



2.8 HARASSMENT POLICY AND PROCEDURES

Purpose of Policy

This policy sets out MSABC's approach to dealing with situations of harassment in the area of masters swimming.

Policy

1. Statement of policy

- 1.1 There will be no tolerance of harassment in MSABC.
- 1.2 MSABC is committed to providing an environment in which all individuals are treated with respect and dignity. Each individual has the right to participate in an environment which promotes equal opportunities and prohibits discriminatory practices.
- 1.3 MSABC is committed to the education of all of its members in the area of harassment.
- 1.4 This policy applies to all directors, officers, volunteers, coaches, officials and members of MSABC. MSABC encourages the prompt reporting of all incidents of harassment, regardless of who the offender may be.
- 1.5 For the purposes of this policy, harassment can occur in the following places:
 - a) sporting events, competitions, and in training sessions;
 - b) business functions, such as meetings, conferences, training sessions, and workshops;
 - c) organization-related travel;
 - d) telephone, electronic, or other virtual/digital (e.g., social media) conversations; and/or,
 - e) elsewhere, if the person harassed is present as a result of MSABC-related responsibilities or relationships.
- 1.6 Notwithstanding this policy, every person who experiences harassment continues to have the right to seek assistance from the B.C. Human Rights Tribunal, even when steps are being taken under this policy. MSABC will suspend action on any incident which is being pursued by the B.C. Human Rights Tribunal.
- 1.7 An investigation under this policy shall follow the process of natural justice, as described in paragraph 3.3 of this policy.



2. Prevention

- 2.1 MSABC is committed to the prevention of harassment through the provision of awareness and education.

3. Definitions

- 3.1 **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;
 - b) physical assault;
 - c) unwelcome remarks, jokes, innuendoes, or taunting about a person's body, sexual orientation, gender identity, attire, age, marital status, ethnic or racial origin, religion, or other personal matters;
 - d) displaying of sexually explicit, racist, or other offensive or derogatory material, sexual, racial, ethnic, or religious graffiti;
 - e) practical jokes which cause awkwardness or embarrassment, endangering a person's safety, or negatively affecting performance;
 - f) hazing or initiation rites;
 - g) leering or other suggestive or obscene gestures;
 - h) intimidation;
 - i) condescension, paternalism, or patronizing behaviour which undermines self-respect or adversely affects performance or working conditions;
 - j) 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;
 - k) false accusations of harassment motivated by malice or mischief, and meant to cause other harm; and/or,
 - l) sexual harassment, as further described in Section 3.2.
- 3.2 **Sexual Harassment:** One or a series of incidents involving unwelcome sexual advances, requests for sexual favours, or other verbal conduct of a sexual nature, including but not limited to:
- 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 or other types of involvement with MSABC;
 - c) when submission to or rejection of such conduct is used as a basis for any employment decision or other types of involvement with MSABC; and/or,



- d) when such conduct has the purpose or the effect of interfering with a person's positive engagement, or creating an intimidating, hostile, or offensive environment.

- 3.3 Natural Justice:** All investigations stemming from this complaint shall follow the principles of natural justice, which state 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 accused is aware of the essentials of the complaint;
 - c) the accused has a right to have a representative present his or her case;
 - d) relevant information must be available to all parties;
 - e) the accused has the right to call and cross-examine witnesses;
 - f) the accused has the right to a written decision following the judgment;
 - g) the accused has the right to appeal a decision (if there are grounds); and,
 - h) the decision-maker has a duty to listen fairly to both sides and to reach a decision untainted by bias.
- 3.4 Complainant:** An athlete, coach, official, volunteer, or any other participant of MSABC activities, who thinks he or she has been harassed.
- 3.5 Respondent:** The perpetrator of the action(s) which the Complainant thinks constitutes harassment.
- 3.6 Harassment Advisor:** A designate of MSABC 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.
- 3.7 Harassment Officer:** An individual identified by MSABC, as possessing the training and appropriate background to investigate complaints.
- 3.8 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.
- 3.9 Disciplinary Committee:** An ad hoc committee of persons as defined by the MSABC Disciplinary Policy 2.6. The Disciplinary Committee decides whether harassment occurred and confirms or rejects the recommendation(s) of the Harassment Officer.



3.10 Appeals Committee: An ad hoc committee as defined by the MSABC Appeal Policy 2.7. The Appeals Committee responds to an appeal submitted by a Complainant or Respondent who is dissatisfied with the decision of the Disciplinary Committee.

3.11 Retaliation: For the purposes of this policy, retaliation against an individual for:

- a) having filed a complaint under this policy; or
- b) having participated in any procedure under this policy; or
- c) having been associated with a person who filed a complaint or participated in any procedure of this policy, shall be considered as harassment, and will not be tolerated by MSABC.

4. Responsibility

4.1 An individual with knowledge of harassment or abuse of a criminal nature is obligated, under this policy, to report it to the appropriate authority.

4.2 While the Board of MSABC is responsible for the implementation of this policy, the Board will rely heavily on the procedures and expertise developed by Swim BC in executing the policy. Specifics are outlined in these procedures.

4.3 MSABC 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.

5. Confidentiality

5.1 In all reported instances, a prompt, thorough, fair investigation will take place giving careful consideration to the sensitivity of the issue and protecting the rights and dignity of all people involved.

6. Complaint procedure

6.1 A person who thinks they have 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.

6.2 If confronting the Respondent is not possible, or if after confronting the Respondent the conduct continues, the Complainant should seek:

- (a) help from the Complainant's swim club (if applicable); and/or,
- (b) advice of the Harassment Advisor.

6.3 If the Complainant registers the complaint with their swim club, the club will make best efforts to resolve the issue between the parties (preferably with the assistance of the



Harassment Advisor) before proceeding to a formal investigation. Failure to do so may result in the assignment of subsequent investigation, discipline, and appeal costs stemming from this incident to the swim club.

- 6.4** 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 must be dated and signed by the Complainant.
- 6.5** At the first meeting between the Harassment Advisor and the Complainant, the Harassment Advisor shall inform the Complainant of:
- a) the options of pursuing an informal resolution of the complaint;
 - b) the right to make a formal written complaint under this policy when an informal resolution is inappropriate or not feasible;
 - c) the availability of any outside counselling and other resources;
 - d) 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, although such costs will be borne by the Complainant; and,
 - f) other avenues of recourse, including the right to file a complaint with the B.C. Human Rights Tribunal or, where appropriate, to contact the police where the conduct may be an offence pursuant to the Criminal Code.
- 6.6** 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 wishes to proceed with a complaint investigation, the matter will be referred to a Harassment Officer for investigation.
 - c) If the Harassment Advisor believes that the alleged harassment constitutes *prima facie* evidence of harassment 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; and/or,
 - 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:
 - A) the Harassment Advisor may meet with the Respondent with a view to obtaining an 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. 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; or,

B) the Harassment Advisor may refer the matter to a Harassment Officer for investigation.

- 6.7** When a Harassment Officer receives a complaint from the Harassment Advisor, the Harassment Officer will:
- a) review and clarify the Complainant's written complaint; and,
 - b) give a written copy of the complaint to the Respondent and the Complainant.
- 6.8** 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 their expense) at any stage of the process when the Respondent is entitled and expected to be present.
- 6.9** 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 response.
- 6.10** The Harassment Officer will receive and clarify the response from the Respondent. If the Respondent indicates that they do not wish to provide a written response, the investigation will continue.
- 6.11** 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 this time period only if there are special circumstances that warrant it.
- 6.12** All hearings stemming from this complaint shall follow the principles of natural justice as defined in paragraph 3.3.

The Investigation Report

- 6.13** 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:



- (i) a recommended disciplinary action against the Respondent; and/or,
- (ii) a request to form an ad hoc Disciplinary Committee to recommend disciplinary action.

6.14 When recommending disciplinary action to be taken, the Harassment Officer and/or the Disciplinary Committee 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.

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

7. (AD HOC) Disciplinary Committee

7.1 The Disciplinary Committee is an ad hoc committee appointed by the MSABC Board of Directors using criteria defined in Section b.2 of the MSABC Disciplinary Policy 2.6.

7.2 The Disciplinary Committee shall receive the Investigation Report as prepared by the Harassment Officer.

7.3 After considering the Investigation Report, the Disciplinary Committee shall:

- a) make a determination as to whether the Respondent has engaged in conduct constituting harassment; and,
- b) if the Disciplinary Committee determines that Respondent has engaged in conduct constituting harassment, order such disciplinary action to be taken against the Respondent as is appropriate in the circumstances; and,
- c) if unsatisfied, direct that a further investigation of the allegation be undertaken.

7.4 When imposing disciplinary action against the Respondent pursuant to sub-paragraph 7.3(b), the Disciplinary Committee may impose 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 MSABC;
- d) referral to counselling;
- e) sensitivity training in harassment issues;
- f) removal of certain privileges of membership;
- g) temporary suspension; and/or,
- h) expulsion from membership.

7.5 The Disciplinary Committee shall, not more than 10 days after it makes its decision pursuant to paragraph 7.4, send a notice to the Complainant and the Respondent.

8. (AD HOC) APPEALS COMMITTEE

8.1 Complainant or Respondent who is dissatisfied with the decision of the Disciplinary Committee of MSABC may, not more than 14 days after the date they receive notice of the Disciplinary Committee's decision, serve the MSABC Board of Directors with a Notice of Appeal and Request for Hearing via written notice.

8.2 The Chair of the Appeals Committee will assemble an Appeals Committee as per Section b.2 of the MSABC Appeal Policy 2.6.

8.3 The Notice of Appeal and Request for Hearing shall be in writing and shall set out the grounds for appeal as outlined in Section b.1 of MSABC Appeal Policy 2.6.

8.4 Upon receipt of a Notice of Appeal and Request for Hearing, the Chair of the Appeals Committee shall send a copy of the Notice of Appeal and Request for Hearing together with a Hearing Notice in writing to the last known addresses of the Complainant and Respondent.

8.5 The Hearing Notice shall be sent at least 30 days in advance of the scheduled hearing and shall:

- a) specify the date, time, and location of the hearing;
- b) advise the parties that they should bring with them to the hearing all relevant witnesses (at their expense) and other evidence they wish to be considered by the Appeals Committee; and,
- c) advise the parties that they have the right to be represented at the hearing, although such costs would be borne by them.

8.6 Within 10 days after completing a hearing, the Appeals Committee shall send a written notice of its decision to the last known addresses of the Complainant and Respondent.

Masters Swimming Association of British Columbia



Review of Policy

This policy shall be reviewed by the MSABC Board of Directors as required.

Adopted and in effect – 21-February-1998

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