



APPEAL POLICY

Definitions

1. These terms will have these meanings in this policy:
 - a) “*Appellant*” - The party appealing a decision.
 - b) “*Days*” - will mean total days, irrespective of weekends or holidays.
 - c) “*Wheelchair Basketball Canada Member*” - All categories of membership within Wheelchair Basketball Canada, as well as all individuals employed by or engaged in activities with Wheelchair Basketball Canada, including but not limited to, directors, officers, organizers, National Team athletes, athletes, coaches, referees, officials, volunteers, directors, officers, managers, medical personnel, administrators, spectators, and employees.
 - d) “*Respondent*” - The body whose decision is being appealed.

Purpose

2. Wheelchair Basketball Canada is committed to providing an environment in which all members are treated with respect. Irresponsible behavior by members can result in severe damage to the sport and to the support of Wheelchair Basketball Canada. Conduct that violates these values may be subject to sanctions pursuant to Wheelchair Basketball Canada’s Discipline Policy. Since sanctions may be applied, it is only fair to provide Wheelchair Basketball Canada members with some mechanism to appeal what may appear to be unfair treatment. The purpose of this Appeal Policy is to enable appeals within Wheelchair Basketball Canada to be dealt with fairly, expeditiously and affordably within Wheelchair Basketball Canada, without recourse to external legal procedures.

Scope and Application of this Policy

3. Any Wheelchair Basketball Canada Member who is directly affected by a decision of Wheelchair Basketball Canada will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 7 of this Policy.
4. This Policy will not apply to decisions relating to:
 - a) Matters of employment;
 - b) Infractions for doping offences, which are dealt with pursuant to the *Canadian Anti-Doping Program*;
 - c) The rules of wheelchair basketball;
 - d) Matters relating to the creation, content and requirements of National Team Program policies and procedures, including selection policies (Application and implementation of selection criteria may be appealed);
 - e) Matters relating to the substance, content and establishment of team selection criteria, which may not be appealed;
 - f) Volunteer appointments (Excluding VP Athlete Representative) and the withdrawal or termination of those appointments;
 - g) Matters of budgeting and budget implementation;

- h) Matters of operational structure, staffing and committees; and
- i) Discipline matters and decisions arising during events organized by entities other than Wheelchair Basketball Canada, which are dealt with pursuant to the policies of these other entities;
- j) Any decisions made under Paragraphs 6 and 9 of this Policy.

Timing of Appeal

5. Wheelchair Basketball Canada Members who wish to appeal a decision will have twenty-one (21) days from the date on which they received notice of the decision, to submit in writing to the office of Wheelchair Basketball Canada the following:

- a) Notice of their intention to appeal,
- b) Grounds for the appeal,
- c) All evidence that supports these grounds,
- d) The remedy or remedies requested, and
- e) A payment of two hundred dollars (\$200), which will be refunded if the appeal is successful.

6. Any party wishing to initiate an appeal beyond the twenty-one (21) day period must provide a written request stating reasons for an exemption to the requirement of Paragraph 5. The decision to allow, or not allow an appeal outside the 21-day period will be at the sole discretion of the President, or designate, if the President is not available or not able to act in this capacity because of a conflict of interest or any other reason.

Grounds for Appeal

7. A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for appeal. Sufficient grounds include the respondent:

- a) Making a decision for which it did not have authority or jurisdiction as set out in Wheelchair Basketball Canada's governing documents;
- b) Failing to follow procedures as laid out in the bylaws or approved policies of Wheelchair Basketball Canada, or
- c) Making a decision that 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.

Screening of Appeal

8. Within seven (7) days of receiving the notice and grounds of an appeal and the required fee, the President, or designate will appoint a Screening Panel comprised of three persons with no significant relationship, no involvement with the decision being appealed and free from any other actual or perceived bias of conflict, who will determine whether there are appropriate grounds for the appeal to proceed as set out in Section 7. The Screening Panel is not to determine if an error has been made but only if the appeal is based on such an allegation of error by the Respondent.

9. If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the Screening Panel and may not be appealed to Wheelchair Basketball Canada.

Appeals Panel

10. If the Screening Panel is satisfied that there are sufficient grounds for an appeal the President, or designate will establish an Appeals Panel within ten (10) days (hereafter referred to as the "Panel") as follows:

- a) The Panel will be comprised of three persons who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived bias or conflict.
- b) The Panel will appoint one person to act as Chairperson.

Preliminary Conference

11. The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:

- a) Format of the appeal (hearing by documentary evidence, teleconference, in-person hearing or a combination);
- b) Bias or alleged bias of a panel member;
- c) Timelines for exchange of documents;
- d) Clarification of issues in dispute;
- e) Clarification of evidence to be presented to the Panel;
- f) Order and procedure of hearing;
- g) Location of hearing, where the hearing is an oral hearing;
- h) Identification of witnesses;
- i) Remedies sought ; and
- j) Any other procedural matter that may assist in expediting the appeal proceedings.

12. The Panel may delegate to its Chairperson the authority to deal with these preliminary matters on behalf of the Panel.

Procedure for the Hearing

13. The Panel may conduct the hearing by means of documentary review, conference call, or in person.

14. Where the Panel has determined that the appeal will be held by way of oral hearing in person or via conference call, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:

- a) The hearing will be held within twenty-one (21) days of the Panel's appointment.
- b) The Appellant and Respondent will be given seven (7) days written notice of the date, time and place of the hearing.
- c) A quorum will be all three Panel members. Decisions will be by majority vote, where the Chairperson carries a vote.
- d) Copies of written documents that any of the parties would like the Panel to consider will be provided to the Panel and to all other parties at least five (5) days prior to the hearing.
- e) If the decision of the Panel may affect another party to the extent that the other party would have recourse to an appeal in their own right under this policy, that party will become a party to the appeal in question and will be bound by its outcome.

- f) A representative or advisor, including legal counsel may accompany any of the parties.
- g) The Panel may direct any other person to participate or present evidence in the appeal.
- h) Unless otherwise agreed by the parties, there will be no communication between the Panel and the parties except in the presence of, or by copy to, the other parties.

Procedure for Documentary Appeal

15. Where the Panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures as it deems appropriate provided that:

- a) All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument; and
- b) The applicable principles and timelines set out in Section 14 are respected.

Appeal Decision

16. Within 14 days of concluding the appeal, the 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 to:

- a) Reject the appeal and confirm the decision being appealed; or
- b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
- c) Uphold the appeal and vary the decision; and
- d) Determine how costs of the appeal will be allocated, if at all.
- e) Refund the appeal fee of \$200 to the Appellant.

17. A copy of the decision will be provided to each of the parties and to Wheelchair Basketball Canada.

18. In extraordinary circumstances, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision with reasons is rendered within the timelines specified in this policy.

Timelines

19. If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

Confidentiality

20. The discipline and complaints process is confidential involving only the parties, the Executive Director, or designate and case manager, if any. Once initiated and until a decision is released, none of the parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

Urgent Appeals

21. Where the appeal relates to a decision arising during a tournament or competition and must be dealt with on an urgent basis, notice of the appeal will be provided to the Chief Technical Official of the tournament or competition within 90 minutes of the decision being communicated to the Appellant.

22. Within 60 minutes of receiving the notice of appeal, the Chief Technical Official will appoint a Panel comprised of three individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived bias or conflict. The Chief Technical Official will designate one of the Panel members to serve as Chairperson.

23. The Panel will hear and decide the matter using the following procedures:

- a) The hearing will be an oral hearing, held in private;
- b) The parties will be given 60 minutes notice of the hearing, and may each be accompanied at the hearing by a representative;
- c) Quorum will be all three Panel members. Decisions will be by majority vote where the Chairperson carries a vote;
- d) The Panel may direct that any other person participate in the appeal;
- e) The Panel will render its decision, with reasons, verbally within 30 minutes of the conclusion of the hearing;

24. The Panel may, in its sole discretion, adapt such procedures and timelines to accommodate any unique, urgent or unforeseen circumstances during a tournament or competition, at all times ensuring that the matter is heard and decided in a timely and fair manner.

25. Where the appeal does not relate to a decision arising during a tournament or competition but is nonetheless of an extraordinary and urgent nature, upon receiving notice of the appeal the President will respect the principles set out in this policy but may, in his or her sole discretion, adapt procedures and timelines to ensure that the appeal is heard and decided in a fair and timely manner.

Final and Binding Decision

26. The decision of the Panel will be binding on the parties and on all Wheelchair Basketball Canada Members, subject only to the provisions of Wheelchair Basketball Canada's Dispute Resolution Policy.

27. No action or legal proceeding will be commenced against Wheelchair Basketball Canada related to the decision of the panel in respect of a dispute, unless Wheelchair Basketball Canada has refused or failed to abide by the provisions for appeal and/or dispute resolution as set out in Wheelchair Basketball Canada policies.