

APPEAL POLICY

Edited September 2009

DEFINITIONS

1. These terms will have these meanings in this policy:
 - a) *“Appellant”* - The party appealing a decision.
 - b) *“Days”* - Days irrespective of weekends or holidays.
 - c) *“Respondent”* - The body whose decision is being appealed.
 - d) *“BCFSA Member”* - All categories of membership within BCFSA, as well as all individuals employed by or engaged in activities with BCFSA, including but not limited to, directors, committee members, athletes, coaches, judges, officials, volunteers, officers, administrators, spectators and parents of BCFSA members.
 - e) *“Appeals Panel”* –This committee will make decisions regarding appeals.
 - f) *“Case Manager”* - The BCFSA President or someone delegated by the President to oversee the discipline or complaint process.

PURPOSE

2. BCFSA 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 BCFSA. Conduct that violates these values may be subject to sanctions pursuant to BCFSA’s Discipline and Complaints Policy, accessed on BCFSA website. Since sanctions may be applied, it is only fair to provide BCFSA Members with some mechanism to appeal what may appear to be unfair treatment.
3. The purpose of this Policy is to enable appeals within BCFSA to be dealt with fairly, expeditiously and affordably, in order to fully satisfy involved parties.

SCOPE AND APPLICATION OF THIS POLICY

4. Any BCFSA Member who is directly affected by a decision of BCFSA will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 8 of this Policy.
5. This Policy will not apply to decisions relating to:
 - a) Matters of employment;
 - b) Infractions for doping offences which are dealt with pursuant to the *Canadian Anti-Doping Program* or any successor policy by the Canadian Centre for Ethics in Sport;
 - c) The CFSA and/or FIS rules of freestyle skiing;
 - d) Matters relating to the substance, content and establishment of team selection criteria;
 - e) Volunteer appointments and the withdrawal or termination of those appointments;
 - f) Matters of budgeting and budget implementation;
 - g) Matters of operational structure and committees;
 - h) Discipline matters and decisions arising during events organized by entities other than BCFSA, which are dealt with pursuant to the policies of these other entities;
 - i) Disputes arising within competitions which have their own appeal procedures; and
 - j) Any decisions made under Paragraphs 7 and 10 of this Policy.

TIMING OF APPEAL

6. BCFSA 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 BCFSA the following:
 - a) Notice of their intention to appeal;
 - b) Grounds for the appeal;
 - c) All evidence that supports these grounds;

- d) The remedy or remedies requested; and
 - e) A payment of two hundred fifty dollars (\$250), which will be refunded if the appeal is successful.
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 Paragraph 6. The decision to allow, or not allow an appeal outside the 14-day period will be at the sole discretion of the Case Manager appointed by BCFSA and may not be appealed.

GROUND FOR APPEAL

8. 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 the Respondent's governing documents;
 - b) Failing to follow procedures as laid out in the bylaws or approved policies of the Respondent;
 - 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.

SCREENING OF APPEAL

9. Upon receipt of 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 8. 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.
10. 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.

APPEALS PANEL

11. If the Case Manager is satisfied that there are sufficient grounds for an appeal, the Case Manager will establish an Appeals Panel (hereafter referred to as the "Panel") as follows:

- a) The Panel will be comprised of one - three persons 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 general, the Panel will consist of members of the BCFSA Board of Directors (BOD). It is however possible to appoint Panel members from outside the BOD when the nature of the appeal is such that the BOD would be in a conflict of interest with the appellant.
- b) The Case Manager will appoint one person to act as Chairperson.

PRELIMINARY CONFERENCE

12. The 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, oral hearing, in-person or a combination);
- b) Timelines for exchange of documents;
- 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 in-person hearing;
- g) Identification of witnesses;
- h) Remedies sought ; and
- i) Any other procedural matter that may assist in expediting the appeal proceedings.

13. The Panel may delegate to its Chairperson the authority to deal with these preliminary matters on behalf of the Panel.

PROCEDURE FOR THE HEARING

14. The Panel will conduct the hearing by means of documentary review, conference call, or in-person.
15. Where the Panel has determined that the appeal will be held by way of oral hearing in person or via conference call, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:
- a) The Appellant and Respondent will be given three (3) days written notice of the date, time and place of the hearing.
 - b) Decisions will be by majority vote, where the Chairperson carries a vote.
 - c) Copies of written documents that any of the parties would like the Panel to consider will be provided to the Panel and to all other parties at least three (3) days prior to the hearing.
 - d) If the decision of the 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.
 - e) A representative or advisor, including legal counsel may accompany any of the parties, and is at their own expenses.
 - f) The Panel may direct any other person to participate or present evidence in the appeal.
 - g) Unless otherwise agreed by the parties, there will be no communication between the Panel and the parties except in the presence of, or by copy to, the other parties.

PROCEDURE FOR DOCUMENTARY APPEAL

16. Where the 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 12 are respected.

APPEAL DECISION

17. 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) Uphold the appeal and vary the decision; and
- d) Refund the appeal fee of \$250 to the Appellant.

18. A copy of the decision will be provided to each of the parties and to BCFSFA.

19. 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

20. 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 may direct that these timelines be revised.

CONFIDENTIALITY

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

FINAL AND BINDING DECISION

22. The decision of the Panel will be binding on the parties and on all BCFSAs Members, subject only to the provisions of BCFSAs Dispute Resolution Policy.

23. No action or legal proceeding will be commenced against BCFSAs or its members in respect of a dispute, unless BCFSAs has refused or failed to abide by the provisions for appeal and/or dispute resolution as set out in the BCFSAs policies

The policies in this document may from to time be revised and amended by the BCFSAs Board of Directors.