

**Edmonton Soccer Association (“ESA”)
DRAFT HARASSMENT POLICY
(effective April 2019)**

Purpose

ESA does not tolerate or condone any degree of harassment by anyone at any of ESA’s facilities. It is the responsibility of ESA, its staff and its Board of Directors, its members, all team officials, referees, players and spectators to promote a harassment free sport environment and workplace at ESA facilities.

ESA is committed to investigating reported incidents of harassment in a prompt, objective, and sensitive manner, taking necessary corrective action and providing appropriate support for individuals that have been adversely affected by harassment.

Harassment Defined

Occupational Health and Safety Alberta defines workplace harassment as a single or repeated incident of objectionable or unwelcome conduct, comment, bullying or action, intended to intimidate, offend, degrade or humiliate a particular person or group. It is a serious issue and creates an unhealthy work environment resulting in psychological harm to workers.

The test to determine whether harassment has occurred is three-fold:

1. Whether a reasonable person knew or ought to have known that a behavior would be considered unwelcome or offensive by the recipient;
2. The recipient found the behavior offensive; and
3. There is a connection between the behavior and the mandate of ESA.

Non- Application of the Harassment Policy

1. ESA will not commence or continue its investigation should evidence be presented that a higher authority has been asked to review the case, such authority including:
 - Enforcement services (municipal police, RCMP etc.);
 - The Alberta Human Rights Commission, and
 - Courts of the Province of Alberta.
 - For complaints involving hourly employees a separate Workplace Violence and Harassment policy will be utilized.
2. ESA will advise complainants of their right to refer any case to a higher authority should ESA feel that a higher level of expertise is needed given the nature of the complaint.

Examples of these cases include, but are not restricted to:

- Any complaint sexual in nature, and
- Any type of physical abuse.

Delegation of Authority

The ESA President or its CEO shall appoint as they deem appropriate from time to time, a minimum of two harassment officers who will work with the ESA CEO on the implementation of this policy.

If the behavior complained about is the behavior of the ESA CEO, the ESA President shall act in place of the CEO.

If the CEO is for any other reason unable to act in respect to a complaint under this policy, he or she may delegate that function to another member of ESA staff; and in the absence of such delegation the President shall so act, including delegating that function to another member of ESA staff.

Confidentiality

ESA recognizes the sensitive and serious nature of harassment and will strive to keep all matters relating to a complaint confidential.

Complaint Procedure

1. Making a Complaint

A complaint shall be made by the complainant to the ESA Operations Manager in writing setting out:

- The complainant's name, contact telephone number and contact email address;
- The name of the alleged harasser(s);
- The time and place of the alleged harassment;
- The events leading up to the alleged harassment;
- The details of the alleged harassment; and
- The names (and if possible, the contact information) of any witnesses to the alleged harassment.

The complainant may submit other written evidence relating to the complaint.

2. Complaint Review

The Operations Manager will review the complaint and forward to the CEO along with any recommendations on how to follow up in accordance with this policy.

The CEO shall within 10 business days review the complaint and any submitted other evidence relating to the complaint, and may interview the complainant, or have the Operations Manager interview the complainant, to determine whether the behavior complained of meets the test of harassment as defined in this policy.

If the CEO concludes that the behavior complained of does not meet the test of harassment as defined, the CEO shall so advise the complainant in writing addressed to the complainant at the complainant's email address within the 10 day period, and provide the complainant a copy of this policy.

The complainant shall have 10 business days from the date that email was sent, to request, in writing by email addressed to CEO, a Complaint investigation whereupon the CEO shall within 5 business days refer the matter to a Harassment Officer for investigation.

If the CEO concludes that the behavior complained of does meet the test of harassment as defined, he or she may in their own discretion refer the matter to a Harassment Office for a Complaint Investigation.

3. Complaint Investigation (“Investigation”)

A Harassment Officer upon receiving a referred complaint as noted above, shall interview and receive evidence from the complainant; the person whose behavior is being complained about (“respondent”); any witness identified by the complainant or the respondent as a witness; and any other person the Harassment Officer considers may have relevant evidence.

Upon the conclusion of the Investigation, the Harassment Officer shall prepare a written Complaint Investigation Report (“Report”), which shall:

- 1 outline the findings made by the harassment Officer as to whether the behavior complained, or other behavior found the Harassment Officer, is
 - substantiated on a balance of probabilities, and
 - meets the test of harassment as defined in this policy; and
- 2 the reasons for those findings.

The Harassment Officer may include in the Report any recommended resolutions or sanctions if harassment is so found.

The Harassment Officer shall then forthwith provide the CEO, the complainant and the respondent a copy of the Report, at their email addresses.

At any time before the Report is delivered, the Harassment Officer may, with the consent of the complainant and the respondent, conduct an informal mediation. If the consent is not obtained, the complainant and respondent will be given the information to proceed to Formal Mediation, by a certified mediator (“Mediation”). A list of qualified mediators can be obtained from the Alberta Dispute Resolution Institute.

In the event the matter is referred to Mediation, the Investigation is suspended until the Mediation has concluded. If the Mediation is terminated without a successful resolution of the complaint, the Investigation shall continue. The Mediator shall forthwith report that fact to the Harassment officer conducting the Investigation. If the Mediation successfully resolves the complaint, the Investigation shall cease.

Both the complainant and respondent shall have 10 business days from the date the Report was sent to them, in writing by email addressed to CEO, to request a Harassment Hearing.

Where there has been such a request for a Harassment Hearing, the CEO shall within 10 business days refer the matter to a Harassment Hearing. Where there been no such request and the Report does find harassment, the report shall be kept by ESA for a period of 12 years.

4. Harassment Hearing

A Harassment Hearing (“Hearing”) shall be conducted by a panel (“Panel”) of 3 independent persons, including its chairperson, all appointed by the CEO or President, before which shall be placed the Report.

The Hearing procedure shall be as follows.

- (a) The time and place of the Hearing shall be set by the CEO, in consultation with the Harassment Officer and the Panel.
- (b) Notice of the time and place of the Hearing shall be provided to the complainant and the respondent (“the parties”) no later than 21 days before the commencement of the Hearing.
- (c) The hearing may be adjourned at any time by the Panel on its own motion, but on motion by one of the parties only with the consent of the other.
- (d) The parties may attend in person, by counsel or by agent.
- (e) If the complainant fails to appear, the complaint will be dismissed.
- (f) If the respondent fails to appear, the Hearing will proceed in the respondent’s absence.
- (g) The Hearing shall be conducted “in camera”.
- (h) The parties may call evidence, which will not be taken under oath.
- (i) The Panel may recommend that ESA pay the reasonable travel costs (limited to mileage and necessary accommodation) of one or both parties and a witness or witnesses.
- (j) The Panel shall prepare no later than 30 days from the conclusion of the presentation of evidence at the Hearing, a written Harassment Hearing Decision (“Decision”), which shall:
 - i. Outline the findings made by the Panel as to whether the behavior complained of, or other behavior found by the Panel, is
 - Substantiated on a balance of probabilities, and
 - Meets the test of harassment as defined in this policy; and
 - ii. The reasons for those findings.
- (k) The Panel shall then forthwith provide the CEO, the complainant and the respondent a copy of the Decision, at their email addresses.
- (l) If the Panel concludes on a balance of probabilities that the complained of or other behavior does meet the test of harassment, it may impose any one or more of the following sanctions, which shall be included in the Decision:
 - i. a verbal apology, acceptable to the Panel;
 - ii. a written apology, acceptable to the Panel;
 - iii. a reprimand;
 - iv. a fine, not to exceed \$500 payable to ESA, in default of payment of which, within the time set by the Panel, all the respondent’s rights to attend or participate at any ESA facility will be suspended indefinitely until paid along with a late fee of \$50.
- (m) The Panel shall make further recommendations to the CEO which in its opinion are consistent with and would further the goals of this policy.
- (n) Subject to judicial review, any finding by the Panel, including sanctions, is full and final.

Where the Decision does find harassment, the Decision shall be kept by ESA for a period of 12 years.