

## Policies and Procedures

### 90 – Conduct and Enforcement

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<b>Policy Number:</b>	<b>90.20A</b>
<b>Name:</b>	<b>Policy Against Maltreatment in Sport</b>
<b>Origin:</b>	<b>Equity Committee</b>
<b>Approved:</b>	<b>June 1998</b>
<b>Approval Process:</b>	<b>Board of Directors</b>
<b>Revision Date(s):</b>	<b>June 2008, June 2015, August 2017, August 2018, February 2020</b>

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90.20.1A     STATEMENT OF POLICY

90.20.1.1A    U SPORTS is committed to providing a sport environment in which all individuals are protected from maltreatment and treated with respect and dignity. Each individual has the right to participate in an environment which promotes equal opportunities and prohibits discrimination, harassment and abuse. U SPORTS prohibits discrimination, harassment or abuse at any U SPORTS Events.

90.20.1.2A    Any individual who engages in discrimination, harassment or abuse contrary to this policy may be subject to disciplinary and remedial sanctions for their conduct.

90.20.2A     JURISDICTION

90.20.2.1A    Subject to the provisions below, this policy applies to all individuals, including but not limited to volunteers, coaches, student-athletes, officials, student-athlete support personnel, and administrators, at any U SPORTS Events.

90.20.2.2A    Where a U SPORTS employee or contractor has a complaint of discrimination harassment it will be dealt with under Policy 90.20B.

90.20.2.3A    Discrimination, harassment and abuse arising at activities and sanctioned events occurring at the Regional Association level shall be dealt with using the policies and procedures of the Regional Association. This would include, but not be limited to exhibition games, regular season games and conference playoffs.

90.20.2.4A    Discrimination, harassment and abuse arising at activities and events of a member institution of U SPORTS shall be dealt with using the policies and procedures of that institution. This would include, but not be limited to, tryouts, practices, and team retreats.

90.20.2.5A    Persons who are sanctioned under this policy may also be subject to the disciplinary rules and procedures of other associations, clubs, organizations or institutions of which they are a member or represent.

- 90.20.2.6A Where the Complainant and the Respondent to a complaint filed under this Policy are both affiliated with the same member institution, the Case Manager shall refer the complaint to the member institution for investigation under its policies addressing harassment, discrimination and abuse, in *lieu* of the complaint being addressed under this Policy. The Case Manager may exercise the discretion not to refer the complaint to the member institution only (1) where there is a reasonable basis to believe the member institution does not have a policy in place to address discrimination, harassment and abuse, (2) where there is a reasonable basis to believe the member institution will not follow an investigation procedure substantially similar to the one set out in this Policy, or (3) where there is a reasonable basis to otherwise conclude the member institution may not be able to address the complaint impartially. If such discretion is exercised by the Case Manager, the member institution at issue, should it disagree with the decision, may refer the matter to the U SPORTS Designate who shall make the final determination as to whether or not the complaint will be addressed under this Policy.
- 90.20.3A DEFINITIONS
- 90.20.3.1A “U SPORTS Events” are any events for which U SPORTS is the primary organizer or jurisdiction-holder for the event itself, or for which U SPORTS is the primary organizer or jurisdiction-holder of a team or delegation in that event. U SPORTS Events include U SPORTS national championships, FISU events to which Canada sends a delegation, all-star games or development camps organized by U SPORTS or for which U SPORTS sends a team or delegation, and U SPORTS corporate events or awards ceremonies; U SPORTS events do not include, among other things, university team tryouts, practices, or other team activities, Regional Association exhibition games, regular season games, or playoff games.
- 90.20.3.2A “Protected group” is any prohibited ground of discrimination or harassment under provincial human rights legislation. This includes race ancestry, ethnic origin, country or place of origin, citizenship, age, creed (religion), sex, sexual orientation, gender, gender identity, gender expression, marital status, family status, disability and colour.
- 90.20.3.3A “Abuse” is a pattern of psychological, physical and/or sexual maltreatment and includes neglect. Where there is any uncertainty as to the definition of any of these terms, the definition as found in the Universal Code of Conduct to Prevent and Address Maltreatment in Sport, Version 5.1 shall apply.
- 90.20.3.4A “Discrimination” is differential adverse treatment of an individual or group where membership in a protected group is a factor in the adverse treatment.
- 90.20.3.5A “Harassment” (also referred to as “bullying”) is any inappropriate, vexatious, objectionable or offensive conduct, comment, display, action or gesture by a person against an individual that (a) adversely affects the individual’s psychological or physical well-being and (b) is known or ought reasonably to be known to be

unwelcome and/or would cause an individual (or a group of employees) to be humiliated, intimidated, offended or feel degraded.

Harassment includes, but is not limited to inappropriate or vexatious conduct, comment, display, action or gesture based on an employee's race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry, place of origin or membership in any other protected group.

Harassment also includes sexual harassment as defined in this policy.

- 90.20.3.6A "Sexual harassment" is unwelcomed sexual solicitation or advances, a request for sexual favours, or other verbal or physical conduct of a sexual nature. Sexual harassment may also include:
- a) when such conduct might reasonably be expected to cause embarrassment, insecurity, discomfort, offense, or humiliation to another person or group;
  - b) when submission to, or rejection of, such conduct is used as the basis for making a decision which affects the individual; or
  - c) when such conduct has the effect of interfering with a person's performance or creating an intimidating, hostile or offensive environment and where a reasonable person would know, or, ought reasonably to know, that such conduct would have this effect.
- 90.20.3.7A "Reprisal" is any action or threat undertaken against an individual for having objected to discrimination, harassment or abuse under this policy, filed a complaint under this policy or participated with an investigation under this policy.
- 90.20.3.8A "Complainant" refers to the person who files a complaint under this policy.
- 90.20.3.9A "Respondent" refers to the person against whom a complaint is made under this policy.
- 90.20.3.10A "Case Manager" refers to the external person(s) designated by U SPORTS to receive complaints under this policy. The Case Manager will not be an employee of U SPORTS.
- 90.20.3.11A "U SPORTS Designate" is the CEO of U SPORTS or, in the event the CEO is in a conflict of interest by virtue of the parties or subject matter of a complaint, a designate as determined by the Chair of the Board of Directors of U SPORTS.
- 90.20.3.12A "Investigating Officer" is the external person appointed by the Case Manager to investigate a complaint under this policy.
- 90.20.3.13A "Investigation Report" refers to the report of an investigation completed by the Investigating Officer.

- 90.20.3.14A "Case Review Panel" refers to a committee consisting of three (3) members of the U SPORTS Board of Directors appointed by the Chair of the U SPORTS Board of Directors. The Case Review Panel shall consist of at least one woman and one man. Panel members shall be of a different member institution than the Complainant and Respondent. The U SPORTS Designate shall provide administrative support to the Case Review Panel.
- 90.20.4A CONFIDENTIALITY AND REPRISAL
- 90.20.4.1A Complaints may not be made anonymously, as U SPORTS requires identifying information to appropriately review and manage any allegation raised. U SPORTS shall not disclose personal information collected under this policy, including identifying information about the Complainant or Respondent, unless such disclosure is required to conduct the investigation (if any), inform participants of the results of the complaint, implement corrective action related to the complaint, or is required by law.
- 90.20.4.2A It is a violation of this policy to engage in any form of reprisal. Any person who engages in reprisal may be subject to disciplinary or remedial sanctions.
- 90.20.5A COMPLAINT PROCEDURE
- 90.20.5.1A Any person who believes he or she has been subjected to, or witnessed, conduct which constitutes discrimination, harassment or abuse under this policy may contact the Case Manager to file a complaint. The Case Manager may be contacted at [safesport@sportlaw.ca](mailto:safesport@sportlaw.ca) or 647.348.3080.
- 90.20.5.2A Where the Case Manager determines the complaint is one that properly falls within the jurisdiction of this policy, the Case Manager will obtain from the Complainant a statement in writing outlining the details of the incident(s) and the names of witnesses.
- 90.20.5.3A Where the Case Manager determines a complaint does not fall within the jurisdiction of this policy, a Complainant will be encouraged to file his or her complaint with the appropriate Regional Association or Member Institution, as applicable.
- 90.20.5.4A Any complaint under this policy should be brought forward as soon as the circumstances permit, to ensure the complaint may be addressed promptly.
- 90.20.5.5A The Case Manager shall inform the Complainant of:
- a) the process for informal resolution, and/or the management of the complaint under this policy, including the requirement the Case Manager inform the Respondent of the complaint; and
  - b) the confidentiality and reprisal provision of this policy.

- 90.20.5.6A Following receipt of the complaint, the Case Manager shall inform the Respondent of:
- a) the fact a complaint under the policy has been filed. The Respondent shall be provided with a copy of the written complaint;
  - b) the process for informal resolution and/or the management the complaint under this policy; and
  - c) the confidentiality and reprisal provision of this policy.

90.20.6A INFORMAL RESOLUTION

- 90.20.6.1A Should the Complainant and Respondent both request to have the complaint resolved on an informal basis, the Case Manager may work with the parties to negotiate an appropriate resolution. Should negotiation not be successful, or should either party not wish to participate, the Complainant and Respondent may agree to pursue mediation with a third-party mediator to be agreed upon between the parties.

- 90.20.6.2A Nothing in this section restricts the ability of U SPORTS to refer a complaint to investigation or formal disciplinary decision despite the Complainant and/or Respondent wishing to have the matter resolved informally.

90.20.7A INVESTIGATION

- 90.20.7.1A A complaint under this policy may be investigated where:
- a) the Complainant, Respondent or both do not wish to pursue informal resolution of the complaint, or attempts at informal resolution have been unsuccessful;
  - b) the Case Manager believes informal resolution is not appropriate in the circumstances; or
  - c) the Case Manager determines investigation is appropriate even where the Complainant no longer wishes to pursue a complaint, or wishes to resolve the complaint informally. In such circumstances, U SPORTS will pursue the complaint as the Complainant.
- 90.20.7.2A Upon receiving notice from the Case Manager that there is a complaint that falls within the jurisdiction of this policy which is to be investigated, the Case Manager shall appoint an Investigating Officer to investigate the complaint. The Investigating Officer shall be an impartial third party.
- 90.20.7.3A The Investigating Officer shall conduct an investigation promptly and impartially and in a manner appropriate in the circumstances. The Investigating Officer may undertake some or all of the following procedures as deemed appropriate in the circumstances:
- a) review the allegations;
  - b) conduct interview(s) of the Complainant, Respondent, potential witnesses, or anyone with relevant information;
  - c) collect and review documents;
  - d) review the site(s) of the alleged incident.

90.20.8A THE INVESTIGATION REPORT

90.20.8.1A Following completion of the investigation, the Investigating Officer shall prepare a written report of his or her objective assessment of whether the incident(s) alleged in the complaint are substantiated and whether they constitute a violation of the applicable policy.

90.20.8.2A On completion of the report, the Investigating Officer shall forward a copy of the Investigation Report to the U SPORTS Designate and the appointed Case Review Panel. The Complainant and Respondent shall be provided with a summary of conclusions.

90.20.9A SANCTIONS AND REMEDIES

90.20.9.1A The Case Review Panel shall receive the Investigation Report of the Investigating Officer and make a determination as to whether any sanctions or remedial steps are appropriate in the circumstances.

90.20.9.2A Where considering an appropriate remedy or sanction, the Case Review Panel may consider a range of remedies, which include, but are not limited to:

- a) an apology;
- b) education and training;
- c) removal of certain privileges up to and including expulsion or dismissal from U SPORTS Events, provided the sanction imposed falls within the jurisdiction of U SPORTS.

90.20.9.3A The Case Review Panel shall, after it has made its decision, inform the Complainant, the Respondent, and U SPORTS Designate of its decision with reasons.

90.20.9.4A Nothing in this policy shall restrict the discretion of any member institution to impose discipline or any other remedy on an employee or member of its institution as it deems necessary or appropriate.

90.20.10A APPEALS

The decision of the Case Review Panel may be appealed in accordance with U SPORTS Policy 90.40.

90.20.11A RECORD KEEPING

A copy of the complaint, Investigation Report and reasons of the Case Review Panel shall be maintained in a secure location by U SPORTS. These files shall be kept confidential and access to them shall be restricted to the Case Manager and U SPORTS Designate. These files shall be retained for a period of seven (7) years, unless new circumstances dictate that the file should be kept for a longer period of time.

90.20.12 PROVISIONAL MEASURES

90.20.12A U SPORTS may impose any interim measures it deems appropriate to mitigate the impact of any alleged maltreatment until such time as an investigation and/or decision is rendered in accordance with this Policy is complete.

90.20.13 EXTERNAL REPORTING

90.20.13.1A U SPORTS shall promptly disclose to any third-party granting body, for which U SPORTS has a contractual agreement, any such records of incident surrounding discrimination, harassment or abuse that could compromise U SPORTS programming.

90.20.14A TRAINING

90.20.14.1A U SPORTS shall provide training on this Policy Against Maltreatment in Sport to individuals who fall under the jurisdiction of this policy or, alternatively, shall verify that any individual who falls within this policy has received comparable training on maltreatment, which includes harassment, abuse and discrimination, from a member institution or Regional Association.

90.20.15 APPLICATION

90.21.15.1A Nothing in this policy shall be interpreted to restrict an individual from filing a complaint with the applicable provincial human rights commission or tribunal.

90.21.15.2A U SPORTS shall review this policy annually.