

BIATHLON ASSOCIATION OF MANITOBA INC. - ANTI-HARASSMENT / ANTI-ABUSE POLICY -

PREAMBLE

It is the policy of Biathlon Association of Manitoba Inc. (hereafter called BAM) that every individual participating at any level in Biathlon in Manitoba can expect to participate in an environment in which all individuals are treated with respect and dignity. All participants will be afforded a sport environment free of harassment and abuse and will be protected from any form of harassment or abuse including discriminatory harassment based on age, gender, ancestry, place of origin, color, ethnic origin, citizenship, creed, sexual orientation, disability, marital status, or family status. All participants will be protected from harassment or abuse by any other participants (volunteers, coaches, athletes, officials) with whom they may have contact.

There will be zero tolerance for harassment or abuse.

This Policy also includes sexual harassment and gender based harassment, both of which are forms of discrimination based on sex and are prohibited by the Manitoba Human Rights Code.

Neither will BAM accept a hostile or poisoned environment. This may be defined as an atmosphere in which there is behavior, language, audio or visual material or treatment of individuals which undermines their personal power, creates personal discomfort or jeopardizes their aspirations to achieve their personal goals within amateur sport.

BAM will act quickly on any complaint of harassment and/or abuse, brought to its attention. With the goals of resolving the situation fairly and of preventing future occurrences.

BAM will be pro-active in ensuring that its members are aware of all participants' rights and obligations as outlined in this policy. BAM is committed to the education of all of its members in the area of abuse and harassment.

Discrimination and harassment are contrary to the Human Rights Code of Manitoba and the Canadian Human Rights Act. Abuse is against the Canadian Criminal Code, the Canadian Young Offenders' Act and the Child and Family Services Act of Manitoba. This Policy does not preclude the reporting of complaints of discrimination or harassment to the Manitoba Human Rights Commission or the Canadian Human Rights Commission, the Criminal courts or Child and Family Services.

Nothing in this policy shall be construed as removing any statutory rights or obligations.

The procedures herein described shall be carried out independently of any investigations conducted by any external agency.

Purposes of the Policy

1. The purposes of this Policy are:
 - a) to maintain an environment that is free from harassment and discrimination;
 - b) to alert all members and employees of BAM to the fact that harassment and discrimination as defined herein are prohibited by law;
 - c) to set out the types of behavior that may be considered offensive;
 - d) to establish a mechanism for receiving complaints and to provide a procedure by which BAM will deal with these complaints.
2. This Policy is not intended to constrain social interaction between people in BAM.
3. BAM recognizes that its members and employees may be subjected to harassment or abuse by others or may harass or abuse others who conduct business with BAM. In these circumstances BAM acknowledges its responsibility to do all in its power to support and assist the person subjected to such harassment or abuse. BAM will also endeavor, when appropriate or possible to assist respondents in the process defined herein.
4. This Policy applies to all employees as well as to all directors, officers and volunteers of BAM. BAM encourages the prompt reporting of all incidents of abuse and harassment, regardless of who the respondent may be.

Responsibility of Sports Administrators, Parents, Coaches, Trainers, Sports Therapists, Referees, Teachers

Anyone in a position of authority, responsibility, supervision, control or management who knows or ought reasonably to know that a person has experienced or is experiencing discrimination, harassment or abuse is required to take reasonable steps to prevent or stop the discrimination, harassment or abuse and to notify either the internal Officer (see Addendum I for definition) and, where appropriate, the authorities (police, Child and Family Services).

Complaint Process

The Officer will:

- a) advise Complainants and Respondents of all options available for resolution of the complaint;
- b) advise Complainants and Respondents of the ability of counseling and other support services provided.
- c) Advise as to the right to be represented by legal counsel or any other person of choice at any stage of the process;

- d) Advise the right to withdraw from any further action in connection with the complaint (even though BAM may continue to investigate the complaint.);
- e) Advise as to other avenues of recourse such as the right to file a complaint with the Manitoba Human Rights Commission or, where appropriate, the right to lay any information under the Criminal Code or the Young Offenders' Act or to report to Child and Family Services;
- f) Advise as to any time limits, which may apply to such other avenues or recourse.

If the Officer is a Complainant or Respondent, the complaint should be made to one of the External Investigator.

If one of the Investigators is a Complainant or Respondent, the complaint should be made to the Officer.

If the Executive Director (or President) of BAM or any member or the Executive of BAM is a Complainant or Respondent, the complaint should be made to the Officer.

A. Informal Complaints

Anyone who makes a complaint or who is charged with harassment, discrimination or abuse has the right to bring a supporter to any interview regarding the charge.

The Complainant has the option of having the complaint proceeded with either informally or formally.

Informal resolution may take the form of mediation, conciliation, counseling of one or both of the parties or similar activities.

If an informal resolution acceptable to both the Complainant and the Respondent is reached, the Officer or Executive Director (or President) shall, where appropriate, prepare a Record of Resolution which shall be placed in the disputant's files and in the files of the Officer or Executive Director (or President).

The Complainant has no responsibility to confront the alleged harasser/abuser but may do so if s/her chooses. If anyone believes that s/he is being harassed or abused wishes, s/he may confront the alleged harasser/abuser either in writing or in person or both. If the Complainant is dissatisfied with the result of the confrontation, s/he may bring the complaint to either the Officer.

B. Formal Complaints

Anyone who makes a complaint or who is charged with harassment, discrimination or abuse has the right to bring a supporter to any interview regarding the charge.

The Complainant shall provide a written complaint, with his/her signature, to the Officer and shall be advised that s/her has the right to be represented by legal counsel or other person of choice at any stage of the process. The Officer shall inform one of the Investigators who shall then be involved in the process until it's resolved.

The Respondent shall be provided with a copy of the complaint and shall respond in writing within seven working days.

The Respondent shall be provided with a copy of this policy.

The Respondent shall be advised of the right to be represented by legal counsel or other person of choice at any stage of the process.

If the Complainant consents, the Investigator may attempt to seek a resolution prior to the initiation of a formal Inquiry.

If a resolution is achieved, which is satisfactory to the disputants, prior to the initiation of a formal Inquiry, the Investigator will advise the Complainant and the Respondent that the complain may still have to be pursued and that disciplinary action may be appropriate.

If the complaint is not resolved, the Consultant will investigate the complaint and will prepare an Inquiry Report, within 10 working days.

A copy of the Inquiry Report shall go to the Complainant, the Respondent and the Executive Director (or President) of BAM.

Suspension or Removal

The Officer or the Consultant may recommend that the Complainant or the Respondent be transferred, suspended, or removed from the situation in question, either temporarily or permanently. If there is an option as to whether to transfer, suspend or remove either the Complainant or the Respondent, the Respondent shall be the first choice to be transferred, suspended or removed. In some circumstances, the Complainant may choose to be transferred, suspended or removed and the Complainant's wishes should be considered.

The Investigation Report

The Investigation Report should contain:

- a) a summary of all the relevant facts;
- b) a determination as to whether the acts in question constitute discrimination, harassment or abuse, as defined in this policy;

- c) if the act(s) constituted discrimination, harassment or abuse, a recommended disciplinary action against the Respondent;
- d) if the complain is frivolous or malicious, a recommended disciplinary action against the Complainant;
- e) a determination as to whether the Complaint was as a result of a misunderstanding.

When recommending disciplinary action to be taken, such factors as the following should be considered:

- a) the nature of the act;
- b) whether any physical contact was involved;
- c) whether the act 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 ages of the Complainant and the Respondent;
- f) whether the Respondent had been involved in previous acts of discrimination, harassment or abuse;
- g) whether the Respondent retaliated against the Complainant.

A copy of the Investigation Report shall be given to the Complainant, the Respondent and the Executive Director (or President) of BAM.

If the Executive Director (or President) is either a Complainant or a Respondent, a copy of the report shall be given to the President (or Vice-President) of BAM.

Appeals

A complainant or Respondent who is dissatisfied with the decision of the Investigator or with any disciplinary action taken may appeal to the Executive Director (or President) of BAM, within 30 days of the date on which s/he received notice of the decision or the disciplinary action.

If the Executive Director (or President) is either a Complainant or a Respondent, s/he shall appeal the President (or Vice-President) of BAM.

The notice of appeal shall be in writing and shall set out the grounds for appeal.

Upon receipt of the notice of appeal, the Executive Director (or President) shall send a copy of the notice of appeal, by registered mail, to the last known addresses of the Complainant and of the Respondent.

The Executive Director (or President) shall constitute an Appeal Panel, to consider the appeal.

Both the Complainant and the Respondent may attend at the appeal hearing and they may bring with them all relevant witnesses and other evidence they wish to be considered by the Appeal Panel.

The Appeal Panel shall send a notice of its decision to the last known addresses of the Complainant and the Respondent, by registered mail, within 10 days after completing a hearing.

Frivolous and/or Malicious Complaints

A frivolous and/or malicious complaint is a complaint that is made when the Complainant knows the complaint is false and makes the complaint for the purpose of causing harm to the Respondent. A frivolous complaint constitutes harassment. A frivolous complainant will be disciplined.

Misunderstandings

Complaints that are made but are determined to be based in a misunderstanding are not frivolous and/or malicious complaints, nor will the Complainant be disciplined.

Unfounded Complaints

A complaint which is made in good faith but cannot be proved is not a frivolous or malicious complaint, nor will the Complainant be disciplined.

Consensual Relations

No one in a position of authority, responsibility, supervision, control or management over another, such as a coach, trainer, teacher or therapist, shall have an amorous relationship with a person who is subordinate, such as an athlete. Such relationships greatly increase the chances that the person in the position of power or control will abuse his or her power and sexually exploit the subordinate.

Voluntary consent by the subordinate in such a relationship is highly suspect, given the fundamental asymmetric nature of a relationship. Depending on their age, some minors are unable to give voluntary consent to such a relationship. Moreover, other subordinates may be affected by such unprofessional behavior because it places the person with the power or control in a position to favor or advance a subordinate's interest at the expense of others and implicitly makes obtaining benefits contingent on amorous or sexual favors.

In such situations, the person in the position of power or control may face serious conflict of interest and should distance him or herself from any decisions that may reward or penalize the subordinate involved. Any person in a position of power or control who fails to withdraw from activities or decisions that may reward or penalize a subordinate with whom the person with power or control has or has had an amorous

relationship will be deemed to have violated his or her ethical, and, in some cases, legal obligation to the subordinate, the others involved in the sport and to BAM.

Keeping of Records

Where the Inquiry results in a finding that the complaint of harassment is substantiated, the outcome of the inquiry and any disciplinary action will be recorded in the personnel file of the Respondent.

Where the Inquiry results in a finding that the complaint of harassment is not proved, all records of the complaint shall be removed from the personnel file of the Respondent, unless the Respondent chooses to have the record kept in he/her personnel file.

Where the Inquiry results in a finding that the complaint of harassment has been brought frivolously or maliciously, disciplinary action may be appropriate against the Complainant and the outcome of the Inquiry and the disciplinary action will be recorded in the Complainant's personnel file.

The Officer and the Consultant will keep all files, notes and records related to any complaint of discrimination, harassment or abuse.

Disciplinary Action

If disciplinary action is required, it shall be the responsibility of the Executive Director (or President).

Anyone against whom a complaint of discrimination or harassment is substantiated may be severely disciplined, up to and including dismissal. This policy will be applied irrespective of seniority.

Anyone who has been found to have brought a complaint maliciously or frivolously may be severely disciplined, up to and including dismissal.

Disciplinary action may include:

- a) a written apology;
- b) a written reprimand delivered and recorded in a personnel file;
- c) referral to counseling;
- d) transfer,
- e) withholding of promotion;
- f) demotion;
- g) suspension with or without pay;
- h) dismissal/expulsion;
- i) responsibility for Complainants' losses including counseling costs, loss of income and benefits or other expenses;
- j) responsibility for all or part of the costs of the investigation.

Confidentiality

BAM understands that it is difficult to come forward with a complaint of discrimination, abuse or harassment and recognizes the interest of both the Complainant and the Respondent in keeping the matter confidential.

Confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances. However, confidentiality cannot be guaranteed.

Anonymous complaints cannot be dealt with as Respondents have the right to be given full particulars of any complaint brought against them.

All records, notes and files will be kept confidential except where disclosure is required by a disciplinary or other remedial process, or as is required by law.

Protection Against Retaliation

BAM will not retaliate against any individual who reports harassment, nor permit any member or employee to do so.

Protection against retaliation includes any retaliation for:

Retaliation against an individual...

- a) having invoked this policy (whether on behalf of one's self or another individual);
- b) having participated or cooperated in any investigation under this policy, or
- c) having been associated with a person who has invoked this policy or participated or cooperated in any investigation:

and will be treated as harassment and anyone who retaliates will be subject to disciplinary action.

Harassment by Persons Who are not Members or Employees of BAM

A member or employee of BAM who considers that s/he has been subjected to harassment, discrimination or abuse by a person who is not a member or employee of BAM should seek advice from the Officer and/or Consultant.

The Officer and/or the Investigator will take whatever action is necessary to ensure that BAM fulfills its responsibility to support and assist the person subjected to such harassment.

Time Limitation

A complaint made pursuant to this policy must be made, ordinarily, within six months of the most recent alleged incident.

Anyone may make a complaint on behalf of another, within six months from the date of the most recent alleged incident.

The time limitation may be waived, in the discretion of the Board or the Executive Director (or President) as long as neither the Complainant nor the Respondent would be prejudiced by the waiving of the limitation.

ADDENDUM I

Definitions

1. Complainant

An employee athlete, coach, official, volunteer or other participant of a sports activity, who thinks that s/he has been harassed or abused, and who makes an informal or formal complaint.

2. Respondent

The alleged perpetrator of the action(s) which the complainant thinks constituted harassment or abuse.

3. The Officer

The role of the Officer 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 Officer will handle complaints which may be resolved through informal procedures, and refer all other complaints to the Investigator.

The Officer shall be responsible to the Executive Director (or President) of BAM and shall:

- a) be responsible for the implementation of this policy;
- b) not act as an advocate for any individual in relation to this policy;
- c) function as an advocate for the elimination and prevention of discrimination, harassment and abuse;
- d) act as a registrar or complaints;
- e) act as an investigator of complaints;
- f) refer appropriate matters, concerns and investigations to the Investigator;

- g) maintain confidential records and statistics on all matters of alleged discrimination, harassment and abuse;
- h) report monthly to the Board of BAM through the Executive Director (or President), on the status of the cases pursuant to policy, without names or other identification;
- i) act as an education officer;
- j) provide an annual report to the Board of BAM, through the Executive Director (or President).

4. External Investigators

BAM will have, in its files, a list of Investigators to whom the Officer may refer individuals when appropriate. The Consultant will be external to BAM and will have no other responsibilities at BAM, other than those pursuant to this policy. The Consultant will have knowledge and expertise in the matters dealt with under this policy. S/he will be available to BAM and the Officer, to assist them in dealing with any complaint made under this policy. All matters that may involve criminal proceedings will be dealt with the Consultant. Any complaints concerning the Board or Executive Director (or President) of BAM will be dealt with by the Consultant.

The Consultant will act as an investigator, when appropriate, and will have responsibility for educational programs, when appropriate.

5. Investigation Report

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

6. Discrimination

Differential treatment on the basis of an individual ancestry, color, perceived race, nationality, national origin, ethnic background or origin, religion, creed or religious belief, religious association or activities, age, sex, gender, physical characteristics, pregnancy, sexual orientation, marital or family status, source of income, political belief, association or activity, physical or mental disability (save and except where such differential treatment is permitted by laws).

Discrimination can be constituted by the effect of action or omission. Intent to discriminate is not a prerequisite to a finding of discrimination.

Discrimination does not include any special programs designed to relieve disadvantage for individuals or groups identified on the basis of the grounds noted above.

7. Discriminatory Harassment

Any unwelcome or abusive comment or conduct concerning an individual's ancestry, color, perceived race, nationality, national origin, ethnic background or origin, religion, creed or religious belief, religious association or activities, age, sex, gender, physical characteristics, pregnancy, sexual orientation, marital or family status, source of income, political belief, association or activity, physical or mental disability.

8. Abuse of Authority

A form of harassment which occurs when an individual improperly uses the power and authority inherent in his or her position, to endanger or undermine an employee's or a member's job, team status or position. It includes such acts or misuses of power as intimidation, threats, blackmail or coercion.

9. Personal Harassment

Any improper behavior by any employee or member of BAM or conducting business with BAM that is directed at and offensive to any member or employee of BAM or conducting business with BAM, and which a person knew or ought reasonably to have known would be unwelcome. It comprises objectionable conduct, comment or display made on either a one time or continuous basis that demeans, belittles or causes personal humiliation or embarrassment.

10. Sexual Harassment

- a) One incident or a series of incidents involving unwelcome sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature;
 - (i) When such conduct might reasonably be expected to cause insecurity, discomfort, offense or humiliation to another person or group; or
 - (ii) When submission to such conduct is made implicitly or explicitly a condition for the provision of benefits of any kind; or
 - (iii) When submission to such conduct is made implicitly or explicitly a condition of sport participation or employment; or
 - (iv) When submission to or rejection of such conduct is used as a basis for any decision made with respect to employment or sport participation; or
 - (v) Where such conduct has the purpose or the effect of interfering with a person's work or sport performance or creating an intimidating, hostile or offensive work or sport environment.

- b) Sexual Harassment may include, but is not limited to the following:
 - sexist jokes causing embarrassment or offense;
 - leering;
 - the display of sexually offensive material;

- sexually degrading words used to describe a person;
- derogatory or degrading remarks directed towards members of one sex or one sexual orientation;
- sexually suggestive or obscene comments or gestures;
- unwelcome inquiries or comments about a person's sex life;
- unwelcome sexual flirtations, advances, propositions;
- persistent unwanted contact or attention after the end of a consensual relationship;
- requests for sexual favors;
- unwanted touching;
- verbal abuse or threats;
- sexual assault.

Although sexual harassment typically involves a female Complainant, both males and females can be subjected to sexual harassment by members of either sex. Although sexual harassment is typically committed by a person in a superior position against a person in a subordinate position, people in subordinate or equal positions may also commit sexual harassment.

11. Off-Premises Harassment and Abuse

Work or sport related discrimination, harassment or abuse can occur in places other than the work place or sport place. It can also occur:

- a) at work or at sport related social functions;
- b) on work or sport related conferences or travel;
- c) elsewhere where the individuals involved have a work or sport related relationship.
- d) At sporting events, competitions and in training sessions;
- e) At the office;
- f) Over the telephone or Fax or e-mail or computer;
- g) At the organization's business functions, such as meetings, conferences, training sessions and workshops;
- h) Elsewhere, if the person harassed is there as a result of work or sport related responsibilities or a work or sport related relationship.

Protection against all acts of harassment extends to incidents occurring at or away from the workplace or sport venue and during or outside normal working or sport participation hours, provided such acts are committed within the course of employment or participation in the sport, or in the provision of goods, services, facilities or accommodation or where the individuals involved have a work or sport related relationship.

12. Child Abuse

The Manitoba child and Family Services Act defines abuse as an act or omission of a parent or guardian of a child or of a person having care, custody, control or charge of a child where the act or omission results in:

1. physical injury to the child;
2. emotional disability of a permanent nature in the child or is likely to result in such a disability, or
3. sexual exploitation of the child with or without the child's consent.

The focus of the legislation includes situations involving a parent, guardian, teacher, baby-sitter, day care worker, coach, group leader or anyone in a position of trust with the child.

13. Neglect

Neglect occurs when a primary caregiver endangers a child's welfare by failing to provide for physical, emotional, emotional or medical needs.

14. Physical abuse

Physical abuse is any intentional non-accidental injury of a child.

15. Emotional Abuse

The damaging, by whatever means, of a child's self-image by an adult responsible for the child's nurturing or learning, resulting in a decrease in the child's feeling of personal worth, and thus in his ability to love, to trust and to feel at one with the human race.

16. Sexual Abuse

Sexual abuse is the use of a child for sexual purposes by an adult, or the allowing of such use of a child by a parent, caretaker, or legal guardian. It includes any manual, oral or genital sexual contact or the use of an object for sexual touching or penetration or any other explicitly sexual behaviors that an adult imposes on a child by exploiting the child's vulnerability and powerlessness.

Sexual abuse is both a child welfare and a criminal offense. Any allegation or suspicion of sexual abuse must be reported to Child and Family Services and the police.

17. Sexual Harassment

The same definition of sexual harassment, as is give, above, in the Definitions section also applies to minors, pursuant to s. 17 of the Child and Family Services Act of Manitoba.

18. Child Abuse Registry

The Director of Child and Family Services maintains a child abuse registry. The Child and Family Services Act, Articles 19 (I) to 19.5 (I) outlines reporting procedures, appeal procedures, etc..

See Appendix II for a copy of the Articles pertaining to the registry.

Any allegations of physical and/or sexual abuse involving an individual under 18 years of age should be reported to the policy or Child and Family Services immediately. Failure to do so may result in criminal charges brought against the individuals who failed to report the incidents.

Any allegations of sexual harassment involving an individual under 18 years of age who is subjected to “aggression or sexual harassment that endangers the life, health or emotional well being of the child” may cause that child to be in need of protection, pursuant to the Child and Family Services Act, s. 17 (2) (f).a

Approval

This policy was approved by BAM Board of Directors on November 23, 2003. It will be reviewed on an annual basis and may be amended, deleted or replaced by a resolution of the Board.