

NORTHWEST TERRITORIES SWIM ASSOCIATION HARASSMENT POLICY

The Northwest Territories (N.W.T.) Swim Association is committed to providing opportunities for every individual in the sport of swimming to reach his or her maximum potential in fitness and excellence.

In keeping with the spirit of this commitment, N.W.T. Swim Association does not tolerate any form of harassment on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, disability, age, marital status, family status, or record of offense, by other members, officers of N.W.T. Swim Association, officials, organizers, coaches, club mates or any other member or N.W.T. Swim Association with whom they may have contact.

N.W.T. Swim Association have adopted the Swimming Canada Harassment Policy. We will follow its definitions and procedures if the need arises. Every club should adopt this policy and make copies available to your membership.

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.

Note: For convenience, this policy uses the term “complaint” to refer to the person who experiences harassment, even though not all persons who experience harassment will make a formal complaint. The term “respondent” refers to the person against whom a complaint is made.

POLICY STATEMENT

1. N.W.T. Swim Association (NWTSA) 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 is a form of discrimination. Harassment is prohibited by the Canadian Charter of Rights and Freedoms and by human rights in every province and territory of Canada.
 - Harassment is offensive, degrading, and threatening. In its most extreme forms, harassment can be an offense under Canada’s Criminal Code.
 - Whether the harassed 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.
 - NWTSA is committed to providing a sport environment free of harassment on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, disability, or pardoned conviction.

Note: A special provision in criminal law permits a pardon. An individual must apply for a pardon. A criminal who has served her or his sentence is not considered “pardoned”.

2. This policy applies to all employees as well as to all directors, officers, volunteers, coaches, athletes, officials and members of NWTSA. NWTSA 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 NWTSA business, activities and events. It also applies to harassment between individuals associated with NWTSA but outside NWTSA business, activities, and events when such harassment adversely affects relationships within the NWTSA 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.

Note: At this point in the policy, NWTSA could also refer to the option of pursuing the matter through an external mediation/arbitration mechanism.

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 favours, 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 created 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 about a person's looks, body, attire, age, race, religion, sex, or sexual orientation;
 - leering or other suggestive 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 of males toward females; however, sexual harassment can also occur between two 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 NWTSA (*director responsible for this policy*) and senior staff member are responsible for the implementation of this policy. In addition, the NWTSA (*director responsible for this policy*) and senior staff member are responsible for:
- discouraging and preventing harassment within NWTSA;

- 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;
 - providing advice to persons who experience harassment;
 - doing all in their power to support and assist an employee or member of NWTSA who experiences harassment by someone who is not an employee or member of NWTSA;
 - making all members and employees of NWTSA aware of the problem of harassment, and in particular, sexual harassment, and of the procedures contained in this policy;
 - informing both complainants and respondents of the procedures contained in this policy and of their rights under the law;
 - regularly reviewing the terms of this policy to ensure that they adequately meet the organization's legal obligations and public policy objectives;
 - appointing harassment officers and providing the training and resources they need to fulfill their responsibilities under this policy; and
 - appointing unbiased case review panels and appeal bodies and providing the resources they need to fulfill their responsibilities under this policy.
11. Every member of NWTSA has a responsibility to play a part in ensuring that the NWTSA 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 NWTSA 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 either NWTSA (*director responsible for this policy*) or the senior staff member are involved in a complaint which is made under this policy, the NWTSA president shall appoint a suitable alternate for the purposes of dealing with the complaint.

COACH/ATHLETE SEXUAL RELATION

13. NWTSA 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 NWTSA's public image. NWTSA therefore takes the position that such relationships are unacceptable for coaches coaching at all levels. Should a sexual relationship develop between an athlete and a coach, the NWTSA will investigate and take action which could include reassignment, or if this is not feasible, a request for resignation or dismissal from employment.

CONFIDENTIALITY

14. NWTSA 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. NWTSA

recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

15. NWTSA 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.

HARASSMENT OFFICERS

16. NWTSA shall appoint at least two persons, one male and one female, who are themselves members or employees of the sport organization, to serve as officers under this policy. If more than two officers are appointed, NWTSA shall ensure a gender balance.
17. The role of harassment officers is to serve in a neutral, unbiased capacity and to receive complaints, 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 NWTSA (*director responsible for this policy*).
18. NWTSA shall ensure that officers receive appropriate training and support for carrying out their responsibilities under this policy.

COMPLAINT PROCEDURE

19. 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.
20. 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.
21. The harassment officer shall inform the complainant of:
 - the options for pursuing an informal resolution of her or his 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 NWTSA;
 - the confidentiality provisions 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 withdrawal from any further action in connection with the complaint at any stage (even though NWTSA might continue to investigate to 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.

22. 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 shall make no written record.
 - b. The complaint 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 complaint. 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 complaint brings evidence of harassment and decided 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, and a copy 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 decided 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.
23. As soon as possible after receiving the written complaint, but within 21 days, the harassment officer shall submit a report to the NWTSA (*director responsible for this policy*) and senior staff member, containing the documentation filed by both parties along with a recommendation that:
- no further action be taken because of the complaint is unfounded or the conduct cannot reasonably be said to fall within this policy's definition of harassment; or
 - the complaint should be investigated further.

- a copy of this report shall be provided, without delay, to both the complainant and the respondent.
24. In the event that the harassment officer's recommendation is to proceed with an investigation, the NWTSA (*director responsible for this policy*) and senior staff member shall within 14 days appoint three members of NWTSA 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.
25. 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 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.
26. Within 14 days of the hearing, the case review panel shall present its findings in a report of the NWTSA (*director responsible for this policy*) and senior staff member, 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 act constitute harassment; and
 - recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.
27. If the panel determines that the allegations of harassment are false, vexatious, retaliatory, or unfounded, their report shall recommend disciplinary action against the complainant.

28. A copy of the report of the case review panel shall be provided, without delay, to both the complainant and the respondent.
29. 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.
30. In recommending disciplinary sanctions, the panel may consider the following options, singly or in combination, depending of the severity of the harassment.
 - a verbal apology;
 - a written apology;
 - a letter of reprimand from the sport organization;
 - a fine or levy;
 - 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.
31. Where the investigation does not result in 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 NWTSA (*director responsible for this policy*), the senior staff member, and harassment officers.
32. Where the investigation results in a finding of harassment, a copy of the report of the case review panel shall be placed in 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.

PROCEDURE WHERE A PERSON BELIEVED THAT A COLLEAGUE HAS BEEN HARASSED

33. Where a person believes that a colleague has experienced or is experiencing harassment and reports this belief to a harassment officer, this officer shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with Section 22.

APPEALS

34. Both the complainant and the 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 complainant or respondent receiving the panel's report.

35. Permissible grounds for appeal are:

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

36. In the event that a notice of appeal is filed, the NWTSA (*director responsible for this policy*) and senior staff member shall together 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.

37. 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.

38. Within ten days of its appointment, the appeal body shall present its findings in a report to the NWTSA (*director responsible for this policy*) and senior staff member. The appeal body shall have the authority to uphold the decision the panel, to reverse the decision of the panel, and/or to modify any to the panel's recommendations for disciplinary action or remedial measures.

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

40. The decision of the appeal body shall be final.

REVIEW AND APPROVAL

41. This policy was approved by the NWTSA Board of Directors on September 15, 1998.

42. This policy shall be reviewed by NWTSA (*director responsible for this policy*) and senior staff on an annual basis.

“BE ACUTLEY AWARE OF POWER IN COACHING RELATIONSHIPS AND, THEREFORE, AVOID SEXUAL INTIMACY WITH ATHLETES, BOTH DURING THAT PERIOD FOLLOWING

COACHING WHEN IMBALANCE IN POWER COULD JEOPARDIZE EFFECTIVE DECISION
MAKING.”

COACHING CODE OF ETHICS

CANADIAN PROFESSIONAL COACHES ASSOCIATION

COACHING ASSOCIATION OF CANADA