

THE BASEBALL B.C. HARASSMENT POLICY

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

POLICY STATEMENT

- 1) Baseball B.C. is committed to providing 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 which promotes equal opportunities and prohibits discriminatory practices.
- 2) Harassment is a form of discrimination. Harassment is prohibited by human rights legislation in each province of Canada.
- 3) Harassment is offensive, degrading and threatening. In its most extreme forms, harassment can be an offense under Canada’s Criminal Code.

APPLICATION

- 4) This policy applies to all categories of members in Baseball B.C., as well as to all individuals engaged in activities with or employed by Baseball B.C., including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel).
- 5) This policy applies to harassment which may occur during the course of all Baseball B.C. business, activities and events, including but not limited to, tournaments, training camps, exhibitions, meetings and travel associated with these activities. It also applies to harassment between individuals associated with Baseball B.C. but outside Baseball B.C.’s business, activities, and events, when such harassment adversely affects relationships within Baseball B.C.’s work and sport environment.
- 6) Harassment matters arising within the business, activities or events of local, provincial and territorial Baseball associations, teams, or affiliated organizations of Baseball B.C. shall first be dealt with using the harassment policies and mechanisms of such organizations. Thereafter, the Baseball B.C. Appeal Procedure will then apply. In the event that there are no harassment policies and procedures available or in place in such organizations then the Baseball B.C. Harassment Policy, and if necessary, the Baseball B.C. Appeal Procedure will be utilized by those organizations.

- 7) Notwithstanding any provision in this Harassment Policy:
- a) A hearing, decision of, or disciplinary action by Baseball B.C., the President of Baseball B.C. (or designate), or the Panel, or any appeal related thereto, is not invalidated or defeated by an irregularity or preliminary procedural objection or failure to meet a time requirement under this Policy.
 - b) If an irregularity, procedural error, or failure to meet a time requirement has occurred, Baseball B.C., the President of Baseball B.C. (or designate), or the Panel, may determine that the hearing, decision, disciplinary action or appeal shall remain in place, or proceed as the case may be, and may impose such conditions, including the granting an adjournment of further proceedings, as deemed appropriate in all of the circumstances.

DEFINITIONS

- 8) *Harassment* can take many forms but is generally defined as inappropriate behaviour including comments and/or conduct which is insulting, intimidating, humiliating, hurtful, malicious, degrading or otherwise offensive to an individual, or group of individuals, or which creates an uncomfortable environment.
- 9) For the purposes of this policy, *sexual harassment* is defined as unwelcome sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature when:
- a) submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or
 - b) such conduct has the purpose or effect of interfering with an individual's performance; or
 - c) such conduct creates an intimidating, hostile or offensive environment.
- 9) Types of behaviour which constitute harassment include, but are not limited to:
- a) written or verbal abuse or threats;
 - b) the display of visual material which is offensive or which one ought to know is offensive;
 - c) unwelcome remarks, jokes, comments, innuendo or taunting about a person's looks, body, attire, age, race, religion, sex or sexual orientation;
 - d) leering or other suggestive or obscene gestures;

- e) condescending, paternalistic or patronizing behaviour which is intended to undermine self-esteem, diminish performance or adversely affect working conditions;
- f) practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;
- g) unwanted physical contact including touching, petting, pinching or kissing;
- h) unwelcome sexual flirtations, advances, requests or invitations; and
- i) physical or sexual assault.

CONFIDENTIALITY

- 10) Baseball B.C. 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. Baseball B.C. 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

- 11) A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive and contrary to this policy.
- 12) If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the Complainant should request a meeting with an Official of Baseball B.C. For the purpose of this policy, an "official" may be a member of the Board of Directors, a committee member, a team manager or team captain, a coach or any other person in a position of authority.
- 13) 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 shall be referred to another Baseball B.C. Official. If the Official determines that the nature of the alleged harassment may constitute a criminal offence the Official must immediately report the matter to the Executive Director or President of Baseball B.C., who shall then make a determination as to whether or not the appropriate law enforcements authority should be notified.
- 14) There are three possible outcomes to this meeting of Complainant and Official:
 - a) It may be determined that the conduct does not constitute harassment 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 the Official will assist the two parties to negotiate an acceptable resolution of the complaint; or
 - c) The Complainant may decide to lay a formal written complaint and/or report the matter to the appropriate law enforcement agency, in which case the Official shall advise the President of Baseball B.C., who shall immediately appoint an independent individual (“the Investigator”) to conduct an investigation of the complaint and/or report the matter to the appropriate law enforcement authority.
- 15) Ideally, the Investigator should be a person experienced in harassment matters and investigation techniques, and may be an outside professional. He or she shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to the President not later than 14 days following the date that the formal written complaint was received by the President.
- 16) Within 7 days of receiving the written report of the Investigator, the President shall appoint three individuals to serve as a Panel to conduct a hearing.
- 17) Harassment complaints occurring within competition may be dealt with immediately, if necessary by a Baseball B.C. representative in a position of authority, provided the Respondent is told of the nature of the complaint and has an opportunity to provide information concerning the incident. In such situations, disciplinary sanctions shall be for the duration of the event only. Further sanctions may be applied, but only after review of the matter in accordance with the procedures set out in this policy. This review does not replace the appeal provisions of this policy.
- 18) This policy shall not prevent a person in authority from taking immediate, informal, corrective disciplinary action in response to behaviour that, in their view, constitutes a minor incident of harassment.

HEARING

- 19) A Hearing shall take place in accordance with the process set out in The Baseball B.C. Discipline Policy, and in addition:
- a) The Complainant and Respondent shall each receive a copy of the Investigator’s report;
 - b) Subject to Section 20, the Complainant shall be present at the Hearing to respond to the Investigator’s report, give evidence, and to answer questions of the Panel;
 - c) The Respondent may choose to attend or not attend the Hearing, however in the absence of the Respondent, the Hearing shall proceed; and
 - d) The Investigator may attend the Hearing at the request of the Panel.

- 20) If at any point in the proceeding, the Complainant is reluctant to continue, it shall be at the sole discretion of the Executive of Baseball B.C. to continue the review of the complaint in accordance with this policy. In this circumstance, Baseball B.C. shall take the place of the Complainant.
- 21) As soon as possible but in any event within 21 days of the Hearing, the Panel shall present its findings in a report to the President. A copy of the report is to be provided to both the Complainant and Respondent. This report shall contain:
- a) a summary of the relevant facts;
 - b) a determination as to whether the acts complained of constitute harassment as defined in this policy;
 - c) the disciplinary action against the Respondent, if the acts constitute harassment; and
 - d) recommendations of the Panel to remedy or mitigate the harm or loss suffered by the Complainant, if the acts constitute harassment.
- 22) If the Panel determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, their report may direct that disciplinary action be taken against the Complainant.
- 23) The President, Board of Directors and members of Baseball B.C. shall adopt and implement the disciplinary action determined by the Panel, subject only to the right of appeal set out herein.

SANCTIONS

- 24) When directing appropriate disciplinary sanctions, the Panel shall consider factors such as:
- a) the nature and severity 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 Respondent;
 - e) the age of the Complainant ;
 - f) whether the Respondent had been involved in previous harassment incidents;
 - g) whether the Respondent admitted responsibility and expressed a willingness to

change; and

h) whether the Respondent retaliated against the Complainant.

25) In directing disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment:

a) a verbal apology;

b) a written apology;

c) a letter of reprimand from the organization;

d) a fine or levy;

e) a referral to counseling;

f) a removal of certain privileges of membership or employment;

g) a temporary suspension with or without pay;

h) a termination of employment or contract; and

i) a termination of and/or prohibition from membership in Baseball B.C. and its programs for a period of time that the Panel considers appropriate.

26) Failure to comply with a sanction as determined by the Panel shall result in automatic suspension in membership from Baseball B.C. until such time as the sanction is fulfilled.

27) Notwithstanding the procedures set out in this policy, any member who is convicted of a criminal offense involving sexual exploitation, invitation to sexual touching, sexual interference, sexual assault, shall face automatic suspension from Baseball B.C. for a period of time corresponding to the length of the criminal sentence imposed by the Court, and may face further disciplinary action by Baseball B.C. in accordance with this policy.

APPEALS PROCEDURE

28) Both the Complainant and Respondent shall have the right to appeal the decision and recommendations of the Panel, in accordance with the Baseball B.C. Appeal Policy.