

Complaints Policy and Procedures

1. Purpose

- a. Disputes will be unavoidable over the course of the direction, administration and management of Sail Canada's programs and activities. Decisions, judgments and actions, and their consequences, are complex and involve many individuals throughout the sailing community. It is critical that there are procedures in place to resolve disputes and complaints that may arise under Sail Canada's policies.

2. Definitions

- a. For purposes of this Complaints Policy and Procedures:
 - i. "CEO" means Chief Executive Officer or his or her designate as appointed by Sail Canada from time to time;
 - ii. "Code of Conduct" means Sail Canada's Code of Conduct as amended from time to time;
 - iii. "Complaint" means a Complaint regarding an alleged violation of Sail Canada's Code of Conduct, Sail Canada's Harassment, Bullying and Discrimination Policy, Gender and Inclusivity Policy or any other Policies created and approved from time to time by Sail Canada;
 - iv. "Complainant" means a person or organization filing a Complaint who is either the victim of the alleged misconduct, a witness of the alleged misconduct or a person to whom the alleged misconduct has been brought to his or her attention. Sail Canada may be the Complainant;
 - v. "Days" means days, irrespective of weekends or holidays;
 - vi. "Panel" means a panel of three (3) adjudicators responsible for hearing the Complaint;
 - vii. "Member" means a Sail Canada Member as defined in Sail Canada's bylaws;
 - viii. "Participants" or Sail Canada "Participants" are individuals who are participating in programs and activities directly under the auspices of Sail Canada including but not limited to athletes, coaches, learning facilitators, instructors, officials, support persons, employees, contractors, volunteers, parents of participants and those representing Sail Canada at any event;
 - ix. "Parties" means the Complainant and the Respondent;
 - x. "Recognized Yacht or Sailing Club, School or Organization or Recognized Organizations" means a sailing or yacht club, school or organization that is a Member in good standing of Sail Canada or contracted by Sail Canada or a Member;
 - xi. "Respondent" means a person who is the subject of the Complaint;
 - xii. "Safe Sport Officer" means an independent third party appointed by Sail Canada to receive and assess, in full confidence, Complaints related to Sail Canada's Harassment, Bullying and Discrimination Policy;
 - xiii. "Sail Canada" means the body duly incorporated under the name Sail Canada / Voile Canada.

3. Application of the Complaints Policy and Procedures

- a. This Complaints Policy and Procedures applies to any employee, volunteer and Participant of Sail Canada, as defined thereafter, and any other person involved in Sail Canada's programs, events, activities and business. It applies to any Complaint filed under this present Complaints Policy and Procedures and any Sail Canada's Policies, particularly but not limited to the Harassment, Bullying and Discrimination Policy and Sail Canada's Code of Conduct.
- b. Complaints originating from disputes involving the decisions of a Member or a Recognized Yacht or Sailing Club, School or Organization, as defined below ought to be pursued through their appropriate rules and policies unless Sail Canada decides, at its own discretion, to receive and manage the Complaint, in which case, Sail Canada's Complaints Policy and Procedures shall apply and prevail.

4. Limitations

- a. Neither the CEO nor designate shall act as a member of a Panel, Investigator, Safe Sport Officer or mediator, if he or she has an actual or perceived conflict of interest.

5. Initiation of a Complaint

- a. A Complaint may be initiated by:
 - i. Sail Canada;
 - ii. any Sail Canada volunteer, employee, Participant, or Member or member of a Member;
 - iii. at the discretion of Sail Canada, by any other person or entity.
- b. The Complaint shall be made in writing by the Complainant, dated and signed with a brief summary of the matter in dispute or alleged misconduct and must be delivered by e-mail to the CEO (or the Chair if the CEO is involved in the dispute or misconduct) or in the case of harassment, bullying or unlawful discrimination to the Sail Canada Safe Sport Officer. The Complainant may use Sail Canada's Complaint form available on Sail Canada's web site.
- c. The Complaint should contain as much information as possible about the conduct which is the subject of the Complaint. The Complainant shall:
 - i. provide details of the dates, times, and locations of the incident(s), names of any witnesses to the incident(s), and a detailed description of the alleged offensive behavior or misconduct;
 - ii. refrain from discussing the fact that a Complaint has been filed, or the allegations contained in the Complaint, except with his or her representative or legal counsel, or except as directed by Sail Canada;
 - iii. deliver the Complaint as soon as reasonably possible following the incident(s) or conduct which are the subject matter of the Complaint.
- d. The Complaint will be received and reviewed by Sail Canada's CEO (or Chair if the

Complaint involves the CEO) or Sail Canada's Safe Sport Officer (in the case of harassment or bullying) who will determine the nature of the infraction or misconduct alleged in the Complaint.

- e. In the event of a Complaint involving the CEO or a member of Sail Canada's Board of Directors, the Complaint will be referred to an independent third party for the review and processing under this policy.
- f. Sail Canada's CEO, Sail Canada's Safe Sport Officer or the third party designate may decide, in the case of a minor infraction or misconduct, to impose such consequences or disciplinary sanctions as deemed appropriate in the circumstances including provisional measures, without proceeding with an investigation or a hearing.
- g. Sail Canada's CEO, Sail Canada's Safe Sport Officer or the third party designate may refer the Complaint, at his or her discretion to an Investigator and/or to a Panel.
- h. Both the Complainant and the Respondent will be notified in writing by Sail Canada or the Safe Sport Officer that the Complaint is proceeding. The Respondent will be provided with a copy of the Complaint.
- i. Where appropriate, given the nature of the Complaint, the Complaint will be referred to the appropriate law enforcement agency.
- j. Pending an investigation or hearing, if Sail Canada considers action necessary to protect Participants of Sail Canada or to otherwise fulfill the purposes of the Complaints Policy and Procedures, Sail Canada may issue, at its discretion, an immediate interim suspension of membership or registration pending the outcome of disciplinary procedures or external investigation initiated by a partner organization or law enforcement agency.
- k. Where the Respondent or an individual subject to Sail Canada's Policies has been found by any court of law or tribunal to have engaged in a conduct that constitutes a serious and significant violation of Sail Canada's Policies and Code of Conduct, Sail Canada may impose a disciplinary decision, including suspending or expelling the Respondent or the individual, without investigating and/or hearing under this Complaints Policy and Procedures. The Respondent or individual shall be deemed to have violated Sail Canada's Policies or Code of Conduct if a court of law or tribunal has made a finding against the individual, and the finding is based on facts which would, in the discretionary opinion of Sail Canada, be grounds for a finding of misconduct under Sail Canada's Policies.

6. Investigation

- a. If Sail Canada's CEO, Sail Canada's Safe Sport Officer or the third party designate believes that an investigation is warranted, the below provisions will apply.
- b. Sail Canada's CEO, Sail Canada's Safe Sport Officer or the third party designate may

decide to investigate the situation and will have full discretion to appoint the Investigator and determine the scope of the investigation.

- c. The Investigator shall not be a member of the Panel if a hearing is required.
- d. A summary of the Investigator's report may be shared with the Parties, but the full report will be considered confidential and will not be shared outside Sail Canada unless required by law.
- e. All Members and Participants of Sail Canada, including the Respondent, must cooperate with an investigation under this section. Failure to cooperate with an investigation may result in a Complaint against the Member or Participant or in the case of the Respondent, may result in disciplinary action.
- f. Upon receipt of the Investigator's report, Sail Canada may seek, depending the nature of the Investigator's report outcomes to resolve the dispute to the mutual satisfaction of the involved Parties or proceed with a hearing.

7. Hearing Procedures

- a. If Sail Canada's CEO, Sail Canada's Safe Sport Officer or the third party designate determines that the Complaint should be dealt with more formally by means of a hearing, Sail Canada will refer the matter to a Panel.
- b. Within five (5) days of the decision to refer the matter to the Panel, Sail Canada will appoint three (3) members to act as Panel members and a chair among them.
- c. The Panel shall be independent from the Parties and Sail Canada and all Panel members shall confirm their independence.
- d. The Panel shall conduct the procedures and may request the assistance of Sail Canada or an independent third party to act as case manager.
- e. Having regard to the nature of alleged misconduct and the potential consequences of any resulting sanctions or consequences, the Panel will decide whether to conduct the hearing by way of review of documentary evidence, by way of oral hearing or of a combination of these two methods, after consulting with the Parties. If the Panel decides to conduct an oral hearing, it may decide to do so in-person or by means of telephone or video conference.
- f. The Panel may determine that the circumstances warrant a preliminary meeting. The Panel may delegate to one of its members the authority to deal with these preliminary matters, which may include but are not limited to:
 - i. date and location of the hearing;
 - ii. timelines for the exchange of documents;
 - iii. clarification of issues in the Complaint;
 - iv. order and procedure of the hearing;

- v. evidentiary rules and evidence to be brought before the hearing including expert witnesses;
 - vi. identification of any witnesses; or
 - vii. any other procedural matter that may assist in expediting the hearing as long as it respects the rules of natural justice.
- g. The Panel will govern the hearing as it sees fit, provided that:
- i. the hearing will take place within twenty (20) days of the Panel's appointment, unless otherwise determined by the Panel after consulting with the Parties;
 - ii. all Parties will be given five (5) days written notice of the day, time and place of the hearing;
 - iii. all Parties receive a summary copy of the Investigator's report, if an investigation was carried out;
 - iv. all Parties will have an opportunity to adduce evidence and make submissions before the Panel;
 - v. all Parties may be accompanied by a representative;
 - vi. a quorum will be all three (3) Panel members, and decisions will be by majority vote;
 - vii. the Panel may request that any witness or any other person be present at the hearing or submit written evidence in advance of the hearing;
 - viii. if the Respondent(s) chooses not to participate in the hearing, the hearing will still proceed in his or her absence;
 - ix. the hearing will be held in private.
- h. Once appointed, the Panel will have the authority to abridge or extend timelines associated with any aspect of the hearing.
- i. In hearing and deciding the matter, the Panel shall have full power to review all the facts and the law.
- j. After hearing the matter, the Panel will determine to its comfortable satisfaction bearing in mind the seriousness of the alleged misconduct, whether the individual has committed the alleged infraction or misconduct, the appropriate penalty to be imposed and any measures to mitigate the harm suffered by others as a result. The Panel's written decision, with reasons, will be distributed to all Parties and to Sail Canada within seven (7) days of the conclusion of the hearing, unless an extended timeline is necessary and communicated to all Parties. In exceptional circumstances, the Panel may immediately issue a short written or verbal decision with reasons to follow.
- k. Where the individual acknowledges the facts of the incident or admits having committed the alleged infraction or misconduct, he or she may waive the hearing, in which case the Panel will determine the appropriate disciplinary sanction, the Panel may hold a hearing for the purpose of determining an appropriate sanction.
- l. Where the infraction or misconduct relates to harassment, bullying or unlawful discrimination or if the Panel determines that the allegations are false, vexatious,

retaliatory or frivolous, the Panel may direct that there be disciplinary action made against the Complainant.

- m. The decision of the Panel will be final and binding upon the individual being disciplined and Sail Canada, subject only to an appeal pursuant to Sail Canada Policy on Appeal Process and Dispute Resolution.
- n. The Panel may apply the following disciplinary sanctions singly or in combination but is not limited to these sanctions:
 - i. written reprimand;
 - ii. removal of certain privileges of membership;
 - iii. suspension from certain events which may include suspension from the current competition or from future teams or competitions;
 - iv. suspension from certain Sail Canada activities such as competing, coaching or officiating for a designated period;
 - v. suspension from all Sail Canada's activities for a designated period;
 - vi. expulsion from membership;
 - vii. publication of the decision;
 - viii. other sanctions as may be considered appropriate for the offense.
- o. Unless the Panel decides otherwise, any disciplinary sanctions will commence immediately. Failure to comply with a sanctioned as determined by the Panel will result in automatic suspension of membership or participation in Sail Canada activities until such time as the sanction is complied with.
- p. In determining sanctions, the Panel may consider the following aggravating or mitigating circumstances:
 - i. the nature and severity of the infraction or misconduct;
 - ii. the extent to which others have been harmed by the infraction or misconduct;
 - iii. the cooperation of the individual being disciplined in the proceedings under this Policy;
 - iv. whether the infraction or misconduct is a first offense or has occurred repeatedly;
 - v. the individual's acknowledgment of responsibility;
 - vi. the individual's remorse and post- conduct;
 - vii. the age, maturity or experience of the individual;
 - viii. whether the individual retaliated, where the incident involves harassment; and
 - ix. the individual's prospects for rehabilitation.
- q. Where the reported behavior or conduct may constitute harassment, or is of a similar sensitive nature, Sail Canada will keep all proceedings under this Policy confidential, except where disclosure is directed by the Panel as part of a sanction, is required by law or is in the best interests of the public.

8. Confidentiality

- a. To protect the interests of all Parties, no person is permitted to disclose either the

existence of a Complaint or information or records that form part of the investigation of the Complaint or hearing including minutes of meetings, interviews, results of investigations, and other information pertaining to the hearing or case. Final determinations of the Panel are public by default or may be maintained confidential as determined by the Panel.

9. Appeals

- a. Except where otherwise provided, the decision of the Panel may be appealed in accordance with the Sail Canada's Policy on Appeal Process and Dispute Resolution.

10. Modifications

- a. These procedures may be modified by Sail Canada in whole or in part to suit the circumstances of a particular case

Review and Approval

This policy was approved by Sail Canada's Board of Directors on December 18, 2019

Sail Canada's Board of Directors may amend this policy at any time.

Responsibility for the administration and update of this Policy rests with the CEO.