



## Harassment , including Sexual Harassment, Policy

Sail Canada aims to provide a work and sporting environment where the dignity of the individual is respected, free from harassment and fear of harassment including sexual harassment.

1. Sail Canada recognizes that:
  - a. every athlete, coach, student, instructor, sailor, official, event organizer, etc. ( “participants”) and every employee is entitled to a climate free of harassment including sexual harassment, and
  - b. harassment or fear of harassment, including sexual harassment, can compromise the integrity of the employment and sporting relationships and endanger personal well-being and performance.
2. Harassment as defined by the Canadian Human Rights Commission:  
“Harassment is a form of discrimination. It involves any unwanted physical or verbal behaviour that offends or humiliates you. Generally, harassment is a behaviour that persists over time. Serious one-time incidents can also sometimes be considered harassment.” [www.chrc-ccdp.ca](http://www.chrc-ccdp.ca) .
3. A person who has the authority to prevent or discourage harassment of any kind may be considered responsible for failing to exercise their authority to do so, and consequently may be subject to such disciplinary actions as deemed appropriate by Sail Canada.
4. Sail Canada will make every effort to ensure that no employee or participant is subjected to harassment including sexual harassment.
5. Sail Canada will take such disciplinary action as it deems appropriate against any person under its direction who subjects any employee or participant to any form of harassment, including sexual harassment.

### Application

This policy applies to all employees of Sail Canada as well as all directors, officers, volunteers, coaches, athletes, officials, judges and any other person involved with any Sail Canada activity. It applies to harassment which may occur during the course of all Sail Canada business, activities and events, regardless of location.

### Definition

1. Harassment includes any comments or conduct consisting of words or actions that disparage or cause humiliation to a person in relation to race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, sex, sexual orientation, record of offences, marital status, family status or disability.
2. Sexual harassment is any conduct, comment, gesture or contact of a sexual nature:
  - a. that is likely to cause offense or humiliation to any person; or



- b. that might, on reasonable grounds, be perceived by that employee or participant as a sexual favour or placing a condition of a sexual nature on employment or participation in any Sail Canada activity, including the opportunity for training or promotion.
3. Types of behaviour which constitute sexual harassment include, but are not limited to:
  - a. unwelcome remarks, jokes, innuendoes or taunting of a sexual nature about a person's body, attire, age, marital status, and/or which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;
  - b. unwelcome or intimidating invitations or requests with sexual overtones whether indirect or explicit;
  - c. leering, facial gestures or other gestures;
  - d. unwelcome physical contact such as touching, patting, brushing up against, or pinching;
  - e. unwelcome display of objects or pictures of a sexual nature, which are offensive or ought to be known to be offensive;
  - f. written or oral abuse or threats thereof;
  - g. physical or sexual assault;
  - h. using submission to or rejection of sexual advances, request for sexual favours, or other verbal or physical conduct of a sexual nature as the basis for decisions affecting employment, promotion, or coaching/movement within Sail Canada on one of its organizations or teams and/or;
  - i. causing sexual conduct to humiliate an individual or substantially interfere with an individual or team's sporting performance or to create an intimidating, hostile or offensive environment.

### **Confidentiality**

1. Sail Canada recognizes that it can be extremely difficult to come forward with a complaint of harassment and that it can also be devastating to be wrongly accused of harassment. Sail Canada recognizes the interests of both the complainant and the respondent in keeping the matter confidential;
2. Sail Canada will not disclose the name of the harassed person or the circumstances related to the situation to any person except where disclosure is necessary for the purpose of investigating the harassment and /or taking disciplinary action or as required by law.



## **Roles and responsibilities**

### 1. Principle:

The ultimate responsibility for dealing with a harassment case rests with the President and the Board of Directors who may delegate authority but not responsibility to the Executive Director.

Since any harassment situation may constitute a highly sensitive subject matter, potential complainants have the choice of seeking counsel from their supervisor, coach, the Executive Director, a Board member or the President.

### 2. Management of Sail Canada will:

- a. inform every person under its direction, including employees and participants in Sail Canada activities, of Sail Canada's Harassment Policy;
- b. provide clarification of what constitutes harassment and sexual harassment;
- c. inform every person under its direction of procedures for handling harassment complaints;
- d. initiate action without waiting for an individual complaint when harassment is known to be taking place. To do otherwise will constitute misconduct on the part of a supervisor or other person in a position of authority; and
- e. upon receipt of a formal harassment complaint, immediately inform the Executive Director or the President if the matter involves the Executive Director

### 3. The Executive Director will:

- a. inform the alleged harasser, their supervisor or person in a position of authority, the complainant and the President, in writing as to what action or investigation is to take place, reminding them to maintain confidentiality;
- b. inform the complainant, the alleged harasser, the supervisor or person in a position of authority and the President of the outcome of any action or investigation, in writing;
- c. Provide informal advice or guidance to employees, supervisors and coaches as required or requested on matters of harassment; and
- d. Assist supervisors in any investigation of formal harassment complaints.

## **Complaint Procedure**

1. A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive, and contrary to this policy.
2. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should request a meeting with the next higher authority or official.
3. Once contacted by a complainant the next higher authority or official will serve in a neutral unbiased capacity to receive the complaint and facilitate an informal



resolution. If the official considers that he or she is unable to act in this capacity, the complainant shall be referred to another authority.

4. There are three possible outcomes to this initial meeting between complainant and next higher authority or official:
  - i. determination that the conduct does not constitute harassment as defined in this policy, in which case the matter will be closed;
  - ii. The complainant may decide to pursue an informal resolution of the complaint, in which case the next higher authority or official will assist the two parties to negotiate an acceptable resolution of the complaint; or
  - iii. The complainant may decide to lay a formal written complaint. The complaint must be submitted in writing with the original signature of the complainant. No electronically transmitted complaint will be accepted, e.g. email, SMS text message, etc. are not acceptable forms. All documented complaints will be treated as highly confidential to protect all parties involved. The authority or official receiving the written complaint must provide a copy to the respondent as quickly as possible, who shall be given an opportunity to respond in writing.
5. Once the respondent's statement is received, the next higher authority or official shall provide copies of both written statements to the Executive Director of Sail Canada or the President if the matter involves the Executive Director. Within 7 days of receiving the written statements the Executive Director or President shall appoint three persons to serve as a Panel. Persons appointed to the Panel may be drawn from Sail Canada managers or other senior employees, members of the Board of Directors, Sail Canada coaches or athletes, members of one of Sail Canada's standing committees, etc. This Panel shall consist of at least one woman and at least one man, and shall include one individual who is knowledgeable and familiar with harassment issues.

## Hearing

1. As soon as possible but in any event within 14 days of being appointed, the Panel shall convene a hearing. The hearing shall be governed by such procedures as the Panel may decide, provided that:
  - a. The complainant and respondent shall be given 10 days written notice of the day, time and place of the hearing;
  - b. Members of the Panel shall select from among themselves a Chairperson;
  - c. A quorum shall be all three Panel members;
  - d. Decisions shall be by majority vote. If a majority vote decision is not possible, the vote of the Chairperson plus one other panel member shall be the decision of the Panel;
  - e. Both parties shall be present at the hearing to give evidence and to answer questions of the other party and of the Panel. If the complainant does not appear, the matter shall be dismissed. If the respondent does not appear, the hearing shall proceed.



- f. The complainant and respondent may be accompanied by a representative or adviser. Should the complainant and/or respondent choose to have legal counsel, they shall be responsible for any costs incurred.
2. As soon as possible but in any event within 14 days of the hearing, the Panel shall present its findings in a report to the Executive Director or President as appropriate with a copy provided to both the complainant and respondent. This report shall contain:
  - a. a summary of the relevant facts;
  - b. a determination as to whether the acts complained of did occur and if so, did they constitute harassment as defined in this policy;
  - c. a recommendation to reduce or eliminate the possibility of similar events in the future; and
  - d. if the acts constitute harassment; recommend disciplinary action against the respondent and recommend measures to remedy or mitigate the harm or loss suffered by the complainant.
3. If the Panel determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, their report shall recommend disciplinary action against the complainant.

## **Discipline**

1. When recommending appropriate disciplinary action, the Panel shall consider factors such as:
  - a. the nature and severity of the harassment
  - b. whether the harassment involved any physical contact
  - c. whether the harassment was an isolated incident or part of an ongoing pattern
  - d. the nature of the relationship between the complainant and harasser, e.g. employee and supervisor, athlete and coach, etc.
  - e. the age of the complainant
  - f. whether the harasser had been involved in previous harassment incidents
  - g. whether the harasser admitted responsibility and expressed a willingness to change
  - h. whether the harasser retaliated against the complainant
  - i. if the complaint is deemed to be false, vexatious, retaliatory or frivolous and the discipline is against the complainant, the Panel shall consider any reputational harm suffered by the respondent or any harm done to the workplace, etc.
2. In recommending disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment:
  - a. face to face oral apology
  - b. written apology



- c. letter of reprimand from Sail Canada
- d. a fine or levy
- e. referral to counselling if available at no or minimal costs to Sail Canada
- f. removal of certain privileges of participation or employment
- g. demotion or a pay cut
- h. temporary suspension with or without pay
- i. termination of employment or contract
- j. expulsion from participation in future Sail Canada activities
- k. any measure stated in the Code of Conduct.

### **Appeals**

Appeals from decisions of the Panel referred to above shall be conducted in accordance with Sail Canada's [Appeal Process and Dispute Resolution Policy](#)

### **Review and Approval**

This policy was approved by Sail Canada's board of directors on May 16, 2016.

Responsibility for the administration and update of this policy rests with the Executive Director.