

APPEALS POLICY

«OBSA» means the body duly incorporated under the name Ontario Bobsleigh Skeleton Association and any members of OBSA as well as all individuals engaged in activities with or employed by OBSA including but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel).

«Appellant» refers to the member appealing a decision.

«Respondent» refers to the individual or body whose decision is being appealed.

«Days» means days irrespective of weekend or holidays.

«Panel» shall be deemed to be the Appeal Committee

SCOPE OF APPEAL

1. Any member of OBSA who is directly affected by a decision of the Board of Directors or of any body or individual who has been delegated or given authority to make decisions on behalf of the Board of Directors shall have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 7 of this Policy.
2. This Policy shall not apply to:
 1. Matters relating to the rules of bobsleigh and skeleton, which may not be appealed;
 2. Matters relating to international competitions in Canada but not governed by OBSA or BCS such as the Olympic Games, World Championships and similar events governed by other international organizations;
 3. Matters of employment unless otherwise stated;
 4. Matters of budgeting and budget implementation;
 5. Matters of operational structure and staffing.

TIMING OF APPEAL

1. Members who wish to appeal a decision shall have ten (10) days from the date on which they received notice of the decision, to deliver a written Notice of Appeal to the President.
2. Notice of Appeal shall contain the following information:
 - a) Appellant's name and address;
 - b) Date the appellant was advised of the decision being appealed;
 - c) Name of the individual who communicated the decision to the Appellant;
 - d) Appellant's status;
 - e) Copy of decision being appealed or description of decision if written document is not available;

Each Appeal must be accompanied by a \$100.00 deposit, refundable in the case of a successful appeal.

1. Notices may be delivered in person to the President, or delivered by fax, courier, or special delivery to the OBSA Office. Electronic notification may be sent but must be followed with payment.
2. Any party wishing to initiate an appeal beyond the 10 day period must provide a written request stating reasons for an exemption to the requirement. The decision to allow, or not allow an appeal outside the 10 day period shall be at the sole discretion of the President.

GROUND FOR APPEAL

1. A decision cannot be appealed on its facts alone. An appeal may be heard only if the appeal on its face discloses sufficient grounds for the appeal. In order for an appeal to demonstrate sufficient grounds for appeal, it must allege 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 OBSA's governing documents, rules and policies;
 - b) Failed to follow procedures as laid out in the bylaws or approved policies of OBSA;
 - c) Made a decision which was influenced by bias, which is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views;
 - d) Exercised its discretion for an improper purpose;
 - e) Made a decision for which there is no supporting evidence;
 - f) Made a decision which was grossly unreasonable.

With respect to grounds of appeal c. and f. above, the appellant must establish that he or she was prejudiced because of the matter complained of under that ground of appeal, or that the matter complained of had, or may reasonably have had, or had it been known by the decision maker may reasonably have had, a material effect on the decision maker whose decision is under appeal.

APPEALS PANEL

1. The appeals Panel shall be established as follows:
 - a. The Panel shall be comprised of three individuals who shall have no significant relationship with the affected parties and shall have no involvement with the decision being appealed, and shall be free from any other actual or perceived bias or conflict;
 - b. The Appellant shall be given the opportunity to recommend a peer member on the Panel, provided that member satisfies criterion a. above;
 - c. Should the Appellant not recommend the Panel member as set out in b. above within 5 days, the President shall appoint the peer member of the Panel.
2. The Appeals Panel shall select from themselves a Chairperson.

SCREENING OF APPEAL

1. Within 7 days of its appointment the Appeals Panel shall review the Notice of Appeal and reasons for the appeal. If the Appeals Panel is of the view that the Notice of Appeal and reasons stated therein for the appeal do not on their face appear to set forth sufficient grounds for an appeal, the Appeals Panel shall so advise the appellant and provide the appellant with an opportunity to demonstrate that the Notice of Appeal and reasons for the appeal do in fact on their face show sufficient grounds for an appeal. The respondent shall also be advised by the Appeals Panel of this process and given the opportunity to make submissions to the Appeals Panel on this issue as well. If and only if, the Appeals Panel is of the unanimous opinion that it is patent and obvious from what is contained in the Notice of Appeal that, notwithstanding the submissions of the appellant, there are not sufficient grounds for an appeal and the appeal cannot possibly succeed even if the allegations contained in the Notice of Appeal are accepted as true and accurate, the appeal shall be dismissed by the Appeals Panel. The decision of the Appeals Panel shall be final and binding and not subject to further review or arbitration and may not be appealed.
2. If the Appeals Panel 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 Appeals Panel is satisfied that there are sufficient grounds for an appeal, it shall conduct a Hearing.

PRELIMINARY CONFERENCE

1. The Panel may determine that the circumstances of the dispute warrant a preliminary conference:

- a) The matters which may be considered at a preliminary conference include date and location of hearing, timelines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.
- b) The Panel may delegate to its Chairperson the authority to deal with these preliminary matters.

PROCEDURE FOR THE APPEAL

1. If the Appeals Panel conducts a Hearing, the Panel shall govern the appeal by such procedures as it deems appropriate, provided that:
 - a) The Hearing shall be held within 21 days of the Panel's appointment;
 - b) The appellant and respondent shall be given 7 days written notice of the date, time and place of the appeal hearing;
 - c) A quorum shall be all three Panel members;
 - d) In the case that a Panel member shall die, or refuse to act, or become incapable of acting as a Panel member before the actual Hearing of the appeal has commenced, the party (appellant or respondent) who appointed such Panel member shall forth with thereafter appoint a replacement Panel member to be the Panel member in the place and stead of the Panel member who has died, or refused to act or become incapable of acting, and if the Panel member in question is the Panel member who was appointed by the respective Panel members appointed by the parties, the two Panel members appointed by the parties shall appoint the replacement Panel member. In the case that a Panel member shall die, or refuse to act, or become incapable of acting as a Panel member after the actual Hearing of the Appeal has commenced, the Hearing and Appeal shall be completed by the Panel members remaining and the Panel members remaining shall have full authority to complete and finally dispose of the appeal. In that case a quorum shall be the number of Panel members remaining;
 - e) Decisions shall be by majority vote, where the Chairperson carries a vote;
 - f) Copies of any written documents which any of the Parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least 5 days in advance of the hearing. Written documents shall not otherwise be received and considered by the Appeals Panel unless with the consent of all parties, or in the event the Appeals Panel determines it just and equitable to do so;
 - g) Both the appellant and respondent may be accompanied by a representative or adviser, including legal counsel;
 - h) The Appeals Panel may request that any other individual participate and give evidence at the Hearing;
 - i) The Appeals Panel may shorten any of the time periods provided for relative to the Hearing, having particular regard to the timing of any event or circumstance that is imminent and once passed will render the appeal of no practical consequence;
 - j) The Appeals Panel may, at any stage of the appeal but not after the hearing has been completed, order that any other member be added as a party to the appeal, whose presence as a party is necessary to enable the Appeals Panel to determine effectively and completely the issues raised by the appeal, and any member so added shall have all the same rights as a respondent to the appeal except to the extent such may reasonably be abridged by the Appeals Panel having regard to the timing of the order adding the member. The Appeals Panel may delegate to its Chairperson the authority to deal with the issue of adding a party to the appeal and other related issues thereto as provided herein;
 - k) Any party to the Appeal (the appellant, respondent, or an added party) shall be entitled to address the Appeals Panel in either English or French and shall so notify the Appeals Panel of the language intended to be used so that appropriate translation services, if necessary can be arranged. Should a party to the appeal wish to provide evidence, oral or written, from a

witness that party shall be responsible for the costs for any translation services necessary for that witness;

- l) The Appeals Panel may allow as evidence at the hearing, subject to the disclosure requirements provided for herein, any oral evidence and any document or thing relevant to the subject matter of the appeal, but the Appeals Panel may exclude any such evidence that is unduly repetitious;
- m) The onus shall be on the appellant to establish on the balance of probabilities any factual basis for the appeal, and the grounds of appeal themselves;
- n) The Appeals Panel may conduct such preliminary meetings (by conference call, videoconference or in person) with the parties as it deems appropriate to expedite the actual hearing of the appeal.

2. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone or videoconference.

APPEAL DECISION

Within 7 days of concluding the appeal, the Panel shall issue its written decision, with reasons. In making this decision, the Panel shall have no greater authority than that of the original decision-maker. The Panel may decide:

- a. To confirm the decision and dismiss the appeal;
- b. To void the decision and refer the matter back to the initial decision-maker for a new decision;
- c. To vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality; and
- d. To determine how costs of the appeal shall be allocated excluding the legal costs and legal disbursements, if at all.
- e. A copy of the decision shall be provided to all Parties and to the President.

The decision of the Appeals Panel shall be final and binding on all parties.

TIMELINES

If the circumstances of the appeal, or if circumstances beyond or outside of the appeal, are such that this Policy will not allow a timely appeal or timely appeal decision, the Panel may direct that these timelines be abridged. If the circumstances of the appeal, or if circumstances beyond or outside of the appeal, are such that the appeal cannot be concluded within the timelines dictated in this Policy, the Panel may direct that these timelines be extended. The Panel may delegate this authority to abridge or extend the timelines to the Chairperson as provided for above;

DOCUMENTARY APPEAL

Any Party to the appeal may request that the Panel conduct the appeal by way of documentary evidence. The Panel may seek agreement from the other Parties to proceed in this fashion. If agreement is not forthcoming, the Panel shall decide whether the appeal shall proceed by way of documentary evidence or in-person hearing.

ARBITRATION

1. All differences or disputes shall first be submitted to appeal pursuant to the appeal process set out in this Policy.

2. If any party believes the Appeal Panel has made an error such as those described in paragraph 8 of this Policy, that party may refer any dispute, other than those related to the AAP, to independent arbitration through the Sport Dispute Resolution Centre of Canada (SRDCC) provided the party does so within the prescribed timeline as set out by the SRDCC. The matters that can be considered by arbitration and the terms under which the arbitration can be conducted will be determined by the SRDCC.

LOCATION AND JURISDICTION

1. Any appeal shall take place in Ottawa unless held by way of telephone conference call or held elsewhere as may be decided by the Panel as a preliminary matter.
2. This policy shall be governed and construed in accordance with the laws of the Province of Ontario although the appeal takes place in any other province.
3. No action or legal proceeding shall be commenced against Ontario Bobsleigh Skeleton Association in respect of a dispute, unless OBSA has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute, as set out in this policy.