



APPEAL POLICY

Definitions

1. These terms will have these meanings in this policy:
 - a) “Appellant”- The party appealing a decision.
 - b) “Case Manager” – An individual appointed by the Wheelchair Basketball Canada Executive Director, including but not limited to, any Wheelchair Basketball Canada Staff, Committee Member, Volunteer or Director; the Wheelchair Canada Basketball Director or any independent third party, to oversee this Appeal Policy. The Case Manager will be responsible for, but not limited to:
 - i. The overall responsibility to ensure procedural fairness and the applicable timelines are respected;
 - ii. The decision making authority described in Section 10; and
 - iii. Acting as a Mediator in accordance with Section 13.
 - c) “Days”- will mean total days, irrespective of weekends or holidays.
 - d) “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.
 - e) “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) Decisions made external to Wheelchair Basketball Canada;
- b) Commercial matters;
- c) Matters of employment;
- d) Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program or any successor policy;
- e) The rules of wheelchair basketball or disputes over competition rules;
- f) 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);
- g) Matters relating to the substance, content and establishment of team selection criteria, which may not be appealed;
- h) Volunteer appointments (Excluding VP Athlete Representative) and the withdrawal or termination of those appointments;
- i) Matters of budgeting and budget implementation;
- j) Matters of operational structure, staffing and committees;
- k) Disputes arising within competitions which have their own appeal procedures;
- l) 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; and
- m) Any decisions under 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) Contact information of the Appellant;
- c) Name of the Respondent and any Affected Parties;
- d) Date the Appellant was advised of the decision being appealed;
- e) A copy of the decision being appealed, or description of decision if written document is not available;
- f) Ground(s) for the appeal,
- g) Detailed reason(s) for the appeal;
- h) All evidence that supports these grounds the reasons and grounds for an appeal,
- i) The remedy or remedies requested, and
- j) 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 Case Manager.

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.

8. The Appellant will bear the onus of proof in the appeal, and thus must be able to demonstrate, on a balance of probabilities, that the Respondent has made an error as described in Section 7.

Case Manager

9. The Wheelchair Basketball Canada Executive Director will appoint a Case Manager to oversee this Policy. The Case Manager may be any of the following:

- a) Any Wheelchair Basketball Canada Staff, Committee Member, Volunteer or Director
- b) The Wheelchair Basketball Canada Executive Director
- c) Any independent third-party, including, but not limited to:
 - i. The Sport Law & Strategy Group
 - ii. The Sport Dispute Resolution Centre of Canada
 - iii. Any other organization or individual with expertise in dispute management

10. The Case Manager has an overall responsibility to ensure procedural fairness and timeliness are respected at all times in the appeals process and more particularly, has a responsibility to:

- a) Determine if the appeal lies within the jurisdiction of this Policy;
- b) Determine if appeal is brought in a timely manner;
- c) Determine if the appeal is brought on permissible grounds;
- d) Appoint the Tribunal to hear the appeal;
- e) In cooperation with the Tribunal, determine the format of the appeal hearing;
- f) Coordinate all administrative and procedural aspects of the appeal;
- g) Provide administrative assistance and logistical support to the tribunal as required; and
- h) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

Screening of Appeal

11. Within seven (7) days of receiving the notice and grounds of an appeal and the required fee, the Case Manager will determine whether there are appropriate grounds for the appeal to proceed as set out in Section 7. The Case Manager 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.

12. 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 Case Manager and may not be appealed to Wheelchair Basketball Canada.

Mediation

13. Upon determining that there exists jurisdiction and sufficient grounds for an appeal, the Case Manager will, with the consent of the parties, seek to resolve the appeal through mediation using the services of the Case Manager or an independent mediator.

Appeals Panel

14. If the appeal cannot be resolved through mediation, then a hearing before a Tribunal will take place. If the Case Manager is satisfied that there are sufficient grounds for an appeal the Case Manager will establish an Appeals Panel within ten (10) days (hereafter referred to as the "Panel") as follows:

- a) The Panel will be comprised of a single Adjudicator to hear the appeal, 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. In extraordinary circumstances, and at the discretion of the Case Manager, an Appeal Panel of three persons may be appointed to hear and decide a case. In this event, the Appeals Officer will appoint one of the Tribunal's members to serve as the Chair.

Preliminary Conference

15. The Appeal 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) Clarification of issues in dispute;
- d) Clarification of evidence to be presented to the Panel;
- e) Order and procedure of hearing;
- f) Location of hearing, where the hearing is an oral hearing;
- g) Identification of witnesses;
- h) Remedies sought; and
- i) Any other procedural matter that may assist in expediting the appeal proceedings.

16. If the case of a three person Appeal Panel, the Panel may delegate to its Chairperson the authority to deal with these preliminary matters on behalf of the Panel.

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

Oral Hearing

18. Where the Appeal Panel has determined that the appeal will be held by way of oral hearing in person or via conference call, the Appeal 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 Appeal Panel's appointment.
- b) The Appellant and Respondent will be given three (3) days written notice of the date, time and place of the hearing.
- c) In the case of a three (3) person Appeal Panel, 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 Appeal Panel to consider will be provided to the Appeal Panel and to all other parties at least five (5) days prior to the hearing.
- e) If the decision of the Appeal 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 Appeal 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 Appeal Panel and the parties except in the presence of, or by copy to, the other parties.

Procedure for Documentary Appeal

19. Where the Appeal 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 17 are respected.

Appeal Decision

20. Within 14 days of concluding the appeal, the Appeal Panel will issue its written decision, with reasons. In making its decision, the Appeal Panel will have no greater authority than that of the original decision-maker. The Appeal 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.

21. A copy of the decision will be provided to each of the parties and to Wheelchair Basketball Canada. The decision will be considered a matter of public record.

22. 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

23. 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 or the Case Manager may direct that these timelines be revised.

Confidentiality

24. The discipline and complaints process is confidential involving only the parties, the Appeal Panel, the Wheelchair Basketball Canada Executive Director and Case manager. Once initiated and until a decision is released, none of the parties or the Appeal Panel will disclose confidential information relating to the appeal to any person not involved in the proceedings.

Urgent Appeals

25. 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.

26. 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.

27. 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;

28. 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.

29. 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

30. 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 and/or the rules of the Sport Dispute Resolution Centre of Canada.

31. 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.