

OMHA Discipline Policy

11.0 RISK MANAGEMENT

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Harassment and Abuse Policy

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.

11.1 Policy Statement

- a) The Ontario Minor Hockey Association (OMHA) is committed to providing a sport and work environment which promotes equal opportunities and prohibits discriminatory practices.
- b) Harassment is a form of discrimination. Harassment is prohibited by human rights legislation in each province of Canada. In its most extreme forms, harassment can be an offense under Canada's Criminal Code.

11.2 Application & Scope

- a) This policy applies to all categories of members in the OMHA, as well as to all individuals participating in activities of or employed by the OMHA, including, but not limited to, players, officers, convenors, committee members, team managers, trainers, administrators and employees.
- b) This policy applies to harassment which may occur during the course of all OMHA business, activities and events, including but not limited to competitions, team practices, training camps, exhibitions, meetings and travel associated with these activities.

11.3 Definition of Harassment and Bullying

- a) Harassment is defined as conduct which is insulting, intimidating, humiliating, offensive or physically harmful. Types of behavior which constitute harassment include, but are not limited to:
 - Unwelcomed jokes, innuendo or teasing about a person's looks, body, attire, age, race, religion, sex or sexual orientation
 - Condescending, patronizing, threatening or punishing actions which undermine self-esteem or diminish performance
 - Practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance
 - Unwanted or unnecessary physical contact including touching, patting or pinching
 - Any form of hazing
 - Any form of physical assault or abuse
 - Any sexual offence
 - Behaviors such as those described above which are not directed towards individuals or groups but which have the effect of creating a negative or hostile environment
- b) Bullying is defined as intentionally hurting someone in order to insult, humiliate, degrade or exclude him or her. Basically it is "mean" behaviour. Bullying is:
 - hurting behaviours based on oppression and "meanness"
 - based on power differentials
 - intentionally harmful
 - intense and long in duration
 - repeated over time (generally)
 - oppressive – isolates victims
 - caused by many factors and behavioural challengesHurtful actions may be:

- i) Physical – ie: hitting, kicking, grabbing, shoving, spitting on, beating others up, damaging or stealing another person’s property
- ii) Verbal – ie: name-calling, humiliating, degrading behaviour, hurtful teasing, threatening someone (this may happen in notes or in person, over the phone, through text messages or a chat room)
- iii) Relational – ie: making others look foolish, excluding peers, spreading gossip or rumours (this may happen in person, over the phone or through the computer)

11.4 Abuse and Neglect of Minors

- a) When any person in authority has a reasonable belief that in the course of OMHA business, activities or events a minor is being abused or neglected, he or she shall report this belief to Ontario child protection authorities or Police and shall advise the Executive Committee of having made this report.
- b) The OMHA shall take no further action until such time as the authorities and/or police have concluded their investigation.
- c) The matter shall then be dealt with as a disciplinary matter pursuant to this policy, and the report of the investigation carried out by authorities may be used as evidence under these proceedings.

11.5 Confidentiality

The OMHA recognizes the sensitive and serious nature of harassment and will strive to keep all matters relating to a complaint confidential. However, if required by law to disclose information, the OMHA will do so. This shall not preclude publication of the final outcome of any matter, where a sanction imposed under this policy includes publication.

11.6 Complaint

- a) A person who experiences harassment, any person who witnesses harassment, or any person who believes that harassment has occurred is encouraged to make it known that the behavior is unwelcome, offensive and contrary to the values of the OMHA and this policy.
- b) If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the matter should be reported to an official of the OMHA. For the purposes of this policy, an "official" may be a member of the OMHA Executive Committee, a Convenor, the Executive Director, or the Chairperson of any OMHA Standing Committee.
- c) Once an incident is reported, the role of the official is to serve in a neutral, unbiased capacity in receiving the report of the incident, advising the parents/guardians of the incident (if the person who has experienced the harassment is a minor), and assisting in an informal resolution of the complaint, where this is appropriate.
- d) If the official considers that he or she is unable to act in this capacity, the complaint shall be referred to another OMHA official.
- e) If informal resolution of the complaint is not appropriate or possible, the person who has experienced or witnessed the harassment, or who believes that harassment has occurred, may make a formal written complaint to the OMHA.

11.7 Investigation

- a) An official who receives a formal written complaint shall advise the President of the OMHA, who shall appoint an individual to conduct an investigation of the complaint. For serious matters, the investigator should be experienced in harassment matters and investigation techniques, and may be an outside professional.
- b) The investigator shall carry out the investigation in a timely manner and at the conclusion of the investigation shall submit a written report to the President.
- c) Within SEVEN days of receiving the written report of the investigator, the President shall decide if the complaint should be dealt with directly, without a hearing, in which case he or she shall direct the appropriate response and the matter shall then be concluded,

provided the person complained of is fully informed and is given an opportunity to respond to the complaint.

11.8 Referral of Complaint to Local Organization

- a) Upon receiving a complaint involving a member or members of a local minor hockey organization which is a member of the OMHA, the Executive Committee may direct that the complaint be handled by the local organization in accordance with its own procedures, or in accordance with procedures which the OMHA may direct. Furthermore, the OMHA shall monitor the complaint to ensure that is handled in an appropriate and timely manner.
- b) After a thorough internal investigation the local minor hockey organization has the power to discipline, sanction and/or suspend any team player, team official, local executive member or employee for contravention of the OMHA Code of Conduct. All sanctions and/or suspensions assessed by the local minor hockey organization must be reported to their OMHA Regional Executive Member and the OMHA Executive Director, to be kept on file.

11.9 Incidents Requiring Immediate Response

- a) This policy shall not prevent a person in authority from taking immediate, informal, corrective and appropriate disciplinary action in response to behaviour that, in his or her view, constitutes a minor instance of harassment.
- b) Harassment complaints arising during competitions may be dealt with immediately, if necessary, by an OMHA 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 shall be for the duration of the competition only. Further sanctions may be applied but only after review of the matter in accordance with this policy.
- c) In the event that an alleged offense is so serious so as to possibly jeopardize the safety of others, the Executive Committee of the OMHA may immediately remove the alleged offender from OMHA activities, pending an investigation of the complaint in accordance with this policy.

11.10 Hearing

- a) If the President of the OMHA decides that the complaint shall be dealt with by means of a hearing, he shall appoint three individuals to serve as a Panel, and shall appoint one of these persons to serve as the Chairperson of the Panel.
- b) The Panel shall govern the hearing by such procedures as it may decide, provided that:
 - i) The Complainant and Respondent shall be given written notice (by courier registered mail) of the day, time and place of the hearing:
 - ii) All parties shall receive a copy of the Investigator's report
 - iii) Both the Complainant and Respondent shall be present at the hearing
 - iv) The Panel may request that witnesses to the incident be present or submit written evidence which is certified by a notary of public.
- c) If at any point in the proceedings, the Complainant becomes reluctant to continue, it shall be at the sole discretion of the Executive Committee to continue the review of the complaint in accordance with this policy.
- d) After reviewing and deciding the harassment matter, the Panel shall present its findings in a written report to the President, with a copy provided to both the Complainant and the Respondent. This report shall contain:
 - i) A summary of the relevant facts
 - ii) A determination as to whether the acts complained of constitute harassment as defended in this policy
 - iii) Disciplinary action to be taken, if the acts constitute harassment; and

- iv) Measures to remedy or mitigate the harm or loss suffered by the Complainant, if the acts constitute harassment.

11.11 **Sanctions**

- a) When directing appropriate disciplinary sanction, the Panel shall consider factors such as:
 - i) The nature and severity of the harassment
 - ii) Whether the harassment involved any physical contact
 - iii) Whether the harassment was an isolated incident or part of an ongoing pattern
 - iv) The nature of the relationship between the complainant and harasser
 - v) The age of the Complainant
 - vi) Whether the harasser had been involved in previous harassment incidents
 - vii) Whether the harasser admitted responsibility and expressed a willingness to change
 - viii) Whether the harasser retaliated against the complainant
- b) In directing disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment:
 - i) Verbal apology
 - ii) Written apology
 - iii) Letter of reprimand from the OMHA
 - iv) A fine or levy
 - v) Referral to counselling
 - vi) Removal of certain privileges of membership or employment
 - vii) Temporary suspension with or without pay
 - viii) Termination of employment or contract
 - ix) Suspension of membership
 - x) Expulsion from membership
 - xi) Publication of the details of the sanction
 - xii) Any other sanction which the Panel may deem appropriate
- c) Failure to comply with a sanction as determined by the panel shall result in automatic suspension of membership in the OMHA or in organizations affiliated with the OMHA, until such time as the sanction is fulfilled.
- d) Notwithstanding the procedures set out in this policy, any individual participating in OMHA business, activities or events who is convicted of a criminal offense involving sexual exploitation, invitation to sexual touching, sexual interference, sexual assault, shall face automatic suspension from participating in any activities of the OMHA for a period of time corresponding to the length of the criminal sentence imposed by the Court, and may face further disciplinary action by the OMHA in accordance with this policy.

11.12 **Appeals Procedure**

Both the Complainant and Respondent shall have the right to appeal the decision and sanctions of the Panel, in accordance with the OMHA Appeal Policy.

11.13 **Discipline Policy**

Introduction

- a) Membership in the OMHA, as well as participation in the activities of the OMHA, brings with it many benefits and privileges. At the same time members and participants are

expected to fulfill certain responsibilities and obligations, including but not limited to complying with the Code of Conduct, Policies, Regulations and Rules of the OMHA.

- b) The OMHA Code of Conduct and the Rules and Regulations of Competition identify the standard of conduct which is expected of members, and other persons involved in OMHA activities and events. Individuals who fail to meet this standard may be subject to the disciplinary sanctions identified within this policy.

11.14 **Application**

- a) This policy applies to all members of the OMHA, as well as to all individuals participating in activities with, or employed by the OMHA, including but not limited to players, parents, coaches, officials, volunteers, directors, officers, convenors, committee members, team managers, trainers, administrators and employees.
- b) This policy applies to discipline matters which may arise during the course of all OMHA business, activities and events, including but not limited to competitions (including exhibition games), practices, training camps, meetings and travel associated with these activities.
- c) Discipline matters arising within the business, activities or events of member organizations of the OMHA shall be dealt with using the discipline policies and mechanisms of such organizations.

11.15 **Types of Infractions**

- a) Under this policy, there shall be three types of infractions, which may warrant discipline:
- b) Technical infractions - these are violations of the Regulations and Rules of Competition of the OMHA, which shall result in automatic sanctions as specified in this Policy (Appendix A).
- c) Minor infractions - these are infractions under the OMHA Code of Conduct which are not severe but which may warrant immediate corrective action as specified in this Policy (Appendix B).
- d) Major infractions - these are infractions under the OMHA Code of Conduct, which are more severe and may warrant disciplinary action as specified in this Policy (Appendix B).

11.16 **Discipline Procedures**

a) **Technical Infractions**

Technical infractions shall result in automatic sanctions as indicated in Appendix A.

b) **Minor Infractions**

- i) Disciplinary situations involving minor infractions occurring within the jurisdiction of the OMHA will be dealt with by the appropriate person having authority over the situation and the individual involved (this person may include, but is not restricted to, executive or committee member, convenor, tournament chairperson, official, coach, team manager, team captain).
- ii) Procedures for dealing with minor infractions shall be informal as compared to those for major infractions and shall be determined at the discretion of the person responsible for discipline of such infractions, provided the individual being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident.

c) **Sanctions for Minor Infractions**

The following disciplinary sanctions may be applied, singly or in combination, for minor infractions:

- i) Verbal reprimand
- ii) Written reprimand to be sent to the individual
- iii) Verbal apology by the individual
- iv) Written apology by the individual

- v) Termination of Team service or other voluntary contribution to the team, the minor hockey organization or to the OMHA
- vi) Suspension from the current competition and/or for a specified number of games, other sanctions as may be considered appropriate for the offence.

d) **Major Infractions**

- i) Any member or representative of the OMHA may report to the Executive Director a major infraction using the Disclosure Report form in Appendix C.
- ii) Upon receipt of an Incident Report, the Executive Director shall determine if the incident is better dealt with as a minor infraction, or if a hearing is required to address the incident as a major infraction.
- iii) If the incident is to be dealt with as a minor infraction, the Executive Director will inform the appropriate person in authority as described in Section 11.16 b) and the alleged offender, and the matter shall be dealt with according to Sections 11.16 b) i) and 11.16 b) ii) of this Policy.
- iv) If the incident is to be dealt with as a major infraction and a hearing is required, the alleged offender shall be notified as quickly as possible and in any event no later than 5 days from date of receipt of the Incident Report, and shall be advised of the procedures outlined in this Policy.
- v) Major infractions occurring within competition may be dealt with immediately, if necessary, by an OMHA 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, disciplinary sanctions shall 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 for major infractions.

11.17 **Hearing**

- a) Within 3 days of receiving the Incident Report, the Executive Director shall forward the Report to the President, or President's delegate who shall appoint three individuals to serve as a Discipline Panel. Where possible, one of the Panel members shall be from the peer group of the alleged offender.
- b) The Discipline Panel shall hold the hearing as soon as possible, but not more than 14 days after the Incident Report is first received by the President.
- c) The Discipline Panel shall govern the hearing as it sees fit, provided that:
 - i) The individual being disciplined shall be given 7 days written notice (by courier or fax) of the day, time and place of the hearing. The Panel may decide to conduct the hearing in person or by telephone or video conference
 - ii) The individual being disciplined shall receive a copy of the incident report
 - iii) Members of the Panel shall select from among themselves a Chairperson
 - iv) A quorum shall be all 3 Panel members and decisions shall be by majority vote where the Chair carries a vote
 - v) The individual being disciplined may be accompanied by a representative;
 - vi) The individual being disciplined shall have the right to present evidence and argument
 - vii) The hearing shall be held in private
 - viii) The Panel may request that witnesses to the incident be present or submit written evidence
 - ix) Once appointed, the Panel shall have the authority to abridge or extend timelines associated with all aspects of the Hearing
- d) The Discipline Panel shall render its decision, with written reasons within 14 days of the Hearing. A copy of this decision shall be provided to all of the parties to the hearing and the President and Executive Director.

- e) The preceding provisions may be modified, or added to, as required by the provisions of any other pertinent OMHA Policy, such as those dealing with harassment, doping, personnel or event-specific matters.
- f) Where the individual acknowledges the facts of the incident, he or she may waive the hearing, in which case the Panel shall determine the appropriate disciplinary sanction. The Panel may hold a hearing for the purpose of determining an appropriate sanction.
- g) If the individual being disciplined chooses not to participate in the hearing, the hearing shall nonetheless proceed.

11.18 **Sanctions for Major Infractions**

- a) The Discipline Panel may apply the following disciplinary sanctions singly or in combination for major infractions:
 - i) Written reprimand to be placed in individual's file
 - ii) Written apology by the individual
 - iii) Suspension from certain OMHA events which may include suspension from the current game or competition or from future competitions
 - iv) Payment of a financial fine in an amount to be determined by the Discipline Panel
 - v) Suspension from certain OMHA activities (i.e. competing, coaching or officiating) for a designated period of time
 - vi) Suspension from all OMHA activities for a designated period of time
 - vii) Expulsion from the OMHA
 - viii) Other sanctions as may be considered appropriate for the offence
- b) The preceding sanctions may be modified, or added to, as required by the provisions of any other pertinent OMHA Policy, such as those dealing with harassment, doping, personnel or event-specific matters.
- c) Unless the Discipline Panel decides otherwise, any disciplinary sanctions shall commence immediately.
- d) In applying sanctions, the Disciplinary Panel may have regard to the following aggravating or mitigating circumstances:
 - i) The nature and severity of the offence
 - ii) Whether the incident is a first offence or has occurred repeatedly
 - iii) The individual's acknowledgment of responsibility
 - iv) The individual's extent of remorse
 - vi) The age, maturity or experience of the individual
 - vii) The individual's prospects for rehabilitation
- e) Notwithstanding the procedures set out in this Policy, any member or participant of the OMHA who is convicted of a criminal offence involving sexual exploitation, invitation to sexual touching, sexual interference or sexual assault, shall face automatic suspension from participating in any activities of the OMHA for a period of time corresponding to the length of the criminal sentence imposed by the Court, and may face further disciplinary action by the OMHA in accordance with this Policy.

11.19 **Appeals Procedure**

Except where otherwise provided, an appeal of any disciplinary matter will be done according to the Appeals Policy Section 11.20 of the OMHA Manual of Operations.

11.20 **Appeal Policy Introduction**

This Policy applies to all categories of members in the OMHA, as well as to all individuals participation in activities of or employed by the OMHA, including but not limited to, players, parents, coaches, officials, volunteers, directors, officers, committee members, convenors, team managers, trainers, administrators and employees.

11.21 **Timing of the Appeal**

- a) An individual who wishes to appeal a decision ("Appellant") shall have 7 days from the date on which they received notice of the decision, to submit written notice of their

intention to appeal, along with detailed reasons for the appeal, and a non-refundable appeal fee of \$100, to the President of the OMHA.

- b) Any party wishing to initiate an appeal beyond the 7 day period must provide a written request stating reasons for an exemption to the requirement of Section 3. The decision to allow, or not allow an appeal outside the 7 day period shall be at the sole discretion of the President.

11.22 **Grounds for Appeal**

- a) A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include the body, which made the decision being appealed ("Respondent"):
 - i) Making a decision for which it did not have authority or jurisdiction as set out in the OMHA's governing documents
 - ii) Failing to follow procedures as laid out in the bylaws or approved Policies of the OMHA
 - iii) Making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views
 - iv) Exercising its discretion for an improper purpose
 - v) Making a decision, which was grossly unreasonable

11.23 **Screening or Appeal**

- a) Within 7 days of receiving the notice of appeal, the President shall decide whether or not the appeal is based on one or more of the categories of possible errors by the Respondent as set out in Section 11.22.
- b) The President shall not determine if the error has been made, only if the Respondent bases the appeal on such an allegation of error. In the absence of the President, a member of the Executive Committee shall be designated to perform this function.
- c) If the appeal is denied on the basis of insufficient grounds, the Appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President, or designate, and may not be appealed.

11.24 **Appeals Panel**

If the President is satisfied that there are sufficient grounds for an appeal, within 14 days of having received the original notice of appeal he or she shall appoint an Appeals Panel (the "Panel") comprised of three individuals who shall have no significant relationship with the affected parties, shall have no significant involvement with the secession being appealed, and shall be free for any other actual or perceived bias or conflict. The Panel's members shall select from themselves a chairperson.

11.25 **Appeals Preliminary Conference**

- a) The Panel may determine that the circumstances of the dispute warrant a preliminary conference:
 - i) The matters, which may be considered at a preliminary conference, include date and location of hearing, timelines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter, which may assist in expediting the appeal proceedings.
 - ii) The Panel may delegate to its Chairperson the authority to deal with these preliminary matters.

11.26 **Procedure for the Appeal**

- a) The Panel shall govern the appeal by such procedures as it deems appropriate, provided that:
 - i) The appeal hearing shall be held within 14 days of the Panel's appointment

- ii) The Appellant, respondent and affected parties shall be given 7 days written notice of the date, time and place of the appeal hearing
- iii) Decisions shall be by majority vote, where the Chairperson carries a vote
- iv) Copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least 5 days in advance of the hearing
- v) A representative or advisor, including legal counsel, may accompany any of the parties
- vi) The Panel may direct that any other individual participate in the appeal
- vii) In the event that one of the Panel's members is unable or unwilling to continue with the appeal, the matter will be concluded by the remaining two Panel members
- viii) Unless otherwise agreed by the parties, there shall be no communication between Panel members and the parties except in the presence of, or by copy to, the other parties
- viii) In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone conference call.

11.27 **Appeal Decision**

Within 7 days of concluding the appeal, the Panel shall issue its written decision, with reasons. In making its decision, the Panel shall have no greater authority than that of the original decision-maker. The Panel may decide:

- i) To void or confirm the decision being appealed;
 - ii) To vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;
 - iii) To refer the matter back to the initial decision-maker for a new decision;
 - iv) To refund in whole or in part the appeal fee paid by the Appellant; and
 - v) To determine how costs of the appeal shall be allocated, if at all.
- A copy of this decision shall be provided to each of the parties and to the President.

11.28 **Appeal Time Lines**

In extraordinary circumstances and at its sole discretion, the Panel may abridge or extend the timelines in this Policy.

11.29 **Documentary Appeal**

Any party to the appeal may request that the Panel conduct the appeal by way of documentary evidence. The Panel may seek agreement from the other parties to proceed in this fashion. If agreement is not forthcoming, the Panel shall decide whether the appeal shall proceed by way of documentary evidence or in-person hearing.

11.30 **Appeal Referral of Dispute**

If any party believes the Appeal Panel has made an error such as those describe in Section 3.3.1, those matters which may be heard by the Dispute Resolution Committee of the Ontario Hockey Federation (OHF) may be referred to the OHF to be decided in accordance with its appeal procedures, as amended from time to time. For all other matters, the decision of the OMHA Appeal Panel shall be final and binding.

11.31 **Appeal Location & Jurisdiction**

- a) Any appeal shall take place in the geographic region where the Appellant is located, unless held by way of telephone, conference call or held elsewhere as may be decided by the Panel as a preliminary matter.

- b) This Policy shall be governed and construed in accordance with the laws of the Province of Ontario.
- c) No action or legal proceeding shall be commenced against the Ontario minor hockey Association in respect of a dispute, unless the Ontario Minor Hockey Association has refused or failed to abide by the provisions for appeal of the dispute, as set out in this Policy.

11.32 **Appendices**

a) Refer to Suspension List – Minor Hockey

b) Examples of minor infractions:

- i) a single incident of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, players, parents, coaches, officials, managers, trainers, administrators, spectators and sponsors;
- ii) unsportsmanlike conduct such as angry outbursts or arguing;
- iii) a single incident of being late for or absent from OMHA events and activities at which attendance is expected or required;
- iv) non-compliance with the rules and regulations under which OMHA events are carried out

c) Examples of major infractions:

- i) repeated incidents of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, players, parents, coaches, officials, managers, trainers, administrators, spectators and sponsors;
- ii) repeated unsportsmanlike conduct such as angry outbursts or arguing;
- iii) repeated incidents of being late for or absent from OMHA events and activities at which attendance is expected or required;
- iv) activities or behaviour which interfere with the organization of a competition or with any player's or team's preparation for a competition;
- v) pranks, jokes or other activities which endanger the safety of others;
- vi) deliberate disregard for the rules and regulations under which OMHA events are conducted;
- vii) abusive use of alcohol where abuse means a level of consumption which impairs the individual's ability to speak, walk or drive; causes the individual to behave in a disruptive manner; or interferes with the individual's ability to perform effectively and safely;
- viii) any use of alcohol by minors;
- ix) use of illicit drugs and narcotics;
- x) use of, or condoning the use of, banned performance enhancing drugs or methods