



Harassment Policy

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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. O5PBA is used instead of Ontario 5 Pin Bowlers Association.

Policy Statement

The Ontario 5 Pin Bowlers' 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 which promotes equal opportunities and prohibits discriminatory practices.

Harassment is a form of discrimination. Harassment is prohibited by the Canadian Charter of Rights 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, employee, coach, official, volunteer, parent or athlete, harassment is an attempt by one person to assert abusive, unwanted power over another.

The O5PBA 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, family status, disability or pardoned conviction.

Note: A special provision in the criminal law permits a pardon. An individual must apply for a pardon. A criminal who has served her / his sentence is not considered "pardoned".

This policy applies to all employees as well as directors, officers, volunteers, coaches, athletes, officials, and members of the O5PBA. The O5PBA 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 any O5PBA business, activities and events. It also applies to harassment between individuals associated with O5PBA but outside O5PBA business, activities or events where such harassment adversely affects relationships within the O5PBA 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.

Definitions

Harassment takes many forms, but can generally be defined as any 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
- when such conduct creates an intimidating, hostile or offensive environment

Types of behaviour which constitutes harassment include but are not limited to:

- written or verbal threats
- the display of visual material which is offensive or which one ought to know is offensive
- unwelcomed 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 which undermines self-esteem, diminishes performance or adversely affects working conditions
- practical jokes which cause awareness or embarrassment, endanger a person's safety or negatively affect performance
- unwanted physical contact including touching, petting, pinching or kissing; and
- unwanted sexual flirtations, advances, requests or invitations or physical or sexual assault

Sexual harassment occurs in the form of behaviour by males towards females, 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 procedure 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.

Responsibility

The O5PBA President and a senior staff member are responsible for the implementation of this policy. In addition, they are responsible for discouraging and preventing harassment within the O5PBA. They will investigate formal complaints of harassment in a sensitive, responsible and timely manner. They will impose appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position of authority of the offender.

They will provide advice to persons who experience harassment and support and assist any employee or member of the O5PBA who experiences harassment by someone who is not an employee or member of the O5PBA.

They will make all members and employees of the O5PBA aware of the problem of harassment and in particular sexual harassment and of the procedures contained in this policy and of their rights under the law. They will regularly review the terms of this policy to ensure it adequately meets the organization's legal obligation and public policy objectives.

They will appoint officers and provide them with training and resources needed to fulfil their responsibilities. They will also appoint an unbiased case review panel and appeal panel, as well as provide the resources needed to fulfil their responsibilities under this policy.

Every member of the O5PBA has a responsibility to play a part in ensuring that the O5PBA sport is free of harassment. This means engaging in not allowing, condoning or ignoring behaviour contrary to this policy. In addition, any member of the O5PBA who believes that a fellow member has experienced or is experiencing harassment is encouraged to notify the President under this policy.

In the event the President is involved in a complaint, which is made under this policy, the O5PBA Executive Committee shall appoint a suitable alternate (usually the VP or other Executive member) for the purpose of dealing with the complaint.

Coach / Athlete Sexual Relationships

The O5PBA takes the view that intimate sexual relationships between coaches and adult athletes (except married or common-law couples) while not against the law, can have harmful effects on the individuals involved, on other athletes and coaches, and on the O5PBA's image.

The O5PBA therefore takes the position that such relationships (except married or common-law couples) are unacceptable for coaches at the Provincial / National level. Should a sexual relationship develop between athlete and coach, the O5PBA will investigate and take action, which could include reassignment, or if this is not feasible, a request for resignation.

Disciplinary Action

Employees or members of the O5PBA 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 offence.

Confidentiality

The O5PBA 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 O5PBA recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

The O5PBA 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.

Harassment Officers

The O5PBA shall appoint at least two people, one male and one female, who are themselves members or employees of the O5PBA, to serve as officers under this policy. If more than two officers are appointed, the O5PBA shall ensure a gender balance.

The role of harassment officers is to serve in a neutral, unbiased capacity and to receive complaints, assist in informal resolution of complaints and investigate formal written complaints.

In carrying out their duties under this policy, officers shall be directly responsible to the O5PBA (director responsible for this policy).

The O5PBA shall ensure that officers receive appropriate training and support for carrying out their responsibilities under this policy.

Complaint Procedure

A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, is 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 harassment officer.

The harassment officer shall inform the complainant of the options for pursuing an informal resolution of their complaint. They have the right to lay a formal written complaint under this policy when an informal resolution is inappropriate or not feasible. The O5PBA shall also provide counselling or any other support needed, as well as maintain the confidentiality provisions of this policy. They shall have the right to be represented by a person of choice (including legal counsel) at any stage in the complaint process.

They have the right to withdraw from any further action in connection with the complaint at any stage (even though the O5PBA might continue to investigate), as well as 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.

Possible outcomes to the initial meeting:

- The complainant and the 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
- 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 complainant. If informal resolution yields a result which is acceptable to both parties, the harassment officer will make a written report that a complaint was made and 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
- The complainant brings evidence of harassment and decides to lay a formal written complaint. If this occurs, the harassment officer will assist the complainant, 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 an 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 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 complainant. When the harassment officer decides that the evidence requires a formal written complaint, the harassment officer will issue a written complaint without delay and provide copies to both parties

As soon as possible after receiving the written complaint, but within 21 days, the harassment officer shall submit a report to the O5PBA Director responsible for this policy and senior staff member, containing the documentation filed by both parties along with a recommendation that either no further action is to be taken or that the complaint should be investigated. A copy shall be provided to both parties without delay.

In the event that the harassment officer's recommendation is to proceed with an investigation, the O5PBA Director responsible for this policy and the senior staff member shall, within 14 days, appoint three members of the O5PBA 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 party.

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 date, time and place of the hearing
- Members of the panel must select a chairperson
- A quorum shall be all 3 panel members
- Decisions must be majority vote. If a majority vote decision is not possible, the decision of the chairperson 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 evidence and surrounding circumstances were such as to require a formal written complaint. If the respondent does not appear, the hearing will proceed
- The complainant and respondent may be accompanied by a representative or advisor
- 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 written report to the O5PBA Director responsible for the policy and senior staff member, which shall contain:

- A summary of the relevant facts
- A determination as to whether the acts complained of constitute harassment as defined by this policy
- Recommended disciplinary action against the respondent, if the acts constitute harassment
- Recommend measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitutes 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 such factors 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 has been involved in previous harassment incidents
- Whether the harasser admitted responsibility and expressed a willingness to change
- Whether the harasser retaliated against the complainant

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 O5PBA
- A fine or levy
- Referral to counselling
- Demotion or pay cut
- Temporary suspension with or without pay
- Termination of employment
- Removal of 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 O5PBA Director responsible for this policy, the senior staff member and O5PBA President.

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 file 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 10 years, unless new circumstances dictate that they 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 proceed in accordance with this policy.

Appeals

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

Permissible grounds for appeal are:

- The panel did not follow the procedures laid out in this policy
- Members of the panel were influenced or biased
- The panel reached a decision which is grossly unfair or unreasonable

In the event that a notice of appeal is filed, the O5PBA Director responsible for this policy and senior staff member, shall together appoint a minimum of 3 members to constitute the appeal body. This body shall consist of at least one woman and one man. These individuals must have no significant or professional involvement with either the complainant or the respondent as well as no prior involvement in the dispute.

The appeal body shall base its decision solely on a review of the documentation surrounding the complaint, including the complainant's and respondent's statements, the report 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 written report to the O5PBA Director responsible for this policy and senior staff member. The appeal body shall have the authority to uphold the decision of the panel, to reverse the decision and/or to modify any of the panel's recommendations for disciplinary action or remedial measures.

A copy of appeal body's report shall be provided, without delay, to the complainant and respondent.

The decision of the appeal body shall be final.

Review and Approval

This policy was approved by the O5PBA Board of Directors _____

This policy shall be reviewed by the O5PBA Board of Directors and senior staff member on an annual basis.

Signed by O5PBA President : _____

Dated : _____

Senior Staff Member : _____

Dated : _____