



OMA ESCALATION POLICY AND PROCEDURE

Effective Date: November 24, 2019

Review Date: November 24, 2024

STATEMENT OF PRINCIPLES

The Ontario Medical Association (OMA) upholds the principles of tolerance, respect and civility, and adheres to the OMA Principles Guiding Member Interactions Document (“Principles Document”) set out below.

The OMA expects all members to behave in a manner consistent with the Principles Document within the OMA milieu, whether online or in person.

DEFINITIONS

“OMA Milieu” refers to OMA events, meetings (including those of Board and Council), conferences, education seminars, committee meetings, and any meetings, events, or other gatherings of the OMA or its Districts, Sections, or Branch Societies, whether online or in person or via tele or videoconference. Also included are any online communications that reference the OMA, including message boards, online forums, and social media such as Twitter or Facebook.

“Civility, Diversity, and Inclusion Committee” refers to an OMA Advisory Committee to be established to, among other things, advise and oversee matters of incivility between members and to adjudicate the processes described herein.

“Council” refers to OMA Council, including Spring Council Meeting and the Fall Annual General Meeting of the OMA.

“Board” refers to the Board of Directors of the OMA

APPLICATION OF THE POLICY

This policy applies to members of the OMA for behaviours inconsistent with the Principles Document that take place within the OMA milieu.

This policy does not apply to any workplace harassment complaints involving members as they will be dealt with through the grievance procedure and/or the applicable workplace harassment policy and procedure.

This policy is not intended to discourage or prevent a member from exercising her or his

rights under any applicable Human Rights legislation, CPSO policies, and/or any other legal rights pursuant to any other law, including the Regulated Health Professions Act, or any other policy of the OMA.

PROCEDURES FOR OMA MEMBERS

GENERAL PROVISIONS

- (a) The following procedures apply to any incidents that are inconsistent with the Principles Guiding Member Interactions Document that occur within the OMA milieu as explained above.
- (b) OMA will not disclose a Complainant's or Respondent's name, or any circumstances related to a complaint, to anyone, except as necessary to investigate a complaint or take disciplinary/corrective action related to the complaint, or as required by law. OMA members, staff, and independent investigators or mediators (if any) involved in a complaint will keep all information confidential and will be reminded as such.
- (c) If, at any time a member of the Civility, Diversity, and Inclusion Committee or the Appeals Committee is in a conflict of interest that could affect his or her ability to fairly carry out his or her responsibilities under this policy, the conflict shall be disclosed to the Chair of the OMA Board who will, in conjunction with the OMA CEO and General Counsel, decide on a strategy for mitigation that may or may not include replacement of that member with a suitable alternative as articulated in the Charter of the Committee on Civility, Diversity, and Inclusion.

EARLY RESOLUTION STAGE

- (a) Where a member believes that they have been subjected to behaviour inconsistent with the Principles Document by a fellow member, they are encouraged to clearly make known to the other member that the behaviour is objectionable and must stop. OMA encourages the members to informally resolve the dispute amongst themselves.
- (b) OMA recognizes, however, that in certain instances such action may not be appropriate or advisable. For example, the parties may be in a relationship characteristic of a power imbalance. In such cases, a complainant may wish to attempt to resolve the situation informally via the assistance of a physician leader engaged by the complainant. The complainant may seek out such a colleague on her own or may request assistance from the OMA in finding a suitable peer to assist.

FORMAL COMPLAINT

- (a) Where a complaint of a violation of the Principles Document cannot be resolved informally without external assistance, the Complainant may file a formal complaint in writing to the Chair

of the Civility, Diversity, and Inclusion Committee. Written complaints must be sent via a prescribed online form. All complaints shall receive a preliminary response within two weeks.

(b) The complaint shall include: a summary of what occurred; what section of the principles document has been violated; what steps have been taken to date to resolve the matter and why they were unsuccessful; and what outcome is being sought.

(c) The form shall include an undertaking that the complaint is being made in good faith and is not frivolous or vexatious in nature. Complaints will only proceed if the undertaking is completed.

(d) The Civility, Diversity, and Inclusion Committee will consider the matter and shall have the discretion to decide on next steps for informal resolution with the assistance of the Committee. Such steps could include, but are not limited to, dismissing the complaint as frivolous or vexatious in nature, or inviting the parties in separately or together to try to resolve the matter. The Civility, Diversity, and Inclusion Committee shall ask the parties to sign a confidentiality agreement and litigation waiver.

(e) Should further informal resolution fail, including a refusal to participate, Civility, Diversity, and Inclusion Committee may:

i. Instruct that the matter shall proceed to formal mediation or investigation, depending on the nature of the complaint and at the discretion of the Committee and with the consent of the complainant; or

ii. Recommend to the Board that a penalty be issued as per the section herein entitled "Committee Responses."

MEDIATION

(a) When appropriate, and at its discretion, the Civility, Diversity, and Inclusion Committee shall appoint a mediator to assist in the resolution of the dispute. The mediator may be a member of the Committee if he or she has training in mediation or an OMA staff member with training in mediation. If there are no alternatives, out outside mediator may be retained for services.

(b) If Mediation fails, the matter shall be remanded to Civility, Diversity, and Inclusion Committee, which may instruct that the matter be sent further for investigation or may issue a penalty.

INVESTIGATION & DECISION MAKING

(a) When appropriate, and at its discretion, the Civility, Diversity, and Inclusion Committee shall appoint an investigator to carry out an investigation of an alleged incident, and to make a report to the Committee.

(b) The investigator appointed may be a member of OMA Legal staff or a neutral third party external to the OMA with experience in conducting such investigations.

(c) The investigator shall make a recommendation to the Civility, Diversity, and Inclusion Committee following his or her investigation.

(d) The Committee may dismiss the matter or recommend to issue a penalty.

(e) Saving exceptional circumstances, which will be indicated to the Parties in writing, all investigations and/or decision-making shall take place within six months of the appointment of the investigator.

(f) The parties shall be provided with a written summary of the investigator's report and a written decision of the Committee, as applicable.

COMMITTEE RESPONSES

At the conclusion of any of the Formal Complaint, Mediation, and Investigation stages, the Civility, Diversity, and Inclusion Committee may dismiss the matter. In such a case, the parties will be given a written summary of the report and no further action shall be taken.

Alternatively, the Civility, Diversity, and Inclusion Committee may recommend to the Board a penalty from the following options:

(a) Reprimand. In such cases, the offender shall be formally reprimanded by the President for his or her actions. A record of such reprimand shall be kept by OMA. Repeat offenders shall be subjected to further penalties as outlined below. Reprimand may or may not include a formal apology to the complainant, at the discretion of the Committee.

(b) A time-limited ban on attendance at OMA events and meetings, including but not limited to meetings of Council, members, and OMA constituency meetings.

(c) A permanent ban on attendance at OMA events and meetings.

(d) A suspension of or expulsion from membership.

APPEAL & RECOMMENDATION TO COUNCIL

(a) A party may seek an appeal from a decision of the Committee by bringing a formal request to the Secretary of the Association within 15 days of the receipt of the written decision.

(b) Appeals may only be sought on matters of procedural fairness and natural justice. A list of examples is provided at Appendix C.

(c) The Secretary shall refer all appeals to the Appeals Committee, which shall be comprised of the Chair of Council, the Vice Chair of Council, the immediate Past President of the OMA, and the OMA's General Counsel.

- (d) The Appeals Committee may make the following decisions:
- i. Dismiss the appeal and uphold the decision of the Civility, Diversity, and Inclusion Committee.
 - ii. Allow the appeal and remand to the Civility, Diversity, and Inclusion Committee for further review.

(e) With respect to appeals that involve expulsion or revocation of a member, the process shall follow the manner prescribed in the OMA By-laws at Section 3.

POLICY AUTHORITY

The authority of this policy and procedures derives from Section 3 of the OMA By-laws:

ARTICLE 3: DISCIPLINE 3:1 Suspension or Expulsion of Members

3:1:1 The Board of Directors shall have power to suspend for any period of time, or to expel from membership, or otherwise reasonably penalize, any member who, in the opinion of the Board, has not conducted himself or herself in accordance with these bylaws or has acted in a disgraceful, dishonourable or unprofessional manner.

3:1:2 Within 15 days of notice of a decision of the Board of Directors to suspend or expel a member under article 3:1:1, that member may deliver a notice of appeal to the Secretary of the Association. Such notice shall state the reasons for the member's of the decision of the Board of Directors. Upon receipt of a notice of appeal conforming with this article, the Secretary shall cause the matter to be placed on the agenda of the next regular meeting of Council and the suspension or expulsion shall be stayed until the completion of business of that meeting. Council may affirm, amend, or reject the decision of the Board of Directors. Where the Council affirms or amends the decision of the Board of Directors, its decision shall be effective in place of that of the Board as of the date of the decision of the Board. Information about other affected parties relevant to the matter and any other potentially identifying details must be redacted and confidentiality preserved both in writing and at the meeting.

Under this Policy, the Board will consider the recommendations of the Advisory Committee on Civility, Diversity, and Inclusion in taking action under section 3.1.1.

* Aspects of this policy (Appendix A) will be reviewed based on any future changes to the OMA's governance structure

APPENDIX A

Definitions of Discrimination, Harassment and Bullying

Discrimination occurs when harassment relates to any one of the prohibited grounds set out in the Ontario Human Rights Code[‡] (e.g. race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity, gender expression, marital status, family status, disability and pardoned conviction). Harassment involves engaging in a course of vexatious conduct against someone that is known or ought reasonably to be known to be unwelcome. Harassment may include sexual harassment, which is engaging in a course of vexatious conduct against someone because of sex, sexual orientation, gender identity or gender expression where the course of conduct or comment is known or ought reasonably to be known to be unwelcome. Bullying is a form of harassment. It is the persistent mistreatment of one individual by another, who, intentionally or unwittingly, subjects the first to behavior that humiliates, demoralizes or otherwise undermines the victim's credibility, effectiveness, and personal well-being.

[‡] Human Rights Code, RSO 1990, c H.19

APPENDIX B

List of Resources on Dispute Resolution

(To be developed)

APPENDIX C

Procedural Fairness or Natural Justice

Examples of Violations of Procedural Fairness/Natural Justice include but are not limited to:

1. Undue delays in the process.
2. A failure to receive written reasons of an earlier decision.
3. A failure to be provided with the opportunity to make submissions or be heard.
4. Bias on the part of a decision maker.
5. A conflict of interest on the part of a decision maker.
6. A reliance on incorrect facts during an earlier stage of a proceeding.
7. A denial of the right to respond.
8. A denial of a reasonable request for accommodation during a proceeding, including an adjournment.
9. Proper process as outlined in the OMA Member Interaction Escalation and Resolution Policy & Procedure not adhered to/followed at any point.

SUPPORTING/REFERENCED DOCUMENTS

Use Type	Document Title
Mandatory	OMA Principles Guiding Member Interactions
Referenced	OMA By-laws

RESPONSIBILITIES

POSITION	ACTIONS
Council	Approve policy.
Records & Knowledge Management	Review and provide additional metadata as required. Notify Authoring Department when policy reaches its review date. Maintain original documentation for archiving.
Civility, Inclusion and Diversity Committee	Monitor compliance with this policy by members.
Members	Acknowledge as required and comply with policies/procedures.

Author: OMA Member Interactions & Conduct Task Force

Process/Service Owner: Civility, Inclusion and Diversity Committee

OMA Council

November 24, 2019

Approved By

Approval Date