

# Nordiq Alberta

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## Harassment Policy



## Preamble

1. Nordiq Alberta (NA) is committed to providing opportunities for every individual involved in the sport of cross-country skiing to enjoy the benefits of this involvement – be they related to recreation, social interaction, physical fitness, competition, volunteerism or employment. Harassment, in its various forms, can interfere with the achievement of this objective.
2. Harassment is a type of discrimination. It is prohibited by the Canadian Charter of Rights and Freedoms and by human rights legislation in every province and territory of Canada. In its most extreme forms, harassment can be an offence under Canada's Criminal Code.

## Aim

3. The aim of this document is to state the NA policy on harassment and describe how it will be implemented at the provincial level.

## Definitions

4. **Harassment.** Harassment takes many forms, but can generally be defined as behaviour – including comments and/or actions – which is insulting, intimidating, humiliating, hurtful, malicious, degrading or otherwise offensive to an individual or to groups of individuals, or which creates an uncomfortable or hostile environment. Harassment pertains in particular to behaviour that discriminates on the grounds of race, ancestry, place or ethnicity of origin, colour, citizenship, creed (religion), gender, sexual orientation, disability, age, marital/family status or record of offence. The existence of harassment is determined by the reasonable perception or reaction of the person or persons who feel harassed, rather than on the intent of the perpetrator. Harassment may include, but is not limited to:
  - a. written or verbal abuse or threats;
  - b. racial or ethnic slurs;
  - c. unwelcome remarks, jokes, innuendoes or taunting about a person's body, attire, age, marital status, ethnic or racial origin, religion, gender or sexual orientation;
  - d. displaying of sexually explicit, racist or other derogatory material which is offensive or which one ought to know is offensive;
  - e. unwelcome flirtations, advances, sexual comments or invitations, whether indirect or explicit;
  - f. unwanted physical contact such as touching, kissing, patting or pinching;
  - g. leering (offensive staring), or other obscene or suggestive gestures; and
  - h. practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance.

Note: It is recognized that there may be a certain amount of physical contact inherent in coaching athletes. Such contact may be related to teaching a new skill, spotting or other safety issues. This type of physical contact is not considered to be harassment, providing that it is welcomed by the athlete. If the athlete indicates that the touching is unwelcome, it must stop or it will be considered harassment.

5. **Reprisal/Retaliation.** Reprisal/retaliation is defined as action or behaviour directed towards an individual who has complained of being harassed, who has reported witnessing harassment or who has otherwise been involved in a harassment complaint or witnessing harassment or who has otherwise been involved in a harassment complaint or investigation. Reprisal/retaliation is generally initiated with the intent to intimidate, threaten, humiliate, exact revenge or adversely affect the

performance or working conditions of an individual. Reprisal/retaliation may include, but is not limited to, situations in which an individual involved in a harassment proceeding is:

- a. improperly denied or threatened with the withholding of promotion, advancement, training or other related opportunities or benefits (e.g. team selection); or
- b. improperly disciplined or threatened with disciplinary action, or dismissed or threatened with dismissal.

## **General Policy Regarding Harassment**

6. NA will not tolerate or condone any form of harassment, including reprisal/retaliation.
7. NA is committed to encouraging a supportive sport environment and respectful work place free of all forms of harassment. Proactive measures will be taken to prevent or discourage harassment within the Association and more broadly within cross-country skiing, to include:
  - a. communicating, publicizing and emphasizing the principles contained in this policy;
  - b. incorporating harassment awareness into the orientation (or, in the case of coaches, training) provided to all persons occupying positions of authority within the Association; and
  - c. developing and implementing a formal harassment complaint and investigation procedure for application at NA
8. Individual members of NA who perceive that they have been harassed will be provided with assistance and have the right to seek redress within the Association without fear of reprisal/retaliation. Members who perceive that they have been harassed retain the right to seek assistance externally, including recourse to provincial or territorial human rights commissions, even when action has been initiated within the Association.
9. Complaints will be addressed in a sensitive, responsible and timely fashion, with due regard to confidentiality.

## **Policy Jurisdiction and Application**

10. Harassment complaints shall be dealt with at the level of the Association where the harassment occurs (i.e. national, division or club).
11. This NA policy is to be given effect at the provincial level through the implementation of the procedures and process contained in Annex A to this document.

## **Annex A To NA Harassment Policy**

### **HARASSMENT PROCEDURES AND PROCESS PROVINCIAL LEVEL**

#### **Policy Application**

1. The procedures and process contained in this Annex apply at the provincial level of NA, and extend only to:
  - a. the Chair and directors of the NA Board;
  - b. the chairpersons and members of NA operational committees;
  - c. the Sport Manager and members of the NA staff, both paid and volunteer;
  - d. athletes, coaches and technical support staff who are part of the Alberta Ski Team/Alberta Development Team program, to include those on temporary status for camps and trips;

- e. athletes, coaches, board members and administrators who are part of a NA sanctioned training centre; and
  - f. any other individuals who expressly represent NA or are employed by NA for specific functions on a temporary basis (e.g. Technical Delegates, while so employed for a tasked event).
2. All of the individuals identified in paragraph 1 above, and only such individuals, are defined as “members” for the purposes of this Annex.
3. This Annex only applies to allegations of harassment when:
  - a. both the complainant and the respondent are members; or
  - b. the respondent is a member and the complaint is lodged by an individual who is an individual member of NA who does not fall within the description in paragraph 1 above.
4. NA 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. Therefore, in the interests of both the complainant and respondent, harassment complaint proceedings conducted by NA will be treated as confidential to the greatest extent possible, consistent with each party’s right to a procedurally fair process.
5. Despite the importance of a high degree of confidentiality in the conduct of the proceedings, due process requires an element of transparency. Accordingly, the final decision of the Hearing Panel which has been convened to deal with a formal complaint of harassment must be made public. Therefore, NA cannot commit to protecting the identity of complainants once a formal complaint is received.

## **Harassment Officers**

6. NA shall appoint at least two persons, one of each gender, who are members of NA or employees of the Association, to serve as harassment officers under this policy.
7. The role of a harassment officer is to serve in a neutral capacity and bring an informed perspective to bear on the early phases of the harassment complaint procedure. Harassment officers shall provide advice, receive complaints, assist in the informal resolution of complaints and conduct the initial assessment of formal written complaints. Only one harassment officer will be involved in each case. The complainant may contact the harassment officer of their choice.
8. Harassment officers are directly responsible to the Sport Manager. NA shall ensure that harassment officers have access to appropriate training and the necessary support for carrying out their responsibilities under this policy.

## **Reporting Harassment**

9. Members who believe they are being harassed should seek the advice of a NA harassment officer or another trusted person in a position of authority. Alternatively, there are four possible courses of action:
  - a. they may confront their alleged harasser and inform him/her that the behavior in question is offensive and contrary to the NA policy; if this option is exercised and the behaviour ceases, they may elect to take no further action;
  - b. in addition to confronting the person whose behaviour is offensive, they may immediately report the behaviour in accordance with the complaint procedure described in paragraph 12;

- c. if after confronting the person whose behaviour is offensive and the behaviour continues, they may then report the situation in accordance with the complaint procedure described in paragraph 12; or
  - d. if they are uncomfortable with confronting the person whose behaviour is offensive, they may report the behaviour directly, in accordance with the complaint procedure described in paragraph 12.
10. NA officials (Board/committee members, Sport Manager, staff, coach or event officials) who witness behaviour that may constitute harassment or who otherwise become aware that harassment may be taking place are required to report it in accordance with the prescribed complaint procedure.
11. Members who witness behaviour that may constitute harassment affecting another NA member, or who otherwise become aware that harassment caused by a member may be taking place, are encouraged to report the behaviour in accordance with the prescribed complaint procedure.

### **Submitting a Complaint**

12. Harassment complaints should be made to a NA harassment officer or to any person in a position of authority at the provincial level (i.e. Board/committee member, Sport Manager, staff, coach or event official).
13. Ultimately, the harassment investigation and review process requires that complaints be filed with a NA harassment officer. Therefore, other NA officials who receive a complaint are to forward it immediately to a harassment officer.
14. When a harassment officer receives a complaint through a third party, he/she will immediately contact the alleged victim and initiate the complaint evaluation procedure.

### **Complaint Evaluation Procedure**

15. A NA harassment officer who receives a complaint will inform the complainant of:
- a. the option of pursuing an informal resolution;
  - b. the right to lay a formal written complaint under this policy when informal resolution is inappropriate or when an attempt at informal resolution is unsuccessful;
  - c. the confidentiality provisions and limitations of this policy;
  - d. the right to be represented/advised by a person of choice (including legal counsel) at any stage in the complaint process (at the complainant's expense);
  - e. the right to withdraw from any further action in connection with the complaint at any stage (even though NA might continue to investigate the complaint);
  - f. the potential consequences of allegations of harassment that are fabricated, frivolous or vexatious; and
  - g. any other avenues of recourse, 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.
16. There are three possible outcomes to the initial meeting between the complainant and the harassment officer:
- a. *The complainant and harassment officer agree that the behaviour in question does not constitute harassment.* If this occurs, the harassment officer will take no further action and will make no written record.
  - b. *The complainant brings evidence indicating that harassment may have occurred and chooses to pursue an informal resolution of the complaint:*

- 1) The harassment officer will assist the two parties to negotiate a solution acceptable to the complainant. If desired by the parties, and if appropriate, the harassment officer may also seek the assistance of a neutral mediator.
- 2) If negotiation yields a result that is acceptable to both parties, the harassment officer will make a written record that the complaint was made and subsequently resolved to the satisfaction of both parties. This record will briefly outline the details of the complaint and the resolution. It will be signed by both parties and kept on file in the NA office for a period of time as determined by the harassment officer. No further action will be taken.
- 3) If negotiation fails to satisfy the complainant, the complainant may then proceed to lay a formal written complaint.

c. *The complainant brings evidence indicating that harassment may have occurred and decides to lay a formal written complaint:*

- 1) The harassment officer will assist the complainant to draft a formal written complaint. The complaint will set out the details of the incident(s) and the names of any witnesses, and will be signed by the complainant and dated. A copy of the signed complaint will be delivered to the respondent without delay.
- 2) The respondent will be given the opportunity to provide a written response to the complaint. The harassment officer may assist the respondent in preparing this response. The respondent is not obliged to respond in writing; if preferred, he/she may provide a verbal response to the harassment officer.
- 3) The harassment officer will also advise the respondent about the provisions of the Harassment Policy and of the respondent's right to be represented by a person of his/her choice (at the respondent's expense).

17. As soon as possible after receiving the written complaint, but no more than twenty-one (21) days from that date, the harassment officer shall submit a written Harassment Report to the NA Chair, with a copy to the Sport Manager. The Report shall contain the formal written complaint and either the respondent's written response or the substance of his/her verbal response, together with a recommendation that either:

- a. no further action should be taken because the complaint cannot be substantiated or the conduct cannot be reasonably said to fall within the definition of harassment contained in this policy; or
- b. the complaint appears to have substance and should be investigated further.

18. A copy of the Harassment Report shall also be provided to both the complainant and respondent without delay.

### **Review of Harassment Report by Chair**

19. The Chair shall review the Harassment Report to confirm that procedures have been applied correctly in accordance with this policy. If the Chair finds that there have been procedural errors, he/she will return the file to the harassment officer with instructions for their correction.

20. If the Chair is satisfied that due process has been followed, he/she will consider the substance of the Report and, at his/her sole discretion, determine whether further action is to be taken:

- a. If the Chair determines that further action is required, he/she will invoke the NA Dispute Resolution Process (Annex A to NA Policy 5.2 - NA Dispute Resolution and Appeal Policy), amended as required to incorporate the additional specific provisions of this Annex, as the means for bringing resolution to the complaint.

- b. If the Chair determines that no further action is required, he/she will sign the Harassment Report, noting that he/she has reviewed it, and will then forward it to the NAI Office for filing in the NA harassment file.

21. The Chair shall complete the review within five (5) days of the receipt of the Report.

### **Investigation**

22. The next step, in accordance with the Dispute Resolution Process, is for the Chair to determine whether further investigation is warranted prior to convening a Hearing Panel. Depending upon the nature of the complaint and the information provided in the Harassment Report, the Chair may in the exercise of his/her sole discretion appoint an independent individual to conduct an investigation in order to confirm the background and context of the complaint and to ascertain the relevant facts. If an investigation is ordered, the investigator shall carry out the task in a timely manner and at the conclusion shall submit a written report to the Chair.

### **Conduct of Hearing**

23. Upon receipt of the investigator's report, the Chair shall within 14 days establish and provide instruction, including the Harassment Report and the investigator's report, to a Hearing Panel. The Hearing Panel shall be established and will proceed in accordance with the NA Dispute Resolution Process.

### **The Decision**

24. Within 14 days of concluding the hearing, the Panel shall present its written decision, with copies provided without delay to the Chair, the Sport Manager, the complainant, the respondent and the harassment officer to whom the complaint was originally submitted. The decision shall contain:

- a. a summary of the relevant facts;
- b. a determination as to whether the behaviour in question constitutes harassment as defined in this policy;
- c. if the complaint is found to be valid:
  - 1) a determination of disciplinary action, if any, to be taken against the respondent; and
  - 2) if appropriate, measures to remedy or mitigate any harm or loss suffered by the complainant; and
- d. if appropriate, a recommendation for any action which might prevent similar situations in the future.

25. If the Panel determines that the allegations of harassment are fabricated, frivolous or vexatious, it may determine that disciplinary action shall be taken against the complainant. It is emphasized that a finding that the behaviour in question does not constitute harassment is not sufficient grounds of itself for such action against the complainant.

26. In the event that the Panel finds that harassment has occurred, the Panel shall, when making determinations for disciplinary action and/or corrective measures, consider factors such as:

- a. the nature 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 harasser has been involved in previous harassment incidents;

- g. whether the harasser admitted responsibility and expressed a willingness to change; and
  - h. whether the harasser retaliated against the complaint.
27. In the event that the Panel finds that harassment has occurred, when determining disciplinary sanctions the Panel 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 letter of reprimand from NA;
  - d. a fine or levy;
  - e. referral to counseling;
  - f. removal of certain privileges of employment;
  - g. demotion or reduction in pay;
  - h. temporary suspension from employment, with or without pay;
  - i. termination of employment or contract;
  - j. suspension of accreditation (e.g. officials, technical delegates) for a specified period of time; and
  - k. suspension from competition for a specified period of time.
28. In the event that the Panel finds that harassment has not occurred, that the complaint of harassment was fabricated, frivolous or vexatious, and that disciplinary action should be taken against the complainant, the Panel may consider any of the sanctions listed in section 27 above, or such other measures as the Panel may deem appropriate to the circumstances.
29. As a general rule, the decision of the Panel shall become a matter of public record, but all other information pertaining to the complaint and investigation shall remain confidential.
30. Where the Panel concludes that harassment has not occurred, a copy of the Panel's decision shall be filed in the NA Office in the harassment file. Where the Panel finds that the allegations of harassment were fabricated, frivolous or vexatious, a copy of the Panel's decision together with the investigator's report and any documentary evidence shall be filed in the personnel file of the complainant only, with all references to the identity of the respondent deleted if he/she so requests.
31. Where the Panel finds that harassment has occurred, a copy of the Panel's decision, together with the investigator's report and any documentary evidence, shall be filed in the NA Office in the harassment file. The Panel's decision shall also be filed on the personnel file of both the complainant and respondent. Unless the findings of the Panel are overturned upon appeal, the decision and supporting material shall be retained on file for a period of ten years. This period could be extended if new and related developments indicate such action is warranted.

## **Appeal Procedure**

32. Both the complainant and the respondent have the right to appeal the finding of the Hearing Panel. The appeal options are explained in paragraph 18 of the NA Dispute Resolution Process.