

JSCA HARASSMENT POLICY

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Part I: Policy Statement

1.1 Commitment of the association

JSCA 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 which promotes equal opportunities and prohibits discriminatory practices.

Harassment is a form of discrimination that is offensive, degrading and threatening. Harassment is prohibited by the Canadian Charter of Rights and Freedoms, and by human rights legislation in every province and territory of Canada. In its most extreme forms, harassment can be an offence under Canada's Criminal Code.

1.2 Purposes

The purposes of this policy are:

- (a) to maintain a working environment that is free from harassment;
- (b) to alert staff, members, and guests to the fact that workplace harassment violates human rights law;
- (c) to set out the types of behaviour that may be considered offensive;
- (d) to establish a procedure for receiving and dealing with complaints of harassment.

This policy is not intended to constrain social interaction between JSCA staff or members.

This policy is in addition to and not in substitution for the rights an individual may have under the BC Human Rights Code.

1.3 Definitions

Harassment is one or a series of incidents involving unwelcome comments or behaviour that may be related to a person's race, colour, ancestry, place of origin, political beliefs, religion, marital status, family status, physical or mental disability, age, sex (including gender, sexuality, and pregnancy), sexual orientation, or criminal conviction (unrelated to employment) that detrimentally affects the work or sport environment or leads to adverse job-related consequences for the victim.

Examples of harassment include, but are not limited to the following:

- (a) verbal or written conduct, such as epithets, derogatory comments, slurs, offensive remarks, jokes, abusive language, threats, unwelcome remarks of a sexual nature such as questions, innuendo, invitations or remarks about sex life or of a sexual nature;
- (b) visual conduct, such as leering, derogatory or offensive drawings or gestures, displays of pornographic, sexist, racist or other offensive or derogatory material including those received through e-mail or on the internet;
- (c) physical conduct, such as unwelcome physical conduct including touching, patting, pinching, kissing, assault or blocking normal movement;

- (d) condescending, paternalistic, or patronising behaviour;
- (e) unwelcome practical jokes.

Harassment, including sexual harassment, can occur between males, between females, or between males and females.

For the purposes of this policy, retaliation against an individual for having filed a complaint under this policy, for having participated in any procedure under this policy, or for having been associated with a person who filed a complaint under this policy will be treated as harassment, and will not be tolerated.

1.4 Application of the policy

This policy applies to all employees as well as to all directors, officers, volunteers, coaches, athletes, officials, and members of JSCA. JSCA encourages the reporting of all incidents of harassment, regardless of who the offender may be.

This policy applies to harassment which may occur during the course of all JSCA business, activities, and events. It also applies to harassment between individuals associated with JSCA but outside JSCA business, activities, and events when such harassment adversely affects relationships within the JSCA work and sport environment.

Part II: Responsibilities

2.1 General Manager's responsibilities

The JSCA General Manager is responsible for the implementation of this policy. In the event that the JSCA General Manager is involved in a complaint which is made under this policy, the JSCA president shall appoint a suitable alternate to deal with it.

Implementation of the policy includes:

- (a) discouraging and preventing harassment within JSCA;
- (b) investigating formal complaints of harassment in a sensitive, responsible, and timely manner; imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender;
- (c) making all members and employees of JSCA aware of the problem of harassment, and in particular, sexual harassment, and of the procedures contained in this policy;
- (d) regularly reviewing the terms of this policy to ensure that they adequately meet the organisation's legal obligations and public policy objectives;
- (e) appointing harassment officers and providing the resources they need to fulfil their responsibilities under this policy; and
- (f) appointing unbiased case review panels and appeal bodies and providing the resources and support they need to fulfil their responsibilities under this policy.

2.2 Responsibility of members

Every member of the JSCA has a responsibility to play a part in ensuring that the JSCA sport environment is free from harassment. This means not engaging in, allowing, condoning, or ignoring behaviour contrary to this policy. In addition, any member of JSCA who believes that a fellow member has experienced or is experiencing harassment is encouraged to notify a harassment officer appointed under this policy.

2.3 Coach/athlete sexual relations

JSCA takes the view that intimate sexual relationships between coaches and adult athletes, while not against the law, can have harmful effects on the individual athlete involved, on other athletes and coaches, and on JSCA's public image. JSCA therefore takes the position that such relationships are unacceptable for coaches. Should a sexual relationship develop between an athlete and a coach, the JSCA will investigate and take action which could include reassignment, or if this is not feasible, a request for resignation or dismissal from employment.

2.4 Confidentiality

The JSCA understands that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly convicted of harassment. The JSCA recognises the interests of both the complainant and the respondent in keeping the matter confidential.

JSCA shall not disclose to outside parties the name of the complainant, the circumstances giving rise to a complaint, or the name of the respondent unless such disclosure is required by a disciplinary or other remedial process.

2.5 Harassment officers

The JSCA shall appoint at least two persons, one male and one female, who are themselves members or employees, to serve as officers under this policy. If more than two officers are appointed, JSCA shall ensure a gender balance.

The role of harassment officers is to serve in a neutral, unbiased capacity to assist in informal resolution of complaints and investigate formal written complaints. In carrying out their duties under this policy, officers shall be directly responsible to the JSCA General Manager.

The General Manager shall ensure that officers receive appropriate support for carrying out their responsibilities under this policy.

Part III: Complaint Procedure

3.1 Action by complainant

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.

If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should notify the General Manager or harassment officer.

When a person believes that a colleague has experienced or is experiencing harassment he or she may report this belief to the General Manager or harassment officer. The officer shall meet with the person who is said to have experienced harassment.

Notwithstanding this policy, every person who experiences harassment continues to have the right to seek assistance from their provincial or territorial human rights commission, even when steps are being taken under this policy.

3.2 Meeting with advisor

The General Manager or the harassment officer shall inform the complainant of:

- (a) the options for pursuing an informal resolution of his or 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 JSCA might continue to investigate the complaint); and
- (g) other avenues of recourse, including the right to file a complaint with a human rights commission or, where appropriate, to contact the police to have them lay a formal charge under the Criminal Code.

3.3 Outcomes to meeting

There are four possible outcomes to this initial meeting of complainant and officer.

- (a) The complainant and 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 which 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.

If informal resolution fails to satisfy the complaint, the complainant will reserve the option of laying a formal written complaint.

(c) The complainant brings evidence of harassment and decides to lay a formal written complaint.

If this occurs, the harassment officer will assist the complainant in drafting a formal written complaint, to be signed by the complainant. A copy will be given to the respondent without delay. The written complaint should set out the details of the incident(s), the names of any witnesses to the incident(s), and should be dated and signed.

The respondent will be given an opportunity to provide a written response to the complaint. The harassment officer may assist the respondent in preparing this response.

(d) The complainant brings evidence of harassment but does not wish to lay a formal 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.

When the harassment officer decides that the evidence and surrounding circumstances require a formal written complaint, the harassment officer will issue a formal written complaint and, without delay, provide copies of the complaint to both the complainant and the respondent.

In the notice of the complaint to the respondent, the advisor will include a copy of the complaint and a copy of this policy. The respondent will be informed of his or her right to be represented by a third party of his or her choice or external legal counsel at the respondent's expense, at any stage of the process when the respondent is required or entitled to be present.

3.4 Harassment officer's recommendation

As soon as possible after receiving the written complaint, but within 21 days, the harassment officer shall submit a report to the JSCA General Manager, containing the documentation filed by both parties along with a recommendation that:

(a) No further action be taken because the complaint is unfounded/the conduct cannot reasonably be said to fall within this policy's definition of harassment; or

- (b) The complaint should be investigated further.

A copy of this report shall be provided, without delay, to both the complainant and the respondent.

3.5 Case review panel hearing

In the event that the harassment officer's recommendation is to proceed with an investigation, the JSCA General Manager shall within 14 days appoint three members of JSCA to serve as a case review panel. This panel shall consist of at least one woman and at least one man. To ensure freedom from bias, no member of the panel shall have a significant personal or professional relationship with either the complainant or the respondent.

Within 21 days of its appointment, the case review 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 14 days notice, in writing, of the day, time and place of the hearing.
- (b) The hearing shall be held in camera. Members of the panel shall select a chairperson from among themselves. A quorum shall be all three panel members, and decisions shall be by majority vote. If a majority vote decision is not possible, the decision of the chairperson will be the decision of the panel.
- (c) Both complainant and respondent 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 will be dismissed, (unless the complainant decided not to lay a formal complaint, but the officer concluded that the evidence and surrounding circumstances were such as to require a formal written complaint). If the respondent does not appear, the hearing will proceed.
- (d) The complainant and respondent may be accompanied by a representative or adviser.
- (e) The harassment officer may attend the hearing at the request of the panel.

3.5 Case review panel recommendation

Within 14 days of the hearing, the case review panel shall present its findings in a report to the JSCA General Manager, which shall contain:

- (a) a summary of the relevant facts;
- (b) a determination as to whether the acts complained of constitute harassment as defined in this policy;
- (c) recommended disciplinary action against the respondent, if the acts constitute harassment; or
- (d) recommended disciplinary action against the complainant, if allegations of harassment are false or retaliatory; and
- (e) recommended measures to remedy or mitigate the harm or loss suffered by the either party.

When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such as:

- (a) the nature 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 complainant and harasser;
- (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; and
- (h) whether the harasser retaliated against the complainant.

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

- (a) a verbal apology;
- (b) a written apology;
- (c) a letter of reprimand from the sport organization;
- (d) a fine or levy;
- (e) referral to counselling;
- (f) removal of certain privileges of membership or employment;
- (g) demotion or a pay cut;
- (h) temporary suspension with or without pay;
- (i) termination of employment or contract, or termination of membership.

A copy of the report of the case review panel shall be provided, without delay, to both the complainant and the respondent.

3.7 Case review records

Where the investigation does not result in a finding of harassment, a copy of the report of the case review panel shall be placed in the harassment officer's files. These files shall be kept confidential and access to them shall be restricted to the JSCA General Manager and harassment officers.

Where the investigation results in a finding of harassment, a copy of the report of the case review panel 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.

3.8 Appeals

Both the complainant and respondent shall have the right to appeal the decision and recommendations of the case review panel. A notice of intention to appeal, along with

grounds for the appeal, must be provided to the chairperson of the case review panel within 14 days of the complainant or respondent receiving the panel's report.

Permissible grounds for an appeal are:

- (a) the panel did not follow the procedures laid out in this policy;
- (b) members of the panel were influenced by bias; or
- (c) the panel reached a decision which was grossly unfair or unreasonable.

In the event that a notice of appeal is filed, the JSCA General Manager shall appoint a minimum of three members to constitute the appeal body. This appeal body shall consist of at least one woman and at least one man. These individuals must have no significant personal or professional involvement with either the complainant or respondent, and no prior involvement in the dispute between them.

The appeal body shall base its decision solely on a review of the documentation surrounding the complaint, including the complainant's and respondent's statements, the reports of the harassment officer and the case review panel, and the notice of appeal.

Within ten days of its appointment, the appeal body shall present its findings in a report to the JSCA General Manager. 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.

A copy of the appeal body's report shall be provided, without delay, to the complainant and respondent.

The decision of the appeal body shall be final.

Part IV: Review and Approval

4.1 Approval date

This policy was approved by the JSCA board of directors on

4.2 Review procedure

This policy shall be reviewed by the JSCA General Manager on an annual basis.

4.3 Reference materials

This policy is based in part upon materials published by the Law Society of Upper Canada in their 1992 publication A Recommended Personnel Policy Regarding Employment-Related Sexual Harassment, and the Law Society of British Columbia's publication Model Policy: Workplace Harassment.