



Harassment Policy *Approved by the Board of Directors October 26, 2016*

Policy Statement

1. The Ontario Speed Skating Association is committed to providing a sport and work environment which promotes equal opportunities and prohibits discriminatory practices.
2. Harassment is a form of discrimination. Harassment is prohibited by human rights legislation.
3. Harassment is offensive, degrading and threatening. In its most extreme forms, harassment can be an offense under Canada's Criminal Code.

Application

4. This policy applies to all Ontario Speed Skating Association employees as well as to all directors, officers, volunteers, coaches, athletes, and officials and members of the Ontario Speed Skating Association. It applies to harassment which may occur during the course of all Ontario Speed Skating Association business, competitions, activities and events.

Definitions

5. The following terms have these meanings in this Policy:
 - a. Complainant refers to the person, who experiences harassment,
 - b. Respondent refers to the person against whom a complaint is made.
6. Harassment can generally be defined as comment or conduct, directed toward an individual or group of individuals, which is insulting, intimidating, humiliating, malicious, degrading or offensive.
7. Types of behaviour that constitute harassment include, but are not limited to:
 - a. written, physical or verbal abuse, threats, or outbursts
 - b. the display of visual material which is offensive or which one ought to know is offensive in the circumstances
 - c. unwelcome remarks, jokes, comments, innuendo, or taunts
 - d. leering or other suggestive or obscene gestures
 - e. condescending or patronizing behaviour which is intended to undermine self-esteem, diminish performance or adversely affect working conditions
 - f. practical jokes which cause awkwardness or embarrassment, endanger a person's safety, or negatively affect performance
 - g. any form of hazing where hazing is defined as "*Any potentially humiliating, degrading, abusive, or dangerous activity expected of a junior-ranking athlete by a more senior teammate, which does not contribute to either athlete's positive development, but is required to be accepted as part of a team, regardless of the junior-ranking athlete's*

willingness to participate. This includes, but is not limited to, any activity, no matter how traditional or seemingly benign, that sets apart or alienates any teammate based on class, number of years on the team, or athletic ability.”

- h. unwanted physical contact including, but not limited to, touching, petting, pinching, or kissing
 - i. unwelcome sexual flirtations, advances, requests, or invitations
 - j. physical or sexual assault
 - k. behaviours such as those described above that are not directed towards a specific individual or group but have the same effect of creating a negative or hostile environment
 - l. retaliation or threats of retaliation against an individual who reports harassment to the Ontario Speed Skating Association
8. 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:
- a. submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or
 - b. such conduct has the purpose or effect of interfering with an individual's performance; or
 - c. such conduct creates an intimidating, hostile or offensive environment.
9. Types of behaviour that constitute sexual harassment include, but are not limited to:
- a. Sexist jokes
 - b. Display of sexually offensive material
 - c. Sexually degrading words used to describe a person
 - d. Inquiries or comments about a person's sex life
 - e. Unwelcome sexual flirtations, advances, or propositions
 - f. Persistent unwanted contact

Confidentiality

10. The Ontario Speed Skating Association recognizes 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 Speed Skating Association recognizes the interests of both the complainant and the respondent in keeping the matter confidential, except where such disclosure is required by law.

Complaint Procedure

11. A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive and contrary to this policy.
12. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should put his/her complaint in writing addressed to the Executive Director of the Ontario Speed Skating Association.
13. Once the Executive Director has received the written complaint, it is his/her role to serve in a neutral, unbiased capacity in receiving the complaint and assisting in its informal resolution. If the Executive Director considers that s/he is unable to act in this capacity, the complainant shall be referred to another Ontario Speed Skating Association official.

14. There are three possible outcomes to this meeting of the complainant and Executive Director/official:
 - a. It may be determined that the conduct does not constitute harassment as defined in this policy, in which case the matter will be closed;
 - b. The complainant may decide to pursue an informal resolution of the complaint, in which case the official will assist the two parties to negotiate an acceptable resolution of the complaint; or
 - c. There is evidence the conduct may constitute harassment and the complainant decides to lay a formal written complaint. The complaint should be submitted to the Ontario Speed Skating Association's President. The President of the Ontario Speed Skating Association shall appoint an independent individual or investigator to conduct an investigation of the complaint.
15. Ideally, the Investigator should be a person experienced in harassment matters and investigation techniques. S/he shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to the President.
16. The President may determine that the alleged conduct is of such seriousness as to warrant suspension of the individual from the Ontario Speed Skating Association pending the hearing and decision of the Case Review Panel.
17. Within 5 business days of receiving the written report of the Investigator, the President shall appoint three individuals to serve as a Case Review Panel.
18. At the discretion of the President, the investigation may be waived and a three person panel appointed within 5 business days of receipt of a formal complaint.

Hearing

19. The Case Review Panel shall hold the hearing as soon as possible, but not more than 10 business days, after the incident report is first received by the Executive Director.
20. The Case Review Panel shall govern the hearing as it sees fit, provided that:
 - a. members of the Panel shall select from among themselves a Chairperson;
 - b. a quorum shall be all three panel members.
 - c. if a majority vote decision is not possible, the decision of the chairperson will be the decision of the panel the Parties may be accompanied by a representative;
 - d. the hearing shall be held in camera;
 - e. the Respondent shall be given 5 business days written notice (by courier or email) of the day, time and place of the hearing.
 - f. the Respondent shall receive a copy of the formal complaint;
 - g. the Complainant and Respondent shall each receive a copy of the Investigator's report;
 - h. both the Complainant and Respondent shall be present at the Hearing to respond to the Investigator's report, give evidence and to answer questions of the Panel.
 - i. the Hearing shall proceed in the absence of either or both parties;
 - j. the questioning of witnesses by the respondent and the complainant will be at the discretion of the Panel.
 - k. the Investigator may attend the Hearing at the request of the Panel;
 - l. the Panel may request that witnesses to the incident be present or submit written evidence;

- m. once appointed, the Panel shall have the authority to abridge or extend time lines associated with all aspects of the Hearing.
21. In order to keep costs to a reasonable level, the Panel may conduct the Hearing by means of a conference call or video conference.
 22. Within 10 business days of the hearing, the Case Review Panel shall present its findings in a report to the Executive Committee, which shall contain:
 - a. a summary of the relevant facts;
 - b. a determination as to whether the acts complained of constitute harassment as defined in this policy;
 - c. recommended disciplinary action against the respondent, if the acts constitute harassment; and
 - d. recommended measures to remedy or mitigate the harm of loss suffered by the complainant, if the acts constitute harassment.
 23. The Executive Director shall, without delay, send by registered mail to both the complainant and the respondent, a letter outlining the Case Review Panels report and the decision of the Ontario Speed Skating Association.
 24. Where the investigation does not result in a finding of harassment, a copy of the report of the Case Review Panel shall be filed with the Ontario Speed Skating Association. These files shall be kept confidential and access to them shall be restricted to the Executive Committee, and the Executive Director.
 25. 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.
 26. If the Panel determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, its report may recommend disciplinary action against the Complainant.

Discipline

27. When determining appropriate disciplinary action and corrective measures, the Case Review Panel shall consider factors such as:
 - a. the nature and severity of the harassment
 - b. whether the harassment involved any physical contact
 - c. whether the harassment was an isolated incident or part of an ongoing pattern;
 - d. the nature of the relationship between complainant and harasser;
 - e. the age of the complainant;
 - f. whether the harasser had been involved in previous harassment incidents;
 - g. whether the harasser admitted responsibility and expressed a willingness to change; and
 - h. whether the harasser retaliated against the complainant.
28. In recommending disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the severity of the harassment:

- a. a verbal apology
- b. a written apology
- c. a letter of reprimand from the OSSA
- d. a fine or levy
- e. referral to counseling
- f. removal of certain privileges of membership or employment;
- g. demotion or a pay cut;
- h. temporary suspension with or without pay;
- i. termination of employment or contract; or
- j. expulsion from membership.

Appeal

29. Both the Complainant and Respondent shall have the right to appeal the decision and recommendations of the Panel.
30. A notice of intention to appeal, along with grounds for the appeal, must be provided to the Ontario Speed Skating Association's Executive Committee within 10 business days of the complainant or respondent receiving the Panel's report.
31. Permissible grounds for an appeal are:
 - a. the Panel did not follow the procedures laid out in this policy;
 - b. members of the Panel were influenced by bias; or
 - c. the panel reached a decision which was grossly unfair or unreasonable.
32. In the event that a notice of appeal is filed, the Executive Committee shall appoint an appeal body consisting of a minimum of three persons of whom at least one shall be a woman and at least one shall be a man. These individuals must have no significant personal or professional involvement with either the complainant or respondent and no prior involvement in the case.
33. 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 reports of the investigator, the Case Review Panel, and the notice of appeal.
34. Within ten days of its appointment, the appeal body shall present its findings in a report to the Ontario Speed Skating Association's Executive Committee. The appeal body shall have the authority to uphold the decision of the panel, to reverse the decision of the panel, and/or to modify any of the panel's recommendations for disciplinary action or remedial measures.
35. A copy of the Ontario Speed Skating Association's final report shall be provided, without delay, to the complainant and respondent.