



## **OFA Harassment & Discrimination Policy**

**Approval Date: February 21, 2009**

### **STATEMENT OF PRINCIPLES**

1. Ontario Fencing Association (known hereafter as OFA) does not tolerate Harassment in connection with any of its internal or external business, sport or related activities.
2. Ontario Fencing 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, by human rights legislation in every province and territory of Canada, including the Human Rights Code of Ontario. Harassment can be an offense under Canada's Criminal Code.
  - OFA is committed to providing a sport environment free of harassment on the basis of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status, family status or disability.
3. This policy applies to all members of OFA and OFA encourages the reporting of all incidents of harassment.
4. 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.

---

### **DEFINITIONS**

1. Harassment is vexatious comments, conduct, or gestures directed toward an individual or group of individuals, which is insulting, intimidating, humiliating, malicious, degrading, or offensive and is known or ought reasonably to be known to be unwelcome.
2. For the purposes of this policy, sexual harassment includes unwelcome sexual advances, requests for sexual favours, or other communication (verbal or written) or physical conduct of a sexual nature when:
  - such conduct might reasonably be expected to cause embarrassment, insecurity, discomfort, offense or humiliation; or
  - 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.

3. Harassment occurs when the conduct is known or ought to be known to be unwelcome. For descriptions of child abuse, sexual exploitation, and other types of behaviors that may constitute harassment, refer to Appendix A.
  4. 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 filed a complaint or participated in any procedure under this policy, constitutes harassment, and will not be tolerated.
- 

## **COACH/ATHLETE AND REFEREE/ATHLETE RELATIONS**

1. Intimate relationships between coaches and adult athletes or between judges and adult athletes while not against the law, can compromise the integrity of OFA's programmes. Such relationships may raise apprehensions of bias, and concerns regarding the abuse of authority. Should a sexual relationship develop between an athlete and a coach or judge, personal and professional interests must be separated by declaring a conflict to the appropriate superior or supervisor.
- 

## **PROCEDURE FOR INCIDENTS OF HARRASSMENT**

### **Principles**

1. The procedure followed under this policy shall adhere to the process of natural justice, which means that:
  - the respondent and complainant will be advised of the provisions of this policy;
  - the respondent and complainant will be given an opportunity to present evidence in support of his/her position and to defend himself/herself against allegations of harassment;
  - the issues will be clearly and concisely stated so that the respondent is aware of the allegations;
  - the respondent and complainant will have the right to be represented at any stage of the process at their own expense;
  - the respondent and complainant will receive a copy of all relevant documents;
  - the respondent and complainant have the right to an appeal pursuant to the Appeals section later in this document;
  - the decision-makers (Harassment Officers, Case Review Panel and Appeal Panel) have a duty to listen fairly to both sides and to reach a decision untainted by bias.
2. Disciplined training is an indispensable part of high performance sport and should not be confused with discrimination or Harassment. However, it is of vital importance that those in authority:
  - set and communicate performance and training standards to all participants;
  - ensure that training involving touching or other physical contact occurs in an appropriate setting and only after informed consent, where practical, has been sought and received;
  - are consistent and non-harassing when taking any corrective or disciplinary action;
  - use non-harassing terminology and avoid the use of derogatory, slang or offensive terms; and



- refer to and follow the OFA Rules of Conduct, Ethics and Standards Policy and Harassment Policy.
- 

## **RESPONSIBILITY**

1. The Ethics Committee, consisting of the CEO (President) and the Executive Director, shall be responsible for administering and implementing this policy. These individuals shall use reasonable effort in:
  - discouraging and preventing harassment within OFA;
  - 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 referral assistance to athletes who experience harassment;
  - supporting and assisting any athlete of OFA who experiences harassment by someone who is not an employee or OFA member;
  - making all members and employees of OFA aware of the problem of harassment, and of the procedures contained in this policy;
  - informing both complainants and respondents of the procedures contained in this policy;
  - regularly reviewing the terms of this policy to ensure that they adequately meet the organization's legal obligations and public policy objectives;
  - appointing case review and appeal panels.
2. Every member of OFA has a responsibility to play a part in ensuring that OFA sport environment is free from harassment. This means not engaging in, allowing, condoning, or ignoring behavior contrary to this policy. In addition, any member of OFA who believes that an athlete has experienced or is experiencing harassment is encouraged to notify a harassment officer appointed under this policy.
3. In the event that either the President or Executive Director is involved in a complaint which is made under this policy, the Board of Directors shall appoint a suitable alternate for the purposes of dealing with the complaint.

## **CONFIDENTIALITY**

1. OFA recognizes the interests of both the complainant and the respondent in keeping the matter confidential.
  2. Subject to any limits or disclosure requirement imposed by law or required by this policy, any and all information, oral and written, created, gathered, received or compiled through the course of processing a complaint is to be treated as confidential by both the respondent and complainant, their representatives, witnesses and all persons dealing with the complaint pursuant to this policy.
- 

## **HARRASSMENT OFFICERS**

1. OFA shall appoint at least two persons, one male and one female, who are themselves members or employees of the sport organization, to serve as officers under this policy.
  2. The role of harassment officers is to serve in a non-partisan capacity and to receive complaints, assist in informal resolution of complaints and investigate written complaints. In carrying out their duties under this policy, officers shall report to the President.
  3. OFA shall ensure that officers receive appropriate training and support for carrying out their responsibilities under this policy.
- 

## **COMPLAINT PROCEEDURE**

1. It is recommended that a person who experiences harassment be encouraged to make it known to the harasser that the behavior is unwelcome, offensive and contrary to this policy.
2. If confronting the harasser is not possible or is inappropriate, or if after confronting the harasser the harassment continues, the complainant should seek the advice of a harassment officer.
3. The harassment officer 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;
  - 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 at his or her expense;
  - 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 OFA might continue to investigate the complaint);
  - other 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; and
  - the fact that discipline may be imposed on the complainant if it is found that the complaint is frivolous or vexatious.
4. Possible outcomes to this initial meeting of complainant and harassment officer include:
  - The harassment officer determines that the conduct does not constitute harassment.



- If this occurs, the harassment officer will take no further action and will make no written record of the complaint.
  - The complainant brings evidence of harassment and chooses to pursue an informal resolution of the complaint.
  - If this occurs, the harassment officer may assist the 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 mediator.
  - If informal resolution yields a result that 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 complainant, the complainant has the option of laying a formal written complaint.
  - The complainant brings evidence of harassment and decides to lay a formal written complaint.
  - If this occurs, the harassment officer may 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 a reasonable opportunity to provide a written response to the complaint. The harassment officer may assist the respondent in preparing this response.
  - The complainant brings evidence of harassment but does not wish to lay either an informal or formal complaint.
  - If this occurs, the harassment officer shall, in consultation with the Ethics Committee, decide if the alleged harassment is serious enough to warrant laying a formal written complaint.
  - If the Ethics Committee 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.
5. After receiving a written complaint, the harassment officer shall, in a timely manner, submit a report to the Ethics Committee, containing the documentation filed by both parties along with a recommendation that either:
- 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.
6. In the event that the Ethics Committee's recommendation is to proceed with an investigation, the Ethics Committee shall appoint three individuals to serve as a case review panel. This panel shall consist of at least one woman and at least one man (neither of whom can be a harassment officer).

7. The case review panel shall convene a closed hearing. The hearing shall be governed by such procedures as the panel may reasonably decide, provided that:
    - The complainant and 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 chairperson from amongst themselves.
    - A quorum shall be all three panel members.
    - The hearing shall be held in camera.
    - Both parties shall be given the opportunity to be present at the hearing to give evidence and to answer questions of the other party and of the panel.
    - The complainant and respondent may be accompanied by a representative or adviser.
    - The harassment officer may attend the hearing at the request of the panel.
  8. The case review panel shall present its findings in a report to the Ethics Committee that 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; and
    - recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.
  9. The Ethics Committee votes on and implements the recommendations presented by the case review panel.
  10. If the panel determines that the allegations of harassment are malicious or vexatious, their report may recommend disciplinary action against the complainant.
  11. A copy of the report of the case review panel shall be provided, without delay, to both the complainant and the respondent.
  12. The decision of the case review panel will be forwarded to the OFA President and the CEO.
- 

## **DISCIPLINARY ACTION**

1. Employees or members of OFA against whom a complaint of harassment is substantiated may be disciplined, including warnings, reprimand, dismissal, suspension or termination of membership.
2. When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such as it deems appropriate including:
  - 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 complainant and respondent;
  - the ages of the complainant and respondent;
  - whether the respondent has been involved in previous harassment incidents;
  - whether the respondent admitted responsibility and expressed a willingness to change; and





- whether the respondent retaliated against the complainant.
3. In recommending disciplinary sanction, 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;
  - referral to counseling;
  - removal of certain privileges of membership or employment;
  - temporary suspension with or without pay;
  - termination of employment or contract;
  - suspension of membership;
  - termination of membership;
  - probation.
- 

## **RECORD-KEEPING**

1. 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 and CEO's files for a period of ten years. These files shall be kept confidential and access to them shall be restricted to OFA harassment officers, the Executive Director and the OFA President.
  2. 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 indefinitely.
- 

## **APPEALS**

1. Both the complainant and respondent shall have the right to appeal the decision and recommendations of the case review panel. A written request, along with grounds for an appeal, must be provided to the Chair of the Ethics Committee and the Executive Director within 14 days of receiving the panel's report.
  2. Permissible grounds for an appeal are:
    - the panel did not follow the procedures laid out in this policy;
    - new and relevant evidence is presented.
  3. In the event that a notice of appeal is filed, the Chair of the Ethics Committee and CEO shall together appoint a minimum of three members to constitute the Appeal Panel. This Appeal Panel shall consist of at least one woman and at least one man. These individuals must have no significant personal or professional involvement with either the complainant or respondent, and no prior involvement in the dispute between them.
  4. The Appeal Panel shall base its decision solely on a review of the documentation surrounding the complaint, including the complainant's and respondent's statements, the
-

reports of the harassment officer and the case review panel, the notice of appeal, and any other information the Appeal Panel deems relevant. The Appeal Panel shall have the authority to uphold the decision of the case review panel, to reverse the decision of the case review panel, and/or to modify any of the case review panel's recommendations for disciplinary action or remedial measures.

5. The Appeal Panel shall present its findings and recommendations in a report to Board of Directors.
6. The decision of the Board of Directors shall be final.
7. A copy of the Appeal Panel's report and decision of the Board shall be provided, without delay, to the complainant and respondent.

---

## **APPENDIX A**

### **CHILD ABUSE**

Child Abuse (under 18 years of age), which falls under the Canada's Criminal Code, includes:

- neglect which endangers a child's welfare by failing to provide for physical, emotional or medical needs;
- physical abuse which causes any intentional non-accidental injury of a child;
- emotional abuse which is the damaging by whatever means of a child's self-esteem by an adult responsible for the child's nurturing or learning;
- sexual abuse which includes any manual, oral or genital sexual contact or the use of an object for sexual touching or penetration or any other explicitly sexual behavior that an adult imposes on a child by exploiting the child's vulnerability and powerlessness.

---

### **SEXUAL EXPLOITATION (SECTION 153 OF THE CRIMINAL CODE)**

1. Every person who is in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency and who
  1. for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or
  2. for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the person who so invites, counsels or incites and the body of the young person is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or is guilty of an offence punishable on summary conviction.
2. In this section, "young person" means a person fourteen years of age or more but under the age of eighteen years.

Consent is not a defence under section 153. The court assumes that an adult in a position of trust or authority over a young person creates a situation of imbalance where consent is not freely given.

---

### **TYPES OF BEHAVIOURS THAT MAY CONSTITUTE HARASSMENT**

Types of behaviors which may constitute harassment include but are not limited to:





**ONTARIO  
FENCING  
ASSOCIATION**

*www.fencingontario.ca*



- written or verbal abuse or threats;
- the display of visual material which is offensive and which one ought to know is offensive;
- unwelcome remarks, jokes, comments, innuendo, or taunting about a person's appearance, body, attire, age, ethnic or racial origin, religion, sex, or sexual orientation;
- displaying of racist or sexist or other offensive or derogatory material;
- leering or other suggestive or obscene gestures;
- practical jokes which cause awkwardness or embarrassment, endanger a person's safety, or negatively affect performance;
- hazing or initiation rites;
- intimidation;
- behavior that undermines self-respect or adversely affects performance or working conditions;
- unwanted physical contact including touching, petting, pinching, or kissing;
- unwelcome sexual flirtations, advances, requests, or invitations; or
- physical or sexual assault;
- false accusations of Harassment motivated by malice or mischief, and meant to cause another harm.