

# Ontario Football Alliance

## Harassment Policy

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## **1.01 HARASSMENT POLICY**

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

### **2.01 POLICY STATEMENT**

- a) OFA accepts responsibility and is committed to providing a sport and work environment in which all individuals are treated with respect and dignity. Accordingly, OFA has adopted a zero tolerance approach to the issues of harassment, abuse and discrimination, establishing that they are never acceptable and must not be tolerated. It is OFA’s position that each individual has the right to participate and work in an environment which promotes equal opportunities and prohibit discriminatory practices.
- b) Harassment is a form of discrimination. Harassment is prohibited by the Canadian Charter of Rights and Freedoms and by Human Rights Legislation in the Province and territory of Canada.
- c) Harassment is offensive, degrading and threatening. In their most extreme forms, harassment and abuse are offences under Canada’s Criminal Code.
- d) Whether the harasser is a director, supervisor, employee, coach, training staff member, official, volunteer, parent or athlete, harassment, abuse and discrimination are attempts by one person to assert abusive, unwarranted power over another.
- e) OFA is committed to providing a sport environment and work place free of harassment, abuse and discrimination on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, marital status, family status, disability, or pardoned conviction.
- f) This policy applies to all employees as well as to all Directors, Officers, Volunteers, Coaches, Athletes, Officials and Members of OFA. OFA encourages the reporting of all incidents of harassment, regardless of who the offender may be.
- g) This policy applies to harassment, which may occur in the OFA workplace, in any work related activity, in any of the employment or

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recruiting practices by the OFA or in any sanctioned programs, services, or events.

- h) This policy applies to harassment, which may occur in the OFA workplace, in any work related activity, in any of the employment or recruiting practices by the OFA or in any sanctioned programs, services, or events.
- i) OFA is committed to the eradication of harassment, abuse and discrimination through educational programs including information and training. OFA Board of Directors will review and administer all violations of this policy or appoint a Review Committee to handle any violations.

## 2.02 DEFINITIONS

- a) Harassment takes many forms but can be generally be defined as comment, conduct or gesture directed toward an individual or group of individuals, which is insulting, intimidating, humiliating, malicious, degrading or offensive.
- b) Types of behavior which constitute harassment include but are not limited to:
  - Written or verbal abuse or threats;
  - The display of visual material which is offensive or which one ought to know is offensive;
  - Unwelcome remarks, jokes, comments, innuendo, or taunting about a person's looks, body, attire, age, race, religion, sex or sexual orientation;
  - Leering or other suggestive or obscene gestures;
  - Condescending, paternalistic, or patronizing behavior which undermines self-esteem, practical jokes which cause awkwardness or embarrassment, endanger a person's safety, or negatively affect performance;
  - Unwanted physical contact including touching, petting, pinching or kissing;
  - Unwelcome sexual flirtations, advances, requests or invitations;
  - Physical or sexual assault.
- c) 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:
  - Submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or

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- Such conduct has the purpose or effect of interfering with an individual's performance; or
  - Such conduct creates an intimidating, hostile or offensive environment.
- d) Although sexual harassment most commonly occurs in the form of behavior by males towards females, sexual harassment can also occur between males, between females or as behavior by females toward males. Regardless of the gender, OFA prohibits sexual harassment in all forms.
- e) For the purposes of this Policy, retaliation against an individual;
- For having filed a complaint under this policy; or
  - For having participated in any procedure under this Policy; or
  - For having been associated with a person, who files a complaint or participated in any procedure under this Policy, will be treated as harassment, and will not be tolerated.

### **2.03 RESPONSIBILITY**

- a) The implementation of this Policy is the responsibility of OFA's Senior Administrator. In addition, the Administrator is responsible for:
- Discouraging and preventing harassment within OFA;
  - Establishing and education program to ensure that all members and employees of OFA are aware of the problem of harassment, and in particular, sexual harassment, and of the procedures contained in this Policy; and
  - Annually reviewing the terms of this Policy to ensure that they adequately meet OFA's legal obligations and public policy objectives, and recommending to the OFA Management Group any necessary changes.
- b) Every member of OFA has a responsibility to play a part in ensuring that the football environment is free of harassment. This means not engaging in, allowing, condoning, or ignoring behaviour contrary to this Policy. In addition, any member of the OFA who believes that a fellow member has experienced or is experiencing harassment is encouraged to notify an Official of OFA.
- c) In the event that the Administrator is involved in a complaint, which is made under this Policy, the President of OFA shall appoint a suitable alternate for the purposes of dealing with the complaint.

### **2.04 COACH / ATHLETE SEXUAL RELATIONS**

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- a) OFA takes the view that intimate sexual relationships 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 OFA's public image. OFA therefore, takes the position that such relationships are unacceptable. Should a sexual relationship develop between an athlete and a coach, an employee, or a volunteer, OFA will investigate and take action which could include reassignment, or if this is not feasible, a request for resignation or dismissal from employment.

**2.05 DISCIPLINARY ACTION**

- a) Employees or members of OFA against whom a complaint of harassment is substantiated may be severely disciplined, up to and including employment dismissal or termination of membership in cases where the harassment takes form of assault, sexual assault or a related sexual offence.

**2.06 CONFIDENTIALITY**

- a) OFA 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. OFA recognized the interests of both the Complainant and the Respondent in keeping the matter confidential.
- b) Written documents pertaining to any matter dealt with under this Policy shall be retained by OFA in a confidential file for a period of ten years, unless new circumstances dictate that these materials should be retained for a longer period of time.
- c) OFA shall not disclose to outside parties the name of the Complainant, the circumstances giving rise to a complaint, the name of the Respondent or any written documentation pertaining to a harassment matter except where such disclosure is required by law or is in the best interests of the public.

**2.07 COMPLAINT PROCEDURE**

- a) A person, who experiences harassment, is responsible to make it known to the harasser that the behaviour is unwelcome, offensive and contrary to this Policy.
- b) 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 OFA (for the purposes of this policy, an "Official" may be a member of the OFA Management Board, any staff

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person, the chair of any OFA committee, any member of the coaching staff, or any member of the training staff).

- c) 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 they are unable to act in this capacity, the Complainant shall be referred to another OFA Official.
- d) There are three possible outcomes to this meeting of Complainant and Official:
  - i. It may be determined that the conduct does not constitute harassment as defined in this Policy, in which case the matter will be closed;
  - ii. The Complainant may decide to pursue an informal resolution of the complaint, in which case the Official will assist the two parties to negotiate or mediate an acceptable resolution of the complaint; or
  - iii. The Complainant may decide to make a formal written complaint to OFA in which case the Official shall advise the Administrator, who may carry out an investigation of the complaint or may appoint an independent individual to carry out an investigation of the complaint.
- e) The Investigator shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to the President, which shall include a recommendation that:
  - i. No further action be taken because the complaint is unfounded or the conduct cannot be reasonably said to fall within this Policy's definition of harassment; or
  - ii. The complaint has merit and should proceed to a hearing.
- f) Within 14 days of receiving the written report of the investigator, which recommends that there be a hearing, the President shall appoint three individuals to serve as a Panel.
- g) Harassment complaints occurring within competitions may be dealt with immediately, if necessary, by an OFA representative in a position of authority, provided the individual being disciplined is informed of the reasons for the discipline and has an opportunity to provide information concerning the incident. In such situations, sanctions shall be for the duration of the competition only. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this Policy.

- h) This Policy shall 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 incidence of harassment.

## **2.08 HEARING**

- a) The Panel shall hold a hearing as soon as possible, but not more than 21 days after its appointment.
- b) Having regard to the nature of the harassment matter and the potential consequences of any resulting sanctions, the Panel may decide to conduct the hearing by way of review of documentary evidence, by way of oral hearing or by a combination of the two methods. If the Panel decides to conduct an oral hearing, it may decide to do so in-person or by means of telephone conference.
- c) The Panel shall govern the hearing as it sees fit, provided that:
  - i. The Complainant and Respondent shall be given 14 days written notice (by courier or fax) of the day, time and place of the hearing;
  - ii. The Complainant and Respondent shall receive a copy of the investigator's report if an investigation was carried out.
  - iii. Members of the Panel shall select from among themselves a Chairperson'
  - iv. A quorum shall be all three Panel members;
  - v. Decisions shall be by majority votes. If a majority decision is not possible, the decision of the Chairperson shall be the decision of the Panel;
  - vi. In the case of an oral hearing, the Complainant shall be present at the hearing to respond to the investigator's report, give evidence and to answer questions of the Panel, unless the Administrator has taken the place of the Complainant in 2.03 c);
  - vii. In the case of an oral hearing, both the Respondent and the Complainant may be accompanied by a representative;
  - viii. In the case of an oral hearing, the Respondent shall have the right to present evidence and argument;
  - ix. In the case of an oral hearing, the investigator may participate in the hearing at the request of the Panel;
  - x. In the case of an oral hearing, the Panel may request that witnesses be present or submit written evidence;
  - xi. In the event that one of the Panel's members is unwilling or unable to complete the hearing, the matter will be concluded by the remaining two Panel members, who shall make their decision by unanimous vote;

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- xii. Once appointed, the Panel shall have the authority to abridge or extend timeline associated with all aspects of the hearing; and
  - xiii. The hearing shall be held in camera or recording.
- d) The Panel shall render its decision, with written responses within 14 days of the hearing, and shall provide a copy of this decision to the Complainant, Respondent and the Administrator. This decision shall contain:
- i. A summary of the relevant facts;
  - ii. A determination as to whether the acts complained of constitute harassment as defined in this Policy;
  - iii. Recommended disciplinary action against the Respondent, if the acts constitute harassment; and
  - iv. Recommended measures to remedy or mitigate the harm or loss suffered by the Complainant, if the acts constitute harassment.
- e) The preceding provisions may be modified, or added to, as required by the provisions of any pertinent OFA policy, such as those dealing with discipline, personnel or event-specific matters.
- f) Where the Respondent acknowledges the facts of the incident, he/she may waive the hearing, in which case the panel shall determine the appropriate disciplinary sanction. The Panel may hold a hearing for the purpose of determining an appropriate sanction.
- g) If the Respondent chooses not to participate in the hearing, the hearing shall nonetheless proceed.
- h) If the Respondent determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, their decision may recommend disciplinary action against the Complainant.

#### **2.09 RELUCTANT COMPLAINANT**

- a) If at any point the proceedings under this Policy, the Complainant becomes reluctant to continue, it shall be at the sole discretion of the Administrator to continue the review of the complaint in accordance with this Policy. In such instances, the Administrator shall take the place of the Complainant.

#### **2.10 SANCTIONS**



- a) When determining appropriate disciplinary sanction, the Panel shall consider factors such as:
  - i. The nature and severity of the harassment;
  - ii. Whether the harassment involved any physical contact;
  - iii. Whether the harassment was an isolated incident or part of an ongoing pattern;
  - iv. The nature of the relationship between the Complainant and harasser;
  - v. The age of the Complainant;
  - vi. Whether the harasser had been involved in previous harassment incidents;
  - vii. Whether the harasser admitted responsibility and expressed a willingness to change; or
  - viii. Whether the harasser retaliated against the Complainant.
  
- b) In directing disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment:
  - i. Verbal or written apology;
  - ii. A letter of reprimand from OFA;
  - iii. Payment of a financial fine or levy to be determined by the Panel;
  - iv. Referral to counseling;
  - v. Removal of certain privileges of membership or employment;
  - vi. Suspension from certain OFA events which may include suspension from the current competition or from future teams or competitions;
  - vii. Suspension from certain OFA activities (competing, coaching or officiating) for a designated period of time;
  - viii. Temporary suspension from employment with or without pay;
  - ix. Suspension of OFA funding;
  - x. Termination of employment or contract;
  - xi. Expulsion from membership;
  - xii. Publication of the decision; or
  - xiii. Other sanctions as may be considered appropriate for the offense.
  
- c) Failure to comply with a sanction as determined by the Panel shall result in automatic suspension of the member from the OFA until such time as the sanction is fulfilled.

## **2.11 AUTOMATIC SANCTIONS**

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- a) The President may determine that the alleged harassment is of such seriousness as to warrant suspension of the member from the OFA pending the hearing and decision of the Panel.
- b) Notwithstanding the procedures set out in this Policy, any member of the OFA or any individual engaged in activities with or employed by OFA, who is convicted of a criminal offense involving sexual-exploitation, invitation to sexual touching, sexual interference or sexual assault, shall face automatic suspension from participating in any activities of OFA for a period of time corresponding to the length of the criminal sentence imposed by the Court, and may face further disciplinary action by OFA in accordance with this Policy.

**2.12 APPEAL PROCEDURE**

Both the Complainant and Respondent shall have the right to appeal the decision and sanctions of the Panel, in accordance with OFA's Appeal Policy.