



# **Alberta Soccer Association Harassment Policy**

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# HARASSMENT

The ASA's policy on Harassment in part is contained within the ASA By-Laws Articles 30 (5) and (6) – Code of Conduct, which states:

- 30 (5) Members shall at all times exhibit deportment that maintains the Association's reputation and shall at no time harm or hinder the Association or its ability to represent the sport; and
- 30 (6) No member shall harass another member by actions that include, but are not limited to, unwelcome remarks, invitations, requests, gestures or physical contact that, whether indirect or explicit, has the purpose or effect of humiliating, interfering with or creating an intimidating situation for that other member. Harassment will be considered any such inappropriate behaviour, be it ethnic, religious or sexual in nature.

## HARASSMENT POLICY

At the January 1995 Annual General Meeting of the ASA, the Membership present adopted, in principle, the following policy, and procedures for the ASA.

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.

### 1. Policy Statement

- A) ASA 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 and work in an environment, which promotes equal opportunities and prohibits discriminatory practices;
- Harassment is a form of discrimination. Harassment is prohibited by the Canadian Charter of Rights and Freedom and by human rights legislation in every province and territory of Canada;
  - Harassment is offensive, degrading and threatening. In its most extreme forms, harassment, in particular, sexual harassment can be an offence under Canada's Criminal Code;
  - Whether the harasser is a director, supervisor, employee, coach, official, volunteer, parent or athlete, harassment is an attempt by one person to assert abusive, unwarranted power over another; or
  - The ASA is committed to providing a sport environment free of harassment on the basis of race, nationality or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or pardoned conviction.

*Note: A special provision in criminal law permits a pardon. An individual must apply for a pardon. A criminal who has served her or his sentence is not considered "pardoned"*

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- B) This policy applies to all employees as well as to all directors, officers, volunteers, coaches, athletes, officials, administrators, members, and participants who are under the jurisdiction of the ASA. The ASA encourages the reporting of all incidents of harassment, regardless of who the offender may be;
- C) This policy applies to harassment, which may occur during the course of all ASA business, activities and events. It also applies to harassment between individuals associated with the ASA but outside ASA business, activities and events when such harassment adversely affects relationships within the ASA's work and sport environment; and
- 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 taken under this policy.

Note: At this point in the policy, ASA could also refer to the option of pursuing the matter through an external mediation/arbitration action mechanism.

## 2. Definitions

- A) Harassment is any improper conduct by an individual, that is directed at and offensive to another person or persons, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat;
- B) Harassment can take many forms but generally involves conduct, comment or display that is insulting, intimidating, humiliating, hurtful, demeaning, belittling, malicious, degrading or otherwise cause offence, discomfort, or personal humiliation or embarrassment to a person or a group of persons;
- C) Examples of behaviour which constitute harassment include but are not limited to:
- hostile verbal and non-verbal communications;
  - unwelcome remarks, jokes, comments, innuendo, or taunting about a person's looks, body, attire, age, race, religion, sex or sexual orientation;
  - condescending, paternalistic or patronizing behaviour which undermines self-esteem, diminishes performance or adversely affects working conditions;
  - use of terminology that reinforces stereotypes based on prohibited grounds of discrimination;
  - practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;
  - threats or retaliation designed to dissuade an individual from reporting discrimination or harassment;
  - acts of retaliation designed to punish an individual who has reported discrimination or harassment;
  - any form of hazing; or
  - vandalism or physical assaults motivated by prohibited grounds of discrimination.
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- D) For the purposes of this policy, sexual harassment is defined as unwelcome sexual remarks or advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature when:
- submitting to or rejecting, this conduct is used as the basis for making decisions which affect the individual;
  - such conduct has the purpose or effect of interfering with an individual's performance;
  - such conduct creates an intimidating, hostile, or offensive environment; or
  - refusal to comply with a sexually-oriented request results in actual denial of an opportunity, or an expressed or implied threat of denial of opportunity for such refusal;
- E) Sexual harassment may occur in the form of such conduct by males towards females, between males, between females, or by females toward males;
- F) Examples of behaviour which may be sexual harassment include but are not limited to:
- unwanted physical contact including touching, petting, pinching or kissing or unwanted sexual attention by a person who knows or ought reasonably to know that such attention is unwanted;
  - unwelcome sexual flirtations, sexual remarks, advances, requests or invitations whether indirect or explicit;
  - unwanted inquiries or comments about an individual's sex life or sexual preferences;
  - the display of visual material which is offensive or which one ought to know is offensive, for example pornographic images, sexual/sexist graffiti or any display of sexually explicit material or pictures;
  - unwanted sexual flirtations, advances or propositions;
  - sexually degrading words used to describe a person;
  - leering or other suggestive or obscene gestures; or
  - criminal conduct such as stalking, and physical or sexual assault or abuse; and
- G) For the purpose of this policy, retaliation against an individual:
- for having invoked this policy (whether on behalf of oneself or another);
  - for having participated in any procedure under this policy; or
  - for having been associated with a person who filed a complaint or participated in any procedure under this policy.

### 3. Responsibility

- A) The ASA Executive Committee is responsible for the implementation of this policy. In addition, the ASA Executive Committee are responsible for:
- discouraging and preventing harassment within the ASA;
  - investigating formal complaints of harassment in a sensitive, responsible, and timely manner;
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- imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender;
  - providing advice to persons who experience harassment;
  - doing all in their power to support and assist any employee or member of the ASA who experiences harassment by someone who is not an employee or member of the ASA;
  - making all members and employees of the ASA aware of the problems of harassment and, in particular, sexual harassment and of the procedures contained in this policy;
  - informing both complainants and respondents of the procedures contained in this policy and of their rights under the law;
  - regularly reviewing the terms of this policy to ensure that they adequately meet the organization's legal obligations and public policy objectives;
  - appointing harassment officers and providing the training and resources they need to fulfill their responsibilities under this policy, or
  - appointing unbiased case review panels and appeal bodies and providing the resources and support they need to fulfill their responsibilities under this policy.
- B) Every member of the ASA has a responsibility to play a part in ensuring that the ASA sport environment is free from harassment. This means not engaging in, allowing, condoning to this policy. In addition, any member of the ASA who believes that a fellow member has experienced or is experiencing harassment is encouraged to notify a harassment officer appointed under this policy; and
- C) In the event that either the ASA (director responsible for this policy) or the senior staff member are involved in a complaint which is made under this policy, the ASA president shall appoint a suitable alternate for the purposes of dealing with the complaint.

#### **4. Coach/Athlete Sexual Relations**

The ASA takes the view that intimate sexual relationships between coaches and adult athletes, while not against the law, can have harmful effects on the individual athlete involved, on other athletes and coaches and on the ASA's public image. The ASA therefore takes the position that such relationships are unacceptable for coaches coaching or assisting in any way with an ASA Provincial Program. Should a sexual relationship develop between an athlete and a coach, the ASA will investigate, in accordance with this policy, and take action, where appropriate, which could include reassignment or if this is not feasible or appropriate, a request for resignation or dismissal from employment.

#### **5. Disciplinary Action**

Employees or members of ASA, against whom a complaint of harassment is substantiated may be severely disciplined, up to and including employment dismissal or termination of membership in cases where the harassment takes the form of assault, sexual assault, or a related sexual offence.

#### **6. Confidentiality**

- A) The ASA understands 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. ASA
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recognizes the interests of both the complainant and the respondent in keeping the matter confidential; and

- B) ASA 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 a disciplinary or other remedial process requires such disclosure.

## 7. Harassment Prevention Officers

- A) ASA shall appoint at least two persons, one male and one female, who are themselves members or employees of the ASA, to serve as Provincial Harassment Prevention Officers under this policy. If more than two officers are appointed, the ASA shall ensure a gender balance;
- B) The role of Harassment Prevention Officers is to receive complaints, assist in informal resolution of complaints and preparation of formal written complaints that are referred to the Executive Committee for further investigation. In carrying out their duties under this policy, Harassment Prevention Officers shall be directly responsible to the ASA Executive Committee;
- C) All Harassment Prevention Officers will be required to have a Canadian Police Information Centre ("CPIC") check to ensure that their suitability for this role has not been compromised by a conviction in offences concerning children; and
- D) The ASA shall ensure that Harassment Prevention Officers receive appropriate training and support for carrying out their responsibilities under this policy.

## 8. Complaint Procedure

For the purpose of this section of the policy a person who experiences harassment is referred to as the "complainant" even where no formal complaint is filed.

- A) A person who considers that they have been subjected to harassment is encouraged to make it known to the person responsible for the conduct that the behaviour is unwelcome, offensive, and contrary to ASA policy;
- B) If the complainant does not wish to confront the person responsible for the conduct directly or if the conduct continues after confronting the harasser the harassment continues, the complainant should:
- i) speak to a Harassment Prevention Officer; or
  - ii) report the matter to an "official" of the ASA, for the purpose of this section; an official is any person in a responsible staff or volunteer position. In that event, the official should then refer the matter to a Harassment Prevention Officer.
- C) The Harassment Prevention Officer shall inform the complainant of:
- the options for pursuing an informal resolution of his or her complaint;
  - the right to make a formal written complaint under this policy when an informal resolution is inappropriate or not feasible;
  - the availability of support provided by the ASA;
  - the confidentiality provisions of this policy;

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- the right to be represented by a person of choice at any stage in the complaint process including legal counsel at the complainant's own expense;
  - the right to withdraw from any further action in conjunction at any stage (even though ASA might continue to investigate the complaint); or
  - other avenue of resource, including the right to file a complaint with a human rights commission or, where appropriate, to contact the police to have them lay a formal charge under the Criminal Code.
- D) There are four possible outcomes to this initial meeting of complainant and officer:
- i) the complainant and officer agree that the conduct does not constitute harassment:
    - if this occurs, the harassment officer will take no further action and will make no written record other than reporting to the ASA Executive on a monthly basis the number of such incidents the Officer dealt with.
  - ii) the complainant brings evidence of harassment and chooses to pursue an informal resolution of the complaint:
    - if this occurs, the complainant may ask the Harassment Prevention Officer to speak with the person whose conduct has caused offence with a view to assisting the parties to negotiate a solution acceptable to the complainant, the person against whom the complaint is made and the ASA. If desired by the parties and if appropriate, the Harassment Prevention Officer may appoint a neutral mediator to be agreed upon by the parties. In that event, the expense of the arbitrator shall be borne by the ASA;
    - if informal, resolution yields a result, which is acceptable to both parties, the Harassment Prevention Officer will make a written record that a complaint was made, the nature of the complaint, the fact that it was resolved informally to the satisfaction of both parties and will take no further action. The Executive Committee at the ASA Provincial Office will maintain a copy of the written record for a period of 7 years in the Harassment Prevention Officers' files, which shall be kept confidential, and access to them shall be restricted to the Executive Committee, the Executive Director and the Harassment Prevention Officers. The Executive Committee, in its discretion, may direct the destruction of records at an earlier date, or the retention of records for a longer period of time, as may be appropriate in the circumstances of each case; and
    - if informal resolution fails to resolve the complaint, the complainant retains the option of making a formal written complaint.
- E) The complainant brings evidence of harassment but does not wish to lay a formal complaint:
- i) if this occurs, the Harassment Prevention Officer must decide whether or not to make a formal written complaint, even if it is against the wishes of the complainant;
  - ii) when the Harassment Prevention Officer decides that the evidence and surrounding circumstances require a formal written complaint, the Harassment Prevention Officer will prepare a formal written complaint;
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- iii) if the Harassment Prevention Officer decides not to make a formal complaint, a written record will be maintained only:
- with the consent of the complainant; or
  - where the Harassment Prevention Officer decides to speak to the person whose conduct has caused offence.
- F) The complainant brings evidence of harassment that results in a formal written complaint:
- i) Where a decision is made to lay a formal written complaint;
- the Harassment Prevention Officer will assist the complainant in drafting a formal complaint, to be dated and signed by the complainant; or
  - where the Harassment Prevention Officer files the complaint on his or her own initiative without the complainant's consent, if such action's are believed to be necessary, the Harassment Prevention Officer will draft a formal written complaint; and
  - the written complain must set out the details of the incident(s), behaviour or conduct alleged to constitute harassment and the names of any witnesses to the incident(s).

## 9. Formal Complaint Investigation

- A) The Harassment Prevention Officer will give copies of the complaint without delay to:
- the person against whom the complaint is made;
  - the complainant; and
  - the Executive Committee.
- B) The person against whom the complaint is made shall also:
- be given a copy of this policy;
  - reminded of their right to retain outside counsel at their own expense, or otherwise be accompanied by a person of their choice at any stage in the proceedings under this policy;
  - be advised that they may within (10) days of receipt of the complaint file a written response with the Harassment Prevention Officer at their option; and
  - be advised that an investigation will be undertaken.
- C) Where a formal complaint is filed, the Harassment Prevention Officer may also meet with the complainant with a view to obtaining an apology or otherwise resolving the complaint to the satisfaction of the parties;
- D) Where the meeting in section 10(3) is not appropriate in the circumstances, or does not result in resolution of the complaint, the Executive Committee shall promptly appoint someone to investigate the complaint. Where sexual harassment is alleged the Executive Committee shall appoint two individuals, a male and a female to investigate the complaint. A complaint shall be investigated by people who are independent and neither personally or professionally associated with the parties to the complaint. The investigators may be
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E) The results of the investigation shall be contained in a written report which may include material obtained during the course of the investigation and may also include recommendations based on the results of the investigation. A copy of the investigation shall be provided to:

- the Executive Committee
- the complainant; and
- the person against whom the complaint is made.

Within fourteen (14) days of receiving the investigation report the Executive Committee shall appoint a Case Review Panel comprised of three (3) independent persons. This panel shall consist of at least one female and one male. To ensure freedom from bias, no member of the panel shall have a personal or professional relationship with either the complainant or the respondent.

F) Within twenty-one (21) days of its appointment, the Case Review Panel shall:

- i) if appropriate in the circumstances and at its discretion, make a finding based on the information contained in the investigation report that harassment has or has not occurred; or
- ii) convene a hearing.

G) In respect of a hearing convened by the Case Review Panel:

- the proceedings shall be governed by such rules and procedures as the panel may decide;
  - the complainant and respondent shall be given fourteen (14) days notice, in writing, of the day, time and place of the hearing and a copy of the rules and procedures governing the hearing;
  - members of the panel shall select a chairperson from among themselves;
  - a quorum shall be all three panel members;
  - decisions shall be by majority vote. If a majority vote decision is not possible, the decision of the chairperson will be the decision of the panel;
  - the hearing shall be held in camera;
  - 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 does not appear, the matter will be dismissed, (unless the complainant decided not to lay a formal complaint, but the Harassment Prevention 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 in their absence;
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- the complainant and respondent may be accompanied by a representative or adviser and, where necessary, by a certified translator, at the expense of the ASA; and
  - the Harassment Prevention Officer may attend the hearing at the request of the panel.
- H) Within fourteen (14) days of the conclusion of the hearing, the Case Review Panel shall present its findings in a report to the Executive Committee, which shall contain:
- a summary of the relevant facts;
  - a finding as to whether the acts complained of constitute harassment as defined in this policy; and
  - recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.
  - in the event that the acts complained do not constitute harassment as defined in this policy, a finding as to whether the allegations of harassment were unsupported, false, vexatious, retaliatory, as may be appropriate; and
  - in the event, recommended measures, as may be warranted, to remedy or mitigate the harm or loss suffered by the individual against whom the complaint was made, if the acts do not constitute harassment and were false, vexatious or retaliatory.
- I) A copy of the report of the Case Review Panel shall be provided, without delay, to both the complainant and the respondent.

#### 10. Disciplinary Sanctions

- A) When determining appropriate disciplinary action and corrective measures, the Case Review Panel shall consider factors including, but not limited to:
- the nature of the harassment;
  - whether the harassment involved any physical contact;
  - whether the harassment was an isolated incident or part of an ongoing pattern;
  - the nature of the relationship between complainant and harasser;
  - the age of the complainant;
  - whether the harasser had been involved in previous harassment incidents;
  - whether the harasser admitted responsibility and expressed a willingness to change; and
  - whether the harasser retaliated against the complainant.
- B) In recommending disciplinary sanctions, the panel may consider the following options, singly or in combination, depending on the severity of the harassment:
- a verbal apology;
  - a written apology;
  - a letter of reprimand from the ASA;
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- a fine or levy;
  - removal of certain privileges of membership or employment;
  - temporary suspension with or without pay;
  - termination of employment or contract;
  - expulsion from membership; or
  - any other remedy as may be appropriate.

Within seven (7) days of receipt of the report of the Case Review Panel, The Executive Committee shall consider the recommendations of the Case review Panel and make a decision as to the appropriate sanction, which shall be contained, in a final report.

Where no appeal is made as provided for within this policy, the Executive Committee of the ASA will implement the decision.

### 11. Reports

- A) Where the investigation does not result in a 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 ASA (director responsible for this policy) the senior staff member, and harassment officers; and
- B) 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.

### 12. Procedure where a Person Believes that a Colleague has been harassed

Where a person believes that a colleague has experienced or is experiencing harassment and reports this belief to a Harassment Prevention Officer, the officer shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with Section 8.

### 13. Appeals

- A) Both the complainant and respondent shall have the right to appeal the decision and recommendations of the Case Review Panel. A notice of intention to appeal, along with grounds for the appeal must be provided to the chairperson of the Case Review Panel within fourteen (14) days of the complainant or respondent receiving the panel's report;
  - B) Permissible grounds for an appeal are:
    - the panel did not follow the procedures laid out in this policy;
    - members of the panel were influenced by bias; or
    - the panel reached a decision, which was grossly unfair or unreasonable.
  - C) In the event that a notice of appeal is filed, the ASA Executive Committee shall together appoint a minimum of three members to constitute the appeal body. This appeal body shall consist of at least one woman and at least one man. These individuals must have no
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- personal or professional involvement with either the complainant or respondent and no prior involvement in the dispute between them;
- D) The appeal body shall base its decision solely on a review of the documentation surrounding the complaint, including the complainant and respondent's statements, the reports of the harassment officer and the case review panel and the notice of appeal;
  - E) Within ten (10) days of its appointment, the appeal body shall present its findings in a report to the ASA 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;
  - F) A copy of the appeal body's report shall be provided, without delay, to the complainant and respondent; and
  - G) The decision of the appeal body shall be final.
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