

Policies and Procedures

90 – Conduct and Enforcement

Policy Number:	90.20
Name:	Harassment and Discrimination Policy
Origin:	Equity Committee
Approved:	June 1998
Approval Process:	Board of Directors
Revision Date(s):	June 2008, June 2015, August 2017

90.20.1 STATEMENT OF POLICY

90.20.1.1 U SPORTS is committed to providing a sport and work environment in which all individuals are treated with respect and dignity. Each individual has the right to participate and work in an environment which promotes equal opportunities and prohibits unlawful discrimination and harassment.

90.20.1.2 For this policy, U SPORTS recognizes that harassment is prohibited by the Canadian Human Rights Code and by human rights legislation in every province and territory of Canada. Harassment can also be an offense under Canada's Criminal Code.

90.20.2 JURISDICTION

90.20.2.1 This policy applies in general to all U SPORTS member institutions, as well as all employees, directors, officers, volunteers, coaches, student-athletes, officials and any other persons involved in the activities of the member institutions and U SPORTS. This policy applies, with respect to its implementation by U SPORTS, for harassment and discrimination which may occur during the course of all U SPORTS business, activities and sanctioned events occurring at the national and international level.

90.20.2.2 Harassment and discrimination arising within U SPORTS business, activities and sanctioned events occurring at the Regional Association level shall be dealt with using the policies and procedures of the Regional Association.

90.20.2.3 Harassment and discrimination arising within the business, activities and events of a member institution of U SPORTS, other than those activities set out in Policies 90.20.2.1 and 90.20.2.2, shall be dealt with using the policies and procedures of that institution.

90.20.2.4 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.

90.20.3 DEFINITIONS

90.20.3.1 Harassment and discrimination based on the following grounds is prohibited under this policy: race ancestry, ethnic origin, country or place of origin, citizenship, age, creed (religion), sex, sexual orientation, marital status, family status, disability and colour.

90.20.3.2 "Discrimination" is defined as: differential adverse treatment of an individual or group that is not based on individual or group performance, but arises from a prohibited grounds listed under this policy (90.20.3.1).

90.20.3.3 "Harassment" is comment(s), conduct, or gesture(s) directed towards an individual or group, which is insulting, intimidating, humiliating, hurtful, malicious, degrading, or

otherwise offensive and which a reasonable person would know, or, ought reasonably to know to have this effect.

- 90.20.3.4 "Sexual harassment" is unwelcomed sexual solicitation or advances, a request for sexual favours, or other verbal or physical conduct of a sexual nature:
- 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.
- 90.20.3.5 "Reprisals" include situations in which head office staff or an employee, student-athlete, or volunteer is:
- denied or threatened with denial of a promotion, training, or other related benefits or opportunities (e.g. team selection, playing time etc.)
 - disciplined or threatened with disciplinary action;
 - dismissed or threatened with dismissal.
- On the basis of, but not limited to:
- rejecting the sexual advances of a person in authority who makes or can influence decisions affecting that individual;
 - having made a complaint of harassment or discrimination under this policy; or,
 - given evidence in a complaint or participated in any other way with the procedures afforded under this policy
- 90.20.3.6 "Complainant" refers to the person who files a complaint under this policy.
- 90.20.3.7 "Respondent" refers to the person against whom a complaint is made under this policy.
- 90.20.3.8 "Harassment Advisor" refers to the person(s) designated by U SPORTS to receive complaints and to assist in their informal resolution.
- 90.20.3.9 "Harassment Investigator" refers to the person appointed by the President to investigate a harassment complaint.
- 90.20.3.10 "Investigation Report" refers to the report of an investigation completed by the Harassment Investigator.
- 90.20.3.11 "Disciplinary Committee" refers to a committee consisting of three (3) members of U SPORTS Board of Directors appointed by the **Chair**. The Committee shall consist of at least one woman and one man. Committee Members shall be of a different member institution than the Complainant and Respondent.
- 90.20.3.12 "Timely manner" means such length of time as may fairly, properly or reasonably be required to execute an action or responsibility under this policy and where a specific time provision for doing so is not found.
- 90.20.4 CONFIDENTIALITY
- 90.20.4.1 U SPORTS shall not disclose to outside parties the name of the parties or the circumstances giving rise to a complaint unless such disclosure is required to conduct an investigation or is directed by the Discipline Committee to give effect to any remedy or

sanction imposed or is required by law. The term "outside parties" does not include officers duly appointed by U SPORTS under this policy.

90.20.5 COMPLAINT PROCEDURE

90.20.5.1 Any person who believes he or she has been subjected to conduct which constitutes discrimination or harassment under this policy at section 90.20.2.1 may contact U SPORTS in order to make a complaint. The complaint will be referred to the U SPORTS Harassment Advisor. Where U SPORTS is not authorized to act pursuant to section 90.20.2.1 the relevant Regional Association or institution shall act, as the case may be.

90.20.5.2 Complaints under this policy should normally be made within six (6) months of the incident(s). When the Complainant is under a direct supervisory relationship with the Respondent at the time of the incident(s) giving rise to a complaint, the six (6) month limitation period starts from the date the direct supervisory relationship ends.

90.20.5.3 The Harassment Advisor shall obtain from the Complainant a statement in writing outlining the details of the incident(s) and the names of witnesses. The statement should be dated and signed by the Complainant.

90.20.6 CONFLICT OF INTEREST

90.20.6.1 Where a complaint has been made under this policy, and where this gives rise to a conflict of interest for one or more parties in the complaint, U SPORTS may make arrangements to separate the interests that are in conflict pending disposition of the complaint.

90.20.6.2 Where a complaint is made under this policy and the person who would normally deal with the complaint has a personal interest in the outcome of the complaint and otherwise has a conflict of interest, that person shall stand down and the responsibility for the carriage of the complaint will be delegated to a disinterested third party.

90.20.6.3 The Harassment Advisor shall inform the Complainant of:

- a) the options for pursuing a complaint under this policy or through other mechanisms;
- b) the availability of counseling, support and other resources provided by U SPORTS and the complainant's member institution;
- c) the confidentiality provision of this policy; and
- d) the right to be represented by a person of choice (including legal counsel) at any stage in the complaint process; and
- e) the immediate requirement to inform the Respondent of the complaint that has been filed as soon as possible.

90.20.7 INITIAL MEETING/ACTIONS TAKEN

The initial meeting between the Complainant and the Harassment Advisor will determine which, if any, of the following actions will be taken:

90.20.7.1 No further action

90.20.7.2 Complaint Filed

The Complainant writes a complaint. This will be signed and dated. The Respondent will receive a copy of the complaint, a copy of this policy and a notice that he or she has the right to be represented by any person of choice at any stage of the process when he or she is required or entitled to be present. The Respondent shall also be given an opportunity to provide a written response to the complaint.

- 90.20.7.3 Informal Resolution:
The Complainant may choose to pursue informal resolution of the complaint. The Harassment Advisor will assist the two (2) parties in negotiating an appropriate remedy.
- 90.20.7.4 Mediation:
If informal resolution fails or the Complainant has declined to make use of the informal resolution procedure, the Complainant may choose to pursue mediation. For mediation to proceed under this policy, the Complainant and the Respondent must both agree upon:
- (a) the use of mediation; and
 - (b) the selection of the mediator.
- 90.20.7.5 Notes and Records:
When no action has been taken, or when a complaint has been resolved through informal resolution or mediation, the Harassment Advisor will make a written record that a complaint was made and will describe the disposition of the complaint. A copy of the record shall be retained by U SPORTS for a period of 7 years.
- 90.20.7.6 Investigation:
- 90.20.7.6.1 If mediation fails or where one or more parties to a complaint declines the use of mediation, the Complainant may request that a formal investigation be conducted.
 - 90.20.7.6.2 If the Harassment Advisor believes that there is prima facie evidence of harassment or discrimination but the Complainant does not wish to proceed with a complaint or investigation, the Harassment Advisor must decide if the alleged harassment or discrimination is serious enough to warrant laying a complaint, even if it is against the wishes of the Complainant. When the Harassment Advisor decides that the evidence and surrounding circumstances require an investigation, the Harassment Advisor will draw up a statement of allegations. U SPORTS will pursue the complaint as Complainant. Copies of the complaint will be provided to the original Complainant and the Respondent.
- 90.20.8 INVESTIGATION
- 90.20.8.1 Upon receiving notice from the Harassment Advisor that the Complainant has requested a formal investigation, the CEO shall appoint a Harassment Investigator to investigate the complaint. The Harassment Investigator will:
- a) Review and clarify with the Complainant their written statement, including the specific details of the complaint;
 - b) Ensure that the Complainant and the Respondent have a copy of the written complaint.
- 90.20.8.2 The Harassment Investigator shall conduct an investigation and prepare a report for the Disciplinary Committee in a timely manner.
- 90.20.9 THE INVESTIGATION REPORT
- 90.20.9.1 The Investigation Report from the Harassment Investigator should contain:
- a) a summary of the allegations;
 - b) a summary of the fact(s) and the relevant evidence so that the Discipline Committee may decide whether the allegations in the written complaint have been substantiated by the facts and the evidence; and
 - c) recommended remedial action (such as systemic changes), if any.
- 90.20.9.2 On completion of the report, the Harassment Office shall forward a copy of the Investigation Report to the Complainant, the Respondent, the Harassment Advisor and the Disciplinary Committee.

90.20.10 DISCIPLINE

90.20.10.1 The Discipline Committee shall receive the Investigation Report of the Harassment Investigator. The Respondent shall be allowed to submit a response, within 10 days, to the Harassment Investigator's Investigation Report for consideration by the Discipline Committee.

90.20.10.2 After considering the Investigation Report, all relevant facts and evidence and any additional material provided, the Discipline Committee shall:

- a) make a determination as to whether the Respondent has engaged in conduct constituting harassment or discrimination; and
- b) if the Discipline Committee determines that the Respondent has engaged in conduct constituting harassment, order such remedy or sanction as is appropriate in the circumstances.

90.20.10.3 If the Discipline Committee determines that the Complainant has made a vexatious complaint or knowing it to be false, it may order such remedies or sanctions as is appropriate in the circumstances.

90.20.10.4 When considering the remedy, the Discipline Committee may consider a range of remedies as it considers appropriate to the circumstances, which include, but are not limited to:

- a) an apology;
- b) education & training in harassment issues;
- c) removal of certain privileges up to and including expulsion or dismissal.

90.20.10.5 The Discipline Committee shall, after it has made its decision, inform the Complainant, the Respondent, the Harassment Investigator and the Harassment Advisor of its decision with reason.

90.20.11 APPEALS

The decision of the Discipline Committee may be appealed in accordance with U SPORTS Policy 90.40.

90.20.12 RECORD KEEPING

A copy of the complaint, investigation notes, correspondence and reports by the Harassment Investigator and the Disciplinary Committee shall be placed in the Harassment Advisor's files. These files shall be kept confidential and access to them shall be restricted to the U SPORTS Harassment Advisor(s), U SPORTS Chief Executive Officer and U SPORTS Harassment Investigators. These files shall be retained for a period of seven (7) years, unless new circumstances dictate that the report should be kept for a longer period of time.