

BC WHEELCHAIR SPORTS ASSOCIATION APPEAL POLICY

Note: In this policy “member” refers to any director, employee (including contract personnel), coach, athlete, official, manager, committee member, volunteer or any affiliate association of BC Wheelchair Sports Association; “appellant” refers to the member appealing a decision; and “respondent” refers to the body whose decision is being appealed.

1. Any member of BC Wheelchair Sports Association (the Association) 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.
2. This policy shall not apply to matters relating to harassment policy which has its 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, along with detailed reasons for the appeal, to the President of the Association.
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 bylaws 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.
5. Within 10 days of receiving notice of an appeal, the President (or designate) shall appoint three persons to constitute a Tribunal, in accordance with the following:
 - a. The Tribunal 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 Tribunal members shall be from among the appellant’s peers (for example, if the appellant is an athlete, one Tribunal member shall be an athlete; if the appellant is a coach, one Tribunal member shall be a coach, etc.)
 - c. In appointing the Tribunal, consideration shall be given to the geographic location of the appellant, respondent and Tribunal 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 Tribunal members, provided the member satisfies criteria (a) and (c) above.

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6. Within 7 days of its appointment the Tribunal 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 Tribunal is satisfied that there are not sufficient grounds for an appeal, it shall notify the appellant of this decision in writing, stating reasons. If the Tribunal is satisfied that there are sufficient grounds for an appeal, it shall conduct a Hearing.
8. If the Tribunal 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 Tribunal's appointment;
 - b. The appellant and respondent shall be given 10 days written notice of the day, time and place of the Hearing;
 - c. Tribunal members shall select from themselves a Chairperson;
 - d. A quorum shall be all three Tribunal members;
 - e. Decisions shall be by majority vote;
 - f. Copies of any written documents which either the appellant or respondent wish to have the Tribunal 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 adviser, including legal counsel;
 - h. The Tribunal may request that any other individual participate and give evidence at the Hearing.
9. In order to keep costs to a reasonable level the Tribunal may conduct the Hearing by means of a conference call or videoconference.
10. Within 3 days of concluding the Hearing, the Tribunal shall issue its written decision, with reasons. The Tribunal may decide:
 - a. To void, vary or confirm the decision being appealed;
 - b. To make any decision it feels the respondent should have made;
 - c. To refer the matter back to the respondent for a new decision, correcting any errors that were made; and/or
 - d. To determine how costs of the appeal shall be allocated.

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

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 these timelines be shortened. Should this be the case, the appellant, respondent and members of the Tribunal will make every reasonable effort to comply with the revised timelines 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 this policy, the President (or designate) may seek agreement from the appellant and respondent to extend the timelines.

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

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