



Discrimination and Harassment Policy

Update May 15, 2019

In keeping with Bobsleigh Canada Skeleton's (BCS) commitments as set out in this BCS's Discrimination and Harassment Policy (Policy), Ms. Ashley Lattal has been appointed as an independent third party resource under this Policy.

Ms. Lattal may be contacted directly by any person who is subject to this Policy at the following address: ashley@lattallaw.com

For the avoidance of doubt, this is an *additional* resource available to any person subject to this Policy, but does not preclude contacting any other persons as set out herein.

Preamble

Discrimination and Harassment Policy

1. Bobsleigh CANADA Skeleton (BCS) 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.

Aim

2. BCS is committed to providing an environment free of discrimination and harassment on the basis of race, nationality or ethnic origin, colour, religion, sex, sexual orientation, marital status, family status or disability.

General Policy

3. In keeping with this policy, BCS encourages the reporting of all incidents of harassment regardless of who the harasser may be and is committed to a process that is widely published in the bobsleigh/skeleton community, available to all participants and easy to follow and implement.

4. Notwithstanding this policy, any person who experiences harassment continues to have the right to seek assistance from the provincial human rights commission.

5. **Participants:** This policy applies to all persons engaged in any volunteer or paid capacity with the Association or otherwise under the jurisdiction of the Association. Participants include athletes, coaches, support personnel, officials, employees, directors, members and volunteers.

6. Person in Authority: A person in authority is any BCS participant in a position of authority over, or trusted by a person who may be experiencing discrimination or harassment, and can include such persons as team leaders, coaches, trainers, medical or paramedical personnel, volunteers and supervisors.

7. Discrimination: Any distinction, whether intentional or not but based on prohibited grounds, which has the effect of imposing burdens, obligations or disadvantages on an individual that are not imposed on others or has the effect of withholding or limiting access to opportunities, benefits and advantages to others.

8. Harassment: Harassment is a form of discrimination. Harassment is prohibited by the **Canadian Charter of Rights and Freedoms** and by human rights legislation in every province and territory of Canada. In its more extreme forms, harassment, in particular sexual harassment can be an offence under Canada's **Criminal Code**,

Definitions of Harassment

9. Harassment is improper behaviour related to one or more prohibited grounds that are offensive and which the person knew or ought to reasonably have known would be inappropriate or unwelcome. The behaviour can be verbal or physical and can occur on a one-time repeated or continuous basis. The person does not have to intend to harass for the behaviour to be harassment.

10. Harassment can take many forms but generally involves conduct, comment or display that is insulting, intimidating, humiliating, hurtful, demeaning, belittling, malicious, degrading or otherwise cause offence, discomfort or personal humiliation or embarrassment to a person or a group of persons.

Examples of harassment include:

- a. Hostile verbal and non-verbal communications;
 - b. Unwelcome remarks, jokes, innuendo or teasing linked to a prohibited grounds such as a person's looks, body, attire, race, age, religion, sex or sexual orientation;
 - c. Condescending, paternalistic or patronizing behaviour linked to prohibited grounds of discrimination which undermines self-esteem, diminishes performance or adversely affects working conditions;
 - d. Practical jokes that cause awkwardness or embarrassment, endanger a person's safety or negatively affects performance;
 - e. Any form of hazing;
 - f. Use of terminology that reinforces stereotypes based on prohibited grounds of discrimination
 - g. Acts of retaliation designed to punish an individual who has reported discrimination or harassment;
 - h. Threats of retaliation designed to dissuade an individual from reporting discrimination or harassment;
 - i. Racial or ethnic slurs.
11. Discipline in training is an indispensable part of high performance sport and should not be confused with discrimination or harassment. However it is of vital importance that those in authority:

- a. Set and communicate non-discriminatory performance standards, selection criteria, rules and regulations to all participants;
- b. Be consistent in corrective or punitive action without discrimination or harassment based on prohibitive grounds;
- c. Use non-discriminatory terminology;
- d. Address individuals by names and avoid the use of derogatory slang or offensive terms.

12. In this policy sexual harassment means unwelcome sexual remarks or advances, requests for sexual favours or other verbal or physical conduct of a sexual nature when:

- a. Submitting to or rejecting the conduct is used as the basis for making decisions which affect the individual;
- b. Refusal to comply with a sexual-oriented request results in actual denial of an opportunity, or an expressed or implied threat of denial of opportunity for such refusal;
- c. Such conduct has the purpose or effect of interfering with an individual's performance;
- d. Such conduct creates an intimidating, hostile or offensive environment.

13. Sexual harassment may occur in the form of such conduct by males toward females, between males, between females or by females towards males. Some examples of behaviour which may be sexual harassment include:

- a. Sexually degrading words to describe a person;
- b. Criminal conduct such as stalking and physical or sexual assault or abuse;
- c. The display of visual material which is offensive;
- d. Unwelcome sexual flirtations, sexual remarks, advances, requests or invitations whether direct or explicit;
- e. Unwanted inquiries or comments about an individual's sex life or sexual orientation;
- f. Derogatory or degrading remarks about a person's sexuality or sexual orientation.

Responsibilities of the People in Charge

14. Prevention and intervention are key to achieving a sport and work environment free of discrimination and harassment. The BCS must represent a positive role model. BCS participants should:

- a. Communicate the BCS's objective to create and maintain a sport and work environment free of harassment and discrimination and with a view to discouraging harassment;
- b. Exercise good judgment and initiate appropriate action under this policy, if they become aware that discrimination or harassment may have occurred;
- c. Follow-up consultation with BCS management if discrimination or harassment is suspected or rumoured, appreciating that individuals who experience discrimination or harassment are often reluctant to report it.

15. The Executive, Board Members, the Managing Director are expected to contribute positively to the development of an environment in which harassment does not occur.

The Executive Committee is responsible for:

- a. Ensuring that investigation of formal complaints of harassment is conducted in a sensitive, responsible and timely manner;
- b. Imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender;
- c. Supporting and assisting any employee or member of the BCS who experiences harassment by someone who is not an employee or member of the BCS;
- d. Ensuring that this policy is posted on the web-site and the information is contained in a Handbook;
- e. Appointing case review panels and appeal bodies and providing the resources and support they need to fulfill their responsibilities under this policy;
- f. Maintaining records as required under this policy.

Coach/ Athlete Sexual Relations

16. BCS takes the view that intimate sexual relations between coaches and adult athletes, while not against the law, can have harmful effects on the individual athlete involved, on other athletes and coaches and on BCS's public image.

BCS therefore takes the position that such relationships are unacceptable for coaches coaching or assisting in any way with a BCS National or Development Team. Should a sexual relationship develop between an athlete and a coach, BCS will investigate, in accordance with this policy and take action, where appropriate which could include reassignment or if this is not feasible or appropriate, a request for resignation or dismissal from employment.

Disciplinary Action

17. Employees, members, volunteers or registrants of BCS against whom a complaint of harassment is substantiated may be subject to discipline, according to the severity of the substantiated conduct, up to and including dismissal from employment, termination of membership or registration or a life time suspension from all bobsleigh/ skeleton activities depending on the nature of the conduct.

Confidentiality

18. BCS understands 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. BCS recognizes the interests of both the complainant and the respondent and, to the extent practicable and appropriate under the circumstances will maintain confidentiality through the process. However, if required by law to disclose information, BCS will do so.

Complaint Procedures

19. For the purpose of this section of the policy a person who experiences discrimination or harassment is referred to as the "**complainant**" even where no formal complaint is filed.

20. All Bobsleigh CANADA Skeleton participants are encouraged to report suspected discrimination or harassment. Such reports may be made to the Managing Director or the President or to any other person in authority. All such reports shall be brought promptly to the attention of the Managing Director or the President by whoever receives the report.

Assistance to Complainants

21. A complainant may request the assistance of the Managing Director in understanding these policy guidelines. The Managing Director shall inform the complainant of:

- a. The options to pursue an informal resolution of his/ her 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 support provided by BCS;
- d. The confidentiality provisions of this policy;
- e. The right to be represented by a person of choice at any stage in the complaint process including legal counsel at the complainant's own expense;
- f. The right to withdraw from any further action in connection with the complaint at any stage (even though BCS might continue to investigate the complaint);
- g. Other avenues including the right to file a complaint with a human rights commission or where appropriate, to contact the police to have them lay a formal charge under the **Criminal Code**.

The Complaint

22. Although anyone may report discrimination or harassment, only persons affected by the alleged discrimination or harassment or by the President on behalf of Bobsleigh CANADA Skeleton may make a complaint.

23. A complaint shall be in writing and signed by the complainant or by the President if the complaint is brought on behalf of Bobsleigh CANADA Skeleton or to any other member of the Executive Committee of BCS if the complaint involves the President.

24. The complaint should include particulars of the discrimination or harassment, including details of the incident or incidents, including dates, times, locations, description of action, account of dialogue, the name of the perpetrator(s) and any witnesses or names of other individuals who may also have experienced discrimination or harassment. The complainant should detail any corrective action taken to date.

25. The parties to a complaint are Bobsleigh CANADA Skeleton, the respondent(s) and the complainant(s).

Processing the Complaint

26. The person responsible for processing the complaint (hereinafter the "**Bobsleigh CANADA Skeleton Official**") shall be the President of Bobsleigh CANADA Skeleton, or where a complaint involves conduct by the President, an alternate appointed by BCS Executive Committee.

27. The President (or alternate) may delegate part or all of the President's (or alternate's) responsibilities under these guidelines except to a person against whom the complaint has been made.

Complaint Investigation

28. The Bobsleigh CANADA Skeleton Official may decide not to deal with a complaint:

- a. If in the opinion of the Bobsleigh CANADA Skeleton Official the facts alleged in the complaint would be insufficient, if proven, to establish discrimination or harassment under the Bobsleigh CANADA Skeleton Policy or
- b. If in the opinion of the Bobsleigh CANADA Skeleton Official, the investigation of the complaint would not advance the purpose of the Bobsleigh CANADA Skeleton Policy in the circumstances, because of a significant delay between the alleged events and the time of the complaint.

29. In all other cases the Bobsleigh CANADA Skeleton Official shall investigate the complaint or appoint and provide terms of reference to an investigator who shall investigate the complaint and make findings of fact.

30. Before the investigation begins Bobsleigh CANADA Skeleton Official shall advise each respondent of the complaint and shall provide each complainant and respondent a copy of the written complaint, the Bobsleigh CANADA Skeleton Policy and these guidelines, and the investigation terms of reference, if any.

31. Before the investigation report is issued, each respondent shall have a reasonable opportunity to respond to the allegations. If a respondent declines to do so, or does not respond within the time frame provided, the investigator's report may nonetheless be issued.

32. All participants, including the respondent's must cooperate fully in any investigation under these guidelines.

33. The Bobsleigh CANADA Skeleton Official may consult with the investigator during the course of the investigation, may review the investigation report in draft and may provide additional terms of reference to, or request clarification from the investigator.

Assistance to Respondents

34. A respondent may request assistance of Bobsleigh CANADA Skeleton in understanding these guidelines. Bobsleigh CANADA Skeleton shall refer the respondent to counseling upon request, costs will be incurred by the respondent, and may explore the possibility of alternative forms of dispute resolution with the respondent.

35. Should a respondent choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the respondent's own expense.

Determination Following Investigation

1. The Bobsleigh CANADA Skeleton Official shall determine whether discrimination or harassment has been established in light of the findings of fact contained in the investigation report and if so, the nature and particulars of the discrimination or harassment.

Settlement

2. A complaint may be settled at any stage. A resolution agreement should be in writing and signed by all parties.

Mediation

3. Bobsleigh CANADA Skeleton may provide a mediator, if the Bobsleigh CANADA Skeleton Official views mediation as appropriate and if the complainant and respondent are willing to enter a mediation agreement.

Disciplinary Sanctions

4. When determining appropriate disciplinary action and corrective measures the Bobsleigh CANADA Skeleton Official may consider factors including, but not limited to:

- a. The nature of the discrimination or harassment;
- b. Whether the harassment involved any physical contact;
- c. Whether the discrimination or harassment was an isolated incident or part of an ongoing pattern;
- d. The nature of the relationship between the complainant and the respondent;
- e. Whether the respondent has been involved in previous discrimination or harassment incidents;
- f. Whether the respondent admitted responsibility;
- g. Whether the respondent retaliated against the complainant.

5. In recommending disciplinary sanctions the Bobsleigh CANADA Skeleton Official may consider the following options, singly or in combination, depending on the severity of the harassment:

- a. A verbal apology;
- b. A written apology;
- c. A fine or levy;
- d. Removal of certain privileges of membership or employment;
- e. Temporary suspension with or without pay;
- f. Termination of employment or contract; or
- g. Expulsion from membership; or
- h. Any other remedy as may be appropriate.
- i. Within seven (7) days of receipt of the report from the Bobsleigh CANADA Skeleton Official, the Executive Committee shall consider the recommendations of the Bobsleigh CANADA Skeleton Official and make a decision as to the appropriate sanction that shall be contained in the final report.

- j. The complainant will be informed of the outcome of the proceedings and of any discipline or other action taken by the Executive Committee

Grounds for Appeal by Respondent(s)

- a. A respondent(s) may appeal to the Executive Committee, the Bobsleigh CANADA Skeleton Official's determination only on the following grounds:
 - i. That the investigation was conducted in an unfair or biased manner contrary to the rules of natural justice;
 - ii. That the findings of fact contained in the investigation report are insufficient to support a determination that discrimination or harassment has been established.
- b. In an appeal by the respondent, the complainant shall be entitled to participate.
- c. There shall be no appeal from any finding of fact contained in the investigation report.

Grounds for Appeal by Complainants

- a. A complainant may appeal to the Executive Committee, the Bobsleigh CANADA Skeleton Official's determination only on the following grounds:
 - i. That the investigation was conducted in an unfair or biased manner contrary to the rules of natural justice;
 - ii. That the findings of fact contained in the investigation report ought to have resulted in a determination that discrimination or harassment has been established.
- b. In an appeal by the respondent, the complainant shall be entitled to participate.
- c. If the complainant is not satisfied with the outcome of the investigation or appeal, the complainant will be reminded of the continuing right to file a complaint with the provincial Human Rights Commission.

Notice of Appeal

- a. The notice of appeal must be made in writing to Bobsleigh CANADA Skeleton within fourteen (14) days of the appellant receiving notice of the Bobsleigh CANADA Skeleton's decision with respect to sanctions, and must state the specific grounds for the appeal.
- b. A copy of the notice of appeal shall be promptly provided to the President of Bobsleigh CANADA Skeleton, if they are not involved as a participant in the case and the Bobsleigh CANADA Skeleton Official involved with the case and to every person entitled to participate as a respondent to the appeal.
- c. No member of the Executive Committee or the Board of Directors who had any involvement in the complaint or who otherwise is in conflict of interest, shall participate in the deliberations or decisions in the appeal.
- d. The Appeal will be heard in compliance with the Bobsleigh CANADA Skeleton Appeal Policy.
- e. The Appeal Committee shall present its findings in a report to the Executive Committee within ten (10) days.
- f. The Executive Committee shall have the right to accept, reject or vary the recommendations of the Appeal Committee and issue a written report that shall be the final decision of BCS.
- g. A copy of the written report shall be provided, without delay to the complainant and respondent and shall be retained in the files together with the Bobsleigh CANADA Skeleton Official's report and documentation.

Confidentiality

56. To the extent possible, reports, complaints, witness statements and other documents produced under these guidelines shall be held in confidence by Bobsleigh CANADA Skeleton. However Bobsleigh CANADA Skeleton may make no absolute guarantees of confidentiality. Circumstances in which information may be shared include:

- a. When criminal conduct may be involved;
- b. When It is felt to be necessary to protect others from harassment or discrimination;
- c. When required to ensure fairness or natural justices in the procedures contemplated by these guidelines;
- d. In the course of an investigation by a law enforcement agency;
- e. To protect the interests of Bobsleigh CANADA Skeleton;
- f. When required by law.