

## **ATHLETICS NEW BRUNSWICK**

### **POLICY STATEMENT 14.1: APPEAL PROCEDURE**

1. Any member of Athletics New Brunswick (ANB) who is affected by a decision of the Board, or any Committee of the Board, or of anybody or individual who has been delegated authority to make decisions on behalf of the Board shall have the right to appeal that decision.
2. This policy shall not apply to any matters that have their own appeal procedures, or to matters relating to the Rules of the Game, which may not be appealed.
3. Members who wish to appeal a decision shall have 10 days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, to the President of ANB. The request should include the grounds for appeal as below in section 4.
4. An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds include the respondent:
  - a) Making a decision for which it did not have authority or jurisdiction as set out in governing documents;
  - b) Failing to follow procedures as laid out in the by-laws or approved policies of the Association;
  - c) Making a decision which was influenced by bias;
  - d) Failing to consider relevant information or taking into account irrelevant information in making the decision;
  - e) Exercising its discretion for an improper purpose; and or
  - f) Making a decision which was unreasonable.
  - g) The respondent has not already been heard through a prior appeal process.
5. Within 10 days of receiving notice of an appeal the President (or designate) shall appoint 3 persons to constitute an Appeals Panel, in accordance with the following:
  - a) The Appeals Panel shall be comprised of members in good standing of the Association who shall have no significant relationship with the appellant, shall have had no involvement with the decision being appealed, and shall be free from actual or perceived bias or conflict.
  - b) At least one of the Panel members shall be from the appellant's peers (athlete, coach, official, etc.)
  - c) In appointing the Appeals Panel, consideration shall be given to the geographic location of the appellant, respondent, and Panel members, in order to minimize the inconvenience and expense to all parties.
  - d) The appellant shall be given an opportunity to recommend one of the Panel members, provided the member satisfies criteria (a) and (c) above.
6. Within 7 days of its appointment, the Appeals Panel shall review the notice of appeal and reasons for the appeal and shall decide whether or not there are sufficient grounds for an appeal. This decision is discretionary and may not be appealed.
7. If the Appeals Panel is satisfied there are not sufficient grounds for an appeal, it shall notify the appellant of this decision in writing, stating reasons. If the Appeals Panel is satisfied that there are sufficient grounds for an appeal, it shall conduct a Hearing.
8. If the Appeals Panel conducts a Hearing, it shall govern the Hearing by such

procedures as it deems appropriate in the circumstances, provided that:

- a) The Hearing shall be held within 21 days of the Panel's appointment;
- b) The appellant and respondent shall be given 10 days written notice of the day, time, and place of the Hearing;
- c) Appeals Panel members shall select from themselves a Chairperson;
- d) A quorum shall be all 3 Appeals Panel members;
- e) Decisions shall be by majority vote;
- f) Copies of any written documents which either appellant or respondent wish to have the Appeals Panel consider shall be provided to all parties at least 2 days in advance of the Hearing;
- g) Both the appellant and respondent may be accompanied by a representative or advisor, including legal counsel;
- h) The Appeals Panel may request that any other individual participate and give evidence at the Hearing.

9. In order to keep costs to a reasonable level, the Appeals Panel may conduct the Hearing by means of a conference call or video conference.

10. Within 3 days of concluding the Hearing, the Appeals Panel shall issue its written decision, with reasons. The Appeals Panel has the authority:

- a) To void or confirm the decision being appealed;
- b) To refer the matter back to the respondent for a new decision, correcting any errors that were made; and/or
- c) To determine how costs of the appeal shall be allocated.

A copy of the decision shall be provided to the appellant, the respondent, and the President (or designate) of ANB.

11. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the President (or designate) may direct that the timelines be shortened. Should this be the case, the appellant, respondent, and members of the Appeals Panel will make every reasonable effort to comply with the revised timeliness in order to conclude the appeal in a timely manner.

12. If the circumstances of the dispute are such that an appeal cannot be concluded within the timelines of the policy, the President (or designate) may seek agreement from the appellant and respondent to extend the timelines.

13. The appellant shall have the right to decline a Hearing in favour of a documentary review. Should this be the case, the Appeals Panel shall request both appellant and respondent to provide written submissions, upon which the Appeals Panel shall make its decision. The Appeals Panel may direct such timelines as it deems appropriate in the circumstances in order to conclude the appeal in a timely manner.

14. The decision of the Appeals Panel shall be final and binding, and not open to any further appeal or intervention by any court.

Adopted, BoD, 1996/06/02  
Amended, BoD 2014/03/31