



CANADA BASKETBALL APPEAL POLICY

DEFINITIONS

1. These terms will have these meanings in this Policy:
 - a) “Appellant” – the party appealing a decision.
 - b) “Respondent” – the individual or body whose decision is being appealed.
 - c) “*Individual*”- All categories of membership defined in Canada Basketball Bylaws, provided they are in good standing at the time the appeal is filed, as well as to all individuals engaged in activities with Canada Basketball, including, but not limited to, athletes, coaches, officials, directors, officers, and managers.
 - 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 Canada Basketball and without recourse to external legal procedures.

SCOPE AND APPLICATION

3. Any Member affected by a decision will have the right to appeal the decision of the Canada Basketball Board of Directors, any committee of, or any individual who has been delegated authority to make decisions on behalf of Canada Basketball, provided there are sufficient grounds for the appeal as set out in this Policy, subject to the limits set out in this Policy.
4. This Policy will apply to decisions made by Canada Basketball relating to eligibility, selection, discipline, Athlete Assistance Program (“AAP”) carding nominations or any other matter deemed appropriate by Canada Basketball.
5. This Policy will **not** apply to matters relating to:
 - a) Matters of employment.
 - b) Volunteer appointments and the withdrawal or termination of those appointments.
 - c) Matters of operational structure, committees, staffing, employment or volunteer opportunities.
 - d) Commercial matters.
 - e) Matters of budgeting and budget implementation.
 - f) Infractions for doping offences which are dealt with pursuant to the *Canadian Anti-Doping Program* or any successor policy.
 - g) Selection criteria, quotas, policies and procedures established by entities other than Canada Basketball.
 - h) The Athlete Assistance Program policies and procedures established by Sport Canada.
 - i) Policy and procedures established by any other agency, association or organization external to Canada Basketball.
 - j) Disputes over competition rules or the rules of basketball.
 - k) Disputes arising within competitions which have their own appeal procedures.
 - l) Any decisions made under Sections 7 and 11 of this Policy.

Timing of Appeal

6. Members who wish to appeal a decision will have fourteen (14) days from the date on which they received notice of the decision, to submit in writing to the head office of Canada Basketball the following:
 - a) Notice of their intention to appeal.
 - b) Contact information and status 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) Grounds for the appeal.
 - g) Detailed reason(s) for the appeal.
 - h) All evidence that supports the reasons and grounds for an appeal.
 - i) The remedy or remedies requested.
 - j) A payment of five hundred dollars (\$500), which may be refundable.
7. Any party wishing to initiate an appeal beyond the fourteen (14) day period must provide a written request stating reasons for an exemption to the requirement of Section 6. The decision to allow, or not to allow an appeal outside the 14-day period will be at the sole discretion of the Case Manager appointed by Canada Basketball and may not be appealed.

GROUND FOR APPEAL

8. Not every decision may be appealed. Decisions may only be appealed on procedural grounds where it has been demonstrated that the Respondent did one or more of the following:
- a) Made a decision for which it did not have authority or jurisdiction as set out in the Respondent's governing documents.
 - b) Failed to follow procedures as laid out in the bylaws or approved policies of Canada Basketball.
 - c) Made 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.
9. 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 8.

ETHICS COMMITTEE REVIEW

10. Before any appeal proceeds to the formal stage, the dispute will be referred first to Canada Basketball Dispute Resolution Officer for review, with the objective of resolving the dispute via mediation.

Case Manager

11. Should the review by the Dispute Resolution Officer not resolve the dispute, Canada Basketball will appoint an independent Case Manager to oversee management and administration of a formal appeal under this Policy. The Case Manager 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 Case Manager 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) 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.
 - h) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

Screening of Appeal

12. Upon conclusion of the mediation, if any, receipt of the notice, grounds of an appeal, supporting evidence and the required fee, the Case Manager will review the appeal and will decide whether or not there are sufficient grounds for an appeal. If the Case Manager is satisfied that there are not sufficient grounds for an appeal, the parties will be notified in writing, stating reasons. If the Case



Manager is satisfied that there are sufficient grounds for an appeal, then a hearing will take place. This decision is at the sole discretion of the Case Manager and may not be appealed.

Appeals Panel

13. If the Case Manager is satisfied that there are sufficient grounds for an appeal, the Case Manager will establish an Appeals Panel (the "Panel") consisting of one (1) to three (3) persons to hear the appeal. The Case Manager will appoint one of the Panel's members to serve as the Chair.

Procedure for the Hearing

14. The Case Manager will determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by teleconference, a hearing based on written submissions or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:
 - a) The hearing will be held within the appropriate timeline determined by the Case Manager.
 - b) The Parties will be given reasonable notice of the day, time and place of the hearing.
 - c) Copies of any written documents which the Parties wish to have the Panel consider will be provided to all Parties in advance of the hearing in accordance with the appropriate timeline.
 - d) Both Parties may be accompanied by a representative or adviser, including legal counsel.
 - e) The Panel may request that any other individual participate and give evidence at the hearing or request further information from the Parties.
 - f) 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.
 - g) The hearing will be conducted in the official language of choice of the Appellant.
 - h) Decisions of the Panel will be by majority vote.

Appeal Decision

15. Within fourteen (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) To uphold the appeal and vary the decision.
16. The decision will be considered a matter of public record. A copy of this decision will be provided to the Parties and to Canada Basketball. Where time is of the essence, 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 appropriate timelines.

Confidentiality

17. The appeal process is confidential involving only the parties, the Case Manager and the Panel. Once initiated and until a written decision is released, none of the parties or the Panel will disclose confidential information relating to the appeal to any person not involved in the proceedings.

Final and Binding Decision

18. The decision of the Panel will be final and binding upon the parties and upon all members of Canada Basketball subject to the right of any party to seek a review of the Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC), as amended from time to time.
19. Where a decision under appeal relates to a carding matter governed by the policies and procedures of the Athlete Assistance Program, such policies will apply.



APPROVAL

20. This policy was approved by Canada Basketball Board of Directors on the 25th day of May, 2013.