

Discrimination and Harassment Policy

Policy Statement

1. Pentathlon Canada (PC) and its Provincial/Territorial members are committed to promoting an environment in sport in which the terms and conditions of participation are free from discrimination, harassment and/or abuse. Each participant has the right to be treated with dignity and respect and to work and play in a milieu conducive to productivity, self-development and performance advancement based upon individual ability. It is the intention of Pentathlon Canada and its Provincial/Territorial members to foster a sport and work environment free of discrimination, harassment and/or abuse both within the sport of Pentathlon and outside of the sport on any basis. This can include discrimination, harassment and/or abuse on the basis of race, ancestry, place of origin, color, ethnic origin, citizenship, religion, sex, sexual orientation, disability, age, marital/family status or an offence for which a pardon has been granted; however, discrimination, harassment and/or abuse may also involve other situations outside of Pentathlon Canada or its Provincial/Territorial members business and activities between individuals associated with Pentathlon Canada and/or its Provincial/Territorial members that adversely affects relationships within the work and sport environment.

Purpose

2. Discrimination, harassment and/or abuse is offensive, degrading and threatening, and in its most extreme forms, can be an offence under Canada's Criminal Code.
3. Through the application of this policy, Pentathlon Canada and its Provincial/Territorial members intends to protect its staff, its athletes and its volunteers who represent Pentathlon Canada as well as its Provincial/Territorial members and who act on behalf of Pentathlon Canada or its Provincial/Territorial members from a hostile sport and/or working environment.

Application

4. This policy applies to those members of Pentathlon Canada's Provincial/Territorial members who are affected by an event of discrimination, harassment and/or abuse originating from a person/organization representing Pentathlon Canada or its Provincial/Territorial members in an official capacity including, without limitation, athletes, coaches, officials, volunteers, Directors, Officers, team managers, team captains, medical and paramedical personnel and administrators.
5. This policy applies to allegations of discrimination, harassment and/or abuse which occurred during the course of authorized Pentathlon Canada and/or its Provincial/Territorial members' business, activities and events, including but not limited to activities associated with authorized Pentathlon Canada and/or its Provincial/Territorial members' programs and events. This policy also applies to discrimination, harassment and/or abuse that took place outside of Pentathlon Canada or its Provincial/Territorial members business and activities between individuals
6. associated with Pentathlon Canada and/or its Provincial/Territorial members that adversely affects relationships within the work and sport environment.

Overview

7. The objective of the Pentathlon Canada Discrimination, Harassment and Abuse Policy is to create a sport and work environment which is tolerant and accepting of differences and allows people to participate in a non-threatening environment. This objective also applies to the course of their work in sport, as well as recreational or social activities in off hours, during which contact between individuals might lead to repercussions adversely affecting working relationships.

8. Diversity is a reality. Sport includes men and women of many races, of varied ethnic origins, of different cultural values, of different religions and with a diverse range of abilities. While we are all different, we hold one thing in common — the organization's values. We must all work together.
9. Discrimination, harassment and/or abuse is destructive. It is a barrier to equal opportunity. It not only affects individuals, but it affects organized sport as a whole. Discrimination, harassment and abuse are against the law. Pentathlon Canada or its Provincial/Territorial members does not tolerate any form of discrimination, harassment or abuse. Creating and maintaining a discrimination/harassment/abuse-free sport and work environment is a responsibility shared by all members and employees.
10. Behavior which constitutes discrimination, harassment or abuse can be intentional or unintentional. Intentional behavior can stem from hatred or fear. Unintentional behavior often stems from ignorance, but it may still constitute discrimination, harassment or abuse. This behavior can usually be changed through education — simply informing the individual that the behavior is offensive. Intentional behavior is more difficult to deal with.
11. Pentathlon Canada Board of Directors, staff, coaches, team leaders, athletes and
12. Provincial/Territorial members should lead through example and action. They must:
 - a. Know what discrimination, harassment and abuse are and be able to recognize inappropriate behaviour.
 - b. Act as a role model by treating all members fairly and equitably.
 - c. Not engage in, allow, condone or ignore inappropriate behaviour.
 - d. Communicate Pentathlon Canada's commitment to a discrimination/harassment/abuse-free sport environment.
 - e. Respond appropriately to complaints of discrimination, harassment or abuse.
13. Prevention and intervention are key to avoiding the infringement of all members' rights to work, train and enjoy sport in an environment free of discrimination, harassment and abuse.
14. Nothing in the following policy should be interpreted as interfering with the technical rules controlling the respective sport organizations or with the regulations of the various Games and programs.
15. Note: Education, counseling and intervention must play a part in the process of eradicating discrimination, harassment or abuse in the sport environment. It is recommended that before proceeding to a formal complaint and resolution, every effort should be made to solve problems by more informal means. Only when this proves to be unworkable or impossible should Complaint Handling and what follows begin.

Definitions of Discrimination, Harassment and Abuse

16. Harassment and abuse can take many forms but can generally be defined as any comment or conduct, directed toward an individual or group of individuals, which is insulting, intimidating, humiliating, malicious, demeaning, degrading or offensive.
17. Discrimination can generally be defined as a person being affected by an action or decision made on the basis of race, ancestry, place of origin, color, ethnic origin, citizenship, religion, sex, sexual orientation, disability, age, marital/family status or an offence for which a pardon has been issued.
18. Types of behaviour which constitute discrimination, harassment or abuse include, but are not limited to:
 - a. written or verbal abuse or threats;
 - b. racial or ethnic slurs;
 - c. unwelcome remarks, jokes, innuendo or taunting about a person's body, attire, age, marital status, ethnic or racial origin and religion;
 - d. sexual, racial, ethnic or religious graffiti;
 - e. the display of visual material which is offensive or which one ought to know is offensive;
 - f. unwelcome sexual remarks, flirtation, invitations, advances, or requests whether indirect or explicit, or intimidation;
 - g. leering or other obscene or offensive gestures;
 - h. practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;

- i. condescension, paternalism, or patronizing behavior which undermines self-respect or adversely affects performance or working conditions;
- j. physical conduct such as touching, kissing, patting and pinching;
- k. vandalism; and
- l. physical or sexual assault.

Sexual Harassment

19. There are generally three types of sexual harassment:
- a. Unwelcome Sexual Behavior. This is the most prevalent form of sexual harassment. It includes:
 - i. Inappropriate sexual comments about a person's body or appearance.
 - ii. Use of inappropriate or derogatory sexual terms.
 - iii. Enquiries or comments about an individual's sex life, sexual preferences, etc.
 - iv. Sexual/sexist graffiti or any displaying of sexually offensive material or pictures.
 - v. Spreading rumors about an individual's sex life, sexual preferences, etc.
 - vi. Unwanted touching, patting or leering.
 - b. Sexual Advance
 - i. This occurs when any person in a position of authority makes unwanted sexual advances or requests for sexual relations.
 - c. Reprisal
 - i. This occurs when any person in a position of authority threatens to use or uses that authority to retaliate against an individual who has rejected his or her sexual advance or unwelcome sexual behavior. This would include dropping an individual from a team because that individual refused a "proposition".

Racial Harassment

20. Racial slurs, jokes or name calling based on race, ancestry, place of origin, color, ethnic origin and creed (or religion) are the most common form of racial harassment. Examples include:
- a. Use of terminology which reinforces stereotypes.
 - b. Racial, ethnic or religious jokes.
 - c. Use of racially derogatory nicknames.
 - d. Making "fun" of individuals or discounting their abilities because of their racial or ethnic origin.
 - e. Racist, ethnic or religious graffiti or the display of racist material.
21. Racial harassment also includes racially-motivated behavior. For example: individuals may be subjected to practical jokes because of their racial or ethnic background, although the jokes themselves do not include a reference to race or ethnicity; as well, individuals may be told to "go back where they came from" or that they are "not welcome in Canada". Such behavior constitutes racial harassment.
22. Racial harassment can be both direct and indirect. The behavior, including comments and/or conduct, can be acted out in the presence of the individual against whom it is targeted. Racial harassment can also occur when the targeted individual or individuals are not present.
23. Racial slurs, jokes and name calling are inappropriate and illegal. Racial harassment can and does create stress, which can endanger an individual's health, morale and performance, thereby arousing anger and frustration and creating an atmosphere which gives rise to other forms of discrimination and undermines relations between individuals.

Poisoned Sport Environment

24. The presence of elements in the sport environment can also constitute harassment. A poisoned sport environment includes:

- a. Work or sport sites where material that denigrates a person or group by virtue of race, ancestry, place of origin, color, ethnic origin, citizenship, religion, sex, sexual orientation, disability, age, marital/family status or an offence for which a pardon has been granted is openly displayed. (Sexually explicit posters and racial/racist cartoons for example).
- b. Work or sport groups where name calling that denigrates a person/group is part of the normal course of activities.
- c. Harassing behavior that causes embarrassment, awkwardness, endangers a person's safety or negatively affects performance.
- d. A poisoned sport environment constitutes harassment, whether or not individuals complain.

Abuse of Authority

25. Harassment also includes abuse of authority, which means a person's improper use of power and authority inherent in a position, be it paid or volunteer, to endanger or undermine another's job, position or membership or participation on or within a Team, or in any way interfere with or influence the performance or advancement of any person engaged in any such function. This type of harassment includes acts or misuses of power such as intimidation, threats, blackmail or coercion.

Training and Discipline

26. Persons in authority have the responsibility not to harass any individual. However, it must be recognized that disciplined training is an indispensable part of high performance sport. Such discipline should not be confused with harassment. However, it is of vital importance that those in authority:
 - a. Communicate performance standards, selection criteria, rules and regulations to all participants.
 - b. Be fair and consistent in taking corrective action and in applying discipline.
 - c. Avoid favoritism.
 - d. Use appropriate terminology, address individuals by name and avoid the use of derogatory slang or offensive terms.

Prevention and Intervention

27. Prevention and intervention are key to achieving a discrimination/harassment/abuse-free sport environment. Persons in authority must present a positive role model. Therefore, they must show that they take the issue seriously. They must communicate Pentathlon Canada's objective to create and maintain a discrimination/harassment/abuse-free sport environment.
28. If they observe behavior such as racial name calling, sexual or racist jokes or the display of sexually explicit, racist or other offensive or derogatory material, they must advise the offending individual(s) of its inappropriateness and take corrective action immediately without waiting for a complaint.
29. They should investigate if discrimination, harassment or abuse is suspected or rumored. Sudden changes in performance or attitude may indicate a problem. Individuals who experience discrimination, harassment and/or abuse are often reluctant to report it for fear of not being taken seriously, of being labeled a troublemaker or of reprisal.
30. They should take all complaints of harassment seriously and respond appropriately in accordance with Pentathlon Canada discrimination, harassment and abuse complaint and investigation procedures.
31. Persons in authority have a responsibility not to allow, condone or ignore discrimination, harassment or abuse. If they know, or it can be shown that they should reasonably have known that discrimination, harassment or abuse was occurring and they failed to take corrective action, they may be considered party to the discrimination, harassment or abuse and subject to the same complaint and disciplinary processes and procedures as the discriminator, harasser or abuser.

Discrimination, Harassment and Abuse Procedures

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

Application

33. This policy applies to all Pentathlon Canada and its Provincial/Territorial member association directors, officers, employees, volunteers and members. It applies to discrimination, harassment or abuse that may occur during the course of all Pentathlon Canada and its Provincial/Territorial member association’s business, activities and events.

Minor Instances of Discrimination, Harassment or Abuse

34. This policy does not prevent an appropriate person having authority from taking immediate, informal, corrective disciplinary action in response to behaviour that, in their view, constitutes a minor incident of discrimination, harassment or abuse.

Reporting Discrimination, Harassment or Abuse

35. A person who experiences discrimination, harassment or abuse is encouraged to make it known to the discriminator, harasser or abuser that the behaviour is unwelcome, offensive and contrary to the policies of Pentathlon Canada and its Provincial/Territorial member associations.
36. If confronting the discriminator, harasser or abuser is not possible, or if after confrontation the discrimination, harassment or abuse continues, the Complainant should request a meeting with an Official of Pentathlon Canada or the appropriate Provincial/Territorial member association. For the purposes of this policy, an Official shall mean any Board member of Pentathlon Canada or its Provincial/Territorial member association.
37. 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 will be referred to another suitable Official from Pentathlon Canada or from the Provincial/Territorial member association.
38. Where a person believes that a director, officer, employee, volunteer or member of Pentathlon Canada or its Provincial/Territorial member association has experienced or is experiencing discrimination, harassment or abuse and reports this belief to an Official, the Official will meet with the person said to have experienced discrimination, harassment or abuse and proceed in accordance with these procedures.
39. Where an Official believes there is sufficient evidence to warrant laying a formal complaint but the Complainant does not wish to do so, the Official may lay a formal complaint and proceed in accordance with these procedures.

Complaint Procedure

40. There are three possible outcomes to a meeting of Complainant and Official:
- a. *It may be determined that the conduct does not constitute discrimination, harassment or abuse 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 a mediator as agreed to by both the complainant and the respondent will assist the two parties to negotiate or mediate an acceptable resolution of the complaint; or*
 - c. *The Complainant may decide to lay a formal written complaint, in which case the Official will receive the written complaint and will advise the President of Pentathlon Canada,*

Provincial/Territorial member association, or designate, who will appoint an independent individual to conduct an investigation of the complaint.

41. The Investigator will carry out the investigation in a timely manner and at the conclusion of the investigation will submit a written report to the President, or designate, which will include a recommendation that:
 - a. No further action be taken because the complaint is unfounded or the conduct cannot be reasonably be said to fall within Pentathlon Canada's definition of discrimination, harassment or abuse; or
 - b. The complaint has merit and should proceed to a hearing.
42. Within 10 business days of receiving the written report of the Investigator that recommends that there be a hearing, the President, or designate, will appoint three individuals to serve as a Panel.
43. At the discretion of the President, or designate, the investigation may be waived and a Panel appointed within 10 business days of receipt of a formal complaint.

Hearing

44. The Panel will hold the hearing as soon as possible, but not more than 15 business days after the Panel has been appointed.
45. The Panel will govern the hearing as it deems appropriate in the circumstances, provided that:
 - a. Members of the Panel shall select from among themselves a Chairperson;
 - b. A quorum shall be all three Panel members;
 - c. Decisions shall be by majority vote where the Chairperson carries a vote;
 - d. The parties may be accompanied by a representative;
 - e. The hearing will be held in private;
 - f. The parties will be given 10 business days written notice of day, time and place of the hearing;
 - g. The Respondent will receive a copy of the formal complaint;
 - h. The Complainant and Respondent will each receive a copy of the Investigator's report;
 - i. Both the Complainant and Respondent will be present at the hearing to respond to the Investigator's report, give evidence and to answer questions of the Panel. The hearing may proceed in the absence of either or both parties;
 - j. The Investigator may attend the hearing at the request of the Panel;
 - k. The Panel may request that witnesses to the incident be present or submit written evidence;
 - l. Once appointed, the Panel has the authority to abridge or extend timelines associated with all aspects of the hearing;
 - m. In the event that one of the Panel's members is unable or unwilling to continue with the hearing, the matter will be concluded by the remaining two Panel members who will make their decision unanimously.
46. In order to keep costs to a reasonable level the Panel may conduct the hearing by means of a telephone conference.

Decision

47. As soon as possible but in any event within 10 business days of the conclusion of the hearing, the Panel will provide its written decision to the President, or designate, with a copy provided to both the Complainant and Respondent. The decision will contain:
 - a. A summary of the relevant facts;
 - b. A determination as to whether the acts complained of constitute discrimination, harassment or abuse as defined in this policy;
 - c. Disciplinary action against the Respondent, if the acts constitute discrimination, harassment or abuse; and
 - d. Measures to remedy or mitigate the harm or loss suffered by the Complainant, if the acts constitute discrimination, harassment or abuse.

48. If the Panel determines that the allegations of discrimination, harassment or abuse are false, vexatious, retaliatory or frivolous, its report may direct that there be disciplinary sanctions against the Complainant.
49. Unless the Panel decides otherwise, any disciplinary sanctions applied shall take effect immediately.
50. The decision of the Panel will be final and binding upon the Complainant, the Respondent and Pentathlon Canada and/or its Provincial/Territorial member association.

Confidentiality

51. Pentathlon Canada recognizes the sensitive nature of discrimination, harassment and abuse matters and in particular, the difficulties associated with coming forward with a complaint of discrimination, harassment and abuse and with being accused of discrimination, harassment or abuse. Pentathlon Canada recognizes the interests of both the Complainant and the Respondent in keeping any matter being dealt with under this policy confidential, except where disclosure is required by a disciplinary proceeding or by law.

Appeals Procedure

52. 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 Pentathlon Canada's *Appeal Policy*.

Approved by Pentathlon Canada Board of Directors – May 2018