

# Ontario Weightlifting Association Harassment Policy

## Preamble

Freedom from harassment is a basic human right. Harassment is a form of discrimination, which is prohibited by the Canadian Charter of Rights and Freedoms and by the human rights legislation in every province and territory in Canada. In its extreme forms, harassment can be an offence under Canada's Criminal Code.

Behavior, which constitutes harassment, has been defined broadly by Canadian courts and includes behavior, which creates a hostile environment for others. It is important to note that the test of such behavior is from the perspective of the complainant. It is the impact, and not the intent, of such behavior, which is relevant.

Whether the harasser is a director, coach, technical official, volunteer, parent, or athlete, harassment is an attempt by one person to assert power over another. This assertion of power may be explicitly and clear, as when the harasser is in a position of authority over the complainant. It may also be a subtle expression of power rooted in the relative positions in society held by harasser and complainant. Behavior constituting harassment may be one clear incident, or it may be the accumulation of repetitive unwelcome acts, comments, gestures, or other such behavior. In any manifestation, harassment cannot be tolerated.

## Policy

- a) The Ontario Weightlifting Association (OWA) 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 in an environment, which promotes equitable opportunities and prohibits discriminatory practices.

The OWA is committed to providing a sport environment free of harassment on the basis on race, nationality or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, prison conviction or other forms of discrimination.

- b) This policy applies to directors, volunteers, athletes, coaches, technical officials, and including, but not limited to, members of OWA. OWA encourages the reporting of all incidents of harassment.
- c) This policy applies to harassment, which may occur during the course of all OWA business, activities, and events. It also applies to harassment between individuals associated with OWA but outside OWA business, activities, and events when such harassment adversely affects relationships with OWA work and sport environment.

- d) 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**

- a) Harassment takes place in many forms but can generally be defined as comment, conduct, or gesture (through any medium) directed toward an individual or group of individuals, which is abusive, racist, sexist, insulting, intimidating, humiliating, malicious, degrading or offensive. Harassment may occur between peers (e.g.: athlete to athletes in the same age group, parent to technical official, coach to coach) or between someone in a position of power or authority and an adult in a subordinate position (e.g.: coach to athlete, administrator to volunteer, etc.)
- b) Types of behavior which constitute harassment include but are not limited to:
1. Written or verbal abuse or threats or outbursts.
  2. The display of visual material which is offensive or which one ought to know is offensive.
  3. Unwelcome remarks, jokes, comments, innuendo, or taunting about a person's looks, body, attire, age, race, religion, sex, or sexual orientation.
  4. Leering or other suggestive or obscene gestures.
  5. Condescending, paternalistic, or patronizing behavior, which undermines self-esteem, diminishes performance, or adversely affects working conditions.
  6. Practical jokes, which cause awkwardness or embarrassment, endanger a person's safety, or negatively affect performance.
  7. Unwanted physical contact including touching, petting, pinching, or kissing.
  8. Unwelcome sexual flirtations, advances, requests or invitations.
  9. Physical or sexual assault.
  10. Any form of hazing or bullying.
  11. Threats of retaliation against an individual who reports harassment.
- c) Sexual harassment, in particular, is defined as unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature when:
1. Submitting to or rejecting this conduct it is used as the basis for making decisions which affect the individual, or
  2. Such conduct has the purpose or effect of interfering with an individual's performance, or
  3. Such conduct creates an intimidating, hostile, or offensive environment.
- d) Sexual harassment can occur as behavior by one gender towards the other gender or between persons of the same gender.
- e) Retaliation against an individual for:

1. Having filed a complaint under this policy, or
2. Having participated in any procedure under this policy, or
3. 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**

- a) The OWA VP Operations, with full support of the OWA, is responsible for the implementation of this policy. In addition, the OWA VP Operations is responsible for:
  1. Discouraging and preventing harassment within OWA;
  2. Appointing, and publicizing the names of harassment officers to all members of OWA, and providing the training and resources they need to fulfill their responsibilities under this policy;
  3. Appointing unbiased case review panels and appeal bodies and providing the resources and support they need to fulfill their responsibilities under this policy;
  4. Facilitating, but not directly involved with, the investigation of formal complaints of harassment;
  5. Imposing appropriate disciplinary or corrective measures when a complaint has been sustained, regardless of the position of authority of the offender;
  6. Providing advice to persons who experience harassment;
  7. Doing all in his/her power to support and assist any member of OWA who experiences harassment by someone who is not a member of OWA;
  8. Advising all members of OWA aware of the problem of harassment, and in particular, sexual harassment and of the procedures contained in this policy;
  9. Informing both complainants and respondents of the procedures;
  10. Regularly reviewing the terms of this policy to ensure that they adequately meet the organization's legal obligations and public policy objectives.
- b) Every member of OWA has a responsibility to play a part in ensuring that the OWA sport environment is free from harassment. This includes not engaging in, allowing, condoning, or ignoring behavior contrary to policy. In addition, any member of OWA who believes that a member has experienced or is experiencing harassment is encouraged to notify a harassment officer appointed under this policy.
- c) If the OWA VP Operations is involved in a complaint, which is made under this policy, the OWA President shall appoint a suitable alternate for the purpose of dealing with the complaint.
- d) If a complaint of harassment is presented to the OWA, which may include a criminal act or acts, it is the OWA's obligation to report the complaint to the legal authorities. If a complaint is being investigated by outside authorities (Human Rights Commission, Police, etc.), that investigation will take precedence, and any OWA investigation that may be ongoing shall cease, at least until a decision is rendered.

## **Disciplinary Action**

- a) Members of the OWA against whom a complaint of harassment is substantiated may be severely disciplined, up to and including dismissal or termination of membership and withdrawal of all rights and privileges of membership, where the harassment takes the form of assault, sexual assault, or a related sexual offence.
- b) OWA understands that it can be extremely difficult for anyone to come forward with a complaint of harassment and that it can be devastating to be wrongly convicted of harassment. OWA recognizes the interests of both the complainant and the respondent in keeping the matter confidential.
- c) OWA 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, or legal obligation.

### **Harassment Officers**

- a) OWA shall appoint at least two persons, one male and one female, who themselves are members of the OWA to serve as officers under this policy. If more than two officers are appointed OWA shall ensure a gender balance.
- b) The role of the 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, harassment officers shall be responsible to the OWA VP Operations.
- c) If a complaint of harassment is presented to the OWA, which may include a criminal act or acts, it is OWA's responsibility to act.

### **Complaint Procedure**

- a) 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.
- b) If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should seek the advice of a harassment officer.
- c) If the complainant is under 18 years of age, the complainant may appoint a representative to file a complaint on his/her behalf, and to represent the complainant at hearing(s).
- d) The harassment officer shall inform the complainant of:
  - 1. The option of pursuing an informal resolution of his/her complaint;
  - 2. The right to lay a formal written complaint when an informal resolution is inappropriate or not feasible;
  - 3. The confidentiality provision of this policy;
  - 4. The right to be represented by a person of choice (including legal counsel) at any stage of the complaint process;

5. The right to withdraw from any further action in connection with the complaint at any stage (even though OWA may continue to investigate the complaint);
6. Other avenues of recourse, including the right to file a complaint with human rights commission, or, where appropriate, to contact the police to have them lay formal charges under the Criminal Code.

e) There are four possible outcomes of the initial meeting of the complainant and a harassment officer:

1. The complainant and harassment officer agrees that the conduct does not constitute harassment. As a result, the harassment officer will take no further action and there will be no written action.
2. The complainant brings evidence of harassment and chooses to pursue an informal resolution of the complaint.  
In this case:
  - 2.1 The harassment officer will assist the two 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 neutral mediator.
  - 2.2 If informal resolution yields a result, which 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.
  - 2.3 If informal resolution fails to satisfy the complaint, the complainant will reserve the option of laying a formal written complaint.
3. The complainant brings evidence of harassment and decides to lay a formal written complaint.  
In this case:
  - 3.1 The harassment officer will 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.
  - 3.2 The respondent will be given an opportunity to provide a written response to the complaint. The respondent will be encouraged to seek independent advice in preparing their written response if required.
4. The complainant brings evidence of harassment but does not wish to lay a formal complaint.  
In this case:
  - 4.1 The harassment officer will determine if the alleged harassment warrants a report to outside authorities or should be pursued internally.

- 4.2 If the harassment officer determines that the evidence and surrounding circumstances require a formal written complaint, to outside authorities or internally, the harassment officer will issue a formal written complaint and without delay, provide copies of the complaint to the complainant and the respondent.

### **Investigation Procedure**

- a) As soon as possible after receiving the written complaint, but within 21 days, a panel must be struck to determine if the complaint is frivolous or warrants investigation. This panel consists of one or more people and does not include the VP Operations or harassment officer that assisted in the preparation of the written complaint. The panel then determines:
1. No further action is taken because the complaint is unfounded or the conduct cannot reasonably be said to fall with this policy's definition.
  2. The complaint should be investigated further.

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

- b) In the event that the panel's recommendation is to proceed with an investigation, the OWA VP Operations shall within 14 days appoint three members of OWA to serve as a case review panel. This panel shall consist of at least one woman and one man.

To ensure freedom from bias, no member of the panel shall have any significant personal or professional relationship with either the complainant or the respondent. Proceedings of a fair hearing will include:

1. Decision-makers are disinterested in the case;
  2. Decision-makers are unbiased;
  3. Timely;
  4. Full disclosure;
  5. Full opportunity to be heard;
  6. Written decision.
- c) Within 21 days of the appointment, the case review panel shall convene a hearing. The hearing shall be governed by such procedures as the panel may decide, provided that:
1. The complainant and respondent shall be given 14 days' notice, in writing, of the day, time, and place of the hearing.
  2. Members of the panel shall select a Chairperson from among themselves.
  3. A quorum shall be all three panel members.
  4. Decisions shall be by majority vote. If a majority vote is not possible, the decision of the Chairperson will be the decision of the panel.

5. The hearing shall be held “in camera”.
  6. 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 or representative does not appear, the matter will be dismissed (unless the complainant decided not to lay a formal complaint, but the officer concluded that the evidence and surrounding circumstances were such as to require a formal written complaint). If the respondent does not appear, the hearing will proceed.
  7. The complainant and respondent may be accompanied a representative or advisor.
- d) Within 14 days of the hearing, the case review panel shall present its findings in a report to the OWA VP Operations, which shall contain:
1. A summary of the relevant facts;
  2. A determination as to whether the acts complained of constitute harassment as defined by this policy;
  3. Recommended disciplinary action against the respondent, if the acts constitute harassment;
  4. Recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.
- e) If the panel determines that the allegations of harassment are false, vexatious, retaliatory, or unfounded, their report shall recommend disciplinary action against the complainant evidence.
- f) A copy of the report of the case review panel shall be provided, without delay, to both the complainant and the respondent.
- g) When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such as:
1. The nature of the harassment;
  2. Whether the harassment involved any physical contact, while recognizing that emotional damage is often as serious physical damage;
  3. Whether the harassment was an isolated incident or a part of an ongoing pattern;
  4. The nature of the relationship between the complainant and the harasser;
  5. The age of the complainant;
  6. Whether the harasser has been involved in any previous harassment incidents;
  7. Whether the harasser has admitted responsibility, shown remorse, and expressed a willingness to change;
  8. Whether the harasser retaliated against the complainant.
- h) In recommending disciplinary sanctions, the panel may consider the following options, singly or in combination, depending on the severity of the harassment:
1. A verbal apology;
  2. A written apology;

3. A letter of reprimand from OWA;
  4. A fine or levy;
  5. Referral to counseling;
  6. Removal of privileges of membership;
  7. Demotion;
  8. Temporary suspension;
  9. Expulsion from membership.
- i) Where the investigation does not result in the 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 OWA VP Operations.
- j) When the investigation results in a finding of harassment, a copy of the report of the case review shall be placed in the 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.

#### **Procedure Where a Person Believes That a Colleague Has Been Harassed**

Where a person believes that a colleague has, or is, experiencing harassment and reports this belief to a harassment officer, the officer shall meet with the person who said to have experienced harassment and shall then proceed in accordance with the complaint procedure steps outlined previously.

#### **Appeals**

- a) Both the complainant and the respondent shall have the right to appeal the decision and recommendations of the case review panel. A notice of intention to appeal, along with the grounds for the appeal, must be provided to the Chairperson of the case review panel with 14 days of the complainant or the respondent receiving the panel's report.
- b) Permissible grounds for appeals are:
1. The panel did not follow the procedures laid out in this policy;
  2. Members of the panel were influenced by bias;
  3. The panel reached a decision, which was unfair or unreasonable.
- c) The OWA Appeal Policy is the reference document for all appeals.
- d) The decision of the appeal body shall be final, although the complainant can still go to outside agencies if they so wish.