



# HARASSMENT, BULLYING COMPLAINT PROCEDURES

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ONTARIO PROVINCIAL  
FOOTBALL LEAGUE  
830 Cataraqui Woods Dr  
Kingston, ON K7P2P7  
[www.opftb.ca](http://www.opftb.ca)



# Harassment/Bullying Complaint Procedures

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**NOTE:** For convenience in this policy the term “Complainant” refers to the person who experiences harassment/bullying, even though not all persons who experience harassment or bullying will make a formal complaint. The term “respondent” refers to the person against whom a complaint is made.

## APPLICATION

1. This policy applies to all OPFL directors, officers, employees, volunteers players and members. It applies to harassment and bullying that may occur during the course of all OPFL business, activities and events.
2. This policy does not apply to harassment and/or bullying that may occur under the jurisdiction of Football Canada or Affiliate Associations of the OPFL. Affiliate Associations are responsible for adopting and implementing a policy similar to, and consistent with this policy for handling harassment and bullying issues within their respective associations.

## MINOR INSTANCES OF HARASSMENT/BULLYING

4. This policy does not prevent an appropriate person having authority from taking immediate, informal, corrective disciplinary action in response to behaviour that, in their view, constitutes a minor incident of harassment or bullying.

## REPORTING HARASSMENT/BULLYING

5. A person who experiences harassment or bullying is encouraged to make it known to the alleged harasser or bully that the behaviour is unwelcome, offensive and contrary to the policies of the OPFL.
6. If confronting the alleged harasser or the bully is not possible, or if after confronting the alleged harasser or bully the harassment or bullying continues, the Complainant should request a meeting with an Official of the OPFL. For the purposes of this Policy, an “Official” is any OPFL Harassment Advisor, the OPFL President or designate or other individual occupying a position of authority within the OPFL.
7. Where a third party person believes that a director, officer, employee, volunteer or member of the OPFL has experienced or is experiencing harassment or bullying and reports this belief to an Official, the Official will meet with the person said to have experienced harassment or bullying and proceed in accordance with these procedures.
8. Once contacted by a Complainant or a third party, the role of the Official is to serve in



a neutral, unbiased capacity in receiving the complaint and, where appropriate, assist in the informal resolution of the situation. If the Official considers that he or she is unable to act in this capacity, the Complainant will be referred to another suitable OPFL Official.

9. Where an Official believes there is sufficient evidence to warrant making a formal complaint but the Complainant does not wish to do so, the Official may make a formal complaint and proceed in accordance with these procedures.

## RECEIVING OF COMPLAINT

10. Once a complaint is received the official will listen to the complaint and receive the information to support the claim. The official will explain the OPFL procedure and outline the remedies available to the complainant. The official will document the meeting.

## COMPLAINT PROCEDURE

11. After the initial meeting with the Complainant, the Official can make the following determinations:

a) It may be determined by the Official that the conduct does not constitute harassment or bullying as defined in this policy, in which case the matter will be closed;

b) It may be decided that the alleged conduct constitutes harassment or bullying within the definition of this policy. If so, the Complainant can choose to pursue one or both of the following options:

c) *The Complainant may decide to pursue an informal resolution of the complaint*, in which case a mediator agreed upon by both the Complainant and the Respondent will assist the two parties to negotiate or mediate an acceptable resolution of the complaint;

d) If the Complainant chose not to pursue Mediation with the Respondent, or if the Mediation was unable to produce an acceptable resolution, *the Complainant may decide to file a formal written complaint*, in which case the Official will receive the written complaint and will advise the President of the OPFL (“President”) or his/her designate, who will appoint an independent individual (“Investigator”) to conduct an investigation of the complaint.

12. The Respondent shall be provided with a copy of the complaint if the alleged conduct would constitute harassment or bullying within the definition of this policy. Investigation:



13. The Investigator will carry out the investigation in a timely manner. At the conclusion of the investigation the Investigator will submit a written report to the President, or designate, which will include a recommendation that either:

- a) No further action be taken because the complaint is unfounded or the conduct has failed to be determined as behaviour which falls within the OPFL's definition of harassment or bullying
- b) The complaint has merit and should proceed to a hearing.

14. Within 10 business days of receiving the written report of the Investigator that recommends that there be a hearing, the President, or designate, will appoint three individuals to serve as a Panel.

15. With the agreement of all parties (the Complainant, the Respondent, and the President, or designate), the investigation may be waived and a Panel appointed within 10 business days of receipt of a formal complaint.

## HEARING

16. The Panel will hold a hearing into the complaint within 15 business days of its appointment.

17. The Panel has discretion to govern the hearing in the manner it deems appropriate, provided that it adheres to the following guidelines.

- a) Members of the Panel shall select from among themselves a Chairperson;
- b) A quorum shall be all three Panel members;
- c) Decisions shall be by majority vote
- d) In the event that one of the Panel's members is unable or unwilling to continue with the hearing, the matter will be concluded by the remaining two Panel members who shall make their decision unanimously;
- e) Should a unanimous decision not be arrived at by the remaining two panel members, the matter will be referred to a newly constituted panel.
- f) Once appointed, the Panel has the authority to abridge or extend timelines associated with all aspects of the hearing;
- g) The parties shall be given 10 business days' written notice of the day, time and place of the hearing;
- h) The hearing shall be held in private;
- i) The Complainant and Respondent shall each receive a copy of the Investigator's report;



- j) Both the Complainant and Respondent are requested to be present at the hearing. The hearing may proceed in the absence of either or both parties;
- k) The parties may be accompanied by a representative;
- l) Both the Complainant and the Respondent will be given the opportunity to make oral and written submissions to the panel.
- m) The Complainant and the Respondent shall respond to the Investigator's report, give evidence and answer questions as requested by the Panel.
- n) The Investigator may attend the hearing at the request of the Panel;
- o) The Panel may request that witnesses to the alleged incident be present or submit written evidence;
- p) The parties may request that witnesses to the alleged incident be present.
- q) The parties may request the opportunity to cross examine the witnesses.

18. In order to keep costs to a reasonable level the Panel may conduct the hearing by means of a telephone conference.

## DECISION

19. Within 10 business days of the conclusion of the hearing, the Panel will deliver its written Decision to the President or designate, the Complainant and Respondent. This Decision will contain:

- a) A summary of the relevant facts;
- b) A determination as to whether the acts complained of constitute harassment or bullying as defined in this policy;
- c) Disciplinary action against the Respondent, if the acts constitute harassment or bullying.
- d) In addition, the decision may contain measures to remedy or mitigate the harm or loss suffered by the Complainant, if the acts constitute harassment or bullying.

20. If the Panel determines that the allegations of harassment or bullying are false, vexatious, retaliatory or frivolous, its report may direct that there be disciplinary actions against the Complainant.

21. Unless the Panel decides otherwise, any disciplinary actions applied shall take effect immediately.

22. The decision of the Panel will be final and binding upon the Complainant, the Respondent and the OPFL. Appeals to this process must be carried out according to the process outlined below.

## APPEALS



23. Both the Complainant and the Respondent shall have the right to appeal the decision of the Panel. A notice of intention to appeal, along with the grounds for appeal, must be provided to the President of the OPFL within 72 hours of the Complainant or Respondent as applicable receiving the Panel's report. The notice must include the grounds upon which the decision is being appealed.

24. Appeals may only be made on the following grounds:

- a) The investigation was conducted in an unfair or biased manner contrary to the rules of natural justice
- b) Panel members did not follow the procedure set out in this policy
- c) Members of the Panel were biased or acted in an unfair manner.
- d) Panel members reached a decision which could not be supported by the evidence.
- e) Panel members reached a decision which was grossly unfair or unreasonable.

25. The appeal shall be heard by an Appeal Board appointed by the President of the OPFL comprised of:

- One representative of the OPFL
- One representative of the OPFL legal counsel
- One outside individual not associated with the OPFL

26. The other party will be notified if a notice of appeal is received. They will be provided with the grounds of the appeal and the opportunity to submit their response to the notice of appeal.

27. The panel will hold a hearing into the complaint within 10 business days of its appointment.

28. The Panel has discretion to govern the hearing in the manner it deems appropriate, provided that it adheres to the guidelines noted in 29.

29. The decision of the Appeal Board will be based on a review of the documentation regarding the complaint, including the statements of the Complainant and Respondent, the report of the Investigator, the decision of the Panel and the notice of appeal.

30. In deciding the Appeal, the Appeal Board may uphold the decision of the Panel, reverse the decision of the Panel and/or modify any of the Panel's recommendations for disciplinary action or remedial measures.

31. The decision of the Appeal Board shall be final and binding.



## Record Keeping and Confidentiality

32. The President of the OPFL and the League Secretary for the OPFL shall keep a secure record of the Panel report and any appeal proceedings. The record shall contain all relevant documents including but not limited to:

- a) A copy of the original complaint and report
- b) Responses to the complaint
- c) Terms of reference of the investigator
- d) Interim measures (if any)
- e) Witness statements
- f) Investigator's report
- g) Mediated solution (signed agreement)
- h) Decision of the Panel
- i) Sanctions imposed (if any)
- j) Any other related correspondence
- k) Any appeal(s) (if any)
- l) Decision of the Appeal board

33. To the extent possible the above documents and documents resulting from a violation of the Harassment/Bullying Policy will be held in confidence by the OPFL. However, no absolute guarantee of confidentiality may be made by the OPFL.

Circumstances in which information may be shared include:

- a) When criminal conduct may be involved
- b) When it is believed necessary to protect others from harassment or bullying
- c) When required to ensure fairness or natural justice in the procedures in this policy
- d) In the course of an investigation by a law enforcement agency
- e) To protect the interests of the OPFL
- f) When required by law

34. The OPFL recognizes the sensitive nature of harassment and bullying matters and in particular, the difficulties associated with coming forward with a complaint of harassment or bullying and with being accused of harassment or bullying. The OPFL recognizes the interests of both the Complainant and the Respondent in keeping any matter being dealt with under this policy confidential, except where disclosure is required by a disciplinary proceeding or by law.