

# Appeals Policy



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## 1. Policy Objective

1.1 This document sets out the policy and procedure for an appeal by a member of British Columbia Provincial Football Association (BCPFA) in any category of membership of a decision that directly affects them. It provides for an internal process and, in some cases, a final external process.

## 2. Policy Statement

2.1 The BCPFA recognizes the right of any Member to appeal a decision of the BCPFA made against them or that directly affects them and hereby provides for an appropriate process to resolve - fairly, expeditiously, and affordably - a dispute that could arise from time to time from any such decision.

2.2 In this Policy, unless context otherwise requires, words in the singular include the plural and *vice versa*; words importing gender include all genders.

## 3. Definitions

**Appeal Bond:** The sum set as a bond to accompany the Notice of Appeal (See BCPFA.com for current fees for filing an appeal). The Appeal bond shall be refunded to the Member if the Appeal is upheld.

**Appeal Officer:** The person who receives the Notice of Appeal, as designated by the BCPFA Board of Directors.

**Appeal Panel:** The appeal panel established pursuant to section 8.

**Appellant:** A Member appealing a decision of the BCPFA.

**Committee:** The group of individuals appointed by the BCPFA Board of Directors who may serve as an Appeal Officer or on an Appeal Panel.

**Days:** Total days, irrespective of weekends or holidays.

**Interested Party:** An individual who can be directly affected or impacted by a decision of the Appeal Panel and is accepted or named as such by the Appeal Panel.

**Member:** A member of the BCPFA in any category of membership, as well as to all individuals engaged in activities with or employed by the BCPFA, including but not limited to, athletes, coaches, officials, volunteers, directors and officers, managers, administrators, and committee members, including contract personnel.

**Notice of Appeal:** The notice filed by the Appellant to initiate an appeal.

**Party:** An Appellant, Interested Party or a Respondent and Parties means more than one of them.

**Policy:** This Appeals Policy.

**Record of Proceedings:** All documents, video, photographs, written submissions and all materials which were before the party or body who made the decision from whom the Appeal was brought.

**Respondent:** The body, person, or persons against whose decision an appeal is brought.

**Response:** The written response submitted by the Respondent to the Notice of Appeal.

**Working Days:** Total days, excluding weekends and statutory holidays.

## 4. Application

4.1 Any Member who is affected by a decision of the Board of Directors, or any committee of the BCPFA, or of any entity or individual who has been delegated authority to make decisions on behalf of the BCPFA, will have the right to appeal that decision, provided there are sufficient grounds for appeal, as set out in section 4.

4.2 This Policy will not apply to decisions relating to:

- (a) doping offences, which are handled in accordance with the Canadian Anti-Doping Program;
- (b) any incident which is the subject of a criminal investigation or in respect of which criminal proceedings have been commenced;
- (c) commercial matters for which another appeal process already exists under the applicable law or contract;
- (d) labour disputes for which another appeal process already exists under the applicable law or contract;
- (e) decisions taken by third parties, including but not limited to Football Canada and the Canadian Centre for ethics; and
- (f) matters arising during games and events organized by entities other than the BCPFA, including but not limited to Football Canada, U Sport, Canada Games Society, BC Summer Games Society.

## 5. Grounds for an Appeal

5.1 An Appellant cannot challenge a decision only on the grounds that it is not favourable to the Member. An appeal may be heard only if there are sufficient grounds, which include, but are not limited to:

- (a) making a decision for which the decision-maker did not have authority or jurisdiction as set out in its governing documents;
- (b) failing to follow procedures as laid out in the bylaws or approved policies and rules of the BCPFA;
- (c) making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views or that the decision was made on the basis of, or significantly influenced by, factors unrelated to the merits of the matter;
- (d) the decision-maker exercised its discretion for an improper purpose;
- (e) the decision-maker made a decision that was clearly in error, grossly unreasonable or unfair, such that an erroneous decision resulted; or
- (f) sufficient grounds does not include any defect, irregularity, or other technicality unless it raises a material doubt as to the findings or the decision being appealed.

## 6. Filing of Notice of Appeal (Internal Appeal)

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6.1 A Member who wishes to appeal a decision of the BCPFA that affects the Member must initiate the appeal process by completing and filing with the Appeal Officer for the BCPFA, or their designate, the Notice of Appeal together with an Appeal Bond within fourteen (14) days from the date the Member received notice of the decision that is being appealed. For the purposes of this section, decision shall mean the final written decision of the party or body who made the decision from which the appeal is brought.

6.2 Other timelines provided for in this Policy can be amended by the Appeal Officer or Appeal Panel when justified by the circumstances.

## 7. Screening of the Appeal

7.1 Upon receipt of the documents relating to the appeal, the Appeal Officer will decide whether there are sufficient grounds for appeal.

7.2 If the request for an appeal is denied, where it can be denied, the Appellant will be notified of this decision and its reasons in writing within five (5) Working Days from the receipt of Notice of Appeal.

7.3 Upon notification of denial of an appeal, the Appellant has up to two (2) Working Days to provide a written request for a further screening of the request for Appeal by the Committee. The Appellant will be notified of the outcome of this review in writing within five (5) Working Days.

## 8. Notification of the Appeal and Statement by the Respondent

8.1 If the Appeal Officer decides to hear the appeal, then the Appeal Officer will forward a copy of the Notice of Appeal to the Respondent within not more than two (2) Working Days and request a written Response by the Respondent briefly outlining the Respondent's position with respect to the issues raised in the Notice of Appeal. The Appeal Officer will provide the Respondent with the Notice of Appeal.

8.2 The Respondent must complete and sign the Response and deliver it to the Appeal Officer

within seven (7) Working Days from the date of receipt of the Appeal Officer's request or such shorter or longer period as the Appeal Officer may specify depending on the urgency of the matter.

8.3 The Appeal Officer must forward a copy of the written Response to the Appellant without delay after receipt.

8.4 Should the Respondent submit an incomplete Response or fail to submit the Response within the time limit provided by sub-section 8.2, then the Appeal Officer will initiate the establishment of the Appeal Panel.

## 9. Appeal Panel

9.1 Within no more than twelve (12) Working Days of the having received the Notice of Appeal, the Appeal Officer will initiate the establishment of an Appeal Panel as follows:

- (a) the Appeal Panel must include three (3) persons named from the Committee;
- (b) the Appeal Officer will also designate which of the appointees will act as chairperson; and
- (c) the members of the Committee may include individuals who are not Members.

9.2 Each of the three (3) members of the Appeal Panel must be appointed in accordance with the following conditions:

- (a) the member must have no significant relationship with any of the Parties involved;
- (b) the member must have no involvement whatsoever with the decision being appealed; and
- (c) the member must be free from any actual or perceived bias or conflict of interest.

9.3 Upon being appointed, the members of the Appeal Panel will be provided with a copy of the Notice of Appeal and the Response, any exhibits filed by the parties in support of their respective positions, and the Record of Proceedings from which the Appeal is brought.

## 10. Identification of Interested Parties

10.1 Upon its appointment, the Appeal Panel must notify potential Interested Parties of the existence of the appeal and invite them to take part in the appeal proceedings.

## 11. Procedures for the Appeal

11.1 The Appeal Panel, in consultation with the Parties, and considering the relative urgency of the matter, shall determine the procedural steps with respect to the Appeal.

11.2 Within no more than five (5) Working Days of being established, the Appeal Panel shall communicate to all Parties the necessary information to enable their full participation, such as, but not limited to, the following:

- (a) timelines for exchange of documents;
- (b) format of the appeal (written or oral submissions or both);
- (c) date and location of the hearing; and
- (d) any other matter that may assist in expediting the appeal proceedings.

11.3 The Appellant has the burden of proof in an appeal to prove, on a balance of probabilities, that the decision being appealed was wrongly decided, and in the interest of justice and fairness should be overturned.

11.4 The Appeal Panel shall regulate the Appeal proceedings as it deems appropriate, provided that the appeal is heard in a timely manner and that the principles of natural justice are applied at all relevant times.

11.5 Copies of any written submissions which any of the Parties would like the Appeal Panel to consider shall be provided to the Appeal Panel, and to all Parties with an opportunity to reply.

11.6 Each party shall have the right to be represented at the hearing.

11.7 All three members of the Appeal Panel shall hear the appeal, but a majority in favour of the same result will be sufficient to affect a decision.

## 12. Appeal Decision



12.1 Wherever possible, within seven (7) Working Days of the conclusion of the appeal hearing, the Appeal Panel will issue its written decision, with reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:

- (a) to reject the appeal and confirm the decision being appealed;
- (b) to uphold the appeal and refer the matter back to the initial decision-maker for a new review; or
- (c) to uphold the appeal and vary the decision where circumstances do not require that the matter be remitted to the original decision-maker.

12.2 A copy of the written decision will be provided to each of the Parties.

12.3 The Appeal Panel may issue an oral decision or a summary written decision, with full written reasons to follow, in accordance with sub-section 12.1.

### 13. Liability Disclaimer

13.1 The Appeal Panel and the Appeal Officer will bear no liability in respect of any of the Parties for any act or omission in connection with the resolution of a dispute in accordance with the policies of the BCPFA.

13.2 No action or proceeding may be brought against the BCPFA or its Members in respect of a dispute unless the BCPFA is failing or refusing to comply with the provisions with regards to appeals or dispute resolution as provided in the governing documents and polices of the BCPFA.

### 14. Confidentiality

14.1 The appeal process is confidential and involves only the Parties, the Appeal Officer, the Appeal Panel, and any independent advisors to the Appeal Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the appeal proceedings.

## 15. Appeals of the Appeal Panel Decisions

15.1 A Party may appeal the decision of the Appeal Panel to the BCPFA Board of Directors, with five (5) Working Days of receipt of the written appeal decision. The BCPFA Board of Directors will apply the grounds for appeal as outlined in section 5.1.

15.2 A Party may appeal the decision of the BCPFA Board of Directors to the Sport Dispute Resolution Centre of Canada (SDRCC) if the matter satisfies the criteria.