



## **SWIMMING NEW BRUNSWICK NATAION NOUVEAU-BRUNSWICK HARASSMENT POLICY**

Swim New Brunswick (SNB) is committed to providing a healthy and positive environment in which everyone is treated with respect and dignity.

Human Rights Code (Prohibited Grounds) prohibits discrimination against anyone in, among other things, employment, publications, accommodation, service and facilities on any of the following grounds known as Prohibited Grounds: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, or age of a person.

### **POLICY STATEMENT**

1. SNB is committed to providing opportunities for every individual in the sport of swimming to reach his or her potential in fitness and excellence. In keeping with the spirit of this statement, SNB is committed to providing a sport and work environment which promotes equal opportunities and prohibits discriminatory practices.
2. Harassment is a form of discrimination. Harassment is prohibited by human rights legislation in New Brunswick.
3. Harassment is offensive, degrading and threatening. In its most extreme forms, harassment can be an offense under Canada's Criminal Code.

### **APPLICATION**

4. This policy applies to all categories of members in SNB, as well as to all individuals engaged in activities with or employed by SNB, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees.
5. This policy applies to harassment which may occur during the course of all SNB business, activities and events, including but not limited to: swim meets, training camps, exhibitions, meetings and travel associated with these activities. It also applies to harassment between individuals associated with SNB but outside of SNB's business and events when such harassment adversely affects relationships within SNB's work and sport environment.

6. Harassment arising within the business, activities and events of member clubs or affiliated organizations of SNB shall be dealt with using the policies and mechanisms of such organizations.

### **THE SNB POSITION ON HARASSMENT**

7. SNB does not tolerate any form of harassment – particularly harassment on any of the Prohibited Grounds – in connection with any of its activities and will take all reasonable steps to prevent harassment from occurring and to stop it if it occurs.

### **CONFIDENTIALITY**

8. SNB recognizes that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly accused of harassment. SNB recognizes the interests of both the complainant and the respondent in keeping the matter confidential, except where such disclosure is required by law or is in the best interests of SNB. This shall not preclude publication of the final outcome of any matter.

### **RETALIATION**

9. No person may engage in reprisal, intimidation or any other form of punishment against people who raise good faith concerns about harassment or who assist in the complaint process.
10. Retaliation will be grounds for discipline.

### **DEFINITIONS**

11. For convenience, this procedure uses the term “Complainant” 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. If a complainant or respondent is a minor or someone otherwise unable to represent her or himself, a parent, guardian or other adult of the person’s choice who may act on behalf of the concerned person throughout the complaint process will be referred to as “the Responsible Adult”.

### **HARASSMENT PROCEDURE**

12. “Harassment” means comments or actions related to any of the Prohibited Grounds that are unwelcome or that could reasonably be assumed to be unwelcome and that could

detrimentally affect the environment in which Swim NB activities take place or lead to adverse consequences for the victim of harassment.

Harassment can generally be defined as comment or conduct, directed toward and individual or group of individuals, which is insulting, intimidating, humiliating, malicious, degrading or offensive. Harassment may involve repeated conduct or a single, serious incident that could cause a lasting harmful effect on the victim.

**13.** For the purposes of this procedure, sexual harassment is defined as unwelcome sexual advances, request for sexual favours or other verbal or physical conduct of a of a sexual nature when:

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

**14.** Types of behavior 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 or obscene gestures
- Condescending, paternalistic or patronizing behavior which is intended to undermine self-esteem, diminish performance or adversely affect 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
- Physical or sexual assault

### **WHAT IS NOT HARASSMENT?**

**15.** Harassment does not include disciplined training. However, those with authority must:

- a) Set and communicate reasonable and consistent performance and training standards to all participants;
- b) Ensure that training involving touching or other physical contact occurs in the appropriate setting and only after informed consent, where practicable, has been sought and received; and,
- c) Act consistently with the SNB Code of Conduct.

## **SNB RECOGNIZES**

16. SNB recognizes that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly accused of harassment. SNB recognizes the interests of both the Complainant and the Respondent in keeping the matter confidential, except where such disclosure is required by law. This shall not preclude publication of the final outcome of any matter.

## **COMPLAINT PROCEDURE**

17. A person who experiences harassment is encouraged to make it known to the harasser that the behavior is unwelcome, offensive and contrary to SNB policy.
18. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the Complainant should request a meeting with the SNB Executive Director and the President of SNB.
19. Once contacted by a Complainant the role of the SNB Executive Director and the President of SNB is to serve in a neutral, unbiased capacity in receiving the complaint and assisting in its informal resolution. If SNB Executive Director and the President of SNB consider that he/she is unable to act in this capacity, the Complainant shall be referred to another SNB official who will perform a similar role.
20. Harassment complaints/allegations occurring at a competition where there is otherwise a critical lack of time to resolve the complaint must be dealt with immediately, if necessary, by a SNB Official in a position of authority (Referee, SNB Executive Director or SNB appointed official/representative). The Complainant must inform a Coach, SNB Official, Referee, or Responsible Adult immediately and the complaint must be addressed without delay.
21. This policy shall not prevent a person in authority taking immediate, informal corrective disciplinary action in response to behaviour that, in their view, constitutes a minor incidence of harassment.
22. If necessary, a SNB Official in a position of authority, provided this policy applies and provided the individual being disciplined is told the nature of the alleged infraction and has an opportunity to provide information and to respond concerning the incident prior to any discipline being imposed. In such situations, sanctions shall be the duration of the competition only. Further sanctions may be applied but only after a full review of the matter in accordance with the procedures set out in this policy. The subsequent full review does not replace the appeal provisions of this policy.
23. There are four possible outcomes to a meeting between the Complainant, SNB Executive Director and the President of SNB:

- a) It may be determined that the conduct does not constitute harassment as defined in the policy or that the policy does not apply to the alleged harasser, in which case the matter will be closed;
- b) The Complainant may decide to pursue an informal resolution of the complaint, in which case SNB Executive Director and the President of SNB or the SNB Official will assist the two parties to negotiate an acceptable resolution of the complaint; or
- c) The Complainant may decide to lay a formal written complaint to SNB Executive Director and the President of SNB, in which case the SNB Executive Director and the President of SNB shall review the option of Mediation by a third party to resolve the complaint at the lowest possible level.
- d) After all of the available resources are used to solve the complaint at the lowest possible level, and if a agreed upon resolution cannot be reached by the parties SNB Executive Director and the President of SNB will determine if the complaint requires to be forwarded to a Harassment Investigator.

**24.** Ideally, the Investigator should be a person experienced in harassment matters and investigation techniques, and may be an outside professional or a SNB delegated Official. He/she shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to SNB Executive Director and the President of SNB.

**25.** Within 7 days of receiving the written report of the Investigator, the SNB Executive Director and the President of SNB will arrange a Hearing for the findings and shall appoint three individuals to serve as a Panel.

## **HEARING**

**26.** A Hearing of the Panel shall take place in accordance with the SNB's Dispute Policy, and in addition:

- a) The Complainant and the Respondent shall each receive a copy of the Investigator's report.
- b) The Complainant and the Respondent shall be present at the hearing to respond to the Investigator's report, give the evidence and to answer questions of the Panel.
- c) The Investigator may attend the hearing at the request of the Panel.

**27.** If at any point in the proceedings, the Complainant becomes reluctant to continue or does not continue, it shall be at the sole discretion of the SNB Executive Director and the SNB President if the Panel shall continue the review of the complaint in accordance with this policy. In such instances where the Panel is to continue with the hearing process SNB Executive Director or the President shall take the place of the Complainant.

**28.** As soon as possible but in any event within 5 days of the hearing, the Panel shall render its Decision. A copy of the decision will be provided to the SNB Executive Director, SNB President, the Complainant and the Respondent. This Decision 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) Disciplinary action against the Respondent, if the acts constitute harassment; and
- d) Measure's 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 false, vexatious, retaliatory or frivolous, the Panel may recommend that disciplinary action be taken against the Complainant.

## **SANCTION**

**30.** When deciding on appropriate disciplinary sanction, the Panel shall consider factors such as:

- The nature and severity 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 Respondent
- The age of the Complainant
- Whether the Respondent had been involved in previous harassment incidents
- Whether the Respondent admitted responsibility and expressed a willingness to change
- Whether the Respondent retaliated against the Complainant

**31.** In deciding on disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment:

- Verbal apology
- Written apology
- Letter of reprimand from the organization
- A fine or levy
- Referral to counseling
- Removal of certain privileges of membership or employment
- Temporary suspension with or without pay
- Termination of employment or contract
- Expulsion from membership
- Publication of the decision

**32.** Failure to comply with a sanction as determined by the Panel shall result in automatic suspension in membership from SNB until such time as the sanction is fulfilled.

33. The SNB Executive Director and SNB President may determine, in the exercise of his or her sole discretion that the alleged misconduct is of such seriousness to warrant suspension of the member from SNB pending the hearing and decision of the Panel.
34. Notwithstanding the procedures set out in this policy, any member of SNB who is convicted of a criminal offence involving sexual exploitation, invitation to sexual touching, sexual interference, sexual assault, shall face automatic suspension from participation in any activities of SNB for a period of time corresponding to the length of the criminal sentence imposed by the Court, and may face further disciplinary action by SNB in accordance with this policy.

### **APPEALS PROCEDURE**

35. Both the Complainant and the Respondent shall have the right to appeal the decision and sanctions of the Panel, in accordance with SNB's Appeal Policy.

### **COST**

36. The Complainant and the Respondent must be aware that Swim New Brunswick is a non-profit organization. As such, SNB will make every attempt to mitigate all potential costs to the organization.