

Canadian Deaf Sports Association
Policy Number #30-03 - Discrimination or Harassment Policy

Original Policy

Note: For convenience, this Policy uses the term “Complainant” to refer to the person who experiences discrimination or harassment, even though not all persons who experience discrimination or harassment will make a formal complaint, but may also include a complaint from a representative of the Canadian Deaf Sports Association. The term “Respondent” refers to the person against whom a complaint is made.

In this Policy “Individual ” refers to all categories of Members in the Canadian Deaf Sports Association as well as to all individuals engaged in activities with or employed by the Canadian Deaf Sports Association, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, medical personnel, administrators and employees (including contract personnel).

In this Policy “days” shall mean total days, irrespective of weekends or holidays.

Policy Statement

1. THE CANADIAN DEAF SPORTS ASSOCIATION is committed to providing a sport and work environment that promotes equal opportunities and prohibits discriminatory practices.
2. Harassment is a form of discrimination. Harassment is prohibited by human rights legislation in Canada.
3. Harassment is offensive, degrading and threatening. In its most extreme forms, harassment can be an offence under Canada’s Criminal Code.

Application

4. This policy applies to all categories of members in the CDSA, as well as to all individuals engaged in activities with or employed by the CDSA, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, medical and personnel, administrators and employees (including contract personnel).
5. This policy applies to discrimination or harassment, which may occur during the course of the CDSA business, activities and events, including but not limited to: all competitions, exhibitions, meetings and travel associated with these activities. It also applies to discrimination or harassment between individuals associated with the CDSA but outside of the CDSA’s business and events when such discrimination or harassment adversely affects relationships within the CDSA’s work and sport environment.
6. Discrimination or harassment arising within the business, activities and events of individuals of the CDSA shall be dealt with using the policies and mechanisms of such organizations.

Definitions

7. Discrimination can be defined as differential treatment of an individual or group of individuals which is based, in whole or in part, on one or more than one of the prohibited

grounds of discrimination, and which thus has an adverse impact on the individual or group of individuals.

8. Prohibited grounds of discrimination under the CDSA policy include:
 - age
 - ancestry
 - citizenship
 - colour
 - creed
 - ethnic origin
 - disability
 - marital/family status
 - place of origin
 - race
 - religion
 - receipt of public assistance
 - political opinion
 - record of offenses
 - sex
 - sexual orientation

The CDSA policy also applies to any other grounds of discrimination prohibited by applicable law.

9. *Harassment* can generally be defined as comment or conduct, directed toward an individual or group of individuals, which is insulting, intimidating, humiliating, malicious, degrading or offensive.
10. 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 creates an intimidating, hostile or offensive environment.
11. 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, disability, attire, age, race, religion, sex or sexual orientation
 - leering or other suggestive or obscene gestures
 - condescending, paternalistic or patronizing behaviour 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

12. The CDSA recognizes certain sections of the Criminal Code of Canada that relate to harassment, specifically those sections dealing with the following offences:

- Criminal harassment - (also known as stalking) refers to a person causing someone to fear for his or her own or another's safety by repeatedly watching, following, communicating with or threatening him or her;
- Uttering Threats - refers to a person verbally threatening to kill someone, cause serious bodily harm, or damage or destroy someone's property;
- Assault - (including sexual assault) refers to a person applying force intentionally and without consent to another person, attempting to apply force, or causing the other person to believe that he or she will apply force;
- Sexual Interference - refers to a person touching, for a sexual purpose, directly or indirectly, with a part of their body or an object, a person under 14 years of age;
- Invitation to sexual touching - refers to a person inviting, counseling, or inciting a person under 14 years of age to touch, directly or indirectly, with a part of their body or with an object, the body of any other person, including the body of the person who has invited such touching;

13. Sexual exploitation - refers to a person in a position of trust or authority committing either of the above two offences (sexual interference or invitation to sexual touching) against a person who is 14 years of age or older but under 18. Matters coming within these sections shall be dealt with through this policy and will be referred to the Criminal Justice System.

Confidentiality

14. The CDSA recognizes that it can be extremely difficult to come forward with a complaint of discrimination or harassment and that it can be devastating to be wrongly accused of discrimination or harassment. The CDSA 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 the CDSA. This shall not preclude publication of the final outcome of any matter.

Complaint Procedure

15. A person who experiences discrimination or harassment is encouraged to make it known to the Respondent that the behaviour is unwelcome, offensive and contrary to this policy.
16. If confronting the Respondent is not possible, or if after confronting the Respondent the discrimination or harassment continues, the Complainant should request a meeting with

- an official of the CDSA (for the purposes of this Policy, an “official” may be a member of the CDSA Board, Chef de Mission, or the chair of any CDSA committee).
17. Should the Complainant not be satisfied with the action taken by the Official, the Complainant may make a formal complaint of discrimination or harassment in writing to the CDSA President or Chef de Mission if at a Deaflympics Games.
 18. Once contacted by a complainant the role of the official is to serve in a neutral, unbiased capacity in receiving the complaint and assisting in its informal resolution. If the official considers that he/she is unable to act in this capacity, the complainant shall be referred to another CDSA official.
 19. There are three possible outcomes to this meeting of complainant and official:
 - It may be determined that the conduct does not constitute discrimination or harassment as defined in this policy, in which case the matter will be closed;
 - *The complainant may decide to pursue an informal resolution of the complaint*, in which case the official will assist the two parties to negotiate an acceptable resolution of the complaint; or
 - *The complainant may decide to make a formal written complaint* to the CSDA in which case the official shall advise the CDSA President or Chef de Mission, who may appoint an independent individual to conduct an investigation of the complaint.
 20. Ideally, the Investigator should be a person experienced in discrimination or harassment matters and investigation techniques, and may be an outside professional. He/she shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to the CDSA and the Chef de Mission.
 21. Where there is an investigation, within 7 regular days of receiving the written report of the Investigator, the CDSA President or Chef de Mission shall determine whether or not there are grounds for a hearing and shall appoint either a single adjudicator to sit alone or three individuals to serve as a Panel.
 22. Where there is no investigation, within 7 regular days of receipt of the formal complaint the CDSA President or Chef de Mission shall appoint either a single adjudicator to sit alone or three individuals to serve as a Panel.
 23. Appointment of either a single adjudicator or a panel of three persons shall be made pursuant to the appointment procedures set out in CDSA’s *Discipline Policy*.
 24. Discrimination or harassment complaints occurring within competitions may be dealt with immediately, if necessary, by a CDSA representative in a position of authority, provided the individual being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident. In such situations, sanctions shall be for the duration of the competition only. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this Policy. This review does not replace the appeal provisions of this Policy
 25. This Policy shall not prevent a person in authority from taking immediate, informal corrective disciplinary action in response to behaviour that, in their view, constitutes a minor incidence of discrimination or harassment.

Hearing

26. A Hearing shall take place in accordance with the process set out in the CDSA *Discipline Policy*, and in addition:

- The Complainant and Respondent shall each receive a copy of the Investigator's report if such an investigation is carried out.
- If there is an in-person hearing, the Complainant shall be present at the hearing to respond to the Investigator's report, give evidence and to answer questions of the Panel.
- If there is an in-person hearing, the Investigator may attend the hearing at the request of the Panel.

27. As soon as possible but in any event within 7 regular days of the hearing, the Panel shall present its decision to the President or Chef de Mission with a copy provided to both the Complainant and Respondent. This Decision shall contain:

- a summary of the relevant facts;
- a determination as to whether the acts complained of constitute discrimination or harassment as defined in this Policy;
- recommended disciplinary action against the Respondent, if the acts constitute discrimination or harassment; and
- measures to remedy or mitigate the harm or loss suffered by the Complainant, if the acts constitute discrimination or harassment.

28. If the Panel determines that the allegations of discrimination or harassment are false, vexatious, retaliatory or frivolous, their report may direct disciplinary action against the Complainant.

Reluctant Complainant

29. If at any point during in the proceedings under this Policy, the Complainant becomes reluctant, or unable to continue, it shall be at the sole discretion of the President or Chef de Mission to continue the review of the complaint in accordance with this Policy. In such instances, the CDSA shall take the place of the Complainant.

Sanction

30. When directing appropriate disciplinary sanction, the Panel shall consider factors such as:

- the nature and severity of the discrimination or harassment
- whether the discrimination or harassment involved any physical contact
- whether the discrimination or harassment was an isolated incident or part of an ongoing pattern
- the nature of the relationship between the Complainant and Respondent
- the age of the Complainant

- whether the Respondent had been involved in previous discrimination or harassment incidents
 - whether the Respondent admitted responsibility and expressed a willingness to change
 - whether the Respondent retaliated against the Complainant
31. In directing disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the discrimination or harassment:
- verbal apology
 - written apology
 - letter of reprimand from the organization
 - a fine or levy
 - referral to counselling
 - removal of certain privileges of membership or employment
 - suspension from participation in the CDSA activities, including competitions
 - temporary suspension with or without pay
 - termination of employment or contract
 - expulsion from membership
 - publication of the decision
 - other sanctions as may be considered appropriate
32. Failure to comply with a sanction as determined by the Panel shall result in automatic suspension from the activities of the CDSA until such time as the sanction is fulfilled.
33. The President or Head of Delegation may determine that the alleged conduct is of such seriousness as to warrant suspension from the activities of the CDSA pending the hearing and decision of the Discipline Panel.
34. Notwithstanding the procedures set out in this Policy, any member of the CDSA 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 the CDSA for a period of time corresponding to the length of the criminal sentence imposed by the Court, and may face further disciplinary action by the CDSA in accordance with this Policy.

Appeals Procedure

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