

SASKATCHEWAN ATHLETICS

ABUSE AND HARASSMENT - OVERVIEW

A. Laws Governing Sport Organisations:

The laws, or rules, which govern sport organisations, can be grouped into two types: those rules which are *internal*, and those rules which are *external* to Saskatchewan Athletics itself. The issue of harassment and abuse in Saskatchewan Athletics enter into both the sources of law described below.

B. Internal Laws:

Internal laws, or rules, are those that Saskatchewan Athletics makes for itself. Saskatchewan Athletics is a private, self-governing organisation, which derives its authority from its governing documents, including its constitution, by-laws, policies and procedures. These rules are a form of “contract” between Saskatchewan Athletics and its members, including coaches, athletes, officials, volunteers, directors and other participants. This contract provides Saskatchewan Athletics with the legal authority to establish the rights, privileges and obligations of its members.

The rules of Saskatchewan Athletics:

- reflect the philosophy and values of the organisation.
- establish a standard of behaviour which exceeds the minimum standard required by law.

Saskatchewan Athletics has an obligation to provide a safe environment, and to protect participants from harm, including physical and emotional harm, which can result from harassment or abuse. Even though such harm might be brought on by individuals who are acting only in their own interests, and not for the organisation, ***the law has clearly established that the organisation has a duty to act diligently and prudently to prevent such actions and behaviour.*** If an individual within Saskatchewan Athletics commits a crime, the Association may be vicariously liable for failing to be diligent.

C. External Laws:

The ability of Saskatchewan Athletics to establish its own rules does not mean that it can act as it pleases. Saskatchewan Athletics is subject to external laws, rules and standards of behaviour of the wider community, which exist in the form of statutes, (as well as codes in Quebec), and the common law. These include:

D. Providing a safe environment:

Saskatchewan Athletics has a duty of care to act responsibly and to ensure the safety of their participants. This duty imposes a standard of care upon each individual. Conduct that does not meet this objective standard may constitute negligence and may result in liability for the individual and Saskatchewan Athletics. This area of law is covered in a concise handbook titled *Negligence and Liability: A Guide for Recreation and Sport Organisations*, published by the Centre for Sport and Law (see Resources section).

E. Following fair procedures:

It is well established in Canadian common law that sport organisations (Saskatchewan Athletics) have a duty to be fair in how they interact with members and how they make decisions that affect members. Procedural fairness is a standard to which all private organisations, including Saskatchewan Athletics, are held. Failure to provide fair procedures, which are appropriate to the circumstances, may result in liability to Saskatchewan Athletics. This area of law is covered in two concise handbooks titled *Rights and Obligations: A Handbook for Athletes and Sport Organisations* and *Administrative Appeals: A Handbook for Sport Organisations*, published by the Centre for Sport and Law (see Resources section).

F. Respecting human rights:

Saskatchewan Athletics provides services to the public and thus fall within the jurisdiction of federal, provincial and territorial human rights legislation. As a result, Saskatchewan Athletics must treat all members equitably and cannot discriminate in providing their services. Organisations, which do discriminate, may find themselves responding to a formal human rights complaint. This area of law is covered in a handbook titled *An Introduction to the Law, Sport and Gender Equity*, published by CAAWS (see Resources section).

Harassment of an individual on the basis of a prohibited ground (such as race, colour, sex, religion, sexual orientation or similar characteristic) constitutes discrimination under human rights legislation and is thus prohibited. These laws also define harassment as the “poisoned” environment created by behaviour which is intimidating, hostile or offensive, even though such behaviour is not directed towards a particular individual or group.

G. Complying with child protection legislation:

Every province and territory in Canada has legislation aimed at protecting children from abuse and neglect. Under this legislation, authorities may investigate if there is a reasonable belief that a child is being harmed or put at risk. Police may then lay charges under the Criminal Code of Canada, against the individual or individuals that have abused the child, or failed to provide for his or her essential needs. As well, any individual who has a reasonable belief that a child is in need of protection must report this belief to the authorities. This responsibility applies to coaches, parents, volunteers and others within Saskatchewan Athletics.

H. Avoiding criminal actions:

Saskatchewan Athletics is subject to Canada's Criminal Code. A breach of the Code can result in criminal prosecution and criminal sanctions, including imprisonment. The criminal code provisions, which relate to harassment and abuse, are described in the publication *Harassment in Sport: A Guide to Policies, Procedures and Resources*, published by CAAWS (see Resources section). Harassment and Abuse in their most extreme forms may be criminal offences. The Criminal Code does not identify the term "abuse" directly. In its common usage, abuse refers to a pattern of behaviours or a syndrome, which would include one or more criminal offences. For example, harassment and abuse may take the form of criminal harassment (stalking), uttering threats, assault, sexual assault, sexual interference, invitation to sexual touching, or sexual exploitation - all of which are criminal offences explicitly defined in Canada's Criminal Code. The definitions of these offences include references to issues of consent, abuse of positions of trust or authority, and age of the victim.