

MANITOBA SAILING ASSOCIATION (MSA)

ANTI-HARASSMENT AND ANTI-ABUSE POLICY

Policy Statement

1. The Manitoba Sailing Association is committed to creating and maintaining 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. More particularly, MSA 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. In its most extreme forms, harassment can be an offense under Canada's Criminal Code.
3. The MSA does not tolerate harassment. All persons in positions of authority with MSA are expected to take appropriate action when harassment occurs. Individuals whose conduct is found to constitute harassment as defined in this policy will face disciplinary action.

Application of this Policy

4. This policy applies to all employees as well as to all directors, volunteers, coaches, athletes, officials, members and participants who are under the jurisdiction of MSA. It applies to harassment that may occur during the course of all MSA business, activities and events.
5. In accordance with the procedures in this policy, a person in a position of authority is encouraged to take immediate, informal, corrective disciplinary action in response to behavior that constitutes a minor incidence of harassment.
6. The Executive is responsible for overseeing the procedures set out in this policy and will, at all times, ensure that such procedures are carried out in a timely manner.

Definitions

7. Harassment is a form of conduct that is cruel, intimidating, humiliating, offensive or physically harmful. Types of behavior that constitute harassment include, but are not limited to:
 - hostile verbal and non-verbal communications;
 - condescending, patronizing, threatening or punishing actions that undermine self-esteem or diminish performance;
 - unwelcome jokes, innuendo or teasing about a person's looks, body, attire, age, race, religion, sex or sexual orientation;
 - practical jokes that cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;
 - any form of hazing;
 - any form of physical assault;
 - sexual harassment, as defined in this policy;
 - behaviors such as those described above that are not directed towards individuals or groups but that have the effect of creating a negative or hostile environment; or

- retaliation or threats of retaliation against an individual who reports harassment
9. Sexual harassment is defined as unwelcome sexual remarks or advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:
- Submitting to or rejecting this conduct is used as the basis for making decisions that affect the individual; or
 - Such conduct has the purpose or effect of interfering with an individual's performance; or
 - Such conduct creates an intimidating, hostile or offensive environment.

Procedures for Receiving and Responding to a Complaint

10. A person who experiences harassment, any person who witnesses harassment, or any person who believes that harassment has occurred is encouraged to make it known that the behavior is contrary to this policy.
11. If confronting the person is not possible, or if after confronting the person the behavior continues, the person who has experienced the harassment, who has witnessed the harassment, or who believes that harassment has occurred should report the matter to an "official" of MSA. For the purposes of this policy, an official is any person in a responsible staff or volunteer position.
12. Once an incident is reported, the role of the official is to serve in a neutral, unbiased capacity in receiving the report of the incident, advising the parents or guardians of the incident (if the person who has experienced the harm is a minor), and assisting in an informal resolution of the complaint, where this is appropriate.
13. If the official considers that he or she is unable to act in this capacity, the complaint will be referred to another official who is able and willing to assist.

Fact-Finding

14. If informal resolution of the complaint is not appropriate or possible, and if the person who has experienced or witnessed the harassment, or who believes that harassment has occurred decides to pursue a formal written complaint, the official will refer the complaint to a designated MSA harassment officer. The harassment officer will assist the individual in preparing a formal written complaint and will provide a copy to the Executive.
15. Once the complaint has been reported to the Executive, the harassment officer will then 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 official, might have relevant facts or observations about the incident. The respondent will also be allowed an opportunity to provide a written statement to the harassment officer.
16. The process of fact-finding will be carried out in a timely manner and the results summarized in a written report that will be provided to the Executive, along with any written statement prepared by the respondent.
17. Upon receiving this report and any written statement, the Executive will decide if the complaint should be dealt with informally, in which case it will direct the appropriate response and the matter will then be concluded.

18. The Executive may determine that the alleged offense is of such seriousness as to warrant suspension of the individual from activities with MSA pending a review of the complaint.

Procedures for Reviewing Complaints

19. If the Executive determines that the complaint should be dealt with more formally, it will appoint three unbiased individuals to serve as a Panel, and will appoint one of these individuals to serve as the Chairperson of the Panel. Both genders will be represented on the Panel.
20. The Executive will then, at its sole discretion, and having regard to the nature of the complaint and the potential seriousness of the outcome, determine which of the following procedures will be used by the Panel to review the complaint (these procedures are listed from the least formal to the most formal):
 - The Panel will review the statement of the complainant, the statement of the respondent and the report of the harassment officer and will then render a decision; or
 - The Executive will appoint an outside investigator who will conduct a formal investigation of the incident and will provide a written report to the Panel. The Panel will consider this report, as well as the statements of the complainant and the respondent, and the report of the harassment officer, and will then render a decision; or
 - The Executive will appoint an outside investigator who will conduct a formal investigation of the incident and will provide a written report to the Panel. The Panel will review this report at a hearing with the complainant and respondent present, may ask questions of the complainant and respondent, and may allow the complainant and respondent to ask questions of each other. Following the hearing, the Panel will render its decision; or
 - The Panel will convene a hearing involving the complainant, respondent and witnesses. The complainant and respondent will have an opportunity to present evidence and to cross-examine each other and witnesses. At the conclusion of the hearing, the Panel will render its decision; or
 - Any other appropriate combination of the above hearing methods.
21. If at any point the complainant becomes reluctant to continue with these procedures, it will be at the sole discretion of the Executive to nonetheless continue the review of the complaint in accordance with this policy.

Decision

22. After reviewing and deciding any matter, the Panel will present its findings in a report to the Executive with a copy provided to both the complainant and respondent. This report will contain:
 - a summary of the relevant facts;
 - a determination as to whether the acts complained of constitute harassment as defined in this policy;
 - disciplinary action to be taken, if the acts constitute harassment; and
 - measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.
23. If the Panel determines that allegations of harassment are false, vexatious, retaliatory or frivolous, its report may direct that there be disciplinary action against the complainant.
24. The decision of the Panel will be final and binding upon the complainant, respondent and MSA. Any disciplinary action imposed under this policy may be appealed pursuant to MSA's policy on Appeals.

Discipline

25. In directing disciplinary action, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment and other aggravating and mitigating circumstances:
- Verbal apology;
 - Written apology;
 - Letter of reprimand from the MSA;
 - A fine or levy;
 - Referral to counseling;
 - Removal of certain privileges of employment or association with MSA;
 - Temporary suspension from employment, with or without pay;
 - Termination of employment or contract;
 - Publication of the decision;
 - any other sanction that the Panel considers appropriate in the circumstances.
26. Unless the Panel decides otherwise, any disciplinary sanctions will take effect immediately.

Confidentiality

27. MSA recognizes the sensitive and serious nature of harassment and will strive to keep all matters relating to a complaint confidential. However, if required by law to disclose information, MSA will do so. It is also the policy of MSA to allow publication of the decision of the Panel, where the acts complained of constitute harassment and where the Panel directs publication as part of its decision.

Responsibility

28. The administration and review of this policy is the responsibility of the VP Operations.

Review and Approval

29. This policy was first approved by the Board of Directors of the Manitoba Sailing Association on March 10, 2003. It was last reviewed and re-approved on March 2, 2010. The next re-approval date is March 2012.