

## APPEAL POLICY

### 1. DEFINITIONS

The following terms have these meanings in this Policy:

- a) *“Appellant”* – The Party appealing a Decision
- b) *“Case Manager”* – An individual appointed by Triathlon Canada who may be any staff member, committee member, volunteer, Director, or an independent third party, to oversee this *Appeal Policy*. The Case Manager will have responsibilities that include, but are not limited to, the decision-making authority empowered by this Policy. The Case Manager is more fully described in the Addendum to this Policy.
- c) *“Decision”* – a Triathlon Canada decision relating to a matter described in section 4 of this Policy.
- d) *“Respondent”* – The body whose decision is being appealed
- e) *“Parties”* – The Appellant, Respondent, and any other Individuals affected by the appeal
- f) *“Individuals”* – All categories of membership defined in Triathlon Canada’s Bylaws, as well as all individuals employed by, or engaged in activities with, Triathlon Canada including, but not limited to, athletes, coaches, convenors, referees, officials, volunteers, managers, administrators, committee members, Directors and Officers of Triathlon Canada, and parents/guardians of athletes

### 2. PURPOSE

Triathlon Canada is committed to providing an environment in which all Individuals involved with Triathlon Canada are treated with respect and fairness. Triathlon Canada provides Individuals with this *Appeal Policy* to enable fair, affordable, and expedient appeals of certain decisions made by Triathlon Canada.

### 3. SCOPE AND APPLICATION OF THIS POLICY

This Policy applies to all Individuals. Subject to Sections 4 and 5, any Individual who is directly affected by a Triathlon Canada Decision shall have the right to appeal that Decision only on the basis set out in the ‘Grounds for Appeal’ section of this Policy.

This Policy **will apply** to Decisions relating to:

- a) Team Eligibility and Selection as described in Triathlon Canada policies
- b) Conflict of Interest
- c) Discipline
- d) Membership
- e) Athlete Assistance Program (AAP) carding nominations

This Policy **will not apply** to Decisions relating to:

- a) Employment
- b) Infractions for doping offenses
- c) The rules of the sport
- d) Selection criteria, quotas, policies, and procedures established by entities other than Triathlon Canada
- e) Substance, content and establishment of team selection criteria
- f) Volunteer/coach appointments and the withdrawal or termination of those appointments
- g) Budgeting and budget implementation
- h) Triathlon Canada's operational structure and committee appointments
- i) The business, activities, or events organized by entities other than Triathlon Canada (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by Triathlon Canada at its sole discretion)
- j) Commercial matters for which another appeals process exists under a contract or applicable law
- k) Relay team selections within a Major Games or World Championships situation

#### **4. TIMING OF APPEAL**

Individuals who wish to appeal a Decision have seven (7) days from the date on which they received notice of the Decision to submit, in writing to Triathlon Canada, the following:

- a) Notice of the intention to appeal
- b) Contact information and status of the Appellant
- c) Name of the respondent and any affected parties, when known to the Appellant
- d) Date the appellant was advised of the Decision being appealed
- e) A copy of the Decision being appealed, or description of Decision if the Decision was not rendered in writing
- f) Grounds for the appeal
- g) Detailed reasons for the appeal
- h) All evidence that supports these grounds
- i) Relief sought
- j) An administration fee of five hundred dollars (\$500)

An Individual who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an extension of the time to initiate an appeal. The decision to allow, or not allow, the commencement of an appeal outside of the seven (7) day period will be at the sole discretion of the Case Manager and may not be appealed.

#### **5. GROUNDS FOR APPEAL**

The grounds for initiating the Appeal of a Decision are limited to the following:

The Respondent:

- a) Made the Decision outside the scope of its authority or jurisdiction;
- b) Failed to follow applicable procedures in making the Decision;
- c) Was biased in making the Decision; or
- d) Exercised its discretion for an improper purpose.

A Decision cannot be appealed simply because an individual does not like or agree with it.

The Appellant bears the onus of proof on the appeal and must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy.

## **6. SCREENING OF APPEAL**

Upon receiving the required documents and fees described in Section 6, by way of personal delivery, e-mail, fax or mail, Triathlon Canada will appoint a Case Manager, who shall have 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
- d) Consider the use of the mediation to resolve the appeal

If the appeal is denied, the Appellant will be notified in writing of the reasons for this decision. This decision may not be appealed. If the Appellant(s) believe(s) the Case Manager has made an error in denying the right to appeal, the matter may be referred to arbitration or mediation administered under the Canadian Sport Dispute Resolution Code, as amended from time to time.

If the Case Manager determines that the Appeal may proceed, the Case Manager may propose mediation. If the Appeal is not resolved, or if the Parties refuse to use mediation, the Case Manager will appoint an Appeals Panel which shall consist of a single Arbitrator, to hear the appeal. 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 members to serve as the Chair.

## **7. PROCEDURE FOR APPEAL HEARING**

The Case Manager shall notify the Parties that the Appeal will be heard. The Case Manager shall then decide the format under which the Appeal will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.

If a Party chooses not to participate in the hearing of the Appeal, the hearing will proceed in any event.

The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, 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 a 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
- d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
- e) The Panel may request that any other individual participate and give evidence at the hearing
- f) The Panel may allow as evidence at the hearing it considers appropriate.
- g) If a Decision being appealed 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
- h) The decision to uphold or reject the appeal will be by a majority vote of Panel members

In fulfilling its duties, the Panel may obtain independent advice.

## **8. APPEAL DECISION**

The Panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. 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;
- b) Uphold the appeal and refer the matter back to the initial Decision-maker for reconsideration
- c) Uphold the appeal and vary the Decision

If the appeal is upheld, the \$500 administrative fee will be returned to the Appellant.

The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Triathlon Canada. In extraordinary circumstances, the 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 Panel.

## **9. TIMELINES**

If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Case Manager and/or Panel may direct that these timelines be revised.

## 10. CONFIDENTIALITY

The appeals process is confidential and involves only the Parties, the Case Manager, the Panel, and any independent advisors to the 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.

## 11. FINAL AND BINDING

The decision of the Panel will be binding on the Parties and on all Triathlon Canada's Individuals; 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).

No action or legal proceeding will be commenced against Triathlon Canada or Individuals in respect of a dispute, unless Triathlon Canada has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in Triathlon Canada's governing documents.