

## **Harassment Policy**

### **MANITOBA ALPINE SKI DIVISION**

**Note:** For convenience, this policy uses the term “complainant” to refer to the person who experiences harassment, even though not all persons who experience harassment will make a formal complaint. The term “respondent” refers to the person against whom a complaint is made.

#### **POLICY STATEMENT**

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

#### **APPLICATION**

4. This policy applies to all MASD employees as well as to all MASD directors, officers, volunteers, coaches, athletes, officials, and members of MASD. It applies to harassment that may occur during the course of all MASD business, activities and events.

5. Harassment arising within the business, activities and events of clubs or other organizations affiliated with MASD shall be dealt with using the policies and mechanisms of such organizations.

## **DEFINITIONS**

6. *Harassment* can generally be defined as comment or conduct, directed toward an individual or group of individuals, which is insulting, intimidating, humiliating, malicious, degrading or offensive. Types of behaviour which constitute harassment include, but are not limited to:
  - a. written, in person, physically, through any form of social media, electronic means, verbal abuse or threats;
  - b. the display of visual material which is offensive or which one ought to know is offensive;
  - c. unwelcome remarks, jokes, comments, innuendo or taunting about a person's looks, body, attire, age, race, religion, sex or sexual orientation;
  - d. leering or other suggestive or obscene gestures;
  - e. condescending, paternalistic or patronizing behavior which is intended to undermine self esteem, diminish performance or adversely affect working conditions;
  - f. practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;
  - g. any form of hazing;
  - h. unwanted physical contact including touching, petting, pinching, or kissing;
  - i. unwelcome sexual flirtations, advances, requests or invitations;
  - j. physical or sexual assault;
  - k. behaviors such as those described above that are not directed towards individuals or groups but have the same effect of creating a negative or hostile environment; or
  - l. retaliation or threats of retaliation against an individual who reports harassment.

7. For the purposes of this policy, *sexual harassment* is defined as unwelcome sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature when:
  - a. submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or
  - b. such conduct has the purpose or effect of interfering with an individual's performance; or
  - c. such conduct creates an intimidating, hostile or offensive environment.

## **CONFIDENTIALITY**

8. MASD recognizes that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly convicted of harassment. MASD recognizes the interests of both the complainant and the respondent in keeping the matter confidential, except where such disclosure is required by law.

## **COMPLAINT PROCEDURE**

9. A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive and contrary to this policy.
10. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should request a meeting with an official of MASD (for the purpose of this policy, an "official" is any person in a responsible staff or volunteer position within MASD).
11. Once contacted by a complainant, the role of the official is to serve in a neutral, unbiased capacity in receiving the complaint and assisting in its informal resolution. If the official considers that he or she is unable to act in this capacity, the complainant shall be referred to another MASD official.

12. There are three possible outcomes to this meeting of complainant and official:
  - a. it may be determined that the conduct does not constitute harassment as defined in this policy, in which case the matter will be closed;
  - b. 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 to the complaint; or
  - c. the complainant may decide to lay a formal written complaint submitted to MASD's Executive, in which case the official shall advise the MASD Executive, and the Executive shall appoint an independent individual to conduct an investigation of the complaint.
13. Ideally, the Investigator should be a person experienced in harassment matters and investigation techniques. The Investigator shall gather facts surrounding the incident by speaking directly with the complainant and the person against whom the complaint is made (the "respondent"), and any witnesses who, in the opinion of the Investigator, might have relevant facts or observations about the incident. The respondent shall also be given the opportunity to provide a written statement to the Investigator.
14. The Investigator shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to the MASD Executive.
15. The Executive may determine that the alleged conduct is of such seriousness as to warrant suspension of the individual from MASD pending the hearing and decision of the Discipline Panel.
16. Within ten (10) business days of receiving the written report of the Investigator, the Executive shall appoint three (3) individuals to serve as a Discipline Panel. This panel shall consist of at least one woman and at least one man.

## **HEARING**

17. The Discipline Panel shall hold the hearing as soon as possible but not more than fifteen (15) business days after the Discipline Panel has been appointed by the Executive.
18. The Discipline Panel shall govern the hearing as it sees fit, provided that:
  - a. members of the Discipline Panel shall select from among themselves a Chairperson;
  - b. a quorum shall be all three (3) Discipline Panel members;
  - c. decisions shall be by majority vote; the Chair carries a vote;
  - d. the complainant and the respondent may be accompanied by a representative;
  - e. the hearing shall be held in private;
  - f. the respondent shall be given five (5) business days written notice (by courier or electronic means) of the day, time and place of the hearing, and included in the notice shall be a copy of the formal complaint and a copy of the Investigator's report;
  - g. the complainant shall receive a copy of the Investigator's report five (5) business days prior to the hearing;
  - h. both the complainant and the respondent shall be present at the hearing to respond to the Investigator's report, give evidence and to answer questions of the Discipline Panel. The hearing shall proceed in the absence of either or both parties;
  - i. the Investigator may attend the hearing at the request of the Discipline Panel;
  - j. the Discipline Panel may request that witnesses to the incident be present or submit written evidence; and
  - k. once appointed, the Discipline Panel shall have authority to abridge or extend timelines associated with all aspects of the hearing.
19. In order to keep costs to a reasonable level the Discipline Panel may conduct the hearing by means of a conference call or videoconference.

20. As soon as possible but in any event within five (5) business days of the hearing the Discipline Panel shall present its decision to the MASD Executive, with a copy provided to both the complainant and respondent. The decision shall contain:
- a. a summary of the relevant facts;
  - b. a determination as to whether the acts complained of constitute harassment as defined in this policy;
  - c. recommended disciplinary action against the respondent, if the acts constitute harassment; and
  - d. recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.
21. If the Discipline Panel determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, their report may recommend disciplinary action against the complainant.

## **DISCIPLINE**

22. When recommending appropriate disciplinary action, the Discipline Panel shall consider factors such as:
- a. the nature and severity 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 age of the complainant;
  - f. whether the respondent had been involved in previous harassment incidents;
  - g. whether the respondent admitted responsibility and expressed a willingness to change; and
  - h. whether the respondent retaliated against the complainant.

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

- a. verbal apology;
- b. written apology;
- c. letter of reprimand from the MASD;
- d. a fine or levy;
- e. referral or counseling;
- f. removal of certain privileges of membership or employment;
- g. demotion or pay cut;
- h. temporary suspension with or without pay;
- i. termination of employment or contract;
- j. expulsion from membership;
- k. publication of the decision; and
- l. any other sanction that the Discipline Panel considers appropriate in the circumstances.

24. Unless the Discipline Panel decides otherwise, any disciplinary sanctions applied shall take effect immediately.

25. Both the complainant and the respondent have the right to appeal the decision and recommendations of the Discipline Panel, in accordance with MASD's Appeal Policy.

