

Ontario Psychological Association

OPA Guidelines
for Best Practices
in the Use of the OPA's Listserv



The Anchors that Guide the Ontario Psychological Association's By-Laws, Rules and Regulations and Policies and Procedures

Articles of Incorporation (Previously known as the 1951 Objects of Incorporation)

1. To enhance the psychological health of Ontarians through the advancement of psychology as profession;
2. To promote psychological research, its practical application, and its impact on quality services;
3. To support the maintenance of high standards of training and coordinate continuing education to prepare and support members in the delivery of evidence-based psychological services; and,
4. To establish collaborative relationships between the psychological profession, other healthcare providers and organizations, and the government.

Mission Statement

To improve the health and wellbeing of Ontarians by advocating for timely and equitable access to excellent psychological services, informed by research, education, and collaboration.

Vision

The vision of the Ontario Psychological Association (OPA), the home of psychology in Ontario, is that every Ontarian has timely and equitable access to the health services they need to maintain their psychological health and wellbeing. The OPA envisions a world in which every Ontarians' right to the care they need to be as healthy as possible — in mind, and body, and spirit — is respected.

The main aim of the OPA is to work tirelessly to address the human rights of all Ontarians to timely and equitable access to the mental healthcare they need. To achieve this goal, the OPA needs to ensure that our members have the supports they need to excel in addressing the needs of Ontarians of all ages.

Values

The OPA values:

1. Timely and equitable access to psychological services for all Ontarians;
2. The application of research to promote best psychological practices;
3. The life-long learning needs of our members, fulfilled through access excellence in training, mentoring and continuing education;
3. Ethical behaviours, professionalism, self-regulation, and collaboration;
4. The principles of good governance and effective administration; and,
5. Nimbleness – the ability to understand the world around us and thrive in a transformative system.



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Hotlink to the College of Psychologists Of Ontario's Standards of Professional Conduct
<http://www.psych.on.ca/OPA/media/Public/Non-OPA Resources/Standards-of-Professional-Conduct.pdf>

Hotlink to the Canadian Psychological Association's Code of Ethics for Psychologists
www.cpa.ca/aboutcpa/committees/ethics/codeofethics



1.0 Preamble

One of the most significant benefits of membership in the Ontario Psychological Association (OPA) is the privilege of joining and participating in our Listserv. The OPA's Listserv is a communication platform to support open dialogue and promote connections between all members of OPA.

The main aims of the Listserv are to build a strong sense of community amongst our members and to help us as a profession to optimally meet the needs of Ontarians. The Listserv provides our members with the opportunity to learn from each other and to identify issues at the local, provincial, national and international levels that require province-wide input and advocacy. Typical Listserv postings contain clinical and practice questions, identification of helpful resources, requests for referrals, announcements of relevant professional opportunities and educational events, requests for participation in research and other academic and professional activities and the ability to kept abreast of the latest research and health policy updates.

2.0 Policy

The OPA's Listserv utilizes software provided for the members of the State, Provincial and Territory Council of the American Psychological Association (APA). As result, our Listserv needs to be used in a manner that is consistent with the rules that APA has established for each listserv that APA supports.

(The rules established by the APA are contained in Appendix A, page 9 of this document).

The rules set out by the APA provide overall direction, and will take precedence should there exist a conflict with the OPA's Listserv policies or procedures. The framework for the use of OPA's Listserv is anchored in the OPA's foundational documents: *The Articles of Incorporation, Mission Statement, Vision and Values*), the *Standards of Professional Conduct* set out by the College of Psychologists of Ontario (CPO) and the Canadian Psychological Association (CPA) *Code of Ethics for Psychologists*.

3.0 OPA Listserv Rules

The Communications and Member Services Committee developed these rules with the guidance and support of the members of the Board of Directors. While the APA Rules remain in force, this policy and procedure places additional expectations on our members that will remain in force regardless of the communication platform that the OPA choses to utilize in the future. These rules will be enforced by members of the Board or designates.

The Rules guiding the use of the Listserv are as follows:

1. **Collegiality:** In exchanges on the Listserv that refer to other members, non-members, organizations or government, members are expected to avoid personal attacks and characterizations that question the motives, qualifications, competency, fitness to practice or other demeaning attributes of the party in question. While the Board recognizes and firmly defends the value of freedom of speech, there is an expectation that exchanges on the Listserv will be cordial, respectful, helpful and collegial.
2. **Discipline:** Listserv postings are not pre-moderated, normally. Moderators appointed by the Board will review all postings, after the fact. Any member demonstrating unprofessional behaviour (See Section 5 below - "*Defining Unprofessional Behaviour*") or violating any section of



this policy will be contacted privately by a member of the OPA Board, or by its representatives. Repeated or severe violations will be met with a progressive suspension of Listserv privileges for a specific period of time, or permanently, as determined at the discretion of the Board or its representatives.

3. **Advice and Responsibility:** Advice given on the Listserv **does not** constitute legal advice. When seeking advice, it must be recognized that the advice that is received is the personal opinion only of our members. Members are responsible for the decisions they make, regardless of any advice that has been received from colleagues. Users of the Listserv are expected to check with the CPO or with a lawyer before using any advice received on the Listserv.
4. **Confidentiality:** Patient confidentiality must be respected at all times. It must be kept in mind that every post will be accessible to all OPA members, and may be saved on countless computers, essentially forever. As a result, there are countless ways in which confidentiality could be breached. It is, therefore, essential that any identifying information must be sufficiently masked so that any individual who may know the patient would be unable to recognize them from the post. It is important to include only minimal information in a Listserv post. Interested parties should be asked to contact the sender backchannel for more information, if necessary.
5. **Copyrighted Material:** Listserv members are able to refer to an article or news items by posting a brief quote from copyrighted material and citing the source with typical reference citations. Posting the full text of articles, without the permission of the author, results in a prima facie case of copyright violations. Given the benefits of sharing key resources for continuing education and other purposes by offering a link to the online published content is permitted.
6. **Sharing Posts:** All posts to the Listserv are considered to be under the copyright of the poster/author and the OPA. Items written for the Listserv must not be re-posted or shared in any other form, without securing the expressed permission of the author.
7. **Attachments:** Attachments to posts on the Listserv must adhere to the rules and regulations set out in this policy. Given the current use of the APA software, members are advised to post a hyperlink in the email to documents rather than an attachment.
8. **Competition:** Discussions that violate the Competition Act will not be permitted. Attempts to “*fix, maintain, increase or control*” the fees charged for services, for example, are illegal. In keeping with the APA’s antitrust concerns, discussions about rates charged, efforts to exert collective pressure on payors, terms of contracts with insurance companies, internship salaries, etc. are prohibited.
9. **Political Endorsement:** As a communication platform of a not-for-profit organization, the OPA Listserv cannot be used for electioneering for public office, nor for endorsing a specific candidate or political party. However, discussions of political policies and legislative and regulatory changes are permitted insofar as they relate to the profession of psychology.
10. **Policy and Procedure Revisions:** The OPA may from time to time establish and revise the Listserv Rules and Regulations.

4.0 Appropriate Use of the Listserv

The OPA envisions a Listserv that is a dynamic and valuable resource for each of our members - and adds significantly to the benefits that accrue as a member of the OPA.



1. While constructive criticism and dissenting positions are not considered “unprofessional behaviours”, comments expressing a negative evaluation should be presented in a collegial, respectful and constructive manner.
2. As you stimulate conversation or express differences of opinion, be courteous, respectful, and constructive. Avoid the use of inflammatory and/or ambiguous language that could be misconstrued as inflammatory or accusative in nature.
3. Write as clearly as possible, and with a respectful tone. Since text-based communications tend to amplify the expression or perception of negative emotion, always beware of “tone of voice” issues in text-based communication.
4. As recipients of emails, be respectful of the writer’s intentions and try not to read meaning into a message beyond the words presented. If in doubt, check the meaning you received with the sender and seek clarification if necessary - preferably offline (i.e., by telephone or in person).
5. To make it easier for your readers to identify emails of interest to them, use informative subject lines and provide an identification of the geographic area, as appropriate. Keep your message to a reasonable length, and if your message is long, consider starting the message with a brief paragraph to summarize its content.
6. As the lead member who stimulated the conversation, identify when the main issues have been addressed and, whenever possible, provide a concluding or summary statement.
7. Communicate backchannel when the message will not be of general interest to Listserv members.
8. Since the Listserv is restricted to members only, do not post messages on behalf of a non-OPA member psychologist, an allied professional or an organization without the expressed consent of the Listserv moderator, the CEO or designates.

5.0 Defining Unprofessional Behaviours

Unprofessional behaviour, for the purposes of this policy and procedure, is defined as any behaviour that may be construed as being unsupportive of or disrespectful to any Listserv member or the OPA itself, or any behaviours that create a hostile environment for communications or postings.

Examples of unsupportive or disrespectful behaviour that contributes to the creation of a hostile environment on the Listserv or misuse of the Listserv include but are not limited to the following:

1. Hostile or sarcastic responses to a member’s posting;
2. Negative remarks about a member, a non-member or another party’s character or motives;
3. Repetitive postings making the same points;
4. Postings clearly indicating a relational or interpersonal issue with a specific member;
5. Postings not obviously relevant to the purpose of the Listserv or Forum.



6.0 Disciplinary Procedure

The procedure to be followed if a violation of the rules occurs is as follows:

1. The Board will appoint a minimum of two Board members and their delegates to monitor the Listserv on a daily basis (henceforth, referred to as the “*moderators*”).
2. To ensure that a subscription to the OPA Listserv remains a professionally-relevant and satisfying experience for all of our members, anyone violating the rules described above will be subjected to the following sanctions, listed in order of increased severity:
 - If a posting is viewed as violating any of the Listserv rules, a moderator will contact the member backchannel by email or telephone to discuss the posting and the reasons for concern. Following this discussion, the moderator will forward to the member this Policy and Procedure, the CPO’s Standards of Professional Practice and CPA’s Code of Ethics for Psychologists.
 - Should a second violation occur, the member’s status on the Listserv will be downgrade to “read only” access for a period of up to thirty days. This level of access means that the member will be able to receive messages but permission for him/her to post items will be rescinded.
 - Should the member try to circumvent this sanction by asking another member to post on his/her behalf, the member will have their access to the Listserv restricted on an extended basis.
 - Should a third violation occur, the member’s access to the Listserv will be suspended on an extended or permanent basis.
 - Should any breach of the rules be particularly egregious, on a recommendation from the moderator, the above steps may be circumvented and the member will be suspended immediately from having access to the Listserv for an indefinite amount of time or permanently.
3. A suspended member may appeal to the Board President, President-Elect or the Chief Executive Officer for reinstatement following the issuing of a suspension of an indefinite or permanent suspension. The Executive Committee of the Board of Directors will review the posting, the moderator’s reasons for the sanction and the member’s rationale for re-instatement. The decision of the Executive Committee regarding re-instatement will be final.
4. Should the member disagree with the decision of the moderator, the member may bring his/her concerns forward to the President, President-Elect or CEO for a hearing by the Executive Committee.
5. Any member who is the recipient of a posting that they feel is in violation of the Listserv policy or rules may bring their concerns forward to the moderator for consideration of disciplinary action.

7.0 Disclaimers

To protect the OPA and its members, the following disclaimers apply to this policy and procedure:



1. In providing the Listserv as a communication vehicle for our members, the information is on the Listserv may or may not be checked for accuracy. Neither the OPA, nor its Board and staff members nor any contributor can be held liable in any way for any information and/or data made available to members on the Listserv. Similarly, none of the so named parties should be held liable for any information that is omitted from the information provided on the Listserv.
2. In subscribing to the Listserv, members must agree to hold OPA harmless against any and all claims arising out of the use of the Listserv, regardless of the causes, effects or fault.
3. Members also agreed to hold contributors who abide by the rules of the Listserv harmless for all claims arising out of the use of the Listserv, regardless of the causes, effects or fault.
4. The OPA does not provide explicit or implied endorsement of the psychologists who accept referrals made through the Listserv.
5. Any recommendations for resources or products posted on the Listserv are for information only and do not represent an explicit or implied endorsement or recommendation from the OPA.
6. All members whose membership has lapsed for more than 60 days will be removed from the Listserv.

8.0 Authorization and Acknowledgements

This policy and procedure was developed and approved by the members of the Board's Communications and Members Services Committee and passed by the Board of Directors on January 16, 2017.

The Board would like to recognize Drs. Jonathan Douglas and Jane Storrie for their major contributions to the development of this policy and procedure manual, as well as the members of the Committee who guided and supported its development.

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Appendix A: An Overview of Key APA Listserv Rules

1. Copyright – Referring to an article or news item with typical reference citations, providing a brief quote, or offering a link to legitimate online published content is permissible; list members should not post a full-text version of published material to the listserv.

Not infrequently a list member wants to tell others about an article or news item related to the issues discussed on the list. However, sending the entire article to the list, without the permission of the author or publisher, results in a prima facie case of copyright violation. While there can be defenses to a claim of copyright infringement where the purpose of copying is clearly not for commercial purposes (e.g. “fair use” or academic teaching exceptions), those defenses are complicated, have been construed differently in different jurisdictions and are not necessarily applicable to listserv distribution.

2. Defamation and libel – In exchanges on the listserv and when referring to others, avoid personal attacks and characterizations that question a person’s motives or qualifications.

Sometimes a robust debate about ideas spills over into attacks on the proponents or opponents of the ideas. List members need to be reminded that a false statement that harms someone's reputation can be actionable as libel. There is a substantial difference between disagreeing with how someone did their research or treated a patient and accusing the person of fraud or incompetence. Because negative statements that impugn someone's professional qualifications can cause substantial economic and emotional harm, this is an area for careful scrutiny. Keeping criticism on an objective basis that is factually verifiable and skipping personal commentary about character, competence or motive minimizes legal risk.

3. Antitrust concerns – APA by its nature is subject to antitrust issues. Discussions about rates charged, efforts to exert collective pressure on payors, terms of contracts with insurance companies, internship salaries, etc, all are prohibited.

The antitrust laws are broad and complex but on a very basic level they operate to prohibit and even in some cases criminalize certain anticompetitive agreements between competitors. A professional association like APA is almost by definition a group of competitors that has come together to pursue common interests. Where those common interests involve agreements on such terms of competition as rates charged, salaries paid, standards applicable to members of the profession, and other issues of the marketplace, the antitrust laws apply. Listservs provide a written record of statements that can create an antitrust risk even when there is no anti- competitive intent.

4. Political statements affecting tax exemption – Listserv exchanges must avoid electioneering or endorsing a candidate for federal, state, or local political office.

While using the list to endorse political candidates in a federal, state, or local election or for commercial purposes likely won't expose a member to personal legal risk, it can jeopardize APA's tax exempt status under section 501 (c) 3 of the Internal Revenue Code. To keep this advantageous tax status, APA cannot ever be involved in or support in any way electioneering or endorse a candidate for federal, state, or local political office. APA must assure that its activities are focused on the scientific, educative, and charitable purposes for which it gained tax-exempt status.



Appendix B: The Listserv Rules of the American Psychological Association

The American Psychological Association (APA) operates our list at their discretion. Their rules are the foundation of our own rules, and where there is conflict, their rules supersede ours, until such time as we may have control over our own communication platform.

The APA Listserv Rules can be found at www.listserve.apa.org/infopages/APARules.html as follows:

Rule 1: Do not use the forum for illegal purposes, including but not limited to defamation, violation of intellectual property laws, violation of antitrust or unfair competition laws or violation of criminal laws.

- a. **Copyright** - Referring to an article or news item with typical reference citations, providing a brief quote, or offering a link to legitimate online published content is permissible; list members should not post a full-text version of published material to the listserv. Not infrequently a list member wants to tell others about an article or news item related to the issues discussed on the list. However, sending the entire article to the list, without the permission of the author or publisher, results in a prima facie case of copyright violation. While there can be defenses to a claim of copyright infringement where the purpose of copying is clearly not for commercial purposes (e.g. "fair use" or academic teaching exceptions), those defenses are complicated, have been construed differently in different jurisdictions and are not necessarily applicable to listserv distribution.
- b. **Defamation and libel** - In exchanges on the listserv and when referring to others, avoid personal attacks and characterizations that question a person's motives or qualifications. Sometimes a robust debate about ideas spills over into attacks on the proponents or opponents of the ideas. List members need to be reminded that a false statement that harms someone's reputation can be actionable as libel. There is a substantial difference between disagreeing with how someone did their research or treated a patient and accusing the person of fraud or incompetence. Because negative statements that impugn someone's professional qualifications can cause substantial economic and emotional harm, this is an area for careful scrutiny. Keeping criticism on an objective basis that is factually verifiable and skipping personal commentary about character, competence or motive minimizes legal risk.
- c. **Antitrust concerns** - APA by its nature is subject to antitrust issues. Discussions about rates charged, efforts to exert collective pressure on payors, terms of contracts with insurance companies, internship salaries, etc, all are prohibited. The antitrust laws are broad and complex but on a very basic level they operate to prohibit and even in some cases criminalize certain anticompetitive agreements between competitors. A professional association like APA is almost by definition a group of competitors that has come together to pursue common interests. Where those common interests involve agreements on such terms of competition as rates charged, salaries paid, standards applicable to members of the profession, and other issues of the marketplace, the antitrust laws apply. Listservs provide a written record of statements that can create an antitrust risk even when there is no anti-competitive intent.



Rule 2: Do not intentionally interfere with or disrupt other forum members, network services, or network equipment. This includes distribution of unsolicited advertisement or chain letters, propagation of computer worms and viruses, and use of the network to make unauthorized entry to any other machine accessible via the Forum.

Rule 3: Do not use the Forum for commercial purposes. "Commercial" as used for purposes of evaluating listserv messages means communications whose primary purpose is to advance the business or financial interests of any person or entity, or otherwise to promote a financial transaction for the benefit of the author directly or indirectly. Examples of prohibited communications include advertisements for products or services, notices regarding rental of office space, or direct solicitations of listserv members to purchase products or services.

Examples of messages that may be of financial benefit to listserv members but are not prohibited because they do not inure to the financial benefit of the author include news of job listings or position openings, or discussion of professionally-related products or services where the listserv member conveying the information is not in the business of selling the products or services.

- a. Further Explanation about Commercial Postings on APA Listservs:** The Listserv agreement provides that "commercial use" includes communications whose "primary purpose is to advance the business or financial interests of any person or entity or otherwise to promote a financial transaction for the benefit of the author directly or indirectly. Examples of prohibited communications include advertisements for products or services, notices regarding rental or office space, or direct solicitation of listserv members to purchase products or services.

Examples of messages that may be of financial benefit to listserv members but are not prohibited because they do not inure to the financial benefit of the author include news of job listings or position openings, or discussion of professionally-related products or services where the listserv member conveying the information is not in the business of selling the products or services.

Announcements that provide useful professional information to List members but may also have some incidental commercial benefit to the sender (e.g. an author who is a listmember merely advising the List of publication of a professional book) typically would not be "commercial" for purposes of this restriction."

The ban on commercial use of the lists is based in legal requirements that flow from APA's status as a 501(c)(3) organization. APA and its divisions enjoy exemption under 501(c)(3) of the Internal Revenue Code, which is the most favorable tax status available to any United States organization; it is the same tax exemption held by universities, churches, and charitable foundations. Because of this status, among other things, APA and its divisions pay no federal income tax on revenues from carrying out exempt activities; voluntary contributions are tax deductible by donors as charitable contributions; and they are exempt from some kinds of local taxes. With these advantages come significant restrictions on how APA can conduct its business, including such restrictions as taking no role in political elections, restricting lobbying and using resources for tax-exempt purposes.

The commercial use ban derives from the related requirements that 1.) APA activities, including those of APA divisions, be focused on 501(c)(3) tax exempt purposes 2.) APA's assets, such as its lists, be used for tax exempt purposes and 3.) APA not provide financial support directly or indirectly to other persons or entities that are not 501(c)(3) organizations, absent certain limited conditions that would not apply to use of APA's lists by other organizations for their business purposes. Thus, the Listserv rules provide that sponsored lists hosted by APA cannot be used for commercial purposes or to promote the financial or commercial interests of others, as these are not tax-exempt purposes.



In addition, material that looks like an advertisement or has that intent, also runs afoul of the rule that APA not provide support to non-c-3 organizations by allowing, in effect, free advertising on the List that would normally be purchased elsewhere i.e. APA is donating support to the advertiser. Posting recruitment materials for other non-c-3 membership organizations does not comply with these restrictions.

A closely related and equally important restriction based in the tax law, is the fact that APA is not able to share its resources freely with organizations that are exempt under less restrictive tax statuses, such as 501(c)(6) organizations. Other membership organizations, that are not exempt under 501(c)(3) of the Code, are likely to engage in a range of activities that APA cannot legally engage in and therefore entwining their activities and initiatives with APA division listservs is not permissible. Thus permitting another entity, even one that is tax exempt under another Code provision, to utilize a list to promote membership, distribute its information or conduct activities is inconsistent with and could jeopardize APA's tax status and that of the divisions who enjoy tax exemption under APA's exempt status.

While these limitations on use of 501(c)(3) resources are clearly quite important, in administering the rules, APA has sought to avoid being heavy-handed. For example, an individual author of a publication of professional interest to others on the list is not precluded by the policy from simply announcing the publication of a book to the list (as opposed to a de facto advertisement) and providing a link to another site where commercial information could be available. In short, we are trying to balance the benefits of information exchange among members with our legal obligations and need to protect an important APA asset, its tax-exempt status.

List managers' and list members' judgment is involved in following the rules and protecting the interests of all involved. APA MIS and legal counsel are always available as resources for list managers and members if needed. It has been APA's experience that when provided with the rules, and explanation of the underlying reasons for the rules, as needed, list members do a good job of keeping list discussions focused on material that is inherently related to the purposes for which APA and the divisions were formed.

Rule 4: Do not use this forum for any communication that could be construed in any way as support for or opposition to any candidate for a federal, state or local public office. The Federal law providing for the American Psychological Association's tax-exempt status absolutely forbids the use of APA resources or facilities, including this forum, in any way that would even appear to support or oppose such a political candidate.

a. Political statements affecting tax exemption

Listsers exchanges must avoid electioneering or endorsing a candidate for federal, state, or local political office. While using the list to endorse political candidates in a federal, state, or local election or for commercial purposes likely won't expose a member to personal legal risk, it can jeopardize APA's tax exempt status under section 501 (c) 3 of the Internal Revenue Code. To keep this advantageous tax status, APA cannot ever be involved in or support in any way electioneering or endorse a candidate for federal, state, or local political office. APA must assure that its activities are focused on the scientific, educative, and charitable purposes for which it gained tax-exempt status.

b. Lobbying Elected Officials

Advocacy on substantive issues is separate from electioneering for candidates. While electioneering is absolutely prohibited, advocacy on legislative issues is not part of this prohibition. However, for APA Divisions, "calls to action" asking listserv members to contact their elected officials to express a view on



legislation are considered a statement of the division under APA Rule 100-1.4, and are subject to the mandatory review and disclaimer requirements therein. Such statements may not be included on the listserv unless and until they have received such review and, where appropriate, have included required disclaimer language.

Rule 5: APA does not endorse or forward requests for research participation to any APA listserv. Divisions may choose to post requests for research participants to their listservs. If you need more information about a Division listserv, it is recommended that you contact the listserv administrator of that Division. Please note the following statements regarding the limits of division and all other listservs as sources for research participants and samples.

APA disclaimer regarding limits of division listservs as research samples:

- Listservs (Division and other APA discussion lists) make no claim to be exhaustive collections of members who may fit into one or more specific category (e.g., clinical psychologists, practitioners, educators, and so on). In fact some 45% of APA members do NOT belong to any one Division. By using a Division as the "universe" for one's respondents, researchers are excluding a large number of eligible participants and hence may be introducing bias into their research.
- Many members belong to more than one Division, and if the research is being sent to more than one Division, the researcher faces the challenge of defining response rate given duplication and of removing duplicate records.

APA members and others who are not APA members belong to Divisions and topical listservs for a number of reasons, some of these may not reflect the fact that the member works in the area covered by the Division or list in any more than a tangential sense - raising questions about the suitability of the sample to the research.
