

Definitions and Procedures for the SportMedBC Employee Harassment Policy #19

These definitions and procedures apply to Policy #19 of the SportMedBC Employee Policies and Procedures. The Procedures for dealing with any Harassment Complaint brought forward by an Employee is dealt with according to the same steps and oversight as that of a Harassment Complaint received from a SportMedBC member.

A-1 Application of the Policy:

1. For the purposes of this policy, sport and/or workplace harassment can occur in the following places:

- a. at all venues (including competition, training, accommodation, social events), or on provided transportation to and from Games;
- b. at the office;
- c. at office-related social functions;
- d. at the organization's business functions, such as meetings, conferences, training sessions, and workshops;
- e. during work-related travel;
- f. over the telephone;
- g. through e-mail; or
- h. elsewhere, if the person harassed is there as a result of work-related responsibilities or a work-related relationship.

Notwithstanding, every person who experiences harassment continues to have the right to seek assistance from the BC Council of Human Rights, even when steps are being taken under the organization.

An investigation under this policy shall follow the process of natural justice, as described in this policy.

A-2 Definitions:

1. Abuse - Abuse can be physical, emotional or sexual.

- a. Physical Abuse – using physical force or action that results, or could result in injury.
- b. Emotional Abuse – a pattern of hurting an individual's feelings to the point of damaging his/her self-respect. It includes verbal attacks on the individual, insults, humiliation or rejection.
- c. Sexual Abuse – occurs when someone uses an individual for sexual stimulation or gratification.

(Source: Help Stop Child Abuse: A Handbook for Employers and Volunteer Coordinators, Province of BC Ministry of Social Services, 1995)

2. Appeals Panel - At least three (3) individuals appointed by SportMedBC to consider an appeal from a decision of the Disciplinary Committee. No members of the Appeal Panel shall have any

personal or professional involvement with either the Complainant or Respondent and no prior involvement with the matter under appeal. The members of the Appeal Panel may be appointed from the Multi-Disciplinary Appeal Roster.

3. Appeals Coordinator - The person designated by SportMedBC to coordinate appeals.

4. Multi-Disciplinary Appeals Roster - A roster of persons appointed and trained by Sport BC who are willing to be appointed to an Appeal Panel.

5. Complainant - An employee of SportMedBC who thinks he or she has been harassed. A third party who witnesses harassment can make a complaint with or without the complainant's knowledge.

6. Harassment - Behaviour including comments, conduct or gestures which are insulting, intimidating, humiliating, hurtful, malicious, degrading, or otherwise offensive to an individual or group of individuals or which creates an uncomfortable environment, or which might reasonably be expected to cause embarrassment, insecurity, discomfort, offence, or humiliation to another person or group, including, but not limited to:

- a. written or verbal abuse or threats; physical assault; unwelcome remarks, jokes, innuendoes, or taunting about a person's body, sexual orientation, attire, age, marital status, ethnic or racial origin, religion, disability, etc;
- b. displaying of sexually explicit, racist or other offensive or derogatory material, sexual, racial, ethnic or religious graffiti;
- c. practical jokes which cause awkwardness or embarrassment, endangering a person's safety or negatively affecting performance or a person's self-respect;
- d. hazing or initiation rites;
- e. leering or other suggestive or obscene gestures;
- f. intimidation;
- g. condescension, paternalism, or patronizing behaviour which undermines self-respect or adversely affects performance or working conditions;
- h. conduct, comments, gestures or contact of a sexual nature that is likely to cause offence or humiliation or that might, on reasonable grounds, be perceived as placing a condition of a sexual nature on employment or any opportunity for selection, training or advancement;
- i. false accusations of harassment motivated by malice or mischief, and meant to cause other harm;
- j. sexual harassment (*see #13 below for definition*),
- k. acts of retaliation towards an individual making a harassment complaint.

7. Harassment Advisor - A designate of SportMedBC who is conversant with the issue of harassment. The role of the Harassment Advisor is to serve in a neutral, unbiased capacity, to provide information about the resources and support available, and to receive simple complaints, assist in informal resolution of complaints, and to make recommendations as to

further action. The Harassment Advisor will handle complaints, which may be resolved through informal procedures, and refer all other complaints to the Harassment Officer.

8. Harassment Officer - Individuals identified as possessing the training and appropriate background to investigate complaints. A list of Harassment Officers can be obtained through Sport BC.

9. Investigation Report - The product of an investigation completed by the Harassment Officer, including, but not limited to, a summary of details, determination of harassment, and recommended disciplinary action if harassment is found.

10. Respondent - The perpetrator of the action(s), which the Complainant thinks, constitutes harassment.

11. Responsible Adult - Where the Complainant or the Respondent is a minor, a parent, guardian, or other adult of the minor's choice, who may speak on behalf of the minor Complainant or minor Respondent, as referred to in paragraphs 7.1 and 7.2.

12. Disciplinary Committee - An ad hoc committee of persons as defined in the SportMedBC Constitution & By-laws. The Disciplinary Committee decides whether harassment occurred and confirms or rejects the recommendation(s) of the Harassment Officer.

13. Sexual Harassment - One or a series of incidents involving unwelcome sexual advances, request for sexual favours, or other verbal conduct of a sexual nature:

- a. when such conduct might reasonably be expected to cause embarrassment, insecurity, discomfort, offence, or humiliation to another person or group;
- b. when submission to such conduct is made either implicitly or explicitly a condition of employment;
- c. when submission to or rejection of such conduct is used as a basis for any advancement decision by a person of authority (including, but not limited to, matters of promotion, raise in salary, job security, or benefits affecting the employee, volunteer or athlete);
- d. when such conduct has the purpose or the effect interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.

14. Retaliation - Retaliation or threats involving harassment or discrimination cases are not tolerated in SportMedBC and will be treated as harassment. Retaliation constitutes the following:

- a. Acts designed to punish an individual who has reported discrimination or harassment
- b. Threats designed to dissuade an individual from reporting discrimination or harassment
- c. Act or threats to punish an individual who has rejected sexual advances.

(Source: Canadian Olympic Association Draft Harassment Policy, April 1977)

A-3 Responsibility:

1. SportMedBC recognizes provincial sport organizations and host communities may have harassment policies. In cases of incidents involving members of provincial sport organizations and volunteers of host community societies, SportMedBC policy will apply only when the others do not, or do not meet the standards of SportMedBC.
2. When incidents occur between members of two partner organizations, the recommended procedure is for the complainant to contact the harassment advisor of their organization. This person will then contact their counterpart in the other organization, who then applies the policy of the organization of the respondent. However, if the advisor or officer of the respondent's organization does not act, SportMedBC policy will apply.
3. SportMedBC board is responsible for the implementation of this policy.
 - a. Sport BC will train Harassment Advisors and Harassment Officers.
 - b. SportMedBC will identify its own internal harassment advisors.
 - c. SportMedBC will act quickly on any complaint of harassment with the goal of resolving the situation fairly and of preventing future occurrences, including determining and enforcing appropriate discipline, if required.

A-4 Confidentiality:

In all reported instances, a prompt, thorough, fair investigation will take place giving careful consideration to protect the rights and dignity of all people involved. Freedom of Information Act applies to this and all policies of SportMedBC.

A-5 Complaint Procedure:

1. A person who thinks he or she has been subjected to conduct which constitutes harassment under this policy (the "Complainant") is encouraged to make it known to the person responsible for the conduct (the "Respondent") that the behaviour is unwelcome, offensive, and contrary to this policy.
2. If confronting the Respondent is not possible, or if after confronting the Respondent the conduct continues, the Complainant should seek the advice of the Harassment Advisor.
3. Upon receiving the complaint, the Harassment Advisor shall obtain from the Complainant a statement in writing outlining the details of the incident(s) and the names of any witnesses. The statement should be dated and signed by the Complainant.
4. At the first meeting between the Harassment Advisor and the Complainant, the Harassment Advisor shall inform the Complainant of:
 - a. the definitions of harassment, abuse, and assault to determine if the incident should be reported to police;
 - b. the options of pursuing an informal resolution of the complaint;

- c. the right to make a formal written complaint under this policy when an informal resolution is inappropriate or not feasible;
 - d. the availability of counseling and other resources;
the confidentiality provisions of this policy;
 - e. the right to be represented by a person of choice (including legal counsel) at any stage in the complaint process;
 - f. other avenues of recourse, including the right to file a complaint with the BC Council of Human Rights or, where appropriate, to contact the police where the conduct may be an offense pursuant to the Criminal Code.
5. Following the initial meeting between the Complainant and the Harassment Advisor, any of the following steps may be taken:
- a. If the Complainant and the Harassment Advisor agree that the conduct does not constitute harassment, the Harassment Advisor will take no further action and will make no written record of the complaint.
 - b. If the Complainant wished to proceed with a complaint investigation, the matter will be referred to a Harassment Officer for investigation.
 - c. If the Harassment Advisor believes that there is sufficiently convincing evidence of harassment prior to an investigation, but the Complainant does not wish to proceed with a complaint investigation, the following steps may be taken:
 - i. If the Complainant wishes to pursue an informal resolution of the complaint, the Harassment Advisor will meet with the Respondent with a view to obtaining an apology and an assurance that the offensive conduct will not be repeated;
 - ii. If the complainant does not wish to pursue an informal resolution of the complaint, the Harassment Advisor may, nevertheless, take either of the following steps:
 1. The Harassment Advisor may meet with the Respondent with a view to obtaining apology and an assurance that the offensive conduct will not be repeated. In the case of a meeting pursuant to this clause, the Harassment Advisor will make every reasonable effort to protect the identity of the Complainant. If the Harassment Advisor is satisfied that the complaint has been resolved through this informal process, the harassment Advisor will take no further action on the complaint.
 2. If the Harassment Advisor is not satisfied that the complaint has been resolved through this informal process, then the Harassment Advisor may refer the matter to a Harassment Officer for investigation.

A-6 Investigation by the Harassment Officer

1. When a Harassment Officer receives a complaint from the Harassment Advisor, the Harassment Officer will:

- a. review and clarify the Complainant's written complaint;
 - b. submit a written copy of the complaint to the Respondent and the Complainant.
2. Where the Harassment Officer gives a copy of the written complaint to the Respondent, the Harassment officer will include with the written complaint a copy of this policy and a notice that the Respondent has the right to be represented by any person of choice at any stage of the process when the Respondent is required or entitled to be present.
3. The Respondent will provide a written response to the Harassment Officer within ten (10) days of receiving the written complaint. If there are special circumstances, the Harassment officer may extend the time for a response.
4. The Harassment Officer will receive and clarify the response from the Respondent.
5. Within ninety (90) days of receiving the initial written complaint, the Harassment Officer shall conduct an investigation and prepare a written Investigation Report (the Harassment Officer may extend time due to circumstances.)
6. All investigations stemming from this complaint shall follow the principle of natural justice, which states that:
 - a. everyone has the right to a fair hearing* in the course of determining whether an infraction has been committed;
 - b. the issues should be clearly and concisely stated so that the respondent is aware of the essentials of the complaint;
 - c. the respondent has a right to have a representative present during his or her case; relevant information must be available to all parties;
 - d. the respondent has the right to call and cross-examine witnesses;
 - e. the respondent has the right to a written decision following the judgment;
 - f. the respondent has the right to appeal a decision (if there are grounds);
 - g. the decision-maker has a duty to listen fairly to both sides and to reach a decision untainted by bias.

A-7 The Investigation Report

1. The Investigation Report from the Harassment Officer should contain:
 - a. a summary of the relevant facts;
 - b. a determination as to whether the acts in question constitute harassment as defined in this policy;
 - c. if the act(s) constitute harassment, a recommended disciplinary action against the Respondent.
2. When recommending disciplinary action to be taken, the Harassment Officer shall consider factors such as:
 - a. the nature of the harassment;
 - b. whether the harassment involved any physical contact;

- c. whether the harassment was an isolated incident or part of an ongoing pattern;
- d. the nature of the relationship between the Complainant and the Respondent;
- e. the relative age of the Complainant and/or Respondent;
- f. whether the Respondent had been involved in previous harassment incidents;
- g. whether the Respondent retaliated against the Complainant.

3. On completion of the report, the Harassment Officer shall forward a copy of the Investigation Report shall be forwarded to the Complainant, the Respondent, and the Disciplinary Committee.

A-8 Discipline Committee

1. The ad hoc Discipline Committee shall receive the Investigation Report as prepared by the Harassment Officer.

2. After considering the Investigation Report, the Discipline Committee shall:

- a. make a determination as to whether the Respondent has engaged in conduct constituting harassment; and
- b. if the Discipline Committee determines that the Respondent has engaged in conduct constituting harassment, order such disciplinary action to be taken against the Respondent as is appropriate in the circumstances.

3. When imposing disciplinary action against the Respondent pursuant to sub-paragraph A-8.2.b., the Disciplinary Committee may recommend to the Executive Director or Board of Directors, as circumstances may warrant, such disciplinary action as it considers appropriate in the circumstances which may include, but is not limited to:

- a. a verbal apology;
- b. a written apology;
- c. a letter of reprimand from the sport organization;
- d. a fine or levy;
- e. referral to counseling;
- f. sensitivity training in harassment issues;
- g. removal of certain privileges of membership or employment;
- h. demotion or pay cut;
- i. temporary suspension with or without pay;
- j. termination of employment or contract;
- k. expulsion from membership.

4. The Disciplinary Committee shall, not more than 10 days after it makes its decision pursuant to paragraph A-8.3, send a notice to the Complainant and the Respondent.

A-9 Appeals

1. An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds for appeal are restricted to the following:
 - a. SportMedBC failing to follow procedures set out in the harassment policy;
 - b. the Disciplinary Committee's decision was influenced by bias;
 - c. the Disciplinary Committee's decision was based on a misunderstanding of the evidence;
 - d. the Disciplinary Committee's decision was unreasonable, based on the facts and circumstances.
2. A Complainant or Respondent who is dissatisfied with the decision of the Standing Discipline committee may initiate an appeal. He or she will serve of the office of the Appeal Co-Coordinator with a "Notice of Appeal and Request for Hearing" not more than 30 days after the date she or he receives the notice of the Disciplinary Committee's Decision.
3. The Notice of Appeal and Request for Hearing shall be in writing and shall set out the grounds for appeal, and facts in support of the grounds for appeal. Upon receipt of a Notice of Appeal and Request for Hearing, the Appeal Co-Coordinator shall:
 - a. notify SportMedBC of the appeal and request that SportMedBC appoint an Appeal Panel to hear the appeal; and
 - b. send a copy of the Notice of Appeal and Request for Hearing by regular mail to the last known addresses to the other party or parties involved in the complaint.
4. Once an Appeal Panel has been appointed, the Appeal Panel shall consider the grounds for appeal and determine if there are sufficient grounds for the appeal.
5. If the Appeal Panel determines that there are not sufficient grounds for the appeal, the appeal panel will dismiss the appeal and notify SportMedBC and the parties to the complaint, in writing, of its decision.
6. If the appeal panel determines that there are sufficient grounds for the appeal, it shall inform the Appeals Coordinator of the decision, and a hearing with respect to the appeal will be conducted.
7. The Appeals Coordinator will send a copy of the Hearing Notice by registered mail to the last known addresses of the Complainant and Respondent and to SportMedBC. The Hearing Notice will be sent at least 30 days in advance of the scheduled hearing and shall:
 - a. specify the date, time and location of the hearing;
 - set out any rules of procedure that will govern the hearing;
 - b. advise the parties that they should bring with them to the hearing all relevant witnesses and other evidence they wish to be considered by the Appeal Panel;
 - c. advise the parties that they have the right to be represented by counsel at the hearing; and
 - d. request advance disclosure of evidence/witnesses (this step is optional, and at the discretion of the Appeal Panel).

8. The appeal panel may consider into the evidence the Investigator's report, the Disciplinary Committee's decision, and any other relevant evidence presented at the hearing.
9. Within 10 days after completing the hearing, the appeal panel shall send notice of its decision, by registered mail, to the last known addresses of the Complainant and the Respondent and SportMedBC.

A-10 Minors (under 19 years of age)

1. The SportMedBC policy will offer confidentiality in attempting to find an informal resolution of a complaint in the case of minor incidents. Serious incidents will be referred to a Harassment Officer or the police. In cases where the Harassment Advisor is unsure, the Advisor should protect the confidentiality of the minor and request clarification from a lawyer.
2. If the Complainant is a minor the Harassment Advisor will recommend that the minor have a parent/guardian, or responsible adult chosen by the minor accompany them, and recommend that the parents/guardian be advised. However the minor may elect not to have his/her parents informed in the case of low-level complaints. The Responsible Adult will have the right to act on behalf of the Complainant throughout the complaint process, including:
 - a. making a complaint;
 - b. receiving all notices on behalf of the Complainant;
 - c. being present at all dealings with the Complainant.
3. If the Respondent is a minor, the following shall apply:
 - a. if the Harassment Advisor is attempting an informal resolution of a complaint, the Harassment Advisor may speak to the Respondent directly concerning the complaint PROVIDED THAT, prior to speaking to the Respondent, the Harassment Advisor informs the Respondent that he/she may have a parent/guardian or a responsible adult present during the meeting and recommend the parent/guardian be advised.
 - b. if the complainant is referred to a Harassment Officer for investigation:
 - i. a copy of the written complaint shall be forwarded to a parent or guardian of the Respondent if such person is known;
 - ii. the Respondent shall be advised that he/she has the right to be represented by a Responsible Adult.
 - c. the respondent's designated Responsible Adult will have the right to act on behalf of the Respondent throughout the investigation process, including:
 - i. responding to a written complaint
 - ii. receiving all notices of behalf of the Respondent; and
 - iii. being present at all dealings with the Respondent.

A-11 Review and Approval

This policy shall be reviewed by SportMedBC (director responsible for this policy) and senior staff on an annual basis.

SportMedBC

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