

OTTAWA SPORT COUNCIL WEBINAR



Hot Legal Topics



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positives ont leur place dans le sport

Webinar Archives

If you didn't have a chance to catch the previous webinar in this series, here's your chance:



Best Practice in Volunteer Management

Speaker: Dina Bell-Laroche,
Sport Law & Strategy Group

Ottawa Sport Council: <http://sportottawa.ca/webinars/best-practices-in-volunteer-management/>
SIRC: <http://sirc.ca/webinar/best-practices-volunteer-management>

Watch the recorded version of the webinars on the [Ottawa Sport Council](#) or [SIRC](#) website

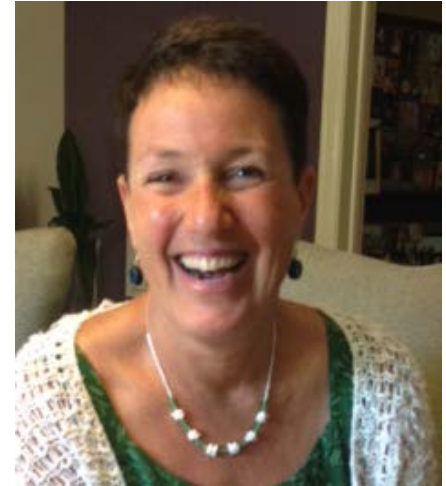


We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Ottawa Sport Council

- Non-profit membership based service organization established in response to demand for assistance from community sporting organizations
- What do we Do?
 - Advocacy and Marketing
 - Educational Resources
 - Planning and Collaboration
 - Endowment Fund



Marcia Morris
ED, Ottawa Sport Council

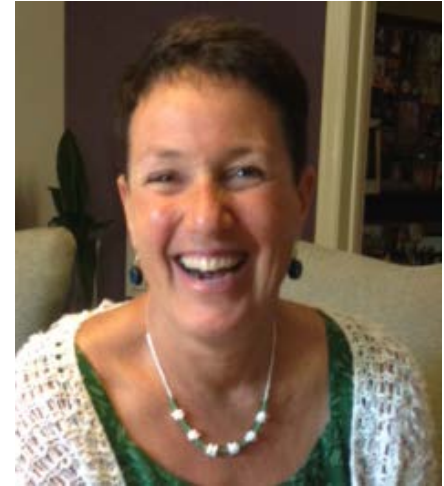


We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Key Programs

- Ottawa Sport Council Foundation-endowment fund to support community sporting organizations
- Lunchtime online webinar series- Fall 2015
 - Best Practices in Volunteer Management
 - Hot Legal Topics
 - Good Governance: What is it and How to do it
 - A Strategic Approach to Sponsorship
- Ottawa Sport Council Annual Summit – November 14 2015
 - *Overcoming the Funding Hurdle in Community Sport*
 - Horticulture Building, Lansdowne Park
 - Details, registration available: <http://sportottawa.ca>



Marcia Morris
ED, Ottawa Sport Council



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Today's Speaker

Steven Indig

Steve began his career with the Sport Law & Strategy Group in 2003 immediately after being called to the bar as a lawyer. In fewer than ten years, Steve has worked with over 400 national, provincial, and local sport organizations to provide consulting and legal services related to governance, employment, contracts, policies, disputes, and privacy. He is a regular guest speaker and presenter at AGMs, conferences, and workshops, and has also acted as an adjudicator.



Steve graduated from Dalhousie University with a Bachelors of Recreation degree and a successful five-year career as varsity athlete in swimming. He continues to be involved in swimming as a master's swimmer (Canadian Masters Swimming medalist) and a coach at the Vaughan Aquatic Club.

Contact: sji@sportlaw.ca

Sport Law & Strategy Group

We believe that there should only be positive experiences in sport



HOT LEGAL TOPICS IN SPORT MANAGEMENT

Presentation by Steven Indig

Nous croyons que seules les expériences positive ont leur place dans le sport



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Sport Law & Strategy Group

Providing strategic insight to the Canadian sport community through professional services in these areas:

- Legal Solutions & Risk Management
- Planning & Governance
- Communications & Coaching



SOME OF OUR CLIENTS



FREESTYLE
SKI
ACROBATIQUE



Canadian Cycling Association
Association cycliste canadienne



COACHES
of Canada



EQUINE  HIPPIQUE
CANADA

SQUASH
CANADA



**TRUE
SPORT**
LIVES HERE



**ONTARIO
BASKETBALL**



— JEUX DU —
CANADA
— GAMES —



ONTARIO UNIVERSITY ATHLETICS
SPORTS UNIVERSITAIRES DE L'ONTARIO



CANADA



CABC
COACHES ASSOCIATION
OF BRITISH COLUMBIA



CCAA



Athletes**CAN**

SWIMMING/NATATION
CANADA

RCGA
Royal Canadian Golf Association | Association Royale de Golf du Canada



AGENDA

- ***PIPEDA Update***
- ***Anti-Spam***
- ***AODA***
- ***Complaint Management***





We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Polls



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

PIPEDA

- *Personal Information and Protection of Electronic Documents Act*
- PIPEDA sets out rules for how organizations (including NFP) may collect, use or disclose personal information in the course of commercial activities
- As of January 1, 2004, PIPEDA applies to all commercial activities within all provinces



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Commercial Activity

“Commercial Activity is defined as:

“any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, including the selling, bartering or leasing of donor, membership or other fundraising lists”

- Intended to capture a broad range of transactions involving the collection, use or disclosure of information as possible



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Personal Information Likely Includes....

- Home contact information
- Identification numbers (SIN, registration #s, Health card #s)
- Human rights characteristics (e.g., age, race)
- Financial information
- Health information
- Criminal history
- Exception – employee personal information



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Ten Principles

- Accountability
- Identifying Purpose
- Consent
- Limiting Collections
- Limiting Use, Disclosure and Retention
- Accuracy
- Safeguards
- Openness
- Individual Access
- Challenging Compliance



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Updates and Amendments

- Amendments received Royal Assent and became law on June 18, 2015

Compliance Agreements

- Privacy Commission can enter Compliance Agreements and enforce them via Federal Court

Valid Consent

- Consent of an individual is only valid if it is reasonable to expect that the individual would understand the nature, purpose and consequences of the collection, use or disclosure of personal information to which they are consent.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Updates and Amendments

Business Contact Information

- A new definition of “business contact information” has been added and the definition of “personal information” has been revised to refer to “information about an identifiable individual”
- Work contact information, including e-mail (new addition), may be collected, used and disclosed without consent so long as the purpose is related to their employment, business or profession.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Anti-Spam





We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Polls



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Canadian Anti-Spam Legislation

- Canada's new anti-spam law was passed in December, 2010, and will come into force July 1, 2014.
- According to the Cisco 2008 Annual Security Report, Canada was ranked fourth on the Spam by Originating Country list for 2008
- The year after Australia passed similar legislation in 2004, it dropped out of the world's top 10 spam originating countries.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Applicability

- **Who needs to know about this law?**
 - Anyone who makes use of commercial electronic messages needs to be aware of this law.
- **What is a commercial electronic message?**
 - Any electronic message that encourages participation in a commercial activity, regardless of whether there is an expectation of profit:
 - Purchase or sell a product, goods or service
 - Advertises or promotes anything referred to a product, good or service
 - A request for consent



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Requirements for Sending

- It is prohibited to send to an electronic address a commercial electronic message **unless**:
 - The person to whom the message is sent has consented to receiving it; and
 - The message sets out information that identifies the person who sent the message; and
 - Sets out information enabling the person to whom the message is sent to readily contact the Sender; and
 - Sets out an unsubscribe mechanism.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Consent

- Implied Consent – Consent can be implied in some cases such as where there is an "existing business relationship" or an "existing non-business relationship".
- There must have been some type of transaction or personal interaction in the 2 years prior to sending the message. People are not considered businesses.
- Consent can also be implied where the recipient has published his or her email address or provided their "business card" as long as the individual has not told you they do not want to receive these types of messages.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

EXCEPTIONS

- “Existing Non-Business Relationship” means a non-business relationship between a person and the sender who have ascertained:
 - Membership, (being accepted as a member of a club, association or voluntary organization in accordance with its membership requirements) within the two-year period immediately before the day on which the message was sent.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

AODA





We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Polls



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

OVERVIEW OF AODA

- 1 in 7 Ontarians has a disability and the numbers are rising
- Definition of disability same as OHRC.
- Ontario is the first jurisdiction in the world to move from legislation that reacts to complaints to one that takes a proactive approach to mandating accessibility
- Ontario is the only jurisdiction in Canada with legislation that sets out a clear goal and a time frame in which to meet that goal - accessibility in the areas that most impact the daily lives of people with disabilities by 2025



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

APPLICATION OF AODA

- Applies to all people, businesses and organizations that provide goods or services either directly to the public or to other businesses or organizations and that have one or more employees in Ontario - Private sector must be in compliance by January 1, 2012



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

STEP 1 – Create your Accessibility Plan

1. Develop and put in place a plan that outlines how you will provide goods and services to people with disabilities.
 - Make a list of what you do every day to provide customer/member service
 - Make a list of how persons access your goods and services
 - Consider how people with various disabilities communicate
 - Use this information to revise or create new ways of doing things
 - Identify potential barriers for people with disabilities



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

BARRIERS

Barriers can be grouped into one of the five following categories:

1. **Attitudes:** negative attitudes that contribute to exclusion
2. **Physical/architectural:** design and physical features of buildings and infrastructure that prevent or limit access
3. **Communication/Information:** limiting or preventing access to information that is otherwise available
4. **Technology:** usability of existing and emerging technologies, as well as the increasing number of service-related and consumer electronic device
5. **Policies and Practices:** systemic discrimination established in policies or practices



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

STEP 2 - Develop Policies, Practices and Procedures

- Policies – what you intend to do related to the provision of providing services to persons with disabilities, including specific information for workers.
 - Personal Assistive Devices
 - Communication
 - Service Animals or Support Persons
 - Admissions Fees
 - Notice of Disruption
 - Feedback
- Procedures and Practices – how you will go about practically implementing the policies.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

STEP 3 - TRAINING

Who must be Trained:

1. Train staff, volunteers, contractors and any other people who interact with the public or other third parties on your behalf or those developing policies, practices and procedures on the provision of goods and services

Training must include review and instruction on:

- Purposes of AODA
- How to interact and communicate with persons with various types of disability.
- How to interact with persons with disabilities who use an assistive device or require the assistance of a service animal or support person.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

20 or more Employees

If an organization has 20 or more* employees, it must :

1. Prepare written policies, practices and procedures for providing accessible customer service
2. Notify customers that documents required under this regulation are available upon request
3. Provide required documents to persons with disabilities in a format that takes into account the person's disability
4. Record Staff Training
5. Report to the Ministry

*Includes full-time, part-time, seasonal and contract employees, but does not include volunteers or independent contractors

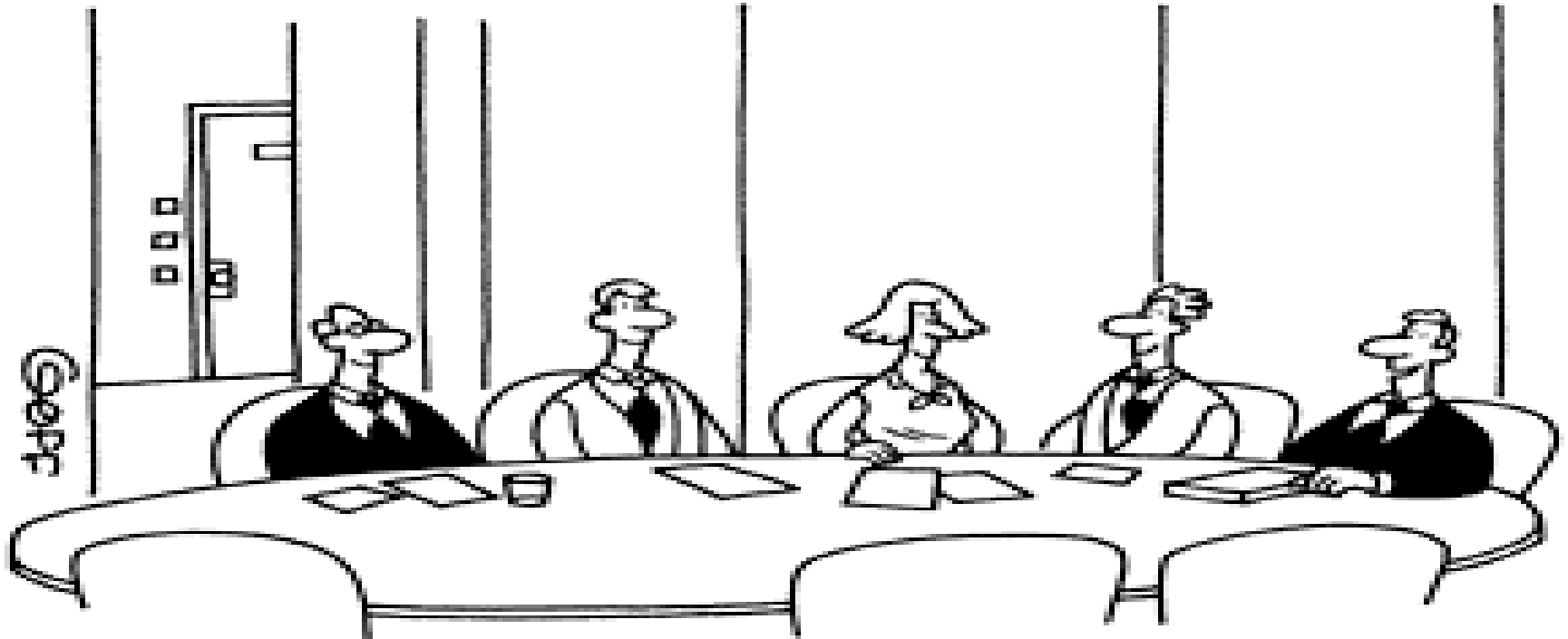


We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Complaint Management





"We've decided to devote more people to ignoring the problem to make it go away faster."

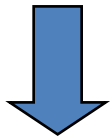


We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

DEALING WITH A COMPLAINT

- **STEP 1** - Receive complaint
- **STEP 2** – Clarify dispute
- **STEP 3** – Apply applicable Policy
- **STEP 4** - Select options for resolution



Internal Hearing



Other D.R. Technique



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

PROCEDURAL FAIRNESS

1. **Authority** - authority to make a decision has been delegated to the decision-maker
2. **Right to a hearing** - the person affected has a reasonable opportunity to present his case
3. **Rule against bias** - the decision-maker listens fairly to both sides to reach a decision untainted by bias

FORMAT OF HEARING



- simple oral interview and response
- review of written documents
- review of documents, written arguments and conference call
- oral hearing in-person
- an oral hearing with formal, court-like procedures



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

COMPOSITION OF PANEL

- Single decision-maker or panel?
- What skills/qualifications are required?
- Is there bias or prior involvement?
- Any evidence of a closed mind?
- Members v. non-members?
- Are lawyers required?



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Policies

- **Code of Conduct** -- a statement of the standard of behavior expected of members including harassment
- **Disciplinary Process** -- the mechanics of how to deal with a breach of a code of conduct
- **Appeal Process** – the mechanics of how to deal with a breach of policy and/or procedure



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Reciprocity

Definition → *“a relation of mutual dependence or action or influence; the mutual exchange of rights, privileges or obligations between [nations].”*

The Problem → without taking explicit, positive steps as a matter of policy, sport organizations cannot recognize each other's disciplinary decisions.



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Get in touch



- Marcia Morris
- Executive Director,
Ottawa Sport Council
- marci@sportottawa.ca
- SportOttawa.ca
- Steven Indig
- Sport Law & Strategy Group
- sji@sportlaw.ca
- sportlaw.ca



Sport Information Resource Centre sirc.ca
Info@sirc.ca



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Questions?





We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Resources

- Office of the Privacy Commissioner
https://www.priv.gc.ca/index_e.ASP
- Articles on Privacy
<http://www.sportlaw.ca/category/legal-solutions/privacy/>
- PIPEDA
https://www.priv.gc.ca/leg_c/leg_c_p_e.asp
- Canada's Anti-spam Legislation
<http://fightspam.gc.ca/eic/site/030.nsf/eng/home>
- Accessibility for Ontarians with a Disability Act (AODA)
<http://www.aoda.ca/>
- Compliance Issues for 2015 – Ontario Employers Take Note!
<http://www.sportlaw.ca/2015/06/compliance-issues-for-2015-ontario-employers-take-note/>
- Complaint Management Articles
<http://www.sportlaw.ca/category/legal-solutions/dispute-resolution/>



We believe that there should only be positive experiences in sport

Nous croyons que seules les expériences positive ont leur place dans le sport

Thank you

Next webinar: Tuesday, November 3, 2015

OTTAWA SPORT COUNCIL WEBINAR



Good Governance

Register now! <http://sirc.ca/events/webinars>