

MTU Harassment and Abuse Policy SOP 7.0

Note: For convenience, this policy 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.

1. Policy Statement

- 1.1. MTU is committed to providing a sport and work environment in which all individuals are treated with respect and dignity. Each individual has the right to participate and work in an environment that promotes equal opportunities and prohibits discriminatory practices.
- 1.2. Harassment is a form of discrimination and MTU is committed to providing an environment free from harassment on the basis of race, nationality or ethnic origin, religion, age, sex, sexual orientation, marital status, family status, or disability. Harassment on the basis of any of these grounds is a form of discrimination that is prohibited by human rights legislation throughout Canada.
- 1.3. Harassment is offensive, degrading and threatening. In its most extreme forms, harassment can be an offense under Canada’s Criminal Code.

2. Application

- 2.1. This policy applies to all categories of Member in MTU, as described in Section 7 of the Constitution, as well as to all individuals engaged in activities with or employed by MTU, including, but not limited to, directors, officers, coaches, athletes, referees, volunteers, medical and paramedical personnel. It applies to harassment that may occur during the course of all MTU business, activities and events.
- 2.2. Harassment arising within the business, activities and events of clubs or other organizations affiliated with MTU will be dealt with using the policies and mechanisms of such organizations.

3. Definitions

- 3.1. Harassment can generally be defined as comment or conduct, directed toward an individual or group of individuals that is insulting, intimidating, humiliating, malicious, degrading or offensive. Types of behaviour that constitute harassment include, but are not limited to:
 - 3.1.1. Written or verbal abuse or threats;
 - 3.1.2. The display of visual material which is offensive or which one ought to know is offensive;
 - 3.1.3. Unwelcome remarks, jokes, comments, innuendo or taunting about a person’s looks, body, attire, age, race, religion, sex or sexual orientation;
 - 3.1.4. Leering or other suggestive or obscene gestures;
 - 3.1.5. Condescending, paternalistic or patronizing behaviour which is intended to undermine self-esteem, diminish performance or adversely affect working conditions;
 - 3.1.6. Practical jokes which cause awkwardness or embarrassment, endanger a person’s safety or negatively affect performance;
 - 3.1.7. Any form of hazing;
 - 3.1.8. Unwanted physical contact including touching, petting, pinching or kissing;
 - 3.1.9. Unwelcome sexual flirtations, advances, requests or invitations;
 - 3.1.10. Physical or sexual assault;
- 3.2. Behaviours such as those described above that are not directed towards individuals or groups but have the same effect of creating a negative or hostile environment; or
- 3.3. Retaliation or threats of retaliation against an individual who reports harassment.
- 3.4. 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:
 - 3.4.1. Submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or
 - 3.4.2. Such conduct has the purpose or effect of interfering with an individual’s performance; or
 - 3.4.3. Such conduct creates an intimidating, hostile or offensive environment.

4. Confidentiality
 - 4.1. MTU 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. MTU recognizes the interests of both the Complainant and the Respondent in keeping the matter confidential, except where such disclosure is required by law.

5. Complaint Procedure
 - 5.1. A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive and contrary to this policy. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the Complainant should request a meeting with an official of MTU (for the purposes of this policy, an “official” is any person in a responsible staff or volunteer position with MTU).
 - 5.2. 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 or she is unable to act in this capacity, the Complainant will be referred to another MTU official.
 - 5.3. There are three possible outcomes to this meeting of Complainant and official:
 - 5.3.1. It may be determined that the conduct does not constitute harassment as defined in this policy, in which case the matter will be closed;
 - 5.3.2. 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. If an informal resolution of the complaint is not appropriate or possible, the Complainant may decide to lay a formal written complaint; or
 - 5.3.3. The Complainant may decide to lay a formal written complaint, in which case the official will advise the MTU Executive Committee, and the Executive Committee will appoint an independent individual to conduct an investigation of the complaint.
 - 5.4. Ideally, the Investigator should be a person experienced in harassment matters and investigation techniques. The Investigator will gather facts surrounding the incident by speaking directly with the Complainant and the person against whom the complaint is made (the “Respondent”), and any witnesses who, in the opinion of the Investigator, might have relevant facts or observations about the incident. The Respondent will also be given the opportunity to provide a written statement to the Investigator.
 - 5.5. The Investigator will carry out the investigation in a timely manner and at the conclusion of the investigation will submit a written report to the MTU Executive Committee.
 - 5.6. The Executive Committee may determine that the alleged conduct is of such seriousness as to warrant suspension of the individual from MTU pending the hearing and decision of the Discipline Panel.
 - 5.7. Within ten (10) business days of receiving the written report of the Investigator, the Executive Committee will appoint three individuals to serve as a Discipline Panel. This panel will consist of at least one woman and at least one man.

6. Hearing
 - 6.1. The Discipline Panel will hold the hearing as soon as possible, but not more than fifteen (15) business days after the Discipline Panel has been appointed by the Executive Committee.
 - 6.2. The Discipline Panel will govern the hearing as it sees fit, provided that:
 - 6.2.1. Members of the Discipline Panel will select from among themselves a Chairperson;
 - 6.2.2. A quorum will be all three (3) Discipline Panel members;
 - 6.2.3. Decisions will be by majority vote; the Chairperson carries a vote;
 - 6.2.4. The Complainant and the Respondent may be accompanied by a representative;
 - 6.2.4.1. The costs of any and all legal representation is the sole responsibility of the Complainant and the Respondent, whomsoever engages such representation.
 - 6.2.5. The hearing will be held in private;
 - 6.2.6. The Respondent will be given five (5) business days written notice (by courier or fax) of the day, time and place of the hearing, and included in the notice will be a copy of the formal complaint and a copy of the Investigator’s report;
 - 6.2.7. The Complainant will receive a copy of the Investigator’s report five (5) days prior to the hearing;
 - 6.2.8. Both the Complainant and Respondent will be present at the hearing to respond to the Investigator’s report, give evidence and to answer questions of the Discipline Panel.
 - 6.3. The hearing will proceed in the absence of either or both parties;

- 6.3.1. The Investigator may attend the hearing at the request of the Discipline Panel;
- 6.3.2. The Discipline Panel may request that witnesses to the incident be present or submit written evidence;
- 6.3.3. And once appointed, the Discipline Panel will have the authority to abridge or extend timelines associated with all aspects of the hearing.
- 6.4. In order to keep costs to a reasonable level the Discipline Panel may conduct the hearing by means of a conference call or videoconference.
- 6.5. As soon as possible but in any event within five (5) business days of the hearing, the Discipline Panel will present its decision to the MTU Executive, with a copy provided to both the Complainant and Respondent. The decision will contain:
 - 6.5.1. A summary of the relevant facts;
 - 6.5.2. A determination as to whether the acts complained of constitute harassment as defined in this policy;
 - 6.5.3. Recommended disciplinary action against the Respondent, if the acts constitute harassment; and
 - 6.5.4. Recommended measures to remedy or mitigate the harm or loss suffered by the Complainant, if the acts constitute harassment.
- 6.6. If the Discipline Panel determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, their report may recommend disciplinary action against the Complainant.

7. Discipline

- 7.1. When recommending appropriate disciplinary action, the Discipline Panel will consider factors such as:
 - 7.1.1. The nature and severity of the harassment;
 - 7.1.2. Whether the harassment involved any physical contact;
 - 7.1.3. Whether the harassment was an isolated incident or part of an ongoing pattern;
 - 7.1.4. The nature of the relationship between the Complainant and Respondent;
 - 7.1.5. The age of the complainant;
 - 7.1.6. Whether the Respondent had been involved in previous harassment incidents;
 - 7.1.7. Whether the Respondent admitted responsibility and expressed a willingness to change; and
 - 7.1.8. Whether the Respondent retaliated against the complainant.
- 7.2. In recommending disciplinary sanctions, the Discipline Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment:
 - 7.2.1. Verbal apology;
 - 7.2.2. Written apology;
 - 7.2.3. Letter of reprimand from MTU;
 - 7.2.4. A fine or levy;
 - 7.2.5. Referral to counselling;
 - 7.2.6. Removal of certain privileges of membership, participation or employment;
 - 7.2.7. Demotion or a pay reduction;
 - 7.2.8. Temporary suspension with or without pay;
 - 7.2.9. Termination of employment or contract;
 - 7.2.10. Expulsion from membership;
 - 7.2.11. Publication of the decision; and
 - 7.2.12. Any other sanction that the Discipline Panel considers appropriate in the circumstances.
- 7.3. Unless the Discipline Panel decides otherwise, any disciplinary sanctions applied will take effect immediately.
- 7.4. Both the Complainant and Respondent will have the right to appeal the decision and recommendations of the Discipline Panel, in accordance with MTU's Appeal Policy.