

## EQUITY AND ACCESSIBILITY POLICY

### Policy Statement

1.  
The Broad Reach Foundation For Youth Leaders is committed to the society it serves, and aspires to reflect the rich diversity of the Greater Toronto Area. The Foundation recognizes the value and contributions of all individuals including men, women, Aboriginal peoples, persons with disabilities and members of visible minorities
2.  
It is the policy of the Foundation to provide a work and sporting environment where all aspects of the sport of sailing are accessible for all youth. The Foundation recognizes that every employee and youth is entitled to a climate free of discrimination from gender, racial or cultural background and physical or intellectual disabilities;
3.  
The Foundation upholds workplace equity as defined by the Employment Equity Act which outlines provisions for special measures and for the accommodation of differences to achieve equal access to employment opportunities and benefits.
4.  
A person who has the authority to prevent or discourage discrimination of any kind may be considered responsible for failing to exercise his/her authority to do so, and consequently be subject to such disciplinary actions as may be deemed appropriate by the Foundation.
5.  
The Foundation will make every effort to ensure that no employee or member is subjected to any form of discrimination.
6.  
The Foundation will take such disciplinary action as it deems appropriate against any person under its direction who subjects any employee or member to discrimination.

### Application

1.  
This policy applies to all employees as well as all directors, officers, volunteers, instructors, youth and agency partners. It applies to discrimination of designated groups which may occur during the course of all Foundation business, activities and events.

### Definitions

Aboriginal People: Means persons who are Indians, Inuit or Métis;  
Discrimination: Means to make a difference in treatment or favour on a basis other than individual merit; that no person shall be denied employment opportunities or other social benefits for reasons unrelated to ability;  
Designated Groups: Means women, aboriginal peoples, persons with disabilities and members of visible minorities;  
Employment Equity: Means to correct the conditions of disadvantage experienced by women, aboriginal peoples, persons with disabilities and members of visible minorities by giving effect to

the principle that equity means more than treating persons in the same way but also requires special measures and the accommodation of differences;

Members of Visible Minorities: Means persons, other than aboriginal peoples, who are non-Caucasian in race or non-white in colour;

Persons with Disabilities: Means persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who

(a) consider themselves to be disadvantaged in employment by reason of that impairment, or

(b) believe that an employer or potential employer is likely to consider them to be disadvantaged in employment by reason of that impairment, and includes persons whose functional limitations owing to their impairment have been accommodated in their current job or workplace;

## **Confidentiality**

1.

The privacy and confidentiality of all persons will always be respected and upheld. The Foundation recognizes the interests of both the complainant and the respondent in keeping any related matter confidential.

2.

The Foundation will not disclose the name of any persons involved in a claim against equity or accessibility, or the circumstance related to the situation to any person except where disclosure is necessary for the purpose of investigating the claim and /or taking disciplinary action.

## **Roles and responsibilities**

1.

Principle:

The ultimate responsibility for dealing with an equity or accessibility claim rests with the Board of Directors.

2.

Management will:

a)

inform any person under its direction of the Foundation Equity and Accessibility Policy;

b)

provide clarification of what constitutes discrimination of designated groups as defined by the policy;

c)

inform any person under its direction of procedures for handling complaints;

d)

initiate action without waiting for an individual complaint when discriminatory behaviour is known to be taking place. To do otherwise will constitute misconduct on the part of the supervisor and

e)

upon receipt of a formal complaint;

- inform the President and the Executive Director (the President of the Foundation if the matter involves the Executive Director)

- inform the alleged discriminator, supervisor, complainant and the President, in writing as to what action or investigation is to take place;

- inform the complainant, the alleged discriminator and the President of the outcome of any action or investigation, in writing.

3.

Executive Director will:

- a)  
Provide informal advice or guidance to employees, supervisors, volunteers and instructors as required or requested on matters of discrimination of designated groups.
- b)  
Assist supervisors in any investigation of formal complaints.

## **Complaint Procedure**

1.  
A person who experiences discrimination is encouraged to make it known to the discriminator that the behaviour is offensive, and contrary to this policy.
2.  
If confronting the discriminator is not possible, or if after confronting the discriminator the issue is not resolved within 7 days, the complainant should request a meeting with the next high authority or official.
3.  
Once contacted by a complainant the role of the official is to serve in a neutral unbiased capacity in receiving complaints and assisting their informal resolution. If the official considers that he or she is unable to act in this capacity, the Complainant shall be referred to another official immediately.

4.  
There are three possible outcomes to this meeting of complainant and official:
- It may be determined that the conduct does not constitute discrimination 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 lay a formal written complaint. The written complaint must be submitted with the original signature of the complainant. No electronically produced complaint will be accepted. All documented complaints will be treated as highly confidential to protect all parties involved. The official shall receive the written complaint, provide a copy to the respondent, who shall be given an opportunity to respond in writing within 7 days.

5.  
Once the respondent's statement is received, the official shall immediately provide copies of both written statements to the President of the Foundation. Within 7 days of receiving the written statements, the President shall appoint three members of the Board of Directors to serve as a Panel. This Panel shall consist of at least one woman and at least one man, and shall include one individual who is knowledgeable and familiar with discrimination issues.

## **Hearing**

1.  
As soon as possible but in any event within 14 days of being appointed, the Panel shall convene a hearing. The hearing shall be governed by such procedures as the Panel may decide, provided that:
- The complainant and respondent shall be given 10 days written notice of the day, time and place of the hearing;
  - Members of the Panel shall select from among themselves a Chairperson;
  - A quorum shall be all three Panel members;

- Decisions shall be by majority vote. If a majority vote decision is not possible, the vote of the Chairperson shall be the decision of the Panel;
- Both parties shall be present at the hearing to give evidence and to answer questions of the other party and of the Panel. If the complainant does not appear, the matter shall be dismissed. If the respondent does not appear, the hearing shall proceed.
- The complainant and respondent may be accompanied by a representative or adviser. Should the complainant and/or respondent choose to have legal counsel, they shall be responsible for any costs incurred.

2.

As soon as possible but in any event within 14 days of the hearing, the Panel shall present its findings in a report to the President (or Executive Officer who appointed the Panel) with a copy provided to both the complainant and respondent. This report shall contain:

- a summary of the relevant facts;
- a determination as to whether the actions complained of constitute discrimination as defined in this policy;
- if the actions constitute discrimination; recommend disciplinary action against the respondent and recommend measures to remedy or mitigate the harm or loss suffered by the complainant.

3.

If the Panel determines that the allegations of discrimination are false, vexatious, retaliatory or frivolous, their report shall recommend disciplinary action against the complainant.

#### Discipline

1.

When recommending appropriate disciplinary action, the Panel shall consider factors such as:

- the nature and severity of the harassment
- whether the harassment was an isolated incident or part of an ongoing pattern
- whether the harasser had been involved in previous discrimination incidents
- whether the discriminator admitted responsibility and expressed a willingness to change

2.

In recommending disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the discrimination:

- 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
- demotion or a pay cut
- temporary suspension with or without pay
- termination of employment or contract
- expulsion from membership
- any measure stated in the Code of Conduct.

3.

Communication of the disciplinary findings and sanctions imposed by the Panel will be communicated in a written report to all parties involved within 7 days of the Panel decision.

## **Appeals**

1.

Both the complainant and respondent shall have the right to appeal the decision and recommendations of the Panel. A notice of intention to appeal, along with grounds for the appeal, must be provided within 14 days of the complainant or respondent receiving the Panel's report. It must be sent to the person identified in the internal dispute resolution process as defined below.

2.

Permissible grounds for an appeal are:

a)

the Panel did not follow the procedures laid out in this policy;

b)

members of the Panel were influenced by bias; or

c)

the Panel reached a decision which was grossly unfair or unreasonable.

3.

Internal Dispute Resolution Process

a)

When appealing a decision, the complainant or respondent also has an obligation to recognize the structure, responsibilities and authorities of the different committees within the Foundation. As well, Foundation committees must understand that their actions may be reviewed and changed by a higher authority.

b)

Settlement of these disputes should be reached through an appeal procedure that conforms to the principles of fairness, justice and due process.

c)

The appeal must be provided to the next high authority. The head of that authority shall either convene a meeting of his or her committee or a subcommittee of three or more members. The person whose decision is being appealed shall not be a member of the reviewing panel.

## **General Provisions**

### **1. Preamble**

**1.1:** The Foundation recognizes the right of any Registered Participant to appeal the decisions of the Foundation, including those relating to matters such as harassment, discipline, and governance (e.g. election processes, interpretations of by-laws, undeclared conflicts of interest).

**1.2:** The purpose of this policy is to enable disputes with Registered Participants to be dealt with fairly, expeditiously and affordably within the Foundation, without having to have recourse to formal legal procedures.

**1.3:** The adjudication procedure described in this policy conforms to the principles of natural justice and procedural fairness:

a) The right to be heard in a dispute.

b) The right to be judged objectively and impartially.

c) The right to be judged by objective, impartial persons.

### **2.: Definitions**

Appellant: Refers to a Registered Participant of appealing a decision of the Foundation;

Arbitration: Refers to the arbitration process as established by the Canadian Sport Dispute Resolution Code, as amended from time to time;

Days: Means total days, irrespective of weekends or holidays;

Mediation: Refers to the mediation process as established by the Canadian Sport Dispute Resolution Code, as amended from time to time;

Registered Participants: Refers to individuals who are registered to participate in Foundation programs and activities, including, but not limited to, youth, instructors, volunteers, directors, officers, medical and paramedical personnel, case managers, administrators, agency partners, employees and contractors;

Case Manager: Refers to the person appointed to oversee and manage the specific case. This person can be anybody who has no involvement with the decision being appealed, as provided in Section 5;

Panel: Refers to the appeal panel established as provided by Section 7;

Respondent: Refers to the body, person or persons whose decision is being appealed;

and Written Statement: Refers to the response submitted by the Respondent(s).

### **3. Scope of Appeal**

**3.1.:** Any Registered Participant of the Foundation who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of the Foundation or its Board of Directors, will have the right to appeal that decision, provided there are sufficient grounds for the appeal, as set out in Section 8;

**3.2.:** This appeal policy will not apply to decisions relating to:

a)

The Athlete Assistance Program (AAP) policies and procedures established by Sport Canada;

b)

Contractual matters between the Foundation and its Registered Participants for which another dispute resolution process exists under the provisions of the applicable contract;

c)

Employment matters or matters of operational structure, staffing or volunteer leadership opportunities;

d)

Criminal offences for which the Appellant(s) is/are seeking a criminal conviction.

### **4. Timing of Appeal**

**4.1.:** Registered Participants who wish to appeal a decision will have 15 days from the date they received notice of the decision, to submit their appeal in writing to the Executive Director, who will appoint a Case Manager;

**4.2.:** Any Registered Participant wishing to submit the written appeal beyond the 15-day period must provide a written request stating reasons for an exemption to the requirement of Sub-section 4.1;

**4.3.:** The decisions to allow or not the exemption as provided by Sub-section 4.2 will be at the discretion of the Panel as establish in conformity with Section 7.

## **Procedure**

### **5. Appeal Document and Discussion**

**5.1.:** The Foundation's Executive Director shall appoint a Case Manager to oversee management and administration of appeals submitted in accordance with this Policy. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement the Policy in a timely manner. More particularly, the Case Manager has a responsibility to:

- a) Receive the appeal document;
- b) Determine if appeals lie within the jurisdiction of this Policy;
- c) Determine if appeals are brought in a timely manner;
- d) Determine if appeals are brought on permissible grounds;
- e) Appoint the appeal panel to hear appeals and/or determine the preliminary questions set out in paragraph 5.1 (a) to (d) above;
- f) Determine the format of the appeal hearing;
- g) Coordinate all administrative and procedure aspects of the appeal;
- h) Provide administrative assistance and logistical support to the appeals panel as required; and
- i) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

**5.2.:** Registered Participants who wish to appeal a decision of the Foundation that affects them must apply to the Case Manager to initiate the appeal process by completing a formal, written appeal document. The appeal process does not begin until such application is made.

**5.3.:** The formal Appeal Document will state:

- a) The name(s) of the Appellant(s);
- b) The coordinates of the Appellant(s);
- c) The name(s) of the Respondent(s);
- d) The decision being appealed;
- e) The grounds for the appeal;
- f) A summary of the evidence that supports these grounds;
- g) A list of the witnesses to be called at the hearing with a summary of the evidence to be provided by them;

h)

The remedy sought;

i)

Whether or not representative(s) will be present; and

j)

Any request for timing-exemption, as provided by Sub-section 4.2, when required.

**5.4.:** Upon receiving the written Appeal Document, the Case Manager will discuss the circumstances with the Appellant(s) and, without any delay, will notify the Respondent(s) in writing and forward a copy of the Appeal Document to the Respondent(s);

**5.5.:** Before proceeding further, the Case Manager will ensure that the Appellant(s) and the Respondent(s) have attempted to resolve the dispute privately between themselves, by any means possible in the circumstances. If this attempt is not successful, the Case Manager must be informed within five days of his/her receipt of the Appeal Document. It is expected that most issues will be resolved at this level.

**5.6.:** If the issue is not resolved at this stage, the Case Manager may refer the appeal to Resolution Facilitation, a service of the dispute resolution secretariat of the Sport Dispute Resolution Centre of Canada or its successor. Resolution Facilitation is a process that enables the parties involved in a dispute to better communicate with each other and to resolve their dispute through an amicable settlement.

## **6. Screening of Appeal**

**6.1.:** Within two working days of receiving the Appeal Document, the Case Manager will determine whether there are appropriate grounds for the appeal, as set out in Sub-section 8;

**6.2.:** The facts as alleged by the Appellant(s) in the Appeal Document shall be presumed to be correct unless such facts are, to the knowledge of the Case Manager, clearly erroneous;

**6.3.:** If the appeal is denied on the basis of insufficient grounds, the Appellant(s) and the Respondent(s) will be notified in writing without delay of this decision and its reasons;

**6.4.:** If the Appellant(s) believe(s) the Case Manager has made an error in denying the right to appeal a decision, the matter may be referred to Arbitration or Mediation, such Arbitration or Mediation to be administered under the Canadian Sport Dispute Resolution Code, as amended from time to time.

## **7. Appeal Panel**

**7.1.:** Within ten days of having received the Appeal Document, the Case Manager will initiate the establishment of a Panel as follows:

a)

The Panel will be comprised of three individuals;

b)

The Panel will consist of one person nominated by the Appellant(s), one person nominated by the Respondent(s) and the third person, who shall act as chairperson of the Panel, nominated by the Appellant(s)' and Respondent(s)' nominees to the Panel, or failing agreement by such nominees, appointed by the Case Manager;

**7.2.:** All three Registered Participants of the Panel must be nominated respecting the following conditions:

a)

They must have no significant relationship with the affected parties;

b)

They must have no involvement with the decision being appealed;

c)

They must be free from any actual or perceived bias or conflict of interest;

**7.3.:** As soon as they are nominated, the Registered Participants of the Panel will be forwarded a copy of the Appeal Document.

## **8. Grounds for Appeal**

**8.1.:** An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, the Respondent:

a)

Making a decision for which it did not have authority or jurisdiction as set out in governing documents;

b)

Failing to follow procedures as laid out in the bylaws or approved policies of the Foundation;

c)

Making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views or that the decision was made on the basis of, or significantly influenced by factors unrelated to the merits of the decision;

d)

Exercising its discretion for an improper purpose;

e)

Making a decision that was grossly unreasonable or unfair.

## **9. Preliminary Conference**

**9.1.:** Within seven days of receiving the Appeal Document, the Panel will hold a conference to consider various preliminary issues, such as, but not limited to, the following:

a)

Date and location of the hearing;

b)

Timelines for exchange of documents;

c)

Format of the appeal (written or oral submissions or a combination of both);

d)

Clarification of issues in dispute;

e)

Clarification of evidence to be presented to the Panel;

f)

Order and procedure of hearing;

g)

Any procedural matter;

h)

Clarification of remedies sought;

i)

Any other matter that may assist in expediting the appeal proceedings.

**9.2.:** The preliminary conference can be held by conference-call or in person, depending on the circumstances: this decision is at the sole discretion of the Chairperson and may not be appealed;

**9.3.:** The participants in the preliminary conference shall be the Appellant(s), the respondent(s), their representatives, if any, the Case Manager and the Panel;

**9.4.:** The Chairperson and the Case Manager shall arrange the preliminary conference and its precise date and time in concert with the participants;

**9.5.:** The Panel may delegate to its Chairperson the authority to deal with these preliminary matters;

**9.6.:** The Case Manager shall act as secretary of the preliminary conference and shall confirm in writing to the Appellant(s) and Respondent(s) the appeal procedure established at this preliminary conference within two working days after the conclusion of such conference, and after having received the written confirmation approved by the Panel.

## **10. Procedure for Appeal**

**10.1.:** The Panel shall govern the hearing by such procedures as it deems appropriate, provided that the following directives be applied:

a)

The appeal shall be heard as quickly as reasonably possible, having regard to the nature of the appeal, and the circumstances of the case;

b)

All three Registered Participants of the Panel shall hear the appeal, but a majority in favour of the same result shall be sufficient to effect a decision;

c)

Each party shall have the right to be represented at the hearing;

d)

Copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all parties, within the time limits established during the preliminary conference or by the Panel;

e)

The appeal may proceed on the basis of written submissions and documentation if all parties to the appeal consent;

f)

If the decision of the Panel may affect another party to the extent that the other party would have recourse to an appeal in their own right under this policy, that party will become a party to the appeal in question and will be bound by its outcome;

g)

The Panel may direct that any other person or party participate in the appeal;

h)

For sake of expediency and cost reduction, a hearing either by way of written submissions, via telephone conference or video conference is to be preferred with such safeguards as the Panel considers necessary to protect the interests of the parties;

i)

Unless otherwise agreed by the parties, there shall be no communication between Panel Registered Participants and the parties except in the presence of, or by copy to the other parties.

## **11. Evidence that May be Considered**

**11.1.:** As a general rule, the Panel will only consider evidence that was before the original decision-maker. At its discretion, the Panel may hear new material evidence that was not available at the time of the original decision.

**11.2.:** Unless a party can prove that he/she couldn't possibly have been aware of a certain fact or argument at the time of the submission of his/her Appeal Document, no additional information or argument will be accepted from the Appellant(s) or Respondent(s) by the Panel after the preliminary conference, other than that provided orally by witnesses at the hearing.

**11.3.:** The Panel will determine if an additional element of proof should be admitted or rejected where the preliminary conference has taken place.