

DISCRIMINATION AND HARASSMENT POLICY**Index**

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Harassment - Policy Statement

The Ontario Curling Association is committed to creating and maintaining a sport environment which is free from discrimination and harassment on prohibited grounds, including race, ancestry, place of origin, colour, ethnic origin, citizenship, political opinion, creed, sex, sexual orientation, disability, age, marital/family status, language and any other discrimination or harassment prohibited by applicable law.

Harassment - Guidelines – Definitions

“Ontario Curling Association Participants”

These guidelines apply to all Ontario Curling Association participants, which include all persons engaged in any paid or volunteer capacity with the Ontario Curling Association or otherwise under the jurisdiction of the Ontario Curling Association. Without limiting the reach of the guidelines, the Ontario Curling Association participants include:

- a) all athletes eligible for nomination to, or forming part of , any team participating in sport competitions over which the Ontario Curling Association has jurisdiction;
- b) all persons working with those teams or athletes, including coaches, medical and paramedical personnel, and other support persons;
- c) Ontario Curling Association employees and persons under contract with the Ontario Curling Association; and
- d) Ontario Curling Association Board Members, members and volunteers.

The Ontario Curling Association Policy and these guidelines apply to the Ontario Curling Association participants at all times, during the course of their work in sport and also during other activities where their conduct may affect the sport environment.

“Person In Authority”

A person in authority is any Ontario Curling Association participant in a position of authority over, or trusted by, a person who may be experiencing discrimination or harassment, and can include such persons as team leaders, coaches, trainers, medical or paramedical personnel, parents or other volunteers and supervisors.

“Discrimination”

Discrimination is any distinction, whether intentional or not but based on prohibited grounds, which has the effect of imposing burdens, obligations or disadvantages on an individual that are not imposed on others, or which withholds or limits access to opportunities, benefits and advantages available to others.

The prohibited grounds of discrimination under the Ontario Curling Association Policy are as follows:

- a) ancestry
- b) citizenship
- c) colour
- d) creed
- e) disability
- f) ethnic origin
- g) language (but not where a language is a qualification for employment or office)

- h) marital/family status (defined to include common law relationships, and to not preclude anti-nepotism policies)
- i) place of origin
- j) political opinion
- k) race
- l) sex (defined to include pregnancy)
- m) sexual orientation

The Ontario Curling Association Policy also applies to any other ground of discrimination prohibited by applicable law.

Nothing in the Ontario Curling Association Policy or these guidelines affects the rules of the sport or the selection of teams based on performance.

“Harassment”

Harassment is a form of discrimination, and refers to conduct associated with a prohibited ground that affects the sport environment or leads to adverse consequences within that environment for the person(s) experiencing the harassment, which the perpetrator knew or ought reasonably to have known would be unwelcome.

Harassment can take many forms but generally involves conduct, comment or display that is insulting, intimidating, humiliating, hurtful, demeaning, belittling, malicious, degrading or otherwise causes offence, discomfort, or personal humiliation or embarrassment to a person or group of persons.

Examples of harassment include:

- a) unwelcome remarks, jokes, nicknames, innuendo, or taunting linked to a prohibited ground, such as a person’s age, sexual orientation, race ancestry, political opinions, etc.;
- b) written or verbal abuse or threats linked to a prohibited ground;
- c) racial or ethnic slurs;
- d) displays which may cause offence and are related to prohibited grounds, such as sexual, racial, ethnic or religious posters or graffiti;
- e) use of terminology that reinforces stereotypes based on prohibited grounds;
- f) vandalism or physical assaults motivated by prohibited grounds; and
- g) condescension, paternalism or patronizing behavior linked to prohibited grounds which undermines self-respect or adversely affects performance or working conditions.

Discipline in 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:

- a) set and communicate non-discriminatory performance standards, selection criteria, rules and regulations to all participants;
- b) ensure that training involving touching or other physical contact occurs in an appropriate setting and only after informed consent has been sought and received;
- c) be consistent in taking any corrective or punitive action without discrimination or harassment based on prohibited grounds; and
- d) use non-discriminatory terminology; address individuals by name and avoid the use of derogatory slang or offensive terms.

“Sexual Harassment”

Sexual harassment is unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature or related to a person’s sex when:

- a) submitting to or rejecting this conduct can affect decisions about the individual;
- b) the conduct has the purpose or effect of interfering with the individual’s performance;
- or
- c) the conduct detrimentally affects the environment.

Specific examples can include:

- a) criminal conducts such as stalking, and physical or sexual assault or abuse;
- b) inappropriate comments about a person’s body or appearance;
- c) inquiries or comments about an individual’s sex life, sexual preferences, etc.;
- d) leering or other obscene or suggestive gestures;
- e) promises or threats contingent on the performance of sexual favors;
- f) sexual/sexist graffiti or any displaying of sexually explicit material or pictures;
- g) unwanted physical contact including touching, kissing, patting and pinching;
- h) unwelcome flirtation, sexual remarks, invitations or requests whether indirect or explicit; and
- i) use of inappropriate or derogatory sexual terms

“Reprisals”

Reprisals or threats of reprisal are an aggravating factor in any situation involving discrimination or harassment, particularly where the reprisal or threat of reprisal is by a person in authority.

Examples of reprisal include:

- a) acts of retaliation designed to punish an individual who has reported discrimination or harassment; and

- b) threats of retaliation designed to dissuade an individual from reporting discrimination or harassment.

In sexual harassment situations, reprisals can also include:

- a) acts of retaliation to punish an individual who has rejected sexual advances; and
- b) threats of retaliation if sexual advances are rejected.

For the purpose of these guidelines, the making of a groundless complaint shall also be deemed a reprisal.

“Condonation”

If a person in authority knows or, should reasonably have known that discrimination or harassment may have occurred and fails to take appropriate action, the person in authority has condoned the discrimination or harassment and may be subject to sanctions under these guidelines.

Harassment - Guidelines – Prevention and Intervention

Prevention and intervention are key to achieving a sport environment free of discrimination and harassment. The Ontario Curling Association must present a positive role model. The Ontario Curling Association participants should:

- a) communicate the Ontario Curling Association's objective to create and maintain a sport environment free of harassment and discrimination;
- b) exercise good judgement and initiate appropriate action in consultation with an Ontario Curling Association resource person, if they become aware that discrimination or harassment may have occurred; and
- c) follow-up in consultation with an Ontario Curling Association resource person if discrimination or harassment is suspected or rumoured, appreciating that individuals who experience discrimination or harassment are often reluctant to report it.

Harassment - Guidelines - Complaint Procedure

Receiving Reports

All Ontario Curling Association participants are encouraged to report suspected discrimination or harassment. Such reports may be made to the Executive Director.

Assistance For Complainants

A complainant may request the assistance of an Ontario Curling Association resource person in understanding these guidelines, in pursuing resolution short of lodging a complaint if appropriate, and in formulating the written complaint. The Ontario Curling Association resource person shall refer the complainant to counselling upon request, and may explore the possibility of alternative forms of dispute resolution with the complainant following the complaint, if appropriate.

Should a complainant choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the complainant's own expense.

The Complaint

Although anyone may report discrimination or harassment, a complaint may be made only by persons affected by the alleged discrimination or harassment, or by the Executive Director on behalf of the Ontario Curling Association.

A complaint shall be in writing, and signed by the complainant or by the Executive Director if the complaint is brought on behalf of the Ontario Curling Association. The complaint shall be submitted to the Executive Director.

The complaint should include particulars of the discrimination or harassment, including details of the incident or incidents, including dates, times, locations, description of action, account of dialogue, the name of the perpetrator(s) and any witnesses or names of other individuals who may also have experienced discrimination or harassment. The complaint should detail any corrective action taken to date.

The parties to a complaint are the Ontario Curling Association, the respondent(s) and the complainant(s), if any. The complainant may withdraw the complaint at any time. However, such a complaint may be continued by the Executive Director on behalf of the Ontario Curling Association, if the Ontario Curling Association does not consent to the withdrawal.

Processing The Complaint

The person responsible for processing the complaint (hereinafter the “Ontario Curling Association Official”) may vary, as follows:

- a) Where a complaint involves conduct by a person under contract to, the Ontario Curling Association, other than the Executive Director, the Ontario Curling Association’s Official shall be the Executive Director.
- b) In all other cases, the Ontario Curling Association’s Official shall be the President (or where a complaint involves conduct by the President, an alternate appointed by the Ontario Curling Association’s Board of Directors to perform the Chair’s functions under these guidelines). However, the President (or alternate) may delegate part or all of the President’s (or alternate’s) responsibilities under these guidelines to the Executive Director or, except where a complaint is by or against the Executive Director.

In all other cases, the Ontario Curling Association Official shall investigate the complaint or appoint and provide terms of reference to an investigator who shall investigate the complaint and make findings of fact.

Before the investigation begins, the Ontario Curling Association Official shall advise each respondent of the complaint and shall provide each complainant and respondent of a copy of the written complaint, of the Ontario Curling Association Policy and these guidelines, and of the investigator’s terms of reference, if any.

Before the investigation report is issued, each respondent shall have reasonable opportunity to respond to the allegations. If a respondent declines to do so, or does not respond within the time-frame provided, the investigator’s report may nonetheless be issued.

All Ontario Curling Association participants, including the respondent(s), must cooperate fully in any investigation under these guidelines.

The Ontario Curling Association Official may consult with the investigator during the course of the investigation, may review the investigation report in draft and may provide additional terms of reference to, or request clarification from, the investigator.

A copy of the investigation report shall be provided to the complainant(s) and the respondent(s).

Assistance To Respondents

A respondent may request the assistance of a Ontario Curling Association resource person without previous involvement in the complaint in understanding these guidelines. The Ontario Curling Association resource person shall refer the respondent to counselling upon request, and may explore the possibility of alternative forms of dispute resolution with the respondent.

Should a respondent choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the respondent's own expense.

Determinations Following Investigation

The Ontario Curling Association Official shall determine whether discrimination or harassment has been established in light of the findings of fact contained in the investigation report, and if so, the nature and particulars of the discrimination or harassment. The Ontario Curling Association Official's determinations shall be communicated to the complainant(s) and the respondent(s).

Settlement

A complaint may be settled at any stage. A resolution agreement should be in writing and signed by all parties.

Mediation

The Ontario Curling Association may provide a mediator, if the Ontario Curling Association Official views mediation as appropriate and if the complainant and respondent are willing to enter a mediation agreement.

Harassment - Guidelines - Sanctions

The Ontario Curling Association Official shall have the authority to impose sanctions, if warranted, in light of the determinations.

The complainant(s) and the respondent(s) shall be given a reasonable opportunity to make submissions to the Ontario Curling Association Official prior to the imposition of sanctions.

Sanctions may include, but are not limited to:

- a) temporary or permanent suspension from employment with Ontario Curling Association or from participation in some or all of the competitions or activities over which Ontario Curling Association has jurisdiction (hereinafter collectively referred to as “Ontario Curling Association activities”);
- b) the imposition of such temporary or permanent conditions on continued employment with Ontario Curling Association, or participation in Ontario Curling Association activities as the Ontario Curling Association Official may view as appropriate in the circumstances; or
- c) the issuance of a warning and /or reprimand.

The Ontario Curling Association Official shall provide the complainant(s) with such information about any sanctions imposed as is appropriate in the circumstances.

Should any sanction that the Ontario Curling Association Official views as appropriate require a resolution to be passed by the Ontario Curling Association Board, the Ontario Curling Association Official shall take such action as is appropriate to have the matter placed before the Board for its consideration, but the matter will not be considered prior to any appeal under these guidelines.

Harassment - Guidelines - Interim Measures

The Ontario Curling Association Official may impose interim measures pending the investigation and disposition of a complaint, if the Ontario Curling Association Official is of the view that the imposition of such measures is in the best interest of the complainant(s), respondent(s) and/or Ontario Curling Association.

Interim measures are not sanctions, and they may take many forms, including but not limited to:

- a) the imposition of conditions upon the continued participation of the respondent(s) in the activities or work of the Ontario Curling Association;
- b) suspension of the respondent(s) from participation in the activities or work of the Ontario Curling Association, with or without pay, or under such other terms as are seen to be appropriate; or
- c) security arrangements.

Harassment - Guidelines - Appeals

Grounds For Appeal By Respondents

A respondent may appeal to the Board of Directors of the Ontario Curling Association from the Ontario Curling Association Official's determination(s) on the following grounds only:

- a) that the investigation was conducted in an unfair or biased manner contrary to the rules of natural justice;
- b) that the findings of fact contained in the investigation report are insufficient to support a determination that discrimination or harassment has been established.

In an appeal by the respondent from the Ontario Curling Association Official's determination(s), the complainant shall be entitled to participate as a respondent in the appeal.

A respondent may also appeal to the Board of Directors from the sanction(s) imposed or recommended following a complaint. In such an appeal, the complainant shall be advised by the Ontario Curling Association Official that an appeal has been filed, and shall be entitled to make written representations, but shall not be entitled to participate as a respondent in the appeal.

There shall be no appeal from any finding of fact contained in the investigation report.

Grounds For Appeal By Complainants

A complainant may appeal to the Board of Directors of the Ontario Curling Association from the Ontario Curling Association Official's determination(s) on the following grounds only:

- a) that the investigation was conducted in an unfair or biased manner contrary to rules of natural justice;
- b) that the findings of fact contained in the investigation report ought to have resulted in a determination that discrimination or harassment has been established.

In an appeal by the complainant from the Ontario Curling Association Official's determination(s), the respondent shall be entitled to participate as a respondent in the appeal.

A complainant may also appeal to the Board of Directors from the Ontario Curling Association Official's decision not to deal with a complaint. In such a case, the respondent shall not be identified in the appeal and shall not be entitled to participate as a respondent in the appeal.

There shall be no appeal from any finding of fact contained in the investigation report.

Notice Of Appeal

The notice of appeal must be made in writing to the Executive Director of the Ontario Curling Association within fourteen days of the appellant receiving notice of the Ontario Curling Association Official's decision with respect to sanctions, and must state the specific grounds for the appeal.

A copy of the notice of appeal shall be promptly provided to the Board of Directors, the Ontario Curling Association Official and to every person entitled to participate as a respondent in the appeal.

The Hearing

The following persons may appear before the Board of Directors at its in camera hearing and make representations in the appeal:

- a) the appellant(s);
- b) any person entitled to participate as a respondent in the appeal; and
- c) any other person invited by the Board of Directors to make representations.

No member of the Board of Directors having had any personal involvement in the complaint, or who is otherwise in conflict of interest, shall participate in the deliberations of decision in the appeal.

Disposition Of An Appeal

The Board of Directors deliberations shall take place in camera. The appellant(s), respondent(s) if any and the Ontario Curling Association Official shall not be present during the deliberations.

The Board of Directors, by a majority of votes cast, may:

- a) dismiss the appeal
- b) substitute its own determination for the determination under appeal;
- c) substitute a sanction for the sanction under appeal; or
- d) remit the complaint for further investigation and/or for re-determination in accordance with its directions.

The Board of Directors shall provide reasons for its disposition. Minority and dissenting reasons may also be provided.

A copy of the reasons shall be provided to the appellant and to any respondent in the appeal.

Appeal Summaries

A summary of each appeal and the reasons for disposition shall be published annually in such a form as to protect the identities of the individuals involved.

Harassment - Guidelines - Record Keeping

The Executive Director shall keep a secure record of every report and complaint under these guidelines. The record shall contain all relevant documentation, including:

- a) details of the report(s) and/or a copy of the complaint(s);
- b) the response(s), if any;
- c) the terms of reference of the investigator, if any
- d) the interim measures, if any;
- e) any witness statements;
- f) the investigation report, if any;
- g) the terms of any informal resolution or written resolution agreement;
- h) the official's determinations, if any;
- i) the sanctions imposed, if any;
- j) all other correspondence;
- k) any appeal(s) filed;
- l) any material pertaining to an appeal; and
- m) any minutes of the Board of Directors.

Harassment - Guidelines - Confidentiality

To the extent possible, reports, complaints, witness statements and other documents produced under these guidelines shall be held in confidence by the Ontario Curling Association.

However, no absolute guarantees of confidentiality may be made by the Ontario Curling Association. Circumstances in which information may be shared include:

- a) when criminal conduct may be involved;
- b) when child abuse may have occurred;
- c) when it is felt to be necessary to protect others from harassment or discrimination;
- d) when required to ensure fairness or natural justice in the procedures contemplated by these guidelines;
- e) in the course of an investigation by a law enforcement agency;
- f) to protect the interests of the Ontario Curling Association; or
- g) when required by law.