

Policies and Procedures

90 – Conduct and Enforcement

Policy Number:	90.20B
Name:	Harassment and Discrimination Policy (Applies Only to Employees of U SPORTS)
Origin:	Equity Committee
Approved:	June 1998
Approval Process:	Board of Directors
Revision Date(s):	June 2008, June 2015, August 2017, August 2018, February 2020

90.20.1B STATEMENT OF POLICY

90.20.1.1B U SPORTS is committed to providing a work environment in which all individuals are treated with respect and dignity. U SPORTS recognizes every employee is entitled to work free of harassment and discrimination. U SPORTS will work to eliminate or, where not practicable, minimize the potential of harassment in the workplace. This includes investigating any complaint of harassment or discrimination or upon U SPORTS becoming aware of incidents of harassment or discrimination under this policy.

90.20.1.2B Under this policy, it is the obligation of each U SPORTS employee to:

- a) not engage in harassment or discrimination;
- b) report observations or experiences of harassment or discrimination; and
- c) comply with this policy.

90.20.1.3B Supervisors and other members of the U SPORTS management team have the obligation to ensure the health and safety of employees in the workplace, including the obligation to comply with this policy.

90.20.1.4B A U SPORTS employee who engages in harassment or discrimination in violation of this policy will be subject to discipline, up to and including termination of employment for cause.

90.20.2B JURISDICTION

90.20.2.1B Subject to the provisions below, this policy applies to all U SPORTS employees (as defined below) in the workplace. Where an employee has a complaint of harassment or discrimination against any person in the workplace, regardless of whether the respondent is an employee, it is to be filed under this policy.

90.20.3B DEFINITIONS

90.20.3.1B “Employee” is any part-time, full-time, casual or temporary employee of

U SPORTS (*i.e.*, someone who receives monetary compensation from U SPORTS) or any contractor, or any student who may be placed with U SPORTS through a recognized secondary school or post-secondary co-op placement.

- 90.20.3.2B “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.
- 90.20.3.3B "Discrimination" is differential adverse treatment of an individual or group where membership in a protected group is a factor in the adverse treatment.
- 90.20.3.4B "Harassment" (also referred to as “bullying”) is any inappropriate, vexatious, objectionable or offensive conduct, comment, display, action or gesture by a person against an employee in a workplace that (a) adversely affects the employee’s psychological or physical well-being and (b) is known or ought reasonably to be known to be unwelcome and/or would cause an employee (or a group of employees) to be humiliated, intimidated, offended or feel degraded. Workplace harassment results in a harmful work environment, impacting on the health and safety of an employee.

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, gender, gender identity, 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.

Harassment does not include a reasonable action taken by U SPORTS or a manager or supervisor, relating to the supervision and direction of an employee or the workplace. Differences of opinion or minor disagreements between coworkers are also not generally considered to be workplace harassment if steps are taken to resolve the conflict.

- 90.20.3.5B "Sexual harassment" is (a) engaging in vexatious comments, conduct, actions or gestures against an employee in a workplace because of sex, sexual orientation, gender, gender identity or gender expression, where the comments or conduct is known or should reasonably be known to be unwelcome, or (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the employee and the person knows or should reasonably know the solicitation or advance is unwelcome. Sexual harassment includes making verbal comments, actions or gestures of a sexual nature to an employee.

- 90.20.3.6B "Reprisal" is any action or threat undertaken against an individual for having objected to harassment or discrimination in the workplace, filed a complaint under this policy or participated with an investigation under this policy.
- 90.20.3.7B "Complainant" refers to the person who files a complaint under this policy.
- 90.20.3.8B "Respondent" refers to the person against whom a complaint is made under this policy.
- 90.20.3.9B "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.
- 90.20.3.10B "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.
- 90.20.3.11B "Investigating Officer" is the external person appointed by the U SPORTS Designate to investigate a complaint under this policy.
- 90.20.3.12B "Investigation Report" refers to the report of an investigation completed by the Investigating Officer.
- 90.20.3.13B "Case Review Panel" refers to a committee consisting of three (3) members of U SPORTS Board of Directors appointed by the Chair of the U SPORTS Board of Directors. The Committee shall consist of at least one woman and one man. Committee Members shall be of a different member institution than the Respondent (if applicable). The U SPORTS Designate shall provide administrative support to the Case Review Panel.
- 90.20.3.14B "Workplace" is any location where U SPORTS business is conducted, including at any U SPORTS events (e.g., national championships, FISU events, non-championship events), corporate meetings and seminars.
- 90.20.4B CONFIDENTIALITY AND REPRISAL
- 90.20.4.1B Complaints may not be made anonymously, as U SPORTS requires identifying information to appropriately investigate any allegation raised. However, 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, inform participants of the results of the investigation, implement corrective action related to the complaint, or is required by law.
- 90.20.4.2B It is a violation of this policy to engage in any form of reprisal. Any employee who engages in reprisal may be subject to discipline, up to and including termination for cause.

90.20.5B COMPLAINT PROCEDURE

90.20.5.1B Any person who believes he or she has been subjected to, or witnessed, conduct which constitutes discrimination or harassment under this policy is to contact the Case Manager to file a complaint. The Case Manager may be contacted at safesport@sportlaw.ca or 647.348.3080.

90.20.5.2B In the event the Case Manager is the subject of the complaint, the complaint should instead be filed with the U SPORTS Designate, who will appoint an alternate Case Manager to handle the complaint under this policy.

90.20.5.3B 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), all relevant evidence and the names of witnesses.

90.20.5.4B Any complaint under this policy should be brought forward as soon as the circumstances permit, to ensure the complaint may be investigated and addressed promptly.

90.20.5.5B The Case Manager shall inform the Complainant of:

- a) the process for investigation 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.

90.20.5.6B 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 investigation of the complaint under this policy; and
- c) the confidentiality and reprisal provision of this policy.

90.20.6B INVESTIGATION

90.20.6.1B 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 U SPORTS Designate shall appoint an Investigating Officer to investigate the complaint. The Investigating Officer shall be an impartial third party.

90.20.6.2B 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.

90.20.7B THE INVESTIGATION REPORT

90.20.7.1B 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.

90.20.7.2B On completion of the report, the Investigating Officer shall forward a copy of the Investigation Report to the U SPORTS Designate and, if necessary, the Case Review Panel. The Complainant and Respondent shall be provided with a summary of the conclusions. The Case Review Panel may determine the Investigation Report is to remain confidential, redacted, summarized or disclosed as is in their sole discretion.

90.20.8B DISCIPLINE

90.20.8.1B The U SPORTS Designate shall receive the Investigation Report of the Investigating Officer and make a determination as to whether any disciplinary or remedial steps are appropriate in the circumstances.

90.20.8.2B Where considering an appropriate discipline or remedy, the U SPORTS Designate 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;
- d) disciplinary action, including termination of employment for cause.

90.20.8.3B Where the Respondent to the complaint is not a U SPORTS employee, the U SPORTS Designate may consult with the Case Review Panel to determine the appropriate remedial action. For example, if the complaint is raised by a U SPORTS employee against a coach employed by a member institution, the Case Review Panel would be consulted to determine the appropriate jurisdiction and possible remedial action to be taken against the coach, in consultation with the member institution.

90.20.8.4B The U SPORTS Designate shall, after it has made its decision, inform the Complainant and the Respondent, in writing of its decision with reasons.

90.20.9B APPEALS

90.20.9.1B The decision of the U SPORTS Designate, and/or Case Review Panel, may be appealed in accordance with U SPORTS Policy 90.40.

90.20.10B RECORD KEEPING

90.20.10.1B A copy of the complaint, Investigation Report and reasons of the U SPORTS Designate or Case Review Panel (if applicable) 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.

90.20.11B PROVISIONAL MEASURES

90.20.11.1B U SPORTS may impose any interim measures it deems appropriate to mitigate the impact of any alleged maltreatment until such time as an investigation in accordance with this Policy is complete and a decision rendered.

90.20.12B EXTERNAL REPORTING

90.20.12.1B 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 program funding.

90.20.13B TRAINING

90.21.13.1B U SPORTS shall provide mandatory training on this policy to all U SPORTS employees, including all supervisors. U SPORTS shall also provide mandatory training on its Policy Against Maltreatment in Sport (Policy 90.20A) to all U SPORTS employees, including all supervisors.

90.20.14B APPLICATION

90.21.14.1B Nothing in this policy is intended to discourage an employee from exercising his or her rights under the applicable human rights legislation or occupational health and safety legislation in his or her province of employment, the Criminal Code (Canada), or any other law of the applicable province or of Canada. An employee may find more information about employee and employer rights and obligations with respect to harassment and discrimination by referencing the provincial occupational health and safety and/or human rights legislation in the employee's province of employment.

90.21.14.2B Every employee maintains the right to file a complaint with his or her provincial human rights tribunal or commission, and/or request the assistance of an occupational health and safety officer under provincial occupational health and safety legislation for the purpose of resolving a complaint of harassment.

90.20.14.3B U SPORTS shall review this policy annually.