

## CADS National Complaints, Investigations, Resolution and Discipline Policy

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## 1. Policy Statement<sup>1</sup>

Canadian Adaptive Snowsports (CADS) is committed to providing a sport and work environment in which all individuals are treated with respect and dignity and that all activities be conducted in accordance with the CADS Values of Fun, Inclusion and Respect. Everyone has the right to participate and work in an environment which promotes equal opportunities and prohibits discriminatory practices.

Any CADS member who asserts that the conduct of another, or more than one, CADS member contravenes one or more Policies of the Association may file a Complaint subject to the terms of this and the other respective Policy(ies).

## 2. Definitions

2.1. *Appeal*: The process outlined within this policy which allows the Respondent to have the complaint reviewed.

2.2. *Complainant*: A student, athlete, coach, official, employee, or other member of CADS or participant involved in the activities of CADS who believes they have been harassed.

2.3. *Disciplinary Committee*: A committee of persons as defined in the CADS By-Laws. The Disciplinary Committee decides whether a contravention of CADS Policy occurred and confirms or rejects the recommendation(s) of the Investigating Officer(s).

2.4. *Harassment*: Improper behaviour by any person towards another which a person knows or ought to know would be unwelcome.

This behaviour includes comments, conduct or gestures which are insulting, intimidating, humiliating, hurtful, malicious, degrading, or otherwise offensive to an individual or group of individuals or which creates an uncomfortable environment, or which might reasonably be expected to cause embarrassment, insecurity, discomfort, offense, or humiliation to another person or group, including, but not limited to:

- written or verbal abuse or threats;
- physical assault;

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<sup>1</sup> Note: For convenience, this policy uses the term "complainant" to refer to a person who witnesses, experiences, or alleges to have experienced, unacceptable behaviour on the part of another CADS member. Not all persons who witness, experience, or allege to have experienced, unacceptable behaviour will make a formal complaint. The term "respondent" refers to the person against whom a complaint is made.

- unwelcome remarks, jokes, innuendos, or taunting about a person's body, sex, sexual orientation, gender identity, gender expression, ability, attire, age, marital status, ethnic or racial origin, religion, etc.;
- displaying of sexually explicit, racist or other offensive or derogatory material, or sexual, racial, ethnic or religious graffiti;
- practical jokes which directly or indirectly cause awkwardness or embarrassment, endangering a person's safety or negatively affecting performance;
- hazing or initiation rites;
- leering or other suggestive or obscene gestures;
- intimidation, through the suggestion or offer of a reward or privilege or through threats of retaliation related to speaking out about harassment;
- condescension, paternalism, or patronizing behaviour which undermines self-respect or adversely affects performance or working conditions;
- conduct, comments, gestures or contact of a sexual nature that is likely to cause offence or humiliation or that might, on reasonable grounds, be perceived as placing a condition of a sexual nature on employment or any opportunity for selection, training or advancement;
- false accusations of harassment motivated by malice or mischief, and meant to cause other harm, is considered harassment;
- sexual harassment;
- sexual assault; or,
- sexual abuse, as further defined below.

2.5. *Investigating Officer:* An individual designated by CADS and possessing the appropriate background and training in the implementation of this policy. Investigating Officers should be trained by existing, resigning or outgoing officers.

2.6. *Investigation Report:* The written record of an investigation, completed by the Investigating Officer(s) including, but not limited to, a summary of details, determination of unacceptable behaviour, and recommended disciplinary action if a determination is found.

2.7. *Member:* Members of the Association, including: General or Associate Members, who may be in a Student, Athlete, Volunteer, Instructor, Coach or Administration role.

2.8. *Prejudice:* Examples of prejudice, sometimes expressed, for example, through racism, homophobia, ageism, sexism, transphobia or abelism include, but are not limited to:

- interpersonal behaviour such as name calling, derogatory remarks, gestures and physical attack;

- bias in CADS, club or sport-related decisions such as team selection, program access, and participation in activities and decisions related to sport related issued;
- bias in administrative decisions, assignments, promotion, holidays, leave, salary increases;
- stereotyping language which universalizes experience and ignores the differences between people and cultures; or,
- discriminatory language: language which denotes a stereotyped view of a subject or which has offensive overtones.

2.9. *Respondent*: The perpetrator of the action(s) which the complainant asserts constitutes unacceptable behaviour.

2.10. *Responsible Adult*: Where the Complainant or the Respondent is a minor, a parent, guardian, or other adult of the minor's choice, who may speak on behalf of the minor Complainant or minor Respondent. For the purposes of this Policy, a Responsible Adult may also advocate on behalf of another Adult.

2.11. *Sexual Harassment*: One or a series of incidents involving unwelcome sexual advances, requests for sexual favours, or other verbal conduct of a sexual nature:

- when such conduct might reasonably be expected to cause embarrassment, insecurity, discomfort, offense, or humiliation to another person or group;
- when submission to such conduct is made either implicitly or explicitly a condition of employment/sport-related activity;
- when submission to or rejection of such conduct is used as a basis for any employment/sport decision (including, but not limited to, matters of promotion, raise in salary, job security, benefits affecting the employee, program activity or team selection); and,
- when such conduct has the purpose or the effect of interfering with a person's work/sport performance/experience or creating an intimidating, hostile or offensive work/sport environment.

2.12. *Sexual Assault*: Sexual assault is defined as an assault of a sexual nature that violates the sexual integrity of the victim.

2.13. *Sexual Abuse*: Sexual abuse is when a young person is used by an older child, adolescent or adult for his or her own sexual stimulation or gratification.

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.

### 3. Investigating Officer (s)

CADS shall appoint at least one person to serve as Investigating Officer (s), as described in Section 4.4 of the CADS National Harassment Policy.

### 4. Complaint Procedure

4.1. The Complainant is first encouraged to make it known to the Respondent that the behaviour is unwelcome, offensive, and/or contrary to one or more CADS National policy(ies).

4.2. If confronting the Respondent is not possible, or, if after confronting the Respondent, the conduct continues, the Complainant should seek the advice of the CADS National Office Executive Director, who shall serve as the initial Investigating Officer.

A preliminary written report for the Investigating Officer (s) will be prepared each time the CADS National Office Executive Director is initially consulted.

The CADS National Office Executive Director may conduct an initial consultation and offer advice to a Complainant in a one-on-one context prior to the creation and filing of a formal written complaint.

4.3. In the event a staff member of CADS National Office is involved either as a complainant or a respondent or is perceived to be involved either as a complainant or a respondent, the matter shall be directed to the CADS National President. At any time, and at the option of the Complainant, a formal written complaint may be created, subject to the terms of this **CADS Complaints, Investigations, Resolution and Discipline Policy** (the Investigations Policy). Upon receiving the complaint, the Investigating Officer shall obtain from the Complainant a statement in writing outlining the details of the alleged conduct, behaviour or incident(s) and the names of any witnesses.

The statement should be dated and signed by the Complainant.

4.4. A meeting should be held between the Investigating Officer and the Complainant, to inform the Complainant of:

- the options of pursuing an informal resolution of the complaint;
- the right to make a formal written complaint under this Policy when an informal resolution is inappropriate or not feasible;
- the availability of counseling and other resources;
- 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; or,

- other avenues of recourse, including the right to file a complaint with the respective National, Provincial or Human Rights Commission or, where appropriate, to contact the police where the conduct may be an offense pursuant to the Criminal Code.

4.5. Following the initial meeting between the Complainant and the Investigating Officer(s), any of the following steps may be taken:

- If the Complainant and the Investigating Officer(s) agree that the conduct does not constitute a contravention of one or more CADS National policy(ies), the Investigating Officer will take no further action, but a written record of the mutual resolution will be recorded and kept on file.
- If the Complainant wishes to proceed with a complaint investigation, the Investigating Officer(s) will proceed with the investigation.

If the Investigating Officer(s) believes that the alleged behaviour constitutes a contravention of one or more CADS National policy(ies), but the Complainant does not wish to proceed with a complaint investigation, the following steps may be taken:

- If the Complainant wishes to pursue an informal resolution of the complaint, the Investigating Officer(s) will meet with the Respondent with a view to obtaining an apology and an assurance that the offensive conduct will not be repeated;
- If the Complainant does not wish to pursue an informal resolution of the complaint, the Investigating Officer(s) may, nevertheless, take either of the following steps:
  - A. The Investigating Officer(s) may meet with the Respondent with a view to obtaining an assurance that the offensive conduct will not be repeated. In the case of a meeting pursuant to this clause, the Investigating Officer(s) will make every reasonable effort to protect the identity of the Complainant.
  - B. If the Investigating Officer(s) is satisfied that the complaint has been resolved through this informal process, the Investigating Officer(s) will take no further action on the complaint.
  - C. If the Investigating Officer(s) is not satisfied that the complaint has been resolved through this informal process, then the Investigating Officer(s) may refer the matter to the Board of Directors.

## 5. Investigation by the Investigating Officer(s)

5.1. The Investigating Officer(s) will:

5.1.1. review and clarify the Complainant's written complaint;

5.1.2. give a written copy of the Investigation Report to the Respondent and the Complainant.

5.2. Where the Investigating Officer(s) gives a copy of the written complaint to the Respondent, the Investigating Officer(s) will include, with the written complaint, a copy of this policy and a notice that the Respondent has the right to be represented by any person of choice at any stage of the process when the Respondent is required or entitled to be present.

5.3. The Respondent will be requested to provide a written response to the Investigating Officer within ten (10) days of receiving the written complaint. If there are special circumstances, the Investigating Officer(s) may extend the time for response.

5.4. The Investigating Officer(s) will receive and clarify, if necessary, the response from the Respondent.

5.5. Within sixty (60) days of receiving the initial written complaint, the Investigating Officer(s) shall conduct an investigation and prepare a written Investigation Report.

5.6. All investigations stemming from this complaint shall follow the principles of natural justice, which states that:

- everyone has the right to a fair hearing in the course of determining whether an infraction has been committed;
- the issues should be clearly and concisely stated so that the accused is aware of the essentials of the complaint;
- the accused has a right to have a representative present his or her case;
- relevant information must be available to all parties;
- the accused has the right to call and cross-examine witnesses;
- the accused has the right to a written decision following the judgment;
- the accused has the right to appeal a decision (if there are grounds);
- the Investigating Officer(s) have a duty to listen fairly to both sides and to reach a decision unaffected by bias.

5.7. The Investigation Report from the Investigating Officer(s) should contain:

5.7.1. a summary of the relevant facts;



- 5.7.2. a determination as to whether the act(s) in question contravene one or more Policies of the Association; and,
- 5.7.3. if the act(s) contravenes one or more Policies of the Association, a recommended disciplinary action against the Respondent.

## 6. Disciplinary Action

6.1. When recommending disciplinary action to be taken, the Investigating Officer(s) shall consider factors, such as:

- the nature of the offense;
- whether the offense involved any physical contact;
- whether the offense involved a minor;
- whether the offense involved vulnerable member of society;
- if the offence was an isolated incident or part of an ongoing pattern;
- the nature of the relationship between the Complainant and the Respondent;
- the age of the Complainant and/or Respondent;
- whether the Respondent had been involved in previous incidents;
- whether the Respondent retaliated against the Complainant; and,
- whether there were any changes of Investigating Officer(s) and/or persons completing the Investigation Report.

6.2. On completion of the report, the Investigating Officer(s) shall forward a copy of the Investigation Report to the Complainant, the Respondent, and the CADS Disciplinary Committee.

6.3. The CADS Disciplinary Committee shall receive the Investigation Report as prepared by the Investigating Officer(s).

6.4. If the Investigation Report determines that Respondent has engaged in conduct that contravenes one or more Policies of the Association, the CADS Disciplinary Committee shall order such disciplinary action to be taken against the Respondent as it determines to be appropriate under the circumstances.

Said disciplinary action may include, but is not limited to:

- a verbal apology witnessed by a member of the Disciplinary Committee;
- a written apology;
- a letter of reprimand from CADS;
- referral to counseling;
- removal of certain privileges of membership or employment;
- demotion or pay cut;
- temporary suspension with or without pay;

- termination of employment or contract;
- expulsion from membership;
- other avenues of recourse, including the right to file a complaint with the respective National, Provincial or Territorial Human Rights Commission or, where appropriate, to contact the police where the conduct may be an offense pursuant to the Criminal Code; or,
- a combination of actions outlined.

6.5. The Disciplinary Committee shall, not more than 10 days after it makes its decision, send a notice of the decision to the Complainant and the Respondent.

6.6. A Complainant or Respondent who is dissatisfied with the decision of the CADS Disciplinary Committee may send a letter (registered preferred) which must be sent and received by the CADS Chair within 14 days to notify the CADS Chair of this fact.

Having received this letter within the proper time period, the Chairperson will consider an appeal hearing after consulting with the Chair of the Disciplinary Committee only.

This Appeal Committee will consist of no more than three (3) neutral people, none of whom should have been on the original Disciplinary Committee. This meeting should take place within 30 days of receipt of the "Appeal Letter".

## 7. Associated Costs of Investigation

CADS will cover any costs for meetings, reporting, and information gathering that pertain to complaints, and dealing with complaints, as outlined in the Policy as they relate to the responsibilities of CADS.

## 8. Special Circumstances

### 8.1 Minors

If the Complainant is a minor, the complaint may be brought forward by a Responsible Adult. The Responsible Adult will have the right to act on behalf of the Complainant throughout the complaint process, including:

- making a complaint;
- receiving all notices on behalf of the Complainant;
- being present at all dealings with the Complainant.

If the Respondent is a minor, the following shall apply:

- If the Investigating Officer(s) are attempting an informal resolution of a complaint, the Investigating Officer(s) may speak to the Respondent directly concerning the complaint provided that, prior to speaking to the Respondent, the Investigating Officer(s) inform the Respondent that he/she may have a Responsible Adult present during the meeting;
- If the complaint is referred to the Investigating Officer(s) for investigation:
  - A. a copy of the written complaint shall be forwarded to a parent or guardian of the Respondent if such person is known;
  - B. the Respondent shall be advised that he/she has the right to be represented by a Responsible Adult.

The Respondent's designated Responsible Adult will have the right to act on behalf of the Respondent throughout the investigation process, including responding to a written complaint, receiving all notices on behalf of the Respondent, and being present at all dealings with the Respondent.

**Note:** This section of the policy only relates to the harassment of CADS members who are minors by another CADS member. The legal requirements to report suspected child abuse remain as well.

## 8.2 Physical and psychological Abuse of Children and Touching in a Sexual Manner

Physical and / or psychological abuse is when a person in a position of power or trust purposefully injures or threatens to injure children, youth and/or vulnerable members of society. This may take the form of unwelcomed remarks, jokes, intimidating remarks, bullying, name calling, slapping, hitting, shaking, kicking, pulling hair or ears, throwing, shoving, grabbing, hazing or excessive exercise as a form of punishment.

## 8.3 Neglect

Neglect is chronic inattention to the necessities of life such as clothing, shelter, nutritious diets, education, good hygiene, supervision, medical and dental care, adequate rest, safe environment, moral guidance and discipline, exercise and fresh air.

An example of this may be when injuries are not adequately treated or where CADS members are made to participate with injuries, equipment is inadequate

or unsafe, no one intervenes when members are persistently harassing another members, or where travel or on snow activities are not properly supervised.

#### **8.4 Duty to Report**

Abuse and neglect are community problems requiring urgent attention. CADS is committed to help reduce and prevent the abuse and neglect of participants.

CADS realizes that persons working closely with children, youth and/or vulnerable members of society have a special awareness of abusive situations. Therefore, these people have a particular reporting responsibility to ensure the safety of Canada's with children, youth and/or vulnerable members of society by knowing their provincial protection acts and following through as required.

The Provinces have mandatory reporting laws regarding the abuse and neglect of with children, youth and/or vulnerable members of society. Consequently, it is the policy of CADS that any personnel (part-time and full-time staff, volunteer, participant, team official, parent, guardian) who has reasonable grounds to suspect that a participant is or may be suffering or may have suffered from emotional, physical abuse and neglect and/or sexual abuse shall immediately report the suspicion and the information on which it is based to the local child protection agency and/or the local police detachment. Across Canada, a person is considered a child up to the age of 16 to 19 years depending on provincial legislation.

Those involved with CADS in providing instruction, training and competitive opportunities for participants understand and agree that abuse or neglect, as defined above, may be the subject of a criminal investigation and/or disciplinary procedures.

Failure to report an offence may result in charges and fines under the law.

#### **8.5 Sexual relations - volunteers, instructors and coaches, and adult students or athletes:**

CADS takes the view that consensual sexual relationships between volunteers, instructors and coaches (and other persons in positions of power) and adult students or athletes, except married or common-law relationships, while not against the law, could impact negatively on the student or athlete involved, or on other students, athletes, volunteers, instructors and coaches, and on the public image of CADS.

CADS, therefore, takes the position that such relationships deemed consensual are not acceptable.

Should a consensual sexual relationship develop between a volunteer, instructor, coach, trainer, manager or person in a similar position of power and a student or athlete, CADS will investigate and take action which could include re-assignment, the termination of the volunteer, instructor, coach, trainer, manager and student or athlete relationship or, if this is not possible, a request for resignation of one of the parties to the relationship.

## **9. Policy Review and Approval**

- 9.1. This policy was approved by CADS Board of Directors *Month / Day / Year* and adopted by the membership at the Annual General Meeting of *Month / Day / Year*.
- 9.2. This policy should be reviewed by the CADS HR & Policy Committee and senior staff from time to time to ensure it remains current.