

# Section 16.0 - HARASSMENT

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## Procedure 1.0 – General

### 1.0 DEFINITIONS:

The following terms have these meanings in this Policy:

- a) “Complainant” – The Party alleging an infraction
- b) “Respondent” – The alleged infracting Party
- c) “Days” – Days including weekend and holidays

### 1.1 Harassment can generally be defined as a comment or conduct, directed towards an individual, group of individuals or OSA organization as a whole, which is insulting, intimidating, humiliating, malicious, degrading or offensive. Types of behavior which constitute harassment include, but are not limited to:

- a) Written or verbal abuse or threats;
- b) A display or the display of visual material which is offensive or which one ought to know is offensive;
- c) Unwelcome remarks, jokes, comments, innuendo or taunting about a person’s looks, body, attire, age, race, religion, ability, gender or sexual orientation;
- d) Leering or other suggestive or obscene gestures;
- e) Condescending, paternalistic or patronizing behavior 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;
- h) Unwanted physical contact including touching, petting, pinching or kissing;
- i) Unwelcome sexual flirtations, advances, requests or invitations;
- j) Physical or sexual assault;
- k) Behaviors such as those described above that are not directed towards individuals or groups but have the same effect of creating a negative or hostile environment;
- l) Retaliation or threats of retaliation against an individual who reports harassment; or
- m) Retaliation or threats against an individual based on difference of opinion.

### 1.2 For the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors 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.

## Procedure 2.0 – Application

- 2.1 This policy applies to all categories of members in the OSA as well as to all OSA, directors, officers, committee members, volunteers, coaches, team officials, players, game officials, and registrants of the OSA.
- 2.2 This policy applies to harassment that may occur during the course of all OSA business, activities, and events and when such harassment adversely affects relationships within the OSA’s work and sport environment.
- 2.3 Harassment complaints arising within the business, activities, or events organized by entities other than the OSA will be dealt with pursuant to the policies of these other entities unless accepted by the OSA at its sole discretion.
- 2.4 This policy will not prevent a person in authority to take immediate, informal correct disciplinary action in response to behavior that, in their view, constitutes harassment.

## Procedure 3.0 – Confidentiality

### 3.1 Confidentiality:

The OSA 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 OSA recognizes the interests of both the Complainant and the Respondent in keeping the matter confidential, except where such disclosure is required by law, upon the conclusion of the matter or is in the best interest of the public.

## Procedure 4.0 – Harassment Complaint Procedure

- 4.1 Any individual may report any complaint of harassment to the OSA. Such a complaint must be in writing and signed, and must be filed within sixty (60) days of the alleged incident. Anonymous complaints may be accepted at the sole discretion of the OSA.
- 4.2 A Complainant wishing to file a complaint outside of the sixty (60) day period must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the complaint outside of the sixty (60) day period will be at the sole discretion of the OSA Harassment Administrator. This decision may not be appealed.
- 4.3 At the OSA's discretion, the OSA may act as the complainant and initiate the complaint process under the terms of this Policy. In such cases, the OSA will identify an individual to represent the OSA.
- 4.4 Prior to filing a complaint, a person who experiences harassment is encouraged to make it known to the harasser that the behavior 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 can request a meeting with an OSA Harassment Administrator.  
Once contacted by a Complainant, the role of the Harassment Administrator is to receive the complaint. If the Harassment Administrator considers that he or she is unable to act in this capacity, the Complainant will be referred to another OSA staff person.
- 4.5 There are three possible outcomes of the Harassment Administrator's review of the complaint:
  - a) It may be determined by the Harassment Administrator that the conduct does not constitute harassment as defined in this policy, in which case the matter will be closed or referred to another governing organization; or
  - b) The Complainant may decide to pursue an informal resolution of the complaint, in which case the Harassment Administrator will assist the complainant and respondent to negotiate an acceptable resolution of the complaint.
  - c) It may be determined that the harassment complaint put forth warrants a hearing to further investigate the issue
- 4.6 The Harassment Administrator may determine that the alleged conduct is of such seriousness as to warrant suspension of the individual from OSA pending the hearing and decision, or the completion of a criminal process.
- 4.7 Harassment complaints occurring within competitions may be dealt with immediately, if necessary, by an OSA representative in a position of authority, provided the individual being disciplined is told the nature of the infraction, and has an opportunity to provide information concerning the incident. In such situations, sanctions will be for the duration of the competition only. Further sanctions may be applied but only after review of the matter in accordance with the procedures set out in this policy.

## Procedure 5.0 – Harassment Hearing

- 5.1 If the harassment complaint warrants a hearing as per Operational Procedure 4.5(c), the Harassment Administrator will establish a Panel consisting of 1-3 Adjudicators to hear the complaint.
- 5.2 The Harassment Administrator, in consultation with the Panel (if necessary), will determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by telephone, a hearing based on written submissions or a combination of these methods. The hearing will be governed by the procedures that the Harassment Administrator and the Panel deem appropriate in the circumstances, provided that:
  - a) The hearing will be held within the appropriate timeline determined by the Harassment Administrator.
  - b) The Parties will be given appropriate notice of the day, time and place of the hearing.
  - c) Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing.
  - d) Both Parties may be accompanied by a representative or adviser, including legal counsel at their own expense.
  - e) The Panel may request that any other individual participate and give evidence at the hearing.
  - f) The decision will be by a majority vote of Panel members

## Procedure 6.0 – Decision

- 6.1 After hearing the matter, the Panel will determine whether harassment has occurred and if so what appropriate sanction will be imposed. The Panel's written decision, with reasons, will be distributed to all parties, the Harassment Administrator and the OSA within fourteen (14) days of the conclusion of the hearing. The decision will be considered a matter of public record unless decided otherwise by the Panel.
- 6.2 Where the Respondent acknowledges the facts of the incident, he or she may waive the hearing, in which case the Panel will determine the appropriate sanction. The Panel may hold a hearing for the purpose of determining an appropriate sanction.
- 6.3 If the Respondent chooses not to participate in the hearing, the hearing will proceed in any event.
- 6.4 In fulfilling its duties, the Panel may obtain independent advice.

## Procedure 7.0 – Sanctions

- 7.0 The Panel may apply the following disciplinary sanctions singly or in combination, for major infractions:
  - a) Verbal or written warning;
  - b) Verbal or written apology;
  - c) Service or other voluntary contribution;
  - d) Removal of certain privileges;
  - e) Suspension from certain teams, events and/or activities;
  - f) Suspension from all activities for a designated period of time;
  - g) Expulsion;
  - h) Other sanctions as may be considered appropriate for the offense.
- 7.1 Unless the Panel decides otherwise, any disciplinary sanctions will commence immediately. Failure to comply with a sanction as determined by the Panel will result in automatic suspension until such time as compliance occurs.
- 7.2 A written record will be maintained by the OSA at their head office.

## Procedure 8.0 – Timelines

- 8.1 If the circumstances of the complaint are such that this policy will not allow a timely conclusion, or if the circumstances of the complaint are such the complaint cannot be concluded within the timelines dictated in this Policy, the Panel may direct that these timelines be revised.

## Procedure 9.0 – Appeals

- 9.1 The decision of the Panel may be appealed in accordance with the Canada Soccer Association's *Appeal Policy*.