

17 – HARASSMENT

HARASSMENT POLICY

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I. Policy Statement

1. Soccer Nova Scotia (SNS) is committed to the principles of equality, fairness, respect and tolerance among all persons regardless of race, nationality, gender or any other personal attribute, and to promote a philosophy within SNS that creates a safe environment for all individuals that are part of the soccer community and promotes relationships based on mutual respect, co-operation and understanding.
2. SNS is committed to providing a sport and work environment in which all individuals are treated with respect and dignity. Every individual has the right to participate and work in an environment that promotes equal opportunities and prohibits discriminatory or harassing practices and actions.
3. SNS prohibits behaviour that constitutes harassment as defined in this Policy at all, games, tournaments, meetings, functions, events or other activities held or sanctioned by SNS or any of its Members.

II. Application

1. This policy applies to all employees as well as to all directors, officers, program volunteers, coaches, athletes, officials of SNS and its Members.
2. SNS encourages the reporting of all incidents of harassment, regardless of who the offender may be.
3. This Policy applies to all leagues, tournaments, meetings, functions, events, or other activities held or sanctioned by SNS; notwithstanding the foregoing, the procedures and remedies under this policy do not apply to games, as conduct at or arising in games are the responsibility of the referees and the leagues to administer. For the purpose of the policy, “games” include the time immediately preceding, and the time immediately following the game.
4. Notwithstanding this policy, every person who experiences harassment continues to have the right to seek assistance from the Human Rights Commission and/or the law enforcement authorities.

III. Definitions

1. Harassment is a form of discrimination, and refers to conduct that negatively affects the work or sport environment or leads to adverse consequences within that environment for the person(s) experiencing the harassment, which the perpetrator knew or ought reasonably to have known would be unwelcome.
2. Harassment can take many forms. It may be verbal, physical, sexual, visual or psychological.

3. For the purposes of this Policy:

a. Harassment is any behaviour that is likely to undermine the dignity, self-esteem or productivity of any person, director, officer, staff member, official, coach or athlete, or volunteer.

b. Types of behaviour that constitute harassment include, but are not limited to:

- i) Written or verbal abuse or threats
- ii) The display of visual material that is offensive or that one ought to know is offensive.
- iii) The display of pornographic or other sexually offensive or derogatory picture(s) or material.
- iv) Unwelcome remarks, jokes, comments, innuendo, or taunting about a person's looks, body, attire, age, race, religion, sex or sexual orientation.
- v) Inappropriate questions or sharing of information about a person's sexuality or sexual orientation.
- vi) Leering or other suggestive or obscene gestures; sexually-oriented gestures. condescending behaviour that undermines self-esteem, diminishes performance, or adversely affects working conditions.
- vii) Practical jokes that cause awkwardness or embarrassment, endanger a person's safety, or negatively affect performance.
- viii) Unwanted physical contact, including touching, petting, pinching, or kissing; sexual or inappropriate sexual touching.
- ix) Unwelcome sexual flirtations, advances, requests or invitations; belittling or abuse of a particular religion, race or ethnic group.
- x) Denial of opportunity on the basis of a person's race, colour or religion.
- xi) Making fun of particular religious observances or of real or alleged racial or ethnic characteristics.
- xii) The spread of hate literature, promotion of racial or religious hatred or expression of the view that any one race is superior to another.

c. Sexual Harassment is deemed to include but is not restricted to:

- i) Unwelcome sexual advances, requests for sexual favours, or other verbal or, physical conduct of a sexual nature when:
 - Submission to, or rejection of this conduct is used as the basis for making decisions which affect the individuals; or
 - Such conduct has the purpose or effect of interfering with an individual's performance; or
 - Such conduct creates an intimidating, hostile, offensive environment.
- ii) Unwanted sexual attention by a person who knows or ought reasonably to know that such attention is unwanted.
- iii) Expressed or implied promise of reward for complying with a sexually- oriented request.
- iv) Actual reprisal or an expressed or implied threat of reprisal for refusal to comply with a sexually-oriented request.
- v) Actual denial, or an expressed or implied threat of denial, of opportunity for refusal to comply with a sexually-oriented request.

vi) Sexually-oriented behaviour or gender-based, abusive and unwelcome conduct or comment that has the purpose or the effect of creating an intimidating, hostile or offensive environment.

d. Child Abuse is deemed to include but is not restricted to:

i) Neglect which endangers a child's welfare by failing to provide for physical, emotional or medical needs.

ii) Physical abuse, which is any intentional non-accidental injury of a child.

iii) Emotional abuse, or the damaging, by whatever means, of a child's feeling of personal worth and thus his/her ability to love, trust, and feel at one with the human race.

iv) Sexual abuse, which includes any manual, oral, or genital sexual contact or the use of an object for sexual touching or penetration or any other explicitly sexual behaviour that an adult imposes on a child by exploiting the child's vulnerability and powerlessness.

IV. Responsibility

1. SNS shall be responsible for ensuring that this policy is implemented. To that end it shall:

a. Appoint one or more Harassment Officers.

b. Provide the necessary training and resources for the Harassment Officers to fulfil their responsibilities under this policy.

c. Ensure that formal complaints are investigated in a sensitive, responsible and timely manner.

d. Ensure that appropriate disciplinary or corrective measures are taken when a complaint of harassment has been substantiated, regardless of the position or authority of the offender.

e. Do all in its power to support and assist any employee or volunteer of SNS who experiences harassment.

f. Make all members, employees and volunteers of SNS aware of the problem of harassment and in particular, sexual harassment and of the procedures contained in this Policy.

g. Inform both complainants and respondents of the procedures contained in this policy and their rights under the law.

h. Review the terms of this policy to ensure that they adequately meet SNS legal obligations and policy objectives.

2. In the event that the President of the Board is involved in a complaint that is made under this policy, the Vice-President shall appoint a suitable alternate for the purposes of dealing with the complaint.

V. Disciplinary Action

1. An individual against whom a complaint of harassment is substantiated will be subject to discipline, up to and including termination of employment or volunteer service.

VI. False Accusations

1. False accusations can have serious repercussions on innocent individuals, and thus can be grounds for claims of slander and/or defamation. The wilful misuse of this Policy or making deliberately false accusations will be grounds for discipline.

VII. Interference or Retaliation

1. For the purposes of this Policy; retaliation against an individual

- for having filed a complaint under this Policy; or
- for having participated in any procedure under this Policy; or
- for having been associated with a person who filed a complaint or participated in any procedure under this Policy;

will be treated as harassment.

2. Interference with the conduct of an investigation or retaliation against a complainant or witness, or threats thereof, whether the complaint was unsubstantiated or not, may itself result in disciplinary action by SNS.

VIII. Confidentiality

1. SNS understands that it can be extremely difficult to come forward with a complaint of harassment, and that it can be devastating in a situation where allegations of harassment are found to be either substantiated or unsubstantiated. Thus SNS recognizes the interest of both the complainant and the respondent in keeping the matter confidential.

2. SNS shall not, in the case of a complaint, disclose to outside parties the name of the complainant or respondent, or the circumstances giving rise to a complaint, unless such disclosure is required by legal obligation or by court direction.

IX. Harassment Officer

The role of the Harassment Officer is to serve in a neutral, unbiased capacity and to receive complaints, assist in informational resolution of complaints; investigate written complaints; and assist in formal resolution of complaints.

X. Complaint Procedures

1. A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive or otherwise contrary to this Policy;
2. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should seek the advice of a SNS Harassment Officer.
3. With the exception of alleged sexual and physical abuse, complaints must be filed within 30 days of the alleged event.
4. The Harassment Officer shall inform the complainant of:
 - a. The options for pursuing an informal resolution of his/her complaint;
 - b. The right to lay a formal written complaint under this Policy when an informal resolution is inappropriate or not feasible;
 - c. The confidentiality provisions of this Policy;
 - d. The right to be represented by a person of choice (including legal counsel) at any stage in the complaint process;
 - e. The external mediation/arbitration mechanisms that may be available;
 - f. The right to withdraw from any further action in connection with the complaint at any stage (even though SNS may continue to investigate the complaint);other avenues of recourse, including the right to file a complaint with the Human Right Commission or where appropriate, to contact the police to have them lay a formal charge under the Criminal Code.
5. There are four possible outcomes to the initial meeting of complainant and officer.
 - a. The complainant and Harassment Officer agree that the conduct does not constitute harassment. If this occurs, the Harassment Officer will take no further action and will make no written record.
 - b. The complainant brings evidence of harassment and chooses to pursue an informal resolution of the complaint. If this occurs, the Harassment Officer will assist the two parties to negotiate a solution acceptable to the complainant. If desired by the parties and if appropriate, the Harassment Officer may also seek the assistance of a neutral mediator. If informal resolution yields a result that is acceptable to both parties, the Harassment Officer will make a written record that a complaint was made and was resolved informally to the satisfaction of both parties, and will take no further action.

- c. The complainant brings evidence of harassment and decides to lay a formal written complaint. If this occurs, an Investigative Panel shall be established by the Harassment Committee.
 - d. The complainant brings evidence of harassment but decides not to lay a formal written complaint. If this occurs, the Harassment Officer must decide if the alleged harassment is serious enough to warrant laying a formal written complaint, even if it is against the wishes of the complainant.
6. When the Harassment Officer decides that the evidence and surrounding circumstances requires a formal written complaint, the Harassment Officer will issue a formal written complaint and without delay and provide copies of the complaint to both the complainant and respondent.

XI. Investigative Panel

1. Appointment

- a. Following the investigation of a Harassment Claim by the Harassment Officer, in circumstances where the parties are unable to come to a satisfactory conclusion within the informal process, the matter be referred to the Harassment Committee with a recommendation by the Harassment Officer. The Harassment Committee will then determine if a hearing panel is to be struck. The decision of the Committee is final.
- b. The timeframes of dealing with complaints will reflect the following guidelines:
 - 1. The Harassment Officer is to investigate and make report to the Harassment Committee with twenty days of filing a formal complaint.
 - 2. The Harassment Committee is to determine whether a complaint shall go to a formal hearing and strike a panel if necessary within twenty days of receipt of the report from the Harassment Officer.
 - 3. A Panel will be convened to hear the matter within thirty days of formation of said panel.
 - 4. The decision of the Panel will be filed within seven days of the completion of the hearing.
- c. The Panel shall consist of three persons, including at least one person from each of the two genders:
- d. The following persons may not be appointed to the Panel:
 - i) Anyone having any significant personal, professional or other connection with either the complainant or the respondent, or the association, club or team, to which the complainant or the respondent is associated; and/or
 - ii) Anyone having any involvement at any preliminary stage of the matter; and/or

- iii) Anyone having a bias or apparent interest in the result; and/or
- iv) Any other person who in the discretion of the Harassment Committee should not be appointed to the Panel.

2. Process and Procedures

a. The investigation shall be governed by such procedures as the Panel may establish, provided that the principles of natural justice are applied, including the following:

- i) Everyone has the right to a fair hearing in the course of determining whether harassment has occurred.
- ii) Relevant information must be made available to all parties.
- iii) The issues should be clearly and concisely stated so that everyone is aware of the essentials of the complaint.
- iv) The person under investigation has the right to have a representative present his/her case.
- v) The person under investigation has the right to a written decision following the judgment.
- vi) The right to appeal a Panel decision to the SNS Discipline and Appeals Committee.

b. The process shall operate as follows:

- i) Members of the Panel shall select a chair from among themselves;
- ii) Quorum shall be all three Panel members.
- iii) Decisions shall be made by consensus.
- iv) Deliberations shall be held in camera.

c. The complainant and respondent may be accompanied by a representative or adviser.

d. That investigative interviews or depositions of individuals other than the complainant or respondent shall occur at the discretion of the investigative panel.

e. The Harassment Officer may attend the hearing(s) at the request of the panel.

f. The panel shall make every effort to expedite the investigation and to complete the process in a timely manner.

g. Within thirty (30) days of the completion of the hearing(s), the Panel shall present its findings in a report to the Harassment Officer, which shall contain:

- i) A summary of the relevant facts on which the decision is based;
- ii) A determination as to whether the alleged acts constitute harassment as defined in this policy;
- iii) Recommended disciplinary action against the respondent, if the acts constitute harassment; and
- iv) Recommended measure to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.

- h. If the Panel determines that the allegations of harassment are false, vexatious, retaliatory or unfounded, its report shall recommend disciplinary action against the complainant.
- i. A copy of the report of the Panel shall be provided without delay to both the complainant and the respondent.

3. Considerations

a. When determining appropriate disciplinary action and corrective measures, the Panel shall consider such factors as:

- the nature of the harassment
- whether the harassment involved any physical contact
- whether the harassment was an isolated incident or part of an ongoing pattern
- the nature of the relationship between the complainant and the harasser
- the age of the complainant
- whether the harasser had been involved in previous harassment incidents
- whether the harasser admitted responsibility and expressed a willingness to change; and whether the harasser retaliated against the complainant

4. Disciplinary Sanctions

a. In recommending disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the severity of the harassment:

- a verbal apology
- a written apology
- a letter of reprimand from the sport organization
- a fine
- referral to counselling
- removal of certain privileges of membership or employment
- demotion or a pay-cut
- temporary suspension with or without pay
- termination of employment or contract

b. Where the investigation does not result in finding of harassment, a copy of the Panel's report shall be placed in the Harassment Officer's files. These files shall be kept confidential and access to them shall be restricted to the SNS CEO, and the SNS Harassment Officer.

c. Where the investigation results in a finding of harassment, a copy of the Panel's report shall be placed in the personnel or membership file of the respondent, unless the findings of the Panel are overturned upon appeal. This report shall be retained for a period of ten years, unless new circumstances dictate that the report should be kept for a longer period of time.

5. Procedure Where a Person Believes that a Colleague Has Been Harassed

a. Where a person believes that a director, supervisor, employee, coach, official, volunteer, parent, athlete or individual has experienced or is experiencing harassment and reports this belief to a Harassment Officer, the Harassment Officer shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with the complaint procedure as set out in this policy.

6. Suspension of Investigation in Certain Circumstances

a. Where a complainant decides to pursue other or additional civil or criminal remedies that may be available at law, the Panel may, of its own accord or where requested or advised to do so by the Police or another adjudicative body such as The Human Rights Commission, suspend its investigation pending a resolution of the other proceedings.

b. The Panel may make interim rulings pending the resolution of the other proceedings and may impose such interim sanctions or disciplinary measures as it thinks fit or advisable in the circumstances that are in the best interests of all parties involved and SNS;

c. Interim rulings made pursuant to (b) are not subject to appeal.

d. Upon the resolution of any other proceedings, the Panel may take such further action in the manner that it deems necessary or advisable in the circumstances including, but not limited to:

- i) Resuming or closing the investigation.
- ii) Accepting or rejecting the decision resulting from the other proceeding.
- iii) Lifting, confirming, amending or imposing such additional sanctions and disciplinary measures as the Panel may think fit in the circumstances.

e. For greater certainty, the Panel may find that the actions of the respondent or the complainant constitute harassment as defined by this Policy, regardless of the outcome of any other proceeding, and the Panel may impose such sanctions and disciplinary measures as it thinks fit or advisable in the circumstances.

XII. Appeals

1. Both the complainant and the respondent shall have the right to appeal the decision and recommendations of the Panel. A Notice of Intent to Appeal, along with ground for the appeal, must be provided in writing, to SNS within (30) days of the complainant or respondent receiving the Panel's report.

2. Unless otherwise specifically modified herein, the SNS Discipline and Appeals Policy applies with such changes necessary in the circumstances to appeals under this Policy.

3. A decision of the Panel may be appealed only on the following grounds:

- i) The Panel did not follow the procedures laid out in this policy.
 - ii) Members of the Panel were influenced by bias or
 - iii) The Panel reached a decision that was grossly unfair or unreasonable.
4. A decision of the Panel may not be appealed for the purpose of obtain a re-hearing of the facts.
5. In the event that a notice of appeal is filed, the appeal panel shall consist of at least one person of each of the two genders. These individuals must have no significant personal or professional involvement with either the complainant or respondent, and no prior involvement in the dispute.
6. The appeal panel shall base its decision solely on a review of the documentation surrounding the complaint, including the complainant and respondent's statements, the reports of the Harassment Officers and the Panel, and the notice of appeal.
7. Within thirty days of its appointment, the appeal body shall present its findings in a report to the SNS CEO and SNS President. The appeal body shall have the authority to uphold the decision of the Panel, to reverse the decision of the Panel, and/or to modify any of the Panel's recommendations for disciplinary action or remedial measures.
8. A copy of the appeal body's report shall be provided, without delay, to the complainant and respondent.