GA breached the following rules:
- Article 3 of the FIG Code of Discipline which obliges member federations to exercise diligent conduct and was prohibited from violating *"the principles of integrity and sport fairness," "damaging the image of gymnastics" or "behav[ing] in an offensive way towards ... gymnasts ... "*
 - Article 6.4 of the FIG Policy and Procedure for Safeguarding and Protecting Participants in Gymnastics (Safeguarding Policy), which obliges member federations to *"not to engage in, allow, condone or ignore incidents of harassment and abuse and be supportive of other participants who report concerns."*
 - Article I(a) of the 2019 FIG Code of Ethics which provides that *"[t]he respect of human rights and dignity is a fundamental requirement during all activities of the sport of gymnastics on a national and international level. "*
49. In addition to the provisions of the SCMP cited above, the GEF cited three specific cases as evidence that GA had breached the above-mentioned policies.
50. In Case One, the GEF asserts GA breached FIG policies in its handling of a complaint of bullying, abuse, misconduct, sexual harassment or assault towards the athlete, when it failed to use a trauma-informed approach and it concluded that the medical evidence was inconclusive as to the cause of injury, but GA failed to interview the doctor and other witnesses.
51. In Case Two, the GEF asserts that GA breached FIG policies in its handling of complaints received in 2018 regarding the NCE because Ms. Chiller closed the investigation without referral to Disciplinary Committee and parents did not receive a report or outcome letter.
52. In Case Three, the GEF asserts that GA breached FIG policies in its handling of psychological abuse of a gymnast from her coach because GA did not use a trauma-informed approach when interviewing the complainant and did not inform the complainant of what the respondent had said, therefore denying the complainant the right of reply.
53. The GEF requests that the DC:
- i) Declare that GA violated Article 3 of the FIG Code of Discipline between 2019 and 2022.
 - ii) Declare that GA violated Article 1 of the FIG Code of Ethics between 2019 and 2022.
 - iii) Declare that GA violated Article 6 of the Policy and Procedures for Safeguarding and Protecting Participants in Gymnastics between 2019 and 2022.



Gymnastics Ethics Foundation
Fondation d'Éthique de la Gymnastique

Disciplinary Commission

- iv) Confirm that the decision will be published with appropriate anonymization of the gymnasts and parents mentioned in this proceeding.

B. GA

54. GA denies the accusations made by the GEF that GA has *“fail[ed] to respect the rights and dignity of gymnasts by depriving them of fair opportunity to be heard.”*
55. GA denies that the SCMP lacks procedural fairness, is biased and denies that presents a conflict of interests.
56. GA denies that it breached FIG policies in its handling of Case One, Case Two and Case Three.
57. Specifically, in Case One, GA argues that any shortcomings in either the assessment phase or the investigation phase cannot be held against GA, because it had delegated assessment and investigation phases to independent bodies.
58. In Case Two, GA argues that the decision to close the investigation was based on the recommendation of the independent investigator because the NCE was closing due to financial and equipment issues. The Independent Assessor concluded that the athlete's complaint against Kitty Chiller was not within the scope of the SCMP. The Independent Investigator from SIA concluded that the complaint about bullying and victimization by the Head Coach was found to be unsubstantiated. In accordance with the SCMP, GA accepted the recommendations of the Independent Assessor and Independent Investigator. GA asserts that there were decisions of the Independent Assessor and Independent Investigator were reasonable and that GA cannot be faulted for accepting those decisions.
59. In Case Three, GA argues that it accepted the recommendations of the Independent Assessor and Independent Investigator. GA asserts that there were decisions of the Independent Assessor and Independent Investigator were reasonable and that GA cannot be faulted for accepting those decisions. GA also argues that it has been and is currently in ongoing communication with the complainant or her advocate regarding the complaint and is currently engaged in a dispute resolution process regarding this complaint.
60. In conclusion, GA requests that no sanctions be imposed on GA.
61. GA request that if the decision will be published, the Panel will use appropriate anonymization of the gymnasts and parents mentioned in this proceeding.



**Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique**

Disciplinary Commission

VI. Merits

A. Issues

- a. Did GA breach Article 3 of the FIG Code of Discipline, Article 6.4 of the FIG Policy and Procedure for Safeguarding and Protecting Participants in Gymnastics (Safeguarding Policy), and/or the Article I(a) of the 2019 FIG Code of Ethics when it adopted the SCMP because the SCMP lacks procedural fairness, is too limited in scope, or is biased in relation to scope?
- b. Did GA breach the FIG Policy and Procedure for Safeguarding when it failed to implement a prior GEF Disciplinary Panel’s decision at the national level?
- c. Did GA breach Article 3 of the FIG Code of Discipline, Article 6.4 of the FIG Policy and Procedure for Safeguarding and Protecting Participants in Gymnastics (Safeguarding Policy), and/or the Article I(a) of the 2019 FIG Code of Ethics during its handling of Cases One, Two and Three?

B. Analysis

i. Does the SCMP lack procedural fairness?

62. First, the GEF asserts that GA breached FIG rules in adopting the SCMP because it asserts that the SCMP lacks procedural fairness because complainants have only one chance to be heard, with no right to respond or appeal.

63. SCMP Section 1.13(e) states:

“Only a Party to a Disciplinary Matter determined by the NSTGD under this Policy may appeal to the NST Appeals Division, in accordance with the Supplementary Appeals By-Law in Attachment C5 of this Policy.

SCMP Attachment C.5.8.1 provides that only a party to a disciplinary dispute may appeal to the NST.

SCMP Attachment C.4 states that the parties to a disciplinary dispute are the Respondent, GA and any “Interested Parties.” This provision defines “Interested Parties” as “A person who has made a Relevant Complaint that is dealt with in the Disciplinary Dispute; and SIA.”

64. Accordingly, the Panel finds that the SCMP provides that the Complainant does have the right to appeal to the SCMP.



Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique

Disciplinary Commission

65. Moreover, Complainants have the right to appeal to lodge a complaint with the Commonwealth Ombudsman.
66. The GEF’s allegation that the SCMP lacks procedural fairness due to not having a right of appeal is not proven. The Panel finds that GA did not breach Article I(a) of the 2019 FIG Code of Ethics when it adopted the SCMP.

ii. Is the SCMP too limited in scope?

67. Next, the GEF asserts that GA breached FIG rules because the SCMP limits complaints to those concerning direct conduct towards an athlete, excluding complaints about GA officials who may have mishandled historical complaints or had knowledge of abuse and failed to act.
68. SCMP 1.7.b defines “*Relevant Conduct*” as “*conduct toward an athlete amounting to misconduct, bullying, abuse, sexual harassment or assault.*”
69. SCMP 1.10.a provides that the SCMP applies to anyone involved in the Sport of Gymnastics in Australia, including “(i) *persons appointed or elected to boards, committees and sub-committees*”, employees of GA, coaches, judges and other officials.
70. The Panel finds that the SCMP does allow for complaints of mishandled complaints or failures to act as complaints of misconduct. Therefore, GEF’s allegation that GA breached FIG rules due to the SCMP’s scope is not proven.

iii) Is the CDDP biased in relation to scope?

71. Next, the GEF asserts that GA breached FIG rules because the SCMP complaint process is biased in relation to scope and presents a conflict of interest because the Complaint Dispute Disciplinary Policy (CDDP) of SIA (v 4)40 provides a complaint management process that can be run either by SIA or the sporting body, allowing GA to decide whether a complaint is in or out of scope.
72. According to the SCMP, 2.B, complaints are assessed by an independent assessor (IA) who is appointed by the SIA and NST. If the IA determines that an investigation is warranted, the investigation is handled by SIA. GA agreed to adopting and implementing the findings, recommendations and conclusions of the IA and SIA.
73. The Panel concludes that this level of independence shows that the SCMP is not biased in relation to scope and does not pose a conflict of interest.



Gymnastics Ethics Foundation Fondation d'Éthique de la Gymnastique

Disciplinary Commission

74. Finally, the Panel notes that if the FIG wanted member federations to have a right of reply in the process of investigating a safeguarding complaint, it could have included that requirement in its Safeguarding Policy. The Safeguarding Policy describes and defines various types of prohibited non-accidental violence, and in Section 6.3 describes the responsibilities of member federations:

Each NF is responsible for:

- *Developing and implementing a Policy and Procedures for safeguarding and protecting participants from harassment and abuse,*
- *Ensuring such policy and procedures are in line with the standards of FIG Policy and Procedures;*
- *Ensuring all participants in gymnastics are aware and adhere to the FIG Code of Conduct at FIG activities;*
- *Advising the FIG of any disciplinary sanction imposed by the NF relating to an incident that occurred at an FIG event that was dealt with by the NF.*
- *Informing the FIG on a 'need to know' basis of any temporary suspension or permanent exclusion of one of their members if it is reasonably believed that he/she could present a risk to participants in gymnastics outside the NF concerned.*

75. The FIG does not specify that a member federation's safeguarding policy must include a right of reply. Accordingly, the Panel cannot conclude that GA violated FIG rules by failing to include a right of reply in its SCMP.

iv) Failing to implement the GEF Disciplinary Panel decision at the national level.

76. Next, the GEF asserts that GA breached the FIG Policy and Procedure for Safeguarding when it failed to implement the previous GEF Disciplinary Panel's decision GEF DC 2022/06/13 at the national level.

77. The above referenced decision states:

Ms. Elliott's brevet shall be suspended and she shall be excluded from participating as judge in any FIG activities and other international events for one year and six months. To avoid misunderstanding, during this period, Ms. Elliott shall also not sit on any Superior Jury in any other capacity she may hold and regardless of whether this practice is admissible at all, which the Panel doubts. Ms. Pankoke's brevet shall be suspended and she shall be excluded from participating as judge in any FIG activities and other international events for one year.

As a result, Ms. Chiller shall be prohibited to formally representing the FIG or the OGU (i.e. making speeches, awarding prizes or any other act of ceremonial representation) in connection with any gymnastics competition on the FIG calendar for a period of 2 years in line with Art. 43.3 of the FIG 2019 Statutes, starting from the date of the notification of this decision. To avoid



Gymnastics Ethics Foundation Fondation d'Éthique de la Gymnastique

Disciplinary Commission

misunderstanding, this prohibition does not encompass representing the OGU in correspondence aimed at organizing events, such as requests for FIG approval etc.³

78. GA interpreted this decision to mean that the GEF did not prohibit Ms. Elliott or Ms. Pankoke from judging at the national or state levels.
79. The Disciplinary Commission Panel agrees with this interpretation and finds that GA did not violate FIG rules in failing to suspend Ms. Elliot or Ms. Pankoke from judging at the national or state level.

v) Did GA violate FIG rules in its handling of Case One?

80. In Case One, the GEF asserts the GA has breached FIG policies in its handling of a complaint of bullying, abuse, misconduct, sexual harassment or assault towards the athlete, when it failed to use a trauma-informed approach and it concluded that the medical evidence was inconclusive as to the cause of injury, but GA failed to interview the doctor and failed to interview available witnesses, without explaining why.
81. According to the SCMP, the investigation is handled by SIA independently of GA and GA is bound to accept. GA argues that any shortcomings in either the assessment phase or the investigation phase cannot be held against GA, because it had delegated assessment and investigation phases to independent bodies.
82. The Panel finds that GA is liable for the conduct of its delegated tasks including the conduct of the Independent Investigator. GA owed a duty of proper instruction and supervision when delegating its safeguarding responsibilities. GA was required to ensure that the investigation was carried out by qualified individuals, who were properly instructed and supervised.
83. The Panel finds that GA is liable for the Independent Investigator's deficient conduct in the investigation phase. The Independent Investigator failed to use a trauma informed approach when interviewing the gymnast, failed to interview the doctor and failed to interview available witnesses.
84. Article 3 of the FIG Code of Discipline states:

Any infringement of the Statutes, Rules and Regulations, Policies and/or Procedures, as well as of the principles of integrity and sports fairness by the FIG member Federations...officials...is liable for sanctions provided for by the Statutes and this Code.

These principles are infringed should someone: – Not abide by the FIG written Statutes, rules, regulations, decisions and directives.

...

Violate the "FIG Policy and Procedures for Safeguarding Participants in Gymnastics"

³ GEF DC 2022/06/13, paragraphs 100 and 102.



Gymnastics Ethics Foundation
Fondation d'Éthique de la Gymnastique

Disciplinary Commission

85. Article 6.4 of the FIG Policy and Procedure for Safeguarding and Protecting Participants in Gymnastics (Safeguarding Policy) states:

Everyone has a responsibility to ensure that the gymnastic sport environment is free from nonaccidental violence.

All participants must comply with the FIG Policy and Code of Conduct and specifically not engage in, allow, condone, or ignore incidents of harassment and abuse and be supportive of other participants who report concerns.

86. Article I(a) of the 2019 FIG Code of Ethics states:

The respect of human rights and dignity is a fundamental requirement during all activities of the sport of gymnastics on a national and international level.

87. By failing to appropriately delegate, instruct and supervise its investigative responsibilities when it delegated these responsibilities to the Independent Investigator, resulting in the Independent Investigator's failure to use a trauma-informed approach to interviewing the gymnast, failing to interview the examining doctor and failing to interview all available witnesses, GA failed to ensure that gymnastics is free from nonaccidental violence. Through its failure to appropriately delegate, GA ignored reports of abuse and failed to be supportive of a gymnast who was reporting abuse. Through its failure to appropriately delegate, GA failed to respect the gymnast's human right to have her complaint adequately interviewed.
88. Accordingly, the Panel finds that GA breached Article 3 of the FIG Code of Discipline, Article 6.4 of the FIG Safeguarding Policy and Article I(a) of the 2019 FIG Code of Ethics in SIA's handling of the investigation of Case One.

vi) Did GA violate FIG rules in its handling of Case Two?

89. In Case Two, the GEF asserts that the GA breached FIG policies in its handling of complaints received in 2018 regarding the National Center for Excellence (NCE) because Ms. Chiller closed the investigation without referral to Disciplinary committee and parents did not receive a report or outcome letter.
90. GA asserts that it appointed an independent investigator to investigate the culture of the NCE. Based on the results of the investigation, equipment and financial issues, GA decided to close the NCE. The investigator recommended closing the investigation, and GA followed the recommendation.



*Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique*

Disciplinary Commission

91. GA notes that through the SCMP, complainants could and did file new complaints regarding the NCE. Following SCMP procedures, an Independent Assessor was appointed, who determined that Ms. Chiller’s closing of the investigation was not within the scope of the SCMP as it was not conduct towards an athlete. The allegation of bullying and victimization by the head coach was determined to be unsubstantiated by the Independent Investigator.
92. Having considered the allegations and the facts before the Panel, the Panel determined that GA did not violate FIG rules in its handling of Case Two. Neither the initial closing of the investigation, nor the subsequent determinations under the SCMP violated FIG rules. Rather, it shows that GA followed its process with a sufficient level of independence.

vii) Did GA violate FIG rules in its handling of Case Three?

93. In Case Three, the GEF asserts that the GA breached FIG policies in its handling of psychological abuse from her coach because GA did not use a trauma-informed approach when interviewing the complainant and did not inform the complainant of what the respondent had said, therefore denying the complainant the right of reply.
94. GA asserts that this complaint was submitted in accordance with the SCMP in September 2020. The Independent Assessor determined that it was a relevant complaint. The Independent Investigator determined that of the five allegations raised by the complainant, three were unsubstantiated and two were neither substantiated nor unsubstantiated. GA informed the complainant of the outcome on 7 September 2021. Afterwards, the complainant and GA have engaged in a conciliation process regarding the complainant’s concerns of how the complaint was handled. On 4 April 2024, the complainant’s mother (on behalf of the complainant) lodged a discrimination complaint in the AHRC against GA and SIA.
95. According to the SCMP, the investigation is handled by SIA independently of GA and GA is bound to accept. Moreover, it appears that this matter is still ongoing before GA and therefore the Panel cannot prejudge the outcome. Accordingly, the Panel cannot find that GA breached FIG rules in SIA’s handling of the investigation of Case Three.

ON THESE GROUNDS

The GEF Disciplinary Commission issues the following decision:

96. **The Panel finds that GA breached Article 3 of the FIG Code of Discipline, Article 6.4 of the FIG Safeguarding Policy and Article I(a) of the 2019 FIG Code of Ethics in SIA’s handling of the investigation of Case One.**



Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique

Disciplinary Commission

VII. Sanction

97. Article 25 of the Code of Discipline states:

The disciplinary measures provided for in the FIG Statutes may be ordered against any natural person or legal entity such as but not limited to FIG member Federations, gymnasts, officials (judges, coaches, medical staff or other), members of the FIG Authorities including Commission as well as Apparatus Manufacturers, organising committees and their members.

The Disciplinary Authority shall set out the type and the scope of the disciplinary sanctions, in accordance with the FIG Statutes and regulations, by considering both the objective and subjective elements of the infringement.

The sanctions imposed shall take into account mitigating and aggravating circumstances.

Aggravating circumstances shall include in particular, but shall not be limited to, the repetition of an infringement. Each second or subsequent offence must take place within five (5) years after a former final ruling on disciplinary sanction in order to be considered as such.

98. The GEF did not request any punitive sanctions, suspensions or monetary sanctions, but only declaratory relief.

99. When considering GA’s culpability, the Panel has considered mitigating factors such as GA’s scope of authority within the framework of other Australian entities such as the AHRC, the SIA and the NST. The Panel has also considered the passage of time since the events leading to this case, and the efforts that GA has undertaken to implement the recommendations of the AHRC and implement the SCMP and the NIF.

100. The Panel has also considered aggravating circumstances, including the fact that GA has been involved in prior disciplinary proceedings, including GEF DC 2022/06/13.

101. The Panel agrees that the following declaratory relief is appropriate in this case, and imposes no other sanctions:

The Panel finds that GA breached Article 3 of the FIG Code of Discipline, Article 6.4 of the FIG Safeguarding Policy and Article I(a) of the 2019 FIG Code of Ethics in SIA’s handling of the investigation of Case One.



Gymnastics Ethics Foundation
Fondation d'Éthique de la Gymnastique

Disciplinary Commission

VIII. Costs

102. Article 27 of the Code of Discipline discusses cost of the proceedings and states in relevant part:

The Disciplinary Authority shall decide whether the costs incurred by the disciplinary proceedings shall be borne entirely or partly by the sanctioned Party or shared by the Parties at the percentage to be decided by the Disciplinary Authority or born by the Gymnastics Ethics Foundation.

In principle, the Parties shall bear their own expenses and costs, but the Disciplinary Authority may request the unsuccessful Party to pay to the successful Party a fair contribution to or all the expenses (costs of the Party and the lawyer) incurred.

The Parties which have requested the hearing of witnesses or of experts shall pay the expenses related to the appearance of these persons.

103. As the Panel found GA as being partially in breach of the above-mentioned FIG rules, the Panel orders GA to pay a contribution to the costs of these proceedings in the amount of CHF 500 (cf. Article 27, para. 1, of the Code of Discipline).

104. Neither Party requested a contribution for the reimbursement of their investigative costs (GEF) and/or legal expenses (GEF/GA) in this case. In accordance with Article 27, para. 2, of the Code of Discipline, the Panel determines that each party should bear their own costs.

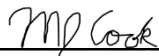
IX. Publication

105. Article 23 of the Code of Discipline provides that final decisions shall be published in full, partly or in short on the FIG website or in the FIG official publication.

106. The Panel confirms that the decision will be published.

Lausanne, 13 January 2025

Mike Cook, Panel President



Melanie Schärer, Panel Member



Thomas Hayn, Panel Member





Notice of Appeal

Article 30 of the FIG Code of Discipline - Appeal

With the exception of decisions and sanctions rendered in connection with the FIG Anti-Doping Rules and the WADA Code including its international standards, which may be appealed directly to the CAS, and unless provided otherwise in specific provisions, only the decisions rendered by the Disciplinary Commission may be appealed to the Appeal Tribunal.

Only the Parties directly involved in the proceedings shall be eligible to lodge an appeal to the Appeal Tribunal.

Upon request of a majority of the Executive Committee or of the FIG President, the FIG shall in all cases be eligible to lodge an appeal. The appeal shall be lodged by the FIG Secretary General. Likewise the majority of the Council of the Gymnastics Ethics Foundation or its President shall be eligible to lodge an appeal in all cases. Appeals of the Gymnastics Ethics Foundation shall be lodged by its Director.

In order to be admissible, the appeal shall be lodged in writing and contain:

- the factual argument
- the reasons for the appeal
- the submission of any and all means of proof relied upon by the Appellant or an offer to submit any and all means of proof (such as the request for the hearing of witnesses or the request for an independent expert)
- the request of a hearing if wished so by the Appellant
- the conclusions of the Appellant

If the Appellant wishes to call witnesses or experts, a hearing shall be held.

Once his/her statement of the case is submitted, the Appellant shall not be authorised to produce new means of proof unless he/she justifies that he/she has not been able to do so for reasons beyond his/her control or his/her behest. The Appeal Tribunal may automatically conduct the necessary investigations.

The appeal shall be signed by the Appellant and sent in writing to the Director of the Gymnastics Ethics Foundation to the attention of the Appeal Tribunal within 21 days from the notification of the decision rendered by the Disciplinary Commission.

Should the appeal be submitted by email it shall be admissible provided that it contains an electronic signature officially certified and dated via a secure server.

Should the appeal be sent by mail, it shall be delivered to a Swiss post office at the latest by midnight of the last day of the time limit or be delivered at the Office of the Gymnastics Ethics Foundation, at the attention of the Appeal Tribunal during its usual opening hours not later than the last day of the time limit. The Appellant is responsible for showing proof, within a time limit to be determined by the President of the Appeal Tribunal, that his appeal has been lodged in due time, otherwise, the appeal shall be considered inadmissible.

In order for the appeal to be admissible, the Appellant shall transfer in advance the expenses of CHF 5,000.- onto the account of the Gymnastics Ethics Foundation at the same time the appeal is lodged or at the latest by the end of the appeal deadline. This amount shall be refunded to the Appellant if his appeal is granted. It shall be kept by the Gymnastics Ethics Foundation if the appeal is considered inadmissible or is fully or partly rejected. The Gymnastics Ethics Foundation is exempt from the obligation to pay the expenses in advance for its appeal.