

POLICY FOR  
**CANADIAN FREESTYLE SKI ASSOCIATION**  
**ASSOCIATION CANADIENNE DE SKI ACROBATIQUE**  
CONCERNING HARASSMENT AND DISCRIMINATION

**STATEMENT OF PRINCIPLES**

1. The Canadian Freestyle Ski Association (“CFSA”) is committed to the achievement of equal opportunity including the establishment of a sport environment in which all members have the opportunity to contribute to the sport to their maximum potential and are treated with respect and dignity. Each individual has the right to work and/or compete in a professional atmosphere that promotes equal opportunities and prohibits discriminatory practices.
2. In keeping with the spirit of this commitment, the CFSA does not tolerate any form of harassment or discrimination and undertakes to protect all members regardless of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, disability, age, marital status, family status, or record of offence, from harassment and discrimination by other members, officers of the association, officials, organizers, coaches, club mates, and any other member of the CFSA with whom they may have contact.
3. This policy is directed toward the protection of members from harassment which may occur:
  - During the course of CFSA business and events, or within a club affiliated with the CFSA; and/or during events not sanctioned or operated by the CFSA but which are directly related to the business of the CFSA including but not limited to FIS sanctioned competitions, Olympic Games, Canada Winter Games, and Provincial Winter Games
  - Outside of such events or clubs where there may be repercussions in the work or club environment adversely affecting members' Freestyle relationships.
4. The *Human Rights Code* prohibits discrimination and harassment in employment on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status or disability are illegal.

5. CFSA has adopted this policy to make clear that harassment and discrimination will not be tolerated in CFSA. Individuals found to have engaged in behaviour constituting harassment or discrimination may be disciplined.
6. CFSA also recognizes that its staff and members may be subjected to harassment or discrimination by individuals who are not staff or members of CFSA, such as employees from ski areas where CFSA events are held. CFSA considers such harassment or discrimination as unacceptable and acknowledges its responsibility to support and assist an employee or member of CFSA to such harassment or discrimination. CFSA will provide support and assistance to ensure that the behaviour stops.
7. It is the responsibility of all staff and members of CFSA to raise concerns about discrimination and harassment. It is also the responsibility of staff and members of CFSA to respond to, or not condone, discrimination or harassment. CFSA encourages staff and members to report incidents of harassment or discrimination.
8. CFSA recognizes that it has the duty to accommodate differences that arise from the protected grounds up to the point of undue hardship.

Notwithstanding the existence of this policy and even though steps are being taken under this policy, every person continues to have a right to seek assistance from external resources, such as the person's provincial human rights tribunal, commission, council, etc..

## **OBJECTIVES**

9. The objectives of this policy are:
  - To maintain a working environment that is free from harassment and discrimination and in which staff and members treat each other with mutual respect;
  - To inform all staff and members of CFSA that harassment and discrimination in the workplace are demeaning practices that are an affront to the dignity of staff and are not permitted as described in paragraph 2;
  - To communicate the CFSA's objective to create and maintain a harassment-free sport
  - To identify the types of behaviour that may be considered offensive and will not be allowed by CFSA;

- To establish a mechanism for receiving complaints of harassment and discrimination and to provide a procedure by which CFSA will deal with these complaints;
- To outline the preventative, remedial and disciplinary actions that may be taken when a complaint of harassment or discrimination has been brought forward and/or substantiated.

10. It is important to recognize that CFSA also endorses an informal, collegial atmosphere and this policy is not intended to constrain acceptable social interactions between people at CFSA.

## **APPLICATION OF POLICY**

11. This policy applies to everyone working for CFSA or who is a member or an employee of CFSA, whether part-time or casual, regardless of their position in CFSA, including athletes, coaches, managers, integrated support team members, board/committee members, affiliates CFSA member club and CFSA member Provincial Sport Organization executives,, secretarial support, professional and administrative staff. The policy also applies to others in the work context, such as volunteers, dependant and independent contractors. CFSA will not allow harassment or discrimination in the workplace, any employment related environment or during training or competitions whether by fellow employees, athletes, coaches, managers, integrated support team members, board/committee members, affiliates CFSA member club and CFSA member Provincial Sport Organization executives, secretarial support, professional and administrative staff., dependent and independent contractors. It is also unacceptable for staff and members of the CFSA, CFSA member clubs and CFSA member Provincial Sport Organizations to engage in harassment or discrimination when dealing with other third parties with whom they interact in a professional capacity.

12. This policy covers any employment-related or training or competition environment including, but not limited to:

- CFSA business and events;
- any type of CFSA sanctioned activity, including but not limited to, training or competition, social activities, fundraising activities, and CFSA member clubs and/or Provincial Sport Organization meetings;
- FIS sanctioned training or competitions;
- Olympic Winter Games and Pan American Winter Games training or competition;
- Canada Winter Games training and competition;
- Provincial Winter Games;
- CFSA member club activities;
- CFSA member Provincial Sport Organization activities;

- CFSA meetings;
- the CFSA, CFSA member club and CFSA member Provincial Sport Organization's office;
- work assignments outside the office;
- office-related social functions;
- work-related conferences and training;
- work-related travel;
- telephone communications, faxes, electronic mail, instant messaging communications, or social network websites (e.g. Facebook, Twitter).

## DEFINITIONS

13. “**Harassment**” means one, or a course of, vexatious comments or conduct based on a protected ground enumerated in paragraph 14 of this policy that is known or ought reasonably to be known to be unwelcome. There may be circumstances where a single incident is serious enough to amount to harassment.

14. “**Discrimination**” means a distinction, whether intentional or not, but based on a protected ground, which has the effect of imposing burdens, obligations, or withholds or limits access to opportunities, benefits, and advantages available to other members of society.

15. “**Protected grounds**” means any of the following personal characteristics: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status or disability.

16. “**Threats, reprisals or retaliation**” mean harsh comments or conduct, discipline, criticism, or similar treatment directed toward an individual:

- for having invoked this policy;
- for having participated in or cooperated in any investigation under this policy; or
- For having been associated with a person who has invoked this policy or participated in these procedures.

17. “**Malicious or bad faith complaint**” means that a person has made a complaint under this policy that s/he knew was untrue. That is itself a violation of this policy. However, the insufficiency of evidence to prove a complaint does not mean that the complaint was submitted in bad faith. A person, who submits a complaint in good faith, even where the complaint cannot be proven, has not violated the policy.

## EXAMPLES OF HARASSMENT

18. Some examples of sexual harassment include:

- Sexist jokes causing offence, told after the joker has been advised that they are embarrassing or offensive.
- Suggestive or offensive remarks.
- Persistent unwanted contact after the end of a consensual relationship.
- Unwelcome physical conduct.
- Propositions of physical intimacy.
- Demands for dates or sexual favours, when they are known or ought to have been known to be unwelcome.
- Verbal abuse or leering.
- Display of sexual and/or offensive pictures, graffiti, images or other materials.
- Delivery of sexual and/or offensive e-mail messages.
- Comments about clothing and physical appearance that are unwelcome or ought to be known to be unwelcome.

19. Some examples of conduct that may form the basis of a discrimination complaint include:

- Demeaning racial, religious, ethnic or anti-minority remarks, jokes or innuendoes told about an employee to others in the workplace and/or CFSA events.
- Delivery of offensive messages through e-mail or any other form of communication.
- Derogatory comments directed at the language and accent of a particular racial or ethnic group.
- Comments, signs, caricatures, or images displayed in the workplace that depict minority racial, ethnic or religious groups in a demeaning manner.

## **RIGHTS AND RESPONSIBILITIES**

### **Rights and Responsibilities of Staff and Members of CFSA**

20. Each employee and member of CFSA has the right to be treated fairly and respectfully in the work place, at CFSA events and all events listed in section 12 of this policy.

21. Each employee and member of CFSA is responsible for playing a part in ensuring that the working environment, CFSA events, as well as all other events listed in section 11 of the this policy are free from harassment and discrimination by not engaging in conduct, which may constitute harassment or discrimination. In addition, a member or employee who believes that a colleague or athlete has experienced or is experiencing harassment or discrimination is encouraged to notify one of the Advisors appointed under this policy and may file a complaint under this policy.

22. Each employee and member of CFSA has a responsibility to raise concerns about discrimination and harassment and to co-operate in the investigation of a harassment or discrimination complaint. Each employee and member of CFSA involved in an investigation under this policy must maintain confidentiality as described in this policy.

### **Responsibility of CFSA**

23. CFSA is responsible for:

- Making all staff and members of CFSA aware of the issue of workplace harassment and discrimination, and the existence of this policy, in order to prevent and respond to harassment and discrimination;
- Providing staff, and members of CFSA with information regarding avenues of recourse;
- Responding promptly and seriously to any complaint of harassment or discrimination;
- Providing advice and support to persons who are subjected to harassment and discrimination;
- Imposing remedial or disciplinary measures when a complaint of harassment or discrimination is found to have been substantiated.
- Maintaining records as required by this policy; and
- Providing support and assistance to any member or employee of CFSA who complains of harassment or discrimination by a person who is not a member or employee of CFSA.

### **CONFIDENTIALITY**

24. CFSA understands that it is difficult to come forward with a complaint of harassment or discrimination and recognizes a complainant's interest in keeping the matter confidential.

25. To protect the interests of the complainant, the person complained against, and any other person who may report incidents of harassment or discrimination, confidentiality will be maintained throughout the investigation process to the extent practicable and appropriate under the circumstances.

26. All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will be kept confidential by CFSA, except where disclosure is required by a disciplinary or other remedial process or by law.

### **PROCEDURES FOR COMPLAINTS**

#### **Advisors**

27. Under this policy, CFSA will appoint two Advisors to act as a resource to staff and members of CFSA concerned about possible or actual harassment or discrimination. The Advisors are identified in Appendix C to this policy.

28. The Advisors can assist staff and members of CFSA by,

- answering questions;
- explaining any aspect of the policy;
- outlining options for remedy;
- helping staff and members of CFSA with the implementation of a remedy; and
- helping staff or members of CFSA document a complaint for investigation.

29. The Advisors may provide assistance in resolving issues of harassment and discrimination to any employee or member of CFSA. That can include speaking to another employee or member of CFSA on behalf of a complainant or respondent, facilitating a solution, between two or more affected parties or assisting a complainant or a respondent through an investigation.

30. The Advisors are advocates for a workplace free of harassment and discrimination – they are not advocates for an individual. The Advisors maintain confidentiality to the extent practicable and appropriate under the circumstances. They are not investigators under the policy or decision-makers.

31. CFSA will ensure that the Advisors have the knowledge and skills to fulfill their roles.

## **Complaints Process**

### **Initial Action by Complainant:**

32. A person who considers that she or he, or someone else, has been subjected to harassment or discrimination (hereinafter "the complainant") is encouraged to bring the matter to the attention of the person responsible for the conduct (hereinafter "the respondent").

33. Where the complainant does not wish to bring the matter directly to the attention of the respondent, or where such an approach is attempted and does not produce a satisfactory result, the complainant should seek the advice of an Advisor.

### **Informal Procedure Involving the Advisor:**

34. The purpose of the informal procedure is to allow individuals to attempt to develop resolutions to workplace harassment or discrimination with the assistance of an Advisor. Without the consent of the complainant, the Advisor will take no further steps apart from providing information and discussing alternatives.

35. Once a complainant has sought the advice of the Advisor, they will, where appropriate, provide the complainant with a copy of this policy and advise the complainant of:

- the right to make a formal written complaint under this policy when the respondent is a member or employee of CFSA or a dependant or independent contractor of the CFSA which includes members of the CFSA integrated support team (e.g. physiotherapists, doctors, physiologists, psychologists, etc.);
- the availability of support services provided by CFSA;
- the right to be represented by legal counsel or another person of choice at their own expense at any stage of the process when the complainant is required or entitled to be present;
- the right to withdraw from any further action in connection with the complaint at any stage;
- other avenues of recourse available to the complainant, such as the right to file a complaint with the British Columbia Human Rights Tribunal; or, where appropriate, the right to lay an information under the *Criminal Code*; and
- any time limits which may apply to such other avenues of recourse.

### **Outcome of Meeting with Advisor**

#### *No further action*

36. Where, after discussing the matter, the complainant does not wish the Advisor to take any further action, the Advisor will take no further action. The Advisor should keep a written record of the discussion without disclosing the content of the complaint to any person.

#### *Discussion with respondent*

37. As part of the informal process, the complainant may decide to discuss the issue directly with the respondent, with or without the Advisor, or the Advisor may, with the consent of the complainant, meet with the respondent with a view to arriving at a solution to the situation. The Advisor should keep a written record of what was said to that person.

38. Where the complainant and the respondent are satisfied that they have achieved an appropriate resolution, the Advisor will make a confidential written record of the resolution. The Advisor will follow up to ensure that the solution is working out to the satisfaction of the parties.

#### *Making of formal complaint*

39. Where the complainant decides to make a formal written complaint, whether or not the Advisor is of the opinion that the conduct in question constitutes harassment or discrimination, the Advisor may assist the complainant to draft a formal written complaint, based on the form attached as Appendix A, which must be signed by the complainant.

### **Procedure When a Formal Written Complaint is Made**

40. A formal written complaint under this policy (in form of Appendix A) is given to the Ombudsman Assigned by the CFSA.

41. Upon the receipt of the formal written complaint, the Ombudsman will, without delay:

- provide a copy of the complaint and of the policy to the complainant and to the respondent; and
- notify the CFSA CEO and COO in writing of the names of the complainant and respondent and a summary of the claim.
- advise the complainant and the respondent that he or she has the right to be represented by legal counsel or other person of their choice at any stage of the process when he or she is required or entitled to be present at their own expense.
- encourage the respondent to complete the Response Form attached as Appendix B to this policy, in a timely fashion and, promptly provide a copy of the Response Form to the complainant. If the respondent chooses to file a Response, this form shall be completed prior to the interview process.

### **Interviews**

42. The Ombudsman will, within a reasonable time, interview the complainant to document the details of the complaint, what remedy the complainant is seeking and what process under the policy the complainant wishes to pursue.

43. The Ombudsman will, within a reasonable time, interview the respondent to document his or her perspective of the events and ascertain, with the agreement of the complainant, if the respondent would be willing to proceed through mediation.

44. The Ombudsman may, at its discretion, engage the services of an outside individual with experience in this area to conduct the interview process described in paragraphs 41 and 42.

### **Mediation**

45. If the Ombudsman and both parties consider that mediation is appropriate, the Ombudsman shall ascertain whether the parties prefer an internal or an external mediation process. If they do not agree, the mediation will be external.

46. If the parties agree to an internal mediation, the Ombudsman will, within a reasonable time, appoint a member of CFSA to act as mediator or if appropriate, mediate the matter himself or herself.

47. If the parties do not agree to an internal mediation, if an internal mediator cannot be appointed or if an internal mediation has failed, the Ombudsman will proceed with an external mediation. A neutral, trained mediator selected by the Ombudsman will conduct the external mediation process on behalf of CFSA. CFSA will bear the cost of mediation.

48. An internal or an external mediator will have the experience and knowledge in the areas that are the subject of the complaint.

49. Where a resolution is reached through internal or external mediation, a written statement shall be prepared. The statement will contain details of the complaint, the response of the respondent, the agreed upon outcome and a mechanism to ensure appropriate implementation of the outcome. Both parties and the mediator will sign the statement. A copy of the statement of resolution shall be placed in the respondent's personnel file.

50. The outcome of the internal and/or external mediation, and the statement of resolution, will be reported to the CFSA Chief Executive Officer, CFSA Chief Operating Officer and the CFSA Board of Directors. If the above individuals believe that, notwithstanding the satisfactory resolution between the parties, the resolution has not addressed the CFSA's obligations under the policy, they will consider whether an investigation is warranted.

51. If a satisfactory resolution cannot be reached, the Ombudsman will consider whether an investigation is warranted.

## **Investigation**

52. The Ombudsman may, at any stage of the complaints process, proceed with a formal investigation under the policy. The Ombudsman or an external investigator will perform the formal investigation.

53. If the Ombudsman conducts the investigation, they shall do so promptly and decide whether or not the complaint is upheld or dismissed and shall implement what remedy or discipline they consider appropriate in the circumstances.

54. The complainant may, at any time after a formal complaint has been filed, make a request, preferably in writing, to the Ombudsman for temporary accommodation until the

process comes to an end. The Ombudsman will make every effort to reasonably accommodate the complainant.

55. If the Ombudsman decides to proceed with an external investigation they shall appoint a neutral third party who has expertise in harassment or discrimination and investigation to act as an external investigator. CFSA will bear the costs of such an investigation.

56. Whether conducted internally or by an external investigator, the investigation will be conducted in confidence. Confidential interviews with relevant parties will be conducted. Both parties will have an opportunity to identify witnesses or others to be interviewed.

57. The investigation will be undertaken and completed within six months of the appointment of an investigator, unless delays are incurred in good faith and no substantial prejudice will result to any person affected by the delay.

58. If the investigator decides that the matter would best be resolved through voluntary mediation, he or she will, with the consent of the complainant, the respondent and the Ombudsman, take the role of mediator and the mediation process of this policy will apply.

59. The internal or external investigator will provide a written summary of findings which will include:

- a) the allegations of harassment or discrimination
- b) the facts
- c) the findings

60. The written summary of findings will be provided to the complainant and to the respondent. The complainant and the respondent will reply in writing within one week of receipt of the summary of findings or other reasonable period as agreed to by the parties or as determined by the Ombudsman.

61. The external investigator will file a formal report with the Ombudsman, based on the summary of findings and on the replies from the complainant and the respondent. The report may also include recommendations on appropriate resolutions.

### **Action taken Following Outcome of Investigation**

62. Based on the findings of the investigation, the CFSA Chief Executive Officer, CFSA Chief Operating Officer and Board of Directors shall make a decision as to whether the policy has been violated and what action will be taken as a result of the findings. If one of the above individuals is the subject of the complaint he or she shall not participate in the decision.

63. The purpose of this policy is preventative and remedial. If it is determined that an employee or a member of CFSA has violated this policy, and depending on the severity of the violation, appropriate consequences will be determined and can include an apology, education, counselling, verbal or written reprimand, suspension or the discharge of the employee or member of CFSA. Specific consequences will depend on the nature and severity of the incidents.

64. The complainant and the respondent will be informed of the outcome of the investigation, the decision made by the CFSA Chief Executive Officer, CFSA Chief Operating Officer and Board of Directors as to whether the policy has been violated and what action will be taken as a result of the findings.

65. Where the investigation results in a finding that the complaint of harassment is substantiated, the outcome of the investigation, and any remedial or disciplinary action, will be recorded in the respondent's personnel file or athlete file. These written records will be maintained for ten years by the CFSA unless new circumstances dictate that the file should be kept for a different period of time. The complaint will not form part of the complainant's personnel file unless so requested by the complainant, in which case a decision will be made on a case by case basis.

66. The Ombudsman will be responsible for monitoring the situation following harassment or discrimination complaints.

67. The Ombudsman will maintain all written records relating to the complaint for ten years unless new circumstances dictate that the file should be kept for a different period of time.

68. If the complainant is not satisfied with the outcome of the investigation or the disciplinary action taken by the CFSA Chief Executive Officer, CFSA Chief Operating Officer and Board of Directors the complainant will be reminded of the right to file a complaint with the person's provincial human rights tribunal, commission, council, etc., or other available remedies and shall be advised of any time limits applicable to making such a complaint.

### **Harassment by Persons Who Are Not Members or Staff of CFSA**

69. A member or employee of CFSA who considers that he or she has been the subject of harassment by a person who is not a member or employee of CFSA should seek the advice of an Advisor.

70. The Advisor will provide the complainant with support and assistance in dealing with and remedying this harassment. The complaint procedures provided in this policy may be followed if possible.

71. A person who is not a member or employee of CFSA who considers that she or he has been subjected to harassment or discrimination by a person who is a member or employee of CFSA in the context of the workplace is encouraged to bring the matter to the attention of CFSA. The Ombudsman will take steps to investigate the matter and ensure that the behaviour does not continue. The complaint procedures provided in this policy may be followed, if warranted.

**APPENDIX "A": COMPLAINT FORM**  
**Complaint Form under CFSA Harassment and Discrimination Policy**

I,
(Name of complainant)
have reasonable grounds to believe that
(Name of respondent)
Has harassed or discriminated against me in my employment /and or at a CFSA event.
The particulars of the discrimination or harassment are as follows (attach additional sheet if necessary):
Signed at: (place)_____on: (date)

**APPENDIX B: RESPONSE FORM**  
**Response Form under Firm Harassment**  
**and Discrimination Policy**

I,
(Name of complainant)
The nature of the alleged discrimination or harassment is that (attach additional sheet if necessary):
I respond to the allegations and provide particulars as follows (attach additional sheet if necessary):
Signed at: (place)_____on: (date)

## APPENDIX C: ADVISORS

### **Lisa Langevin, LL.B.**

Associate, Kelly Santini, LLP

Specialties:

- Alternative Dispute Resolution
- Litigation & Personal Injury

Other:

Lisa is a qualified mediator and was admitted as a Roster mediator with the Ontario Mandatory Mediation Program in 2010.

Education:

Called to the Bar, Ontario, 2002

B.A, University of Ottawa

LL.B., University of Ottawa

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# APPENDIX D: PROCESS

## Implementation Process CFSA Harassment & Discrimination Policy

