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MANITOBA**

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## Harassment Policy and Procedure Approved May 1, 2018

### Policy Statement

Swimming/Natation Manitoba (SNM) is committed to providing opportunities for every individual in the sport of swimming to reach his or her potential in fitness and excellence. In keeping with the spirit of this statement, SNM is committed to providing a sport and work environment that prohibits discriminatory practices. Everyone engaged in activities on behalf of SNM is entitled to a harassment-free workplace and sport environment. Harassment is unacceptable and will not be tolerated.

### Purpose

Harassment is a form of discrimination and is prohibited by Human Rights legislation in Manitoba. Harassment is offensive, degrading and threatening, and in its most extreme forms, harassment can be an offence under Canada's Criminal Code.

Through the application of this policy, SNM intends to protect its professional staff, its provincial team athletes and its volunteers who represent SNM and who act on behalf of SNM from a hostile sport and/or working environment.

### Application

The application of this policy is intended to be strictly interpreted and limited in scope. This policy applies to those members of SNM over whom SNM has a significant element of direct authority and control by reason of the member of SNM acting on behalf of or representing SNM in a professional, athletic or volunteer capacity. In addition, this policy applies to all individuals engaged in activities on behalf of SNM or individuals employed by SNM, including, but not limited to, Provincial Team athletes, coaches, officials, and volunteers, Directors, Officers, team managers, team captains, medical and paramedical personnel and administrators.

This policy only applies to allegations of harassment which occurred during the course of authorized SNM business, activities and events, including but not limited to swim meets, training camps, exhibitions, meetings and travel associated with these authorized SNM activities and events.

Harassment allegations arising against persons not described above or within the business, activities and events of, member clubs, or affiliated organizations of SNM shall be dealt with using the policies and mechanisms of such organizations or, if appropriate, the SNM Discipline and Complaints Policy.



## **Responsibility:**

### **Body**

### **Action**

Governance Committee:

Ensure that the SNM Harassment policy is in compliance with applicable Human Rights Legislation including all definitions, penalties and procedures.

Board Of Directors:

Play a positive role in raising the awareness and understanding of the scope and application of the SNM Harassment Policy and encourage a similar approach to all member categories, and make it clear that harassment will not be tolerated at whatever level of the swimming community it appears.

Executive Director:

1. Make sure every person within the scope and application of the SNM Harassment Policy, together with all SNM employees, understands the policy and procedures for dealing with harassment;
2. Inform athletes, coaches, administrators, officials, volunteers and staff of their responsibility to provide a harassment-free sporting and work environment;
3. Investigate and correct harassment problems as soon as they come to light, even if a formal complaint has not been received.
4. Take appropriate disciplinary action as advised by the Board against athletes, coaches, administrators, volunteers or employees found to have harassed someone.

Limitations

Non apparent References

Canadian Human Rights Commission, Harassment Policy.

Approved:

December 12, 2011

Review:

Review Date – December, 2013

## **Harassment Procedure**

### **Definitions**

Note: For convenience, this procedure 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(s) against whom a complaint is made.

1 **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.

2. **For the purposes of this procedure, sexual harassment** is defined as unwelcome sexual advances, requests for sexual favours 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 which 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.

3. **Types of behaviour which constitute harassment include, but are not limited to:**

- Written or verbal abuse or threats
- The display of visual material which is offensive or which one ought to know is offensive
- Unwelcome remarks, jokes, comments, innuendo or taunting about a person's looks, body, attire, age, race, religion, sex or sexual orientation
- Leering or other suggestive or obscene gestures
- Condescending, paternalistic or patronizing behavior which is intended to undermine self-esteem, diminish performance or adversely affect working or sport conditions
- Practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance
- Unwanted physical contact including touching, petting, pinching or kissing
- Unwelcome sexual flirtations, advances, requests or invitations
- Physical or sexual assault

### **Confidentiality**

4. SNM recognizes that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly accused of harassment. SNM recognizes the interests of both the Complainant and the Respondent in keeping the matter confidential, except where such disclosure is required by law. This shall not preclude publication of the final outcome of any matter.

### **Complaint Procedure**

5. A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive and contrary to SNM policy.
6. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the Complainant should request a meeting with the Harassment Officer of SNM.
7. Once contacted by a Complainant the role of the Harassment Officer is to serve in a neutral, unbiased capacity in receiving the complaint and assisting in its informal resolution.
  - a) If the Harassment Officer or ED considers that he/she is unable to act in this capacity, the Complainant shall be referred to another SNM Officer, usually the President, who will perform a similar role.
  - b) If the Board is of the view that the ED is unable to fulfil their role in the execution of this policy then the board will appoint another SNM Officer to fulfil this roll.
8. There are three possible outcomes to a meeting between the Complainant and the Harassment Officer:
  - It may be determined that the conduct does not constitute harassment as defined in the policy or that the policy does not apply to the alleged harasser, in which case the matter will be closed;
  - 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 of the complaint; or
  - The Complainant may decide to lay a formal written complaint to SNM's Executive Director (ED), in which case the ED shall advise the President of SNM, who shall appoint an independent individual to conduct an investigation of the complaint.
9. Ideally, the Investigator should be a person experienced in harassment matters and investigation techniques, and may be an outside professional. He/she shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to the ED.
10. Within 7 days of receiving the written report of the Investigator, the ED shall appoint a Panel as outlined in the Discipline and Complaints Policy.

11. **Harassment complaints occurring at a competition** may be dealt with immediately, by the meet referee provided this policy applies and provided the individual being disciplined is told the nature of the alleged infraction and has an opportunity to provide information and to respond concerning the incident prior to any discipline being imposed. In such situations, sanctions shall be for the duration of the competition only.

Further sanctions may be applied but only after a full review of the matter in accordance with the procedures set out in this policy. The subsequent full review does not replace the appeal provisions of this policy.

12. Harassment complaints occurring where there is a critical lack of time may be, resolved by a SNM representative in a position of authority, provided this policy applies and provided the individual being disciplined is told the nature of the alleged infraction and has an opportunity to provide information and to respond concerning the incident prior to any discipline being imposed. In such situations, sanctions shall be for the duration of the competition only. Further sanctions may be applied but only after a full review of the matter in accordance with the procedures set out in this policy. The subsequent full review does not replace the appeal provisions of this policy.

## **Hearing**

13. A Hearing of the Panel shall take place in accordance with the SNM's Discipline and Complaints Policy, and in addition:

- The Complainant and the Respondent shall each receive a copy of the Investigator's report.
- The Complainant shall be present at the hearing to respond to the Investigator's report, give evidence and to answer questions of the Panel.
- The Investigator may attend the hearing at the request of the Panel.

14. If at any point in the proceedings, the Complainant becomes reluctant to continue or does not continue, it shall be at the sole discretion of the ED if the Panel shall continue the review of the complaint in accordance with this policy. In such instances where the Panel is to continue with the hearing process SNM shall take the place of the Complainant.

15. As soon as possible but in any event within 5 days of the hearing, the Panel shall render its Decision. A copy shall be provided to the ED and to both the Complainant and Respondent. This Decision shall 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 against the Respondent, if the acts constitute harassment; and
- Measures to remedy or mitigate the harm or loss suffered by the Complainant, if the acts constitute harassment.

16. If the Panel determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, the Panel may recommend that disciplinary action be taken against the Complainant.

### **Sanction**

17. When deciding on appropriate disciplinary sanction, the Panel shall consider factors such as:

- The nature and severity of the harassment
- Whether the harassment involved any physical contact
- Whether the harassment was an isolated incident or part of an ongoing pattern
- The nature of the relationship between the Complainant and Respondent
- The age of the Complainant
- Whether the Respondent had been involved in previous harassment incidents
- Whether the Respondent admitted responsibility and expressed a willingness to change
- Whether the Respondent retaliated against the Complainant

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

- Verbal apology
- Written apology
- Letter of reprimand from the organization
- Referral to counseling
- Removal of certain privileges of membership or employment
- Temporary suspension with or without pay
- Termination of employment or contract
- Expulsion from membership
- Publication of the decision

19. Failure to comply with a sanction as determined by the Panel shall result in automatic suspension in membership from SNM until such time as the sanction is fulfilled.

20. The ED may determine, in the exercise of his or her sole discretion that the alleged misconduct is of such seriousness as to warrant suspension of the member from SNM pending the hearing and decision of the Panel.

21. Notwithstanding the procedures set out in this policy, any member of SNM, who is convicted of a criminal offence involving sexual exploitation, invitation to sexual touching, sexual interference, sexual assault, shall face automatic

suspension from participating in any activities of SNM for a period of time corresponding to the length of the criminal sentence imposed by the Court, and may face further disciplinary action by SNM in accordance with this policy.

#### Appeals Procedure

22. Both the Complainant and Respondent shall have the right to appeal the decision of the Panel and sanctions imposed by the Panel, in accordance with SNM's Appeal Policy.

### **SAMPLE TERMS OF REFERENCE FOR COMPLAINT INVESTIGATION**

[NAME OF INVESTIGATOR] of [NAME OF FIRM OR ORGANIZATION] (the "Investigator") has been appointed to investigate the complaint of misconduct made by one of the athletes of [NAME OF ASSOCIATION] (the "Association") against [IDENTITY OF PERSON BY NAME OR POSITION].

The terms of reference of the investigation are as follows:

1. The purpose of the investigation is three-fold:

- a) To establish the factual circumstances of the complaint;
- b) To express an opinion as to the nature of the alleged misconduct; and
- c) To recommend to the Executive of the Association a course of action.

2. In order to carry out the investigation, the Investigator shall conduct interviews with the primary parties, that is, the complainant and [NAME OR IDENTITY OF PERSON AGAINST WHOM COMPLAINT HAS BEEN MADE], as well as with any other people who, in the Investigator's opinion, can provide factual information about the alleged incident.

3. The Investigator may also review any documents which he/she deems pertinent including, but not limited to, the Association's by-laws, policies of the Association (e.g., code of conduct, discipline policy, harassment policy, etc.) and any other documents (e.g., athlete's agreement, coaches contract, etc.).

4. At the conclusion of the investigation, the Investigator shall compile a written report setting out his/her findings and shall provide recommendations to the Executive Director, who will then share the finding with the SNM Board for further action, if any.

5. If the ED is deemed not to be able to fulfil these duties, by the Board the report will go to the SNM officer appointed by the Board.

6. The investigation shall be carried out forthwith and time shall remain of the essence throughout.

**For harassment complaints please contact SNM Harassment officer at 204-925-5779**