



## **Title: Swim BC Appeals Policy**

**Section:** Swim BC Social Policies  
**Approved by:** SBC Board of Directors

**Date of Approval:** June 16, 2015  
**Next Review:** September 2019

### **1 POLICY STATEMENT**

Any member of Swim BC who is affected by a decision of the Board, of any Committee of the Board, or of any body or individual who has been delegated authority to make decisions on behalf of the Board, shall have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in this policy.

Prior to an appeal being officially started, the parties should exhaust all avenues of dispute resolution as outlined in the Dispute Resolution Policy.

This policy shall not apply to matters relating to:

- a) Disputes arising within competitions, which have their own appeal procedures,
- b) Matters relating to the rules of the sport as set out in the Official Rule Book, which may not be appealed.
- c) Employment
- d) Decisions under the Canadian Anti-Doping Program (Canadian Centre for Ethics in Sport)
- e) Selection Criteria
- f) Decisions made under this Policy

Note: In this policy “member” refers to any employee or any member as defined in the by-laws of Swim BC.

“Appellant” refers to the member appealing a decision; and “Respondent” refers to the body whose decision is being appealed.

### **2 PROCEDURE**

Timing of an Appeal: Members who wish to appeal a decision shall have 14 days from the date on which they received notice of the decision to submit, to Swim BC, written notice of their intention to appeal, detailed reasons for the appeal, contact information of the appellant, a copy of the decision being appealed (or description of the decision if a written document is not available), grounds for the appeal, all evidence that support the grounds, the remedy requested and a \$200.00 bond. This bond will be refunded if the appeal is successful.

Where external timelines are imposed by other parties (Swim BC or internal competition timelines) do not allow for a 14-calendar day appeal period, the Case Manager may direct that the appeal period be shortened.

Any party wishing to initiate an appeal beyond the 14-calendar day period must provide a written request stating reasons for an exemption to this requirement. The decision to allow, or not allow an appeal outside the 14-day period shall be at the sole discretion of the Case Manager.

#### *Grounds for an Appeal*

A decision cannot be appealed on its merits alone. An appeal may be heard only 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 Swim BC;
- c) Making a decision which was influenced by bias, where bias is defined as lack of neutrality to such an extent that the decision-maker is unable to consider other views;
- d) Making a decision that was grossly unreasonable.

### **3 SCREENING OF APPEAL**

Upon receiving the notice of the appeal, the bond, and all other information outlined in this Policy, Swim BC will appoint an independent Case Manager who has the following responsibilities:

- a) Determine if the appeal falls under the scope of this Policy
- b) Determine if the appeal was submitted in a timely manner
- c) Decide whether there are sufficient grounds for the appeal



If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.

If the Case Manager is satisfied there are sufficient grounds for an appeal, the Case Manager will appoint an Appeal Panel which shall consist of a single Adjudicator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair. Appeal Panel member(s) will:

- a) Have no significant relationship with the parties;
- b) Have no involvement with the decision being appealed; and
- c) Be free from bias or conflict.

### **3 PRELIMINARY CONFERENCE**

The Case Manager or the Appeal Panel may determine that the circumstances of the appeal warrant a preliminary conference:

- a) The matters which may be considered at a preliminary conference include date and location of hearing, timelines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.

### **4 APPEAL PROCEDURE**

The Appeal Panel shall govern the appeal by such procedures, as it deems appropriate, provided that:

- a) The appeal hearing shall be held within the timeline determined by the Case Manager or the Appeal Panel.
- b) The appellant, respondent and affected parties shall be given reasonable written notice of the date, time and place of the appeal hearing.
- c) Final decisions shall be made by the Appeal Adjudicator, or in the case of a multi person Appeal Panel, decisions shall be by majority vote.
- d) Copies of any written documents which any of the parties would like the Appeal Panel to consider shall be provided to the Committee, and to all other parties, in advance of the hearing and within the timelines established by the Appeal Panel or the Case Manager.
- e) A representative or advisor, including legal counsel, may accompany any of the parties at their own expense.
- f) If the matter under appeal refers to team selection, any person potentially affected by the decision of the Appeal Panel shall become a party to the appeal.
- g) The Appeal Panel or the Case Manager may direct that any other individual participate in the appeal.

In the case of a three (3) person Appeal Panel and one of the Appeal Panel's members is unable or unwilling to continue with the appeal, the remaining Appeal Panel members will conclude the matter.

Unless otherwise agreed by the parties, there shall be no communication between Appeal Panel and the parties except through the Case Manager.

In order to keep costs to a reasonable level the Appeal Panel may conduct the appeal by means of document review, a conference call or videoconference.

### **5 APPEAL DECISION**

Within 7 days of concluding the appeal, the Appeal Panel shall issue its written decision, with reasons. In making its decision, the Appeal Committee shall 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
- b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
- c) Uphold the appeal and vary the decision



- d) Determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, will be assessed against any Party. In assessing costs, the Panel will take into account the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources

If necessary, the Appeal Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Appeal Panel.

#### **6 TIMELINES**

If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Case Manager or the Appeal Panel may direct that the appeal period, document exchange, decision, notification and other timelines be amended.

#### **8 CONFIDENTIALITY**

The appeals process is confidential and involves only the Parties, the Case Manager, and 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 proceedings.

#### **9 FINAL AND BINDING**

The decision of the Panel will be binding on the Parties.

No action or legal proceeding will be commenced against Swim BC, unless Swim BC has refused or failed to provide or abide by this appeal policy.

Decisions will be copied to individuals and/or organizations related to or impacted by the appeal and those organizations necessary to give effect to the decision.