

# Policy on Harassment and Discrimination



**August 16, 2018**

# POLICY ON HARASSMENT AND DISCRIMINATION

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## 1. INTRODUCTION

Judo Canada is committed to creating and maintaining a work and sport environment which is free from:

- a) personal harassment
- b) bullying
- c) discrimination

Judo Canada recognizes that bullying, harassment and discrimination can poison the work/sport environment for the wider group, as well as for those members of the group targeted by the bullying, harassment or discrimination.

## 2. PURPOSE OF POLICY

The purpose of this Policy is to offer a work and sport environment free from personal harassment and discrimination as defined in this Policy.

## 3. APPLICATION

This Policy applies to those registrants of Judo Canada who are affected by an event of harassment or discrimination originating from a person/organization affiliated with Judo Canada. In addition, this Policy applies to all individuals engaged in activities that are sponsored by Judo Canada or where individuals are acting on behalf of Judo Canada or individuals employed or contracted out by Judo Canada, including, but not limited to,

- a) national Team athletes, and all persons working with those teams or athletes, including coaches, medical and paramedical personnel or other members of the integrated support team, clubs or sports federation representatives, team managers and captains;
- b) officials, volunteers, Directors, Officers, contractors, suppliers and sponsors when stipulated into the sponsorship contract entered with Judo Canada.

This Policy applies to individuals' conduct during Judo Canada business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Judo Canada activities, the Judo Canada office environment, and any meetings.

This Policy also applies to individuals' conduct outside of Judo Canada's business, activities, and events when such conduct adversely affects relationships within Judo Canada (and its work and sport environment) and is detrimental to the image and reputation of Judo Canada. Such applicability will be determined by Judo Canada at its sole discretion.

Other policies related to harassment and discrimination, such as the policies of Major Games events, may also apply to individuals.

# POLICY ON HARASSMENT AND DISCRIMINATION

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## 4. DEFINITIONS OF DISCRIMINATION, HARASSMENT AND RELATED BEHAVIOURS

### Discrimination

Discrimination is any distinction, whether intentional or not, based on prohibited grounds, which has the effect of imposing burdens, obligations or disadvantages on an individual that are not imposed on others, or which withholds or limits access to opportunities, benefits and advantages available to others.

The prohibited grounds of discrimination under this Policy are as follows:

- a) age
- b) colour;
- c) religion;
- d) gender identity or expression;
- e) genetic characteristics;
- f) disability;
- g) national or ethnic origin;
- h) marital/family status (*defined to include common law relationships, and to not preclude anti-nepotism policies*);
- i) race;
- j) sex (*defined to include pregnancy*); and
- k) sexual orientation.

### Harassment

Harassment is a form of discrimination, and refers to wrongful conduct, whether the conduct is associated with a prohibited ground, that negatively affects the work and sport environment or leads to adverse consequences within that environment for the person(s) experiencing the harassment, which the perpetrator knew or ought reasonably to have known would be unwelcome.

Harassment includes bullying, and can take many forms but often involves conduct, comment or display that is insulting, intimidating, humiliating, hurtful, demeaning, belittling, malicious, degrading, or otherwise causes offence, discomfort, or personal humiliation or embarrassment to a person or group of persons. Examples of harassment include:

- a) unwelcome remarks, jokes, nicknames, innuendo, or taunting which may, but need not be linked to a prohibited ground.;
- b) written or verbal abuse or threats which may, but need not be linked to a prohibited ground;
- c) racial, ethnic or other slurs;
- d) displays such as sexual, racial, ethnic or religious posters or graffiti, which may cause offence and which may, but need not be related to prohibited grounds;
- e) use of terminology that reinforces stereotypes which may, but need not be based on prohibited grounds;

## POLICY ON HARASSMENT AND DISCRIMINATION

- f) vandalism or physical assaults which may, but need not be motivated by prohibited grounds; and
- g) condescension, paternalism, or patronizing behaviour which may, but need not be linked to prohibited grounds which undermines self-respect or adversely affects performance or working conditions.

Discipline in training is an indispensable part of high performance sport and should not be confused with discrimination or harassment. However, it is of vital importance that those in authority:

- a) set and communicate non-discriminatory performance standards, selection criteria, rules and regulations to all participants;
- b) ensure that training involving touching or other physical contact occur in an appropriate setting, and only after informed consent has been sought and received;
- c) be consistent in taking any corrective or punitive action without discrimination based on prohibited grounds or harassment; and
- d) use non-discriminatory terminology; address individuals by name and avoid the use of derogatory slang or offensive terms.

### **Personal Harassment**

Personal harassment is inappropriate behaviour directed toward an individual which the perpetrator knew or ought reasonably to have known would be unwelcome. The behaviour is repeated, or has the potential to be repeated, over time.

Examples of personal harassment include belittling jokes, insults, nicknaming, inappropriate teasing, taunting and condescension. This behaviour is not necessarily linked to the prohibited grounds of discrimination.

### **Bullying**

Bullying is unwanted verbal, physical or social behaviour directed to harming or inappropriately controlling another person. It often involves a real or perceived power imbalance. The behaviour is repeated, or has the potential to be repeated, over time.

Examples of bullying are such actions as threats, spreading rumors, attacking someone physically or verbally, and deliberately excluding someone from a group.

### **Sexual Harassment**

Sexual harassment is unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature or related to a person's sex when:

- a) submitting to or rejecting this conduct can affect decisions about the individual;
- b) the conduct has the purpose or effect of interfering with the individual's performance;
- c) the conduct detrimentally affects the work and sport environment.

Specific examples can include:

- a) criminal conduct such as stalking, and physical or sexual assault or abuse;

## POLICY ON HARASSMENT AND DISCRIMINATION

- b) inappropriate comments about a person's body or appearance;
- c) inquiries or comments about an individual's sex life, sexual preferences, etc.;
- d) leering or other obscene or suggestive gestures;
- e) promises or threats contingent on the performance of sexual favours;
- f) sexual/sexist graffiti or any displaying of sexually explicit material or pictures;
- g) unwanted physical contact including touching, kissing, patting and pinching;
- h) unwelcome flirtation, sexual remarks, invitations or requests whether indirect or explicit; and
- i) use of inappropriate or derogatory sexual terms.

### **Reprisal**

Reprisals or threats of reprisal are an aggravating factor in any situation involving discrimination or harassment, particularly where the reprisal or threat of reprisal is by a person in authority such as a coach, supervisor, manager, or member of the Judo Canada Board of Directors.

Examples of reprisal include:

- a) acts of retaliation designed to punish an individual who has reported discrimination or harassment; and
- b) threats of retaliation designed to dissuade an individual from reporting discrimination or harassment.

In sexual harassment situations, reprisals can also include:

- a) acts of retaliation to punish an individual who has rejected sexual advances; and
- b) threats of retaliation if sexual advances are rejected.

Making a groundless complaint may also be considered to be a reprisal.

### **Condonation**

If a person in authority knows, or should reasonably have known, that discrimination or harassment may have occurred and fails to take appropriate action, the person in authority has condoned the discrimination or harassment and may be subject to sanctions.

## **5. PREVENTION AND INTERVENTION**

Prevention and intervention are key to achieving a work and sport environment free of discrimination and harassment. Judo Canada's objective is to create and maintain a work and sport environment free of harassment and discrimination and registrants and other individuals affiliated with Judo Canada are expected to intervene when it appears that harassment or discrimination may have occurred.

### **Judo Canada Resource Person**

Judo Canada shall appoint an individual designated as Judo Canada "resource person". The resource person shall be independent of Judo Canada (not an employee, a paid service provider or a Board member). The role of Judo Canada resource person shall be:

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## POLICY ON HARASSMENT AND DISCRIMINATION

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- to receive information about reports brought forward relating to harassment and discrimination,
- to facilitate the process for bringing forward reports,
- to provide support to individuals who have questions or concerns about the application of this Policy,
- in appropriate cases, to initiate alternative forms of dispute resolution, such as facilitation, mediation or other types of informal resolution, and
- to report on an annual basis to the Ethics Committee.

If the person appointed as Judo Canada resource person has been involved in the matter giving rise to an allegation of harassment, he or she may refer the respondent to another independent member of the Ethics Committee who shall provide any assistance pursuant to this Policy and shall be the Judo Canada resource person for the purposes of such matter.

### **Duty to Report**

All registrants and individuals affiliated with Judo Canada are expected to promptly report any behaviour of which they become aware, which may constitute harassment or discrimination. This behaviour includes situations where discrimination or harassment is suspected or rumoured, appreciating that individuals who experience discrimination or harassment are often reluctant to report it.

### **Receiving Reports**

Reports of suspected discrimination or harassment may be made to the CEO or the President of Judo Canada, to the Judo Canada resource person, or to any other person in authority. For example, a Judo Canada employee may make a report to his or her supervisor, or to another Judo Canada supervisor, or to a Board member. Reports may also be made under Judo Canada *Whistleblower Policy*.

Any report arising from the conduct of a member of the National Team at international competitions or at any Major Multisport Games such as an Olympic or Pan American Games shall also be brought promptly to the attention of the Judo Canada.

Judo Canada will adhere to all disclosure and reporting responsibilities required by the Minister of Sport and Persons with Disabilities.

## **6. COMPLAINT PROCEDURE**

### **Assistance to Complainants**

A complainant may request the assistance of the Judo Canada resource person in understanding this Policy, in pursuing resolution instead of lodging a complaint if appropriate, and in formulating the written complaint. The Judo Canada resource person shall refer the complainant to counseling upon request, and may explore the possibility of alternative forms of dispute resolution with the complainant, whether before or after the complaint is made, if appropriate.

Should a complainant choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the complainant's own expense.

## POLICY ON HARASSMENT AND DISCRIMINATION

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### **The Complaint**

Although anyone may report discrimination or harassment, a complaint may be made only by (i) persons affected by the alleged discrimination or harassment, (ii) the CEO, or (iii) the Judo Canada resource person, on behalf of Judo Canada.

A complaint shall be in writing, and signed by the complainant. The complaint shall be submitted to the President or the CEO of Judo Canada, and a copy shall be provided to the Judo Canada resource person.

The complaint should include particulars of the discrimination or harassment, including details of the incident or incidents, including dates, times, locations, description of action, account of dialogue, the name of the perpetrator(s) and any witnesses or names of other individuals who may also have experienced discrimination or harassment. The complaint should detail any corrective action taken to date.

The complainant may withdraw the complaint at any time. However, such a complaint may be continued as a complaint by the CEO on behalf of Judo Canada, if Judo Canada does not consent to the withdrawal.

### **Processing the Complaint**

The person responsible for processing the complaint (hereinafter the “Judo Canada Official”) may vary, as follows:

- a) where a complaint involves conduct by an employee of, or person under contract to, Judo Canada other than the CEO, Judo Canada Official shall be the CEO;
- b) a neutral, third-party individual appointed by Judo Canada; or
- c) in all other cases, Judo Canada Official shall be the President (or where a complaint involves conduct by the President, an alternate appointed by the Officers (the two Vice-Presidents and Treasurer) of Judo Canada to perform the President’s functions under this Policy). The President or, in the case of a complaint involving the President, the alternate, may delegate part or all the President’s (or alternate’s) responsibilities under this Policy to the CEO, except where a complaint is by or against the CEO.

### **Complaint Investigation**

Judo Canada Official may decide not to deal with a complaint:

- a) if in the opinion of Judo Canada Official, the facts alleged in the complaint would be insufficient, if proven, to establish discrimination or harassment under this Policy; or
- b) if in the opinion of Judo Canada Official, the complaint is frivolous, vexatious, or a reprisal, or for any other reason at the discretion of the Judo Canada Official.

In all other cases, Judo Canada Official shall appoint and provide terms of reference to an investigator who shall investigate the complaint and make findings of fact. The Judo Canada Official may act as the investigator.

Before the investigation begins, Judo Canada Official shall advise each respondent of the complaint and shall provide each complainant and respondent a copy of the written complaint, of this Policy, and of the investigator’s terms of reference, if any.

## POLICY ON HARASSMENT AND DISCRIMINATION

Concurrently, as the matter is being investigated, the complaint will be considered a Major Infraction under the terms of Judo Canada's *Complaints and Dispute Resolution Policy* and a Discipline Panel will be appointed pursuant to the terms of that Policy.

Before the investigation report is issued, each respondent shall have a reasonable opportunity to respond to the allegations. If a respondent declines to do so, or does not respond within the time-frame provided, the investigator's report may nonetheless be issued.

All Judo Canada participants, including the respondent(s), must co-operate fully in any investigation.

Federal and/or Provincial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a worker in a Workplace. The Investigator should review workplace safety legislation and/or consult independent experts to determine whether legislation applies to the complaint.

The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial legislation. The investigation may include:

- a) Complainant interviewed;
- b) Witnesses interviewed;
- c) Statement of facts (complainant's perspective) prepared by Investigator and acknowledged by Complainant;
- d) Statement delivered to Respondent ;
- e) Respondent interviewed;
- f) Witnesses interviewed; and
- g) Statement of facts (respondent's perspective) prepared by Investigator and acknowledged by Respondent.

The Investigator's Report should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether or not, on a balance of probabilities, an incident occurred that could be considered discrimination or harassment.

The Investigator's Report will be provided to the parties with the names and identifying details of any witnesses redacted. The provision of the Investigator's Report is conditional on the parties not distributing the Report to any third party without the written permission of the Organization.

Should the Investigator find that there are possible instances of offence under the *Criminal Code*, particularly related to Criminal Harassment (or Stalking), Uttering Threats, Assault, Sexual Interference, or Sexual Exploitation, the Investigator shall advise the Complainant to refer the matter to police. The Investigator will further inform the Organization that the matter should be directed to the police.

### **Assistance to Respondents**

A respondent may request the assistance of Judo Canada resource person in understanding this Policy. The respondent shall be referred to counseling upon request. Judo Canada resource person may explore the possibility of alternative forms of dispute resolution with the respondent.

Should a respondent choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the respondent's own expense.



## POLICY ON HARASSMENT AND DISCRIMINATION

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### **Settlement**

A complaint may be settled at any stage. A resolution agreement should be in writing and signed by all parties.

### **Mediation**

Judo Canada may provide a mediator, if Judo Canada Official views mediation as appropriate and if the complainant and respondent are willing to enter a mediation agreement.

## **7. SANCTIONS**

Pursuant to Judo Canada's *Complaints and Dispute Resolution Policy*, the Discipline Panel shall consider the Investigator's Report, in addition to submissions from the parties, prior to making a decision on the complaint. The Discipline Panel may apply sanctions as described in the *Complaints and Dispute Resolution Policy*.

## **8. INTERIM AND PROVISIONAL MEASURES**

The Judo Canada Official may impose interim measures pending the investigation of a complaint, if Judo Canada Official is of the view that the imposition of such measures is in the best interest of the complainant(s), respondent(s) and/or Judo Canada.

Interim measures are not sanctions, and they may take many forms, including but not limited to:

- a) the imposition of conditions upon the continued participation of the respondent(s) in the activities or work of Judo Canada;
- b) suspension of the respondent(s) from participation in the activities or work of Judo Canada, with or without pay in the case of employees, or under such other terms as are seen to be appropriate; and/or
- c) security arrangements.

Judo Canada resource person shall be informed of any interim measures.

Judo Canada Official shall consult with Judo Canada Team leader and the Chef de Mission before the imposition of interim measures which may have an impact on any member of the Canadian Team at an Olympic or Pan American Games or other Multisport Games.

## **9. APPEALS**

An appeal will be heard and determined in accordance with Judo Canada Appeals Policy subject respecting the following considerations. In case of conflict between this Policy and the Appeals Policy, this Policy shall prevail.

### **Grounds for Appeal by Respondents**

A respondent may appeal Judo Canada Official's determination (s) on the following grounds only:

- a) that the investigation was conducted in an unfair or biased manner contrary to the rules of natural justice; or

## POLICY ON HARASSMENT AND DISCRIMINATION

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### **Grounds for Appeal by Complainants**

A complainant may appeal Judo Canada Official's determination(s) on the following grounds only:

- a) that the investigation was conducted in an unfair or biased manner contrary to the rules of natural justice; or

There shall be no appeal from any finding of fact contained in the investigation report.

### **The Hearing**

The following persons may appear before the Appeal Committee at its in-camera hearing and make representations in the appeal:

- a) the appellant(s);
- b) any person entitled to participate as a respondent in the appeal;
- c) Judo Canada Official who may make representations with respect to the investigation of the appeal;
- d) any other person invited by the Appeal Committee to make representations.

### **Disposition of an Appeal**

The Appeal Committee's deliberations shall take place in camera. The appellant(s), respondent(s) if any, and Judo Canada Official shall not be present during the deliberations.

The Appeal Committee, by a majority of votes cast, may:

- a) dismiss the appeal;
- b) substitute its own determination for the determination under appeal;
- c) remit the complaint for further investigation and/or for re-determination in accordance with its directions.

The Appeal Committee shall provide reasons for its disposition.

A copy of the reasons shall be provided to the appellant, to any respondent in the appeal, and to the Judo Canada Official.

## **10. RECORD KEEPING**

The CEO shall keep a secure record of every report and complaint under these guidelines. The record shall contain all relevant documentation, including:

- a) details of the report(s) and/or a copy of the complaint(s);
- b) the response(s), if any;
- c) the terms of reference of the investigator, if any;

## POLICY ON HARASSMENT AND DISCRIMINATION

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- d) the interim measures, if any;
- e) any witness statements;
- f) the investigation report, if any;
- g) the terms of any informal resolution or written resolution agreement;
- h) Judo Canada Official's determinations, if any;
- i) the sanctions imposed, if any;
- j) all other correspondence;
- k) any appeal(s) filed;
- l) any material filed in an appeal; and
- m) any minutes of Judo Canada Board of Directors.

### **11. CONFIDENTIALITY**

To the extent possible, reports, complaints, witness statements and other documents produced under these guidelines shall be held in confidence by Judo Canada.

However, no absolute guarantees of confidentiality may be made by Judo Canada. Circumstances in which information may be shared include:

- a) when criminal conduct may be involved;
- b) when child abuse may have occurred;
- c) when it is felt to be necessary to protect others from harassment or discrimination;
- d) when required to ensure fairness or natural justice in the procedures contemplated by these guidelines;
- e) during an investigation by a law enforcement agency;
- f) to protect the interests of Judo Canada; and
- g) when required by law.

*Approved by Board on August 16, 2018*