

Ontario Amateur Softball Association

Anti Harassment Policy & Procedures

This Policy is based in part upon material published in the Canadian Athletics' Association's Harassment in Sport, A Guide to Policy, Procedures and Resources.

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 whom a complaint is made.

(a) Policy Statement

- The Ontario Amateur Softball Association 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 that promotes equal opportunities and prohibits discriminatory practices.
- 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.
- Harassment is offensive, degrading and threatening. In its most extreme Forms, harassment can be an offence under Canada's Criminal Code.
- Whether the harasser is a Director, supervisor, employee, Coach, volunteer, parent or athlete, harassment is an attempt by one person to assert abusive, unwarranted power over another.
- The Ontario Amateur Softball Association is committed to providing a sport environment free of harassment on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, disability, or pardoned conviction.
- Note: A special provision in criminal law permits a pardon. An individual must apply for a pardon. A criminal who has served her or his sentence is not considered "pardoned".
- This Policy applies to all employees as well as all Directors, officers, volunteers, officials, and Members of Ontario Amateur Softball Association. The Ontario Amateur Softball Association encourages the Reporting of all incidents of harassment, regardless of who the offender may be.
- This Policy applies to harassment which may occur during the course of all Ontario Amateur Softball Association business, activities, and events. It also applies to harassment between individuals associated with the Ontario Amateur Softball Association but outside Ontario Amateur Softball Association business, activities, and events when such harassment adversely affects relationships within the Ontario Amateur Softball Association's work and sport environment.
- Notwithstanding this Policy, every person who experiences harassment continues to have the right to seek assistance from their provincial or territorial human rights commission, even when steps are being taken under this Policy.

(b) Definitions

- Harassment takes many Forms, but can generally be defined as comment, conduct, or gesture directed toward an individual or group of individuals, which is insulting, intimidating, malicious, degrading, or offensive.

- For the purpose 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
- Such conduct has the purpose or effect of interfering with an individual's performance, or
- Such conduct creates an intimidating Hostile, or offensive environment.

Types of behaviour 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 behaviour that undermines self-esteem, diminishes performance, or adversely affects working conditions,
- Practical jokes that 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, or
- Physical or sexual assault.

Sexual harassment most commonly occurs in the Form of behaviour by males toward females; however, sexual harassment can also occur between males, between females, or as behaviour by females toward males.

For the purpose of this Policy, retaliation against an individual

- For having filed a complaint under this Policy, or
- For having participated in any procedures under this Policy, or
- For having been associated with a person who filed a complaint or participated in any procedure under this Policy will be treated as harassment, and will not be tolerated

(c) Responsibility

The President is responsible for the implementation of this Policy.

- Discouraging and preventing harassment within the Ontario Amateur Softball Association.
- Investigating Formal complaints of harassment in a sensitive, responsible, and timely manner.
- Imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender.

- Providing advice to persons who experience harassment.
- Doing all in his or her power to support and assist any Member of the Ontario Amateur Softball Association, who experiences harassment by someone who is not a Member of the Ontario Amateur Softball Association.
- Making all Members of the Ontario Amateur Softball Association aware of the problem of harassment, and in particular, sexual harassment, and of the procedures contained in this Policy.
- Informing both complainants and respondents of the procedures contained in this Policy and of their rights under the law.
- Regularly reviewing the Terms of this Policy to ensure that they adequately meet the organization's legal obligations and public Policy objectives.
- Appointing officers and providing the training and resources they need to fulfill their responsibilities under this Policy.
- Appointing unbiased case review panels and appeal bodies and providing the resources and support they need to fulfill their responsibilities under this Policy

Every Member of the Ontario Amateur Softball Association has a responsibility to play a part in insuring that the Ontario Amateur Softball Association sport environment is free from harassment. This means not engaging in, allowing, condoning, or ignoring behaviour contrary to this Policy. In addition, any Member of the Ontario Amateur Softball Association who believes that a fellow Member has experienced or is experiencing harassment is encouraged to notify the President under this Policy.

In the event that the President is involved in a complaint that is made under this Policy, the Executive shall appoint a suitable alternative for the purpose of dealing with the complaint.

(d) Disciplinary Action

Employees or Members of the Ontario Amateur Softball Association 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 the Form of assault, sexual assault, or a related sexual offence.

(e) Confidentiality

The Ontario Amateur Softball Association understands that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly convicted of harassment. The Ontario Amateur Softball Association recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

The Ontario Amateur Softball Association shall not disclose to outside parties the name of the complainant, the circumstances giving rise to a complaint, or the name of the respondent unless such disclosure is required by a disciplinary or other remedial process.

(f) Complaint Procedure

These are to be developed and incorporated into all program Policy and procedure documents of the Association.

A person who experience harassment is encouraged to make it know to the harasser that the behaviour is unwelcome, offensive, and contrary to this Policy.

If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should seek the advice of the President.

The President shall inform the complainant of:

- The options for pursuing an informal Resolution of his or her complaint.
- The right to lay a Formal written complaint under this Policy when an informal Resolution is inappropriate or not feasible.
- The availability of counseling and other support provided by the Ontario Amateur Softball Association.
- The confidentiality provisions of this Policy.
- The right to be represented by a person of choice (including legal counsel) at any stage in the complaint process.
- The external mediation/arbitration mechanisms that may be available.
- The right to withdraw from any further action in connection with the complaint at any stage (even though the Ontario Amateur Softball Association may continue to investigate the complaint), and 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.

There are four possible outcomes to this initial Meeting of complainant and harassment officer:

- 1) The complainant and harassment officer agree that the conduct does not constitute harassment.
 - If this occurs, the harassment officer will take no further action and will make no written record.
- 1) The complainant brings evidence of harassment and chooses to pursue an informal Resolution of the complaint.
 - If this occurs, the harassment officer will assist the two parties to negotiate a solution acceptable to the complaint. If desired by the parties and if appropriate, the harassment officer may also seek the assistance of a neutral mediator.
 - If informal Resolution yields a result which is acceptable to both parties, the harassment officer will make a written record that a complaint was made and was resolved informally to the satisfaction of both parties, and will take no further action.
 - If informal Resolution fails to satisfy the complaint, the complainant will reserve the option of laying a Formal written complaint.
- 2) The complainant brings evidence of harassment and decides to lay a Formal written complaint.
 - If this occurs, the harassment officer will assist the complainant in drafting a Formal written complaint, to be signed by the complainant, and a copy given to the respondent without delay. The written complaint should set out the details of the incident(s), the names of any witnesses to the incident(s), and should be dated and signed.
 - The respondent will be given the opportunity to provide a written response to the complainant. The harassment officer may assist the respondent in preparing this response.
- 4) The complainant brings evidence of harassment but does not wish to lay a Formal complaint.
 - If this occurs, the harassment officer must decide if the alleged harassment is serious enough to warrant laying a Formal written complaint, even if it is against the wishes of the respondent.
 - When the harassment officer decides that the evidence and surrounding circumstances require a Formal written complaint, the harassment officer will issue a Formal written complaint and, without delay, provide copies of the

complaint to both the complainant and the respondent.

As soon as possible after receiving the written complaint, but within 21 days, the harassment officer shall submit a Report to the Ontario Amateur Softball Association responsible for this Policy and senior staff Members, containing the documentation filed by both parties along with a recommendation that;

- No further action be taken because the complaint is unfounded or the conduct cannot reasonably be said to fall within this Policy's definition of harassment; or
- The complaint should be investigated further.

A copy of this Report shall be provided, without delay, to both the complainant and the respondent.

In the event that the harassment officer's recommendation is to proceed with an investigation, the Ontario Amateur Softball Association President responsible for this Policy shall within 14 days appoint three Members of the Ontario Amateur Softball Association to serve as a case review panel. This panel shall consist of at least one woman and at least one man. To ensure freedom from bias, no Member of the panel shall have a significant personal or professional relationship with either the complainant or the respondent.

Within 21 days of its appointment, the case review panel shall convene a hearing. The hearing shall be governed by such procedures as the panel may decide, provided that:

- The complainant and the respondent shall be given 14 days notice, in writing, of the day, time and place of the hearing.
- Members of the panel shall select a Chair from among themselves.
- A quorum shall be all three panel-Members.
- Decisions shall be by majority vote. If a majority vote decision is not possible, the decision of the Chair will be the decision of the panel.
- The hearing shall be held in camera.
- Both parties shall be present at the hearing to give evidence and to answer questions of the other party and of the panel. If the complainant does not appear, the matter will be dismissed, unless the complainant decided not to lay a Formal complaint, but the officer concluded that the evidence and surrounding circumstances were such as to require a Formal written complaint. If the respondent does not appear, the hearing will proceed.
- A Representative or adviser may accompany the complainant and respondent.
- The harassment officer may attend the hearing at the request of the panel.

Within 14 days of the hearing, the case review panel shall present its findings in a Report to the Ontario Amateur Softball Association Executive, responsible for this Policy, which shall contain:

- A summary of the relevant facts.
- A determination as to whether the acts complained of constitute harassment as defined in this Policy.
- Recommended disciplinary action against the respondent, if the acts constitute harassment.
- Recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.

If the panel determines that the allegations of harassment are false, vexatious, retaliatory, or unfounded, their Report shall recommend disciplinary action against the complainant.

A copy of the Report of the case review panel shall be provided, without delay, to both the complainant and the respondent.

When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such as:

- The nature of the harassment,
- Whether the harassment involved any physical contact,
- Whether the harassment was an isolated incident or part of an ongoing pattern,
- The nature of the relationship between the complainant and harasser,
- The age of the complainant,
- Whether the harasser had been involved in previous harassment incidents,
- Whether the harasser admitted responsibility and expressed a willingness to change, and
- Whether the harasser retaliated against the complainant.

In recommending disciplinary sanctions, the panel may consider the following options, singly or in combination, depending on the severity of the harassment:

- A verbal apology,
- A written apology;
- A letter of reprimand from the sport organization;
- A fine or levy;
- Referral to counseling;
- Removal of certain privileges of Membership or employment;
- Demotion or a pay cut,
- Temporary Suspension with or without pay,
- Termination of employment or Contracts, or
- Expulsion from Membership.

Where the investigation does not result in a finding of harassment, a copy of the Report of the case review panel shall be placed in the harassment officer's files. These files shall be kept confidential and access to them shall be restricted to the Ontario Amateur Softball Association Executive responsible for this Policy.

Where the investigation results in a finding of harassment, a copy of the Report of the case review panel shall be placed in the personnel or Membership file of the respondent. Unless the findings of the panel are overturned upon appeal, this Report shall be retained for a period of ten years, unless new circumstances dictate that the Report should be kept for a longer period of time.

Procedure Where a Person Believes That a Colleague Has Been Harassed

Where a person believes that a colleague has experienced or is experiencing harassment and Reports this belief to an officer, the officer shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with Section 22.

(g) Appeals

Both the complainant and the respondent shall have the right to appeal the decision and recommendations of the case review panel. A notice of intention to appeal, along with the grounds for the appeal, must be provided to the Chair of the case review panel within 14 days of the complainant or respondent receiving the panel's Report.

Permissible grounds for an appeal are:

- The panel did not follow the procedures laid out in this Policy,
- Members of the panel were influenced by bias; or

- The panel reached a decision that was grossly unfair or unreasonable.

In the event that a notice of appeal is filed, the Ontario Amateur Softball Association Executive responsible for this Policy shall together appoint a minimum of three Members to constitute the appeal body. This appeal body shall consist of at least one woman and at least one man. These individuals must have no significant or professional involvement with either the complainant or respondent, and no prior involvement in the dispute between them.

The appeal body shall base its decision solely on a review of the documentation surrounding the complaint, including the complainant and respondent's statements, the Reports of the harassment officer and the case review panel, and the notice of appeal.

Within 10 days of its appointment, the appeal body shall present its findings in a Report to the Ontario Amateur Softball Association Executive responsible for this Policy.

Ratified AGM November 24, 2007