

September 2003

Harassment in Sport Policy

POLICY STATEMENT

1. The Canadian Amateur Diving Association Inc. (BC Section) 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 discriminatory practices.

Harassment, as defined in this policy, includes but is not limited to the following specifically described categories of harassment:

- Harassment is a form of discrimination. Harassment is prohibited by the *Canadian Charter of Rights and Freedoms* and by human rights legislation in every province and territory of Canada.
- Harassment is offensive, degrading, and threatening. In its most extreme forms, harassment can be an offence under Canada's *Criminal Code*.
- Whether the harasser is a director, supervisor, employee, coach, official, volunteer, parent or athlete, harassment is an attempt by one person to assert abusive, unwarranted power over another.
- CADA (BC Section) is committed to providing a sport environment free of harassment on the basis of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status, family status, disability, pardoned conviction or political agenda.

APPLICATION

2. This policy applies to all employees as well as to all directors, officers, parents, volunteers, coaches, athletes, officials, and members of CADA (BC Section). **CADA(BC Section) encourages the reporting of all incidents of harassment, regardless of who the offender may be.**

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

4. 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.

DEFINITIONS

5. Harassment takes many forms but can generally be defined as comment, conduct, or gesture directed toward an individual or group of individuals, which is insulting, intimidating, humiliating, malicious,

degrading, or offensive.

6. For the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or
- such conduct has the purpose or effect of interfering with an individual's performance; or
- such conduct creates an intimidating, hostile, or offensive environment.

7. Types of behaviour which constitute harassment include but are not limited to:

- written or verbal abuse or threats;
- the display of visual material which is offensive or which one ought to know is offensive;
- unwelcome remarks, jokes, comments, innuendo, or taunting;
- leering or other suggestive or obscene gestures;
- condescending, paternalistic, or patronizing behaviour which undermines self-esteem, diminishes performance, or adversely affects working conditions;
- practical jokes which cause awkwardness or embarrassment, endanger a person's safety, or negatively affect performance;
- unwanted physical contact including touching, petting, pinching, or kissing;
- unwelcome sexual flirtations, advances, requests, or invitations; or
- physical or sexual assault.

8. Sexual harassment most commonly occurs in the form of behaviour by males toward females; however, sexual harassment can also occur between males, between females, or as behaviour by females toward males.

9. 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, and will not be tolerated.

RESPONSIBILITY

10. The Executive Director is charged with the responsibility for implementing this policy and ensuring that:

- harassment is discouraged within CADA(BC Section);
- formal complaints of harassment are investigated in a sensitive, responsible, and timely manner;
- appropriate disciplinary or corrective measures are imposed when a complaint of harassment

has been substantiated, regardless of the position or authority of the offender;

- advice is provided to persons who experience harassment including any employee or member of CADA (BC Section) who experiences harassment by someone who is not an employee or member of CADA(BC Section);
- all members and employees of CADA (BC Section) are made aware of the problem of harassment, and in particular, sexual harassment, and of the procedures contained in this policy;
- both complainants and respondents are informed of the procedures contained in this policy and of their rights under the law;
- the terms of this policy are regularly reviewed to ensure that they adequately meet the organization's legal obligations and public policy objectives;
- **officers are appointed and provided the training and resources they need to fulfil their responsibilities under this policy;** and
- case review panels and appeal bodies are appointed and provided with the resources and support they need to fulfil their responsibilities under this policy.

11. Every member of CADA (BC Section) has a responsibility to play a part in ensuring that the CADA(BC Section) 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 CADA (BC Section) who believes that a fellow member **has experienced** or is **experiencing harassment** is encouraged to notify a harassment officer appointed under this policy.

12. In the event that the person responsible for this policy is involved in a complaint which is made under this policy, the CADA (BC Section) president shall appoint a suitable alternate for the purposes of dealing with the complaint.

DISCIPLINARY ACTION

13. Employees or members of CADA (BC Section) against whom a complaint of harassment is substantiated may be severely disciplined, up to and including employment dismissal or **termination of membership**.

CONFIDENTIALITY

14. CADA (BC Section) 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. CADA (BC Section) recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

15. CADA (BC Section) 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 or by the laws of Canada. The term "outside parties" shall not include harassment officers duly appointed by CADA (BC Section) under this policy.

16. Notwithstanding the confidentiality provisions of this policy, in the event that a written complaint is made pursuant to this policy, the effective resolution of the matter will require that the name of the alleged

victim of the harassment be released to the person or persons whose actions are the subject of the complaint in order to afford them an opportunity to fully respond.

OFFICERS

17. The Board of Directors shall appoint at least two persons, one male and one female, who are themselves members or employees of the sport organization, to serve as harassment officers under this policy. If more than two officers are appointed, the board shall ensure a gender balance.

18. The role of harassment officers is to serve in a neutral, unbiased capacity and to receive complaints and assist in informal resolution of complaints. In carrying out their duties under this policy, harassment officers shall be directly responsible to the Board of Directors.

19. CADA (BC Section) shall ensure that harassment officers receive appropriate training and support for carrying out their responsibilities under this policy.

20. When necessary, the Board of Directors may appoint an individual to investigate complaints. Ideally, the Investigator should be a person experienced in harassment matters and investigation techniques, and may be an outside professional.

COMPLAINT PROCEDURE

21. 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.

22. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should **seek the advice of a harassment officer**. The Harassment Officer shall serve in a neutral, unbiased capacity in receiving the complaint and assisting in its informal resolution. If the Harassment Officer considers that he/she is unable to act in this capacity, the complainant shall be referred to another CADA (BC Section) Harassment Officer.

23. The harassment officer shall inform the complainant of:

- the options for pursuing an informal resolution of his or her complaint;
- the right to lay a formal written complaint under this policy when an informal resolution is inappropriate or not feasible;
- the availability of counseling and other support provided by CADA(BC Section);
- the confidentiality provisions of this policy including the provisions of paragraph 16 of this policy;
- the right to be represented by a person of choice (including legal counsel) at any stage in the complaint process;
- the external mediation/arbitration mechanisms that may be available;
- the right to withdraw from any further action in connection with the complaint at any stage (even though CADA (BC Section) might continue to investigate the complaint); and
- 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**.

24. There are four possible outcomes to this initial meeting of complainant and harassment 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 formal written record.
- If the complainant and the harassment officer do not reach agreement on whether applicable conduct constitutes harassment, the complainant will retain the right to proceed with an informal or formal complaint pursuant to either paragraph 23(c) or paragraph 23(d).

(b) *In order to proceed with an informal complaint under paragraph 23(c) or a formal complaint under paragraph 23(d), the complainant will be required to complete a written complaint on the form provided by the harassment officer. Once a harassment officer has received a written complaint, the harassment officer is obligated to proceed under either paragraph 23(c) (if the complainant elects to proceed with an informal complaint) or paragraph 23(d) (if the complainant elects to proceed with a formal complaint).*

(c) *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.

(d) *The complainant decides to make a formal written complaint to CADA(BC Section), in which case, the Harassment Officer shall be advise the CADA(BC Section) Executive Director and the Board of Directors, who may appoint an independent individual to conduct an investigation of the complaint.*

- If this occurs, the harassment officer will provide a copy of the written complaint, signed by the complainant, 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, on a response form provided by the Harassment Officer. If the respondent elects to provide a written response, such response will be provided to the Harassment Officer within 14 days of the respondent receiving the written complaint.

(e) *If the complainant is under the age of majority, the harassment officer will suggest to the complainant*

that the complainant seek assistance in completing the written complaint.

(f) 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.

25. The investigator is to carry out the investigation in a timely manner and at the conclusion of the investigation, shall submit a written report to the CADA (BC Section) Executive Director and Board of Directors

26. Where there is an investigation, within seven days of receiving the written report of the investigator, the CADA (BC Section) Executive Director shall determine whether or not there are grounds for a hearing and shall appoint three individuals to serve as a case review Panel.

27. 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:

- The complainant and respondent shall be given 14 days notice, in writing, of the day, time and place of the hearing.
- Members of the panel shall select a chairperson from among themselves.
- A quorum shall be all three panel members.
- 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.
- The hearing shall be held **in camera**.
- 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 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.
- The complainant and respondent may be accompanied by a representative or adviser.
- The harassment officer may attend the hearing at the request of the panel.

28. Within 14 days of the hearing, the case review panel shall present its findings in a report to the Board of Directors which shall contain:

- a summary of the relevant facts;
- a determination as to whether the acts complained of constitute harassment as defined in this policy;
- recommended disciplinary action against the respondent, if the acts constitute harassment; and

- recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.

29. If the panel determines that the allegations of harassment are malicious, their report may recommend disciplinary action against the complainant.

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

31. When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such 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 complainant and 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.

32. 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 CADA(BC Section);
- a fine or levy including restitution of any expenses incurred by the victim or complainant or by CADA(BC Section) in undertaking remedial action or in conducting the investigation;
- referral to counseling;
- removal of certain privileges of membership or employment;
- demotion or a pay cut;
- temporary suspension with or without pay;
- termination of employment or contract; or
- expulsion from membership.

Notwithstanding the procedures set out in this policy, any member of CADA (BC Section) who is convicted of a criminal offense involving sexual exploitation, invitation to sexual touching, sexual interference or sexual assault, shall face automatic suspension from participating in any activities of CADA (BC Section) for a period of time corresponding to the length of the criminal sentence imposed by the Court. They also may face further disciplinary action by CADA (BC Section) in

accordance with this policy.

33. Where the investigation does not result in a finding of harassment, a copy of the report of the case review panel shall be retained by CADA(BC Section). These files shall be kept confidential and access to them shall be restricted to the Executive Director and Harassment Officers.

34. Where the investigation results in a finding of harassment, a copy of the report of the case review panel shall be retained by CADA(BC Section). 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.

35. All written documentation relating to the complaints under this policy will be maintained by CADA(BC Section) with a law firm selected by CADA(BC Section), and on the premises of the law firm rather than on CADA(BC Section) 's premises, in order to maintain the strict confidentiality of such documentation. If requested, the Executive Director will make available to any CADA (BC Section) member a copy of a written decision of a **case review panel** (established pursuant to paragraph 26) or any **appeal body** (established pursuant to paragraph 37); provided that prior to releasing such decisions the names of all parties, witnesses and place names will be deleted in order to preserve the confidentiality of the subject matter of the decision.

PROCEDURE WHERE A PERSON BELIEVES THAT A COLLEAGUE HAS BEEN HARASSED

36. Where a person believes that a CADA(BC Section) member has experienced or is experiencing harassment and reports this belief to an officer, the officer shall contact the person who is said to have experienced harassment and shall then proceed in accordance with Section 22.

APPEALS

37. Both the complainant and respondent shall have the right to appeal the decision and sanctions of the Panel, in accordance with CADA(BC Section)'s Appeal Policy.

REVIEW AND APPROVAL

38. This policy shall be reviewed on an annual basis by the Board of Directors and the Executive Director.