



## APPEAL POLICY

### Definitions

1. These terms will have these meanings in this policy:
  - a) “*Appellant*”- The party appealing a decision.
  - b) “*Respondent*” - The body whose decision is being appealed.
  - c) “*Member(s)*”- All categories of membership defined in the AthletesCAN Bylaws.
  - d) “*Days*” - Days irrespective of weekends or holidays.

### Purpose

2. The purpose of this Policy is to enable disputes with Members to be dealt with fairly, expeditiously and affordably, within AthletesCAN and without recourse to external legal procedures.

### Scope and Application of this Policy

3. Any Member will have the right to appeal a decision of the AthletesCAN Board of Directors, any committee of AthletesCAN, or any body or individual who has been delegated authority to make decisions on behalf of AthletesCAN, subject to any limits in this Policy.
4. This Policy will not apply to all decisions relating to operational structure, staffing or employment; decisions about allocation of volunteer appointments; decisions on budgets or budget implementation; and decisions of a commercial nature. This Policy will not apply to decisions made by organizations external to AthletesCAN;

### Timing of Appeal

5. Members who wish to appeal a decision will have seven (7) days from the date on which they received notice of the decision, to submit in writing to the head office of AthletesCAN the following:
  - a) Notice of their intention to appeal;
  - b) Contact information of the Appellant;
  - c) Name of the Respondent;
  - d) Grounds for the appeal;
  - e) Detailed reason(s) for the appeal;
  - f) All evidence that supports the reasons and grounds for an appeal;
  - g) The remedy or remedies requested, and
  - h) A payment of two hundred fifty dollars (\$250), which is non-refundable.
6. Any party wishing to initiate an appeal beyond the seven (7) day period must provide a written request stating reasons for an exemption to the requirement of Section 5. The decision to allow, or not to allow an appeal outside the 7-day period will be at the sole discretion of the Administrator appointed by AthletesCAN and may not be appealed.

### Grounds for Appeal

7. Not every decision may be appealed. Decisions may only be appealed on procedural grounds. Procedural grounds are strictly limited to the Respondent:
  - a) Making a decision for which it did not have authority or jurisdiction as set out in the Respondent’s governing documents;
  - b) Failing to follow procedures as laid out in the bylaws or approved policies of AthletesCAN;

- 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 or that the decision was influenced by factors unrelated to the substance or merits of the decision; and/or
  - d) Making a decision that was grossly unreasonable.
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 a procedural error as described in Section 7.

### **Administrator**

9. AthletesCAN will appoint an Administrator to oversee the management and administration of appeals submitted in accordance with this Policy. The Administrator has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner. More specifically, the Administrator has a responsibility to:
- a) Receive appeals;
  - b) Determine if appeals lie within the jurisdiction of this Policy;
  - c) Determine if appeals are brought in a timely manner;
  - d) Determine if appeals are brought on permissible grounds;
  - e) Appoint the tribunal to hear appeals;
  - f) Determine the format of the appeal hearing;
  - g) Coordinate all administrative and procedural aspects of the appeal;
  - h) Provide administrative assistance and logistical support to the tribunal as required; and
  - i) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

### **Screening of Appeal**

10. Upon receipt of the notice and grounds of an appeal and the required fee, the Administrator will review the Notice of Appeal and will decide if the appeal falls within the jurisdiction of this Policy, and if it satisfies procedural grounds. If the Administrator is satisfied that the appeal is not under this Policy's jurisdiction, or that there are not sufficient grounds, the parties will be notified in writing, stating reasons. There is no further appeal of the Administrator's decision on jurisdiction or grounds.
11. If the Administrator is satisfied that there are sufficient grounds for an appeal, then a Hearing before a Tribunal will take place. The Administrator will appoint the Tribunal, which will consist of a single Adjudicator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Administrator, a Tribunal of three persons may be appointed to hear and decide a case. In this event, the Administrator will appoint one of the Tribunal's members to serve as the Chair.
12. The Administrator will determine the timing and format of the Hearing, which may involve an oral Hearing in person, an oral Hearing by telephone, a Hearing based on written submissions or a combination of these methods. The Hearing will be governed by the procedures that the Administrator and the Tribunal deem appropriate in the circumstances, provided that:
- a) The parties will be given appropriate notice of the day, time and place of the hearing.
  - b) Copies of any written documents which the parties wish to have the Tribunal consider will be provided to all parties in advance of the Hearing.
  - c) The parties may be accompanied by a representative, advisor or legal counsel at their own expense.
  - d) If a decision in the appeal 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.

- e) In a situation where the hearing is conducted by a Tribunal consisting of three Adjudicators, a quorum will be all three Adjudicators and decisions will be by majority vote.

### **Appeal Decision**

13. After the Hearing, the Tribunal will issue a written decision with reasons. The Tribunal may decide:
  - a) To reject the appeal and confirm the decision being appealed; or
  - b) To uphold the appeal, identify the error and refer the matter back to the original decision maker; or
  - c) To uphold the appeal and vary the decision.
14. The Tribunal's decision will be considered a matter of public record. A copy of this decision will be provided to the parties and to the President of AthletesCAN. Where time is of the essence, the Tribunal may issue a verbal decision or a summary written decision, with reasons to follow.
15. The appeal process is confidential involving only the parties, the Administrator and the Tribunal. Once initiated and until a written decision is released, the parties will not disclose confidential information relating to the appeal to any person not involved in the proceedings.
16. The decision of the Tribunal will be final and binding upon the parties and upon all members of AthletesCAN, subject only to a review of the matter under AthletesCAN's policy on Dispute Resolution.