



# APPEAL POLICY

## Definitions

1. These terms will have these meanings in this policy:
  - a) **Appellant** – The Individual who initiates the appeal.
  - b) **Respondent** – The Individual or Active Member whose decision is being appealed.
  - c) **Case Manager** - The person designated by Volleyball Canada to administer this Appeal Policy as described herein.
  - d) **Days** – Means total working days, not including weekends or holidays.
  - e) **Active Members** – All categories of membership defined in the Volleyball Canada Bylaws.
  - f) **Individual** – Registered participants including but not limited to, athletes, coaches, referees, directors, managers and administrators.
  - g) **Volleyball Canada** – For the purpose of this policy, Volleyball Canada includes the Board of Directors, any Committee of the Board, or any Active Member or Individual who has been delegated authority to make decisions on behalf of the Volleyball Canada.
  - h) **Notice of Appeal** – A formal notice served by the appellant informing Volleyball Canada of its intention to request review of a decision.

## Policy Statement

2. Volleyball Canada is committed to conducting appeals by applying a standardized, timely, transparent, affordable, and fair appeal process.

## Purpose

3. The purpose of this policy is to provide a process for dealing with appeals of Volleyball Canada decisions.

## Scope and Application

4. Any Individual or Active Member who is in good standing with Volleyball Canada and who is affected by a decision of Volleyball Canada, the Board of Directors, any Committee of the Board, or any Active Member or Individual who has been delegated authority to make decisions on behalf of Volleyball Canada, will have the right to appeal that decision, provided there are sufficient grounds for the appeal subject to the limits set out in this policy.
5. This policy will apply to decisions made by Volleyball Canada and its representatives relating to:
  - a) Eligibility and selection.
  - b) Registered participant or Athlete Assistance Program (“AAP”) carding nominations.
  - c) Conflict of Interest.
  - d) Code of Conduct.
  - e) Disciplinary issues.
6. Not all decisions may be appealed. Decisions may only be appealed on procedural grounds where it has been demonstrated that the Respondent:
  - a) Made a decision for which it did not have the authority or jurisdiction to make, as set out in Volleyball Canada’s governing documents.
  - b) Failed to follow procedures as laid out in the bylaws or approved policies of Volleyball Canada.



- 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.
  - d) Exercised its discretion for an improper purpose.
  - e) Made a decision that was grossly unreasonable.
7. This policy does not apply to decisions relating to:
- a) Selection criteria, quotas, policies and procedures established by entities other than Volleyball Canada.
  - b) The Athlete Assistance Program policies and procedures established by Sport Canada.
  - c) Decisions made by Volleyball Canada partners including, but not limited to, Sport Canada, the Sport Dispute Resolution Centre of Canada, and/or International Volleyball Associations.
  - d) Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program or any successor policy.
  - e) Issues of operational structure, staffing, employment or allocation of volunteer opportunities, appointments and the withdrawal or termination of such appointments and opportunities.
  - f) Issues of budgeting or budget implementation.
  - g) Disputes over the rules of volleyball or the rules of competition.
  - h) Commercial matters for which another dispute resolution process exists under a contract or applicable law.
  - i) Matters relating to the substance, content and establishment of policies, procedures or criteria.
  - j) Matters that are decided by the Active Members of Volleyball Canada, such as the approval and amendment of the Constitution and Bylaws, and enactment, amendment or repeal of the rules of competition.
  - k) Disputes arising within competitions that have their own appeal procedures.
  - l) Any decisions made under this policy.
8. 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 an error.

## **Provisions**

9. Individuals or Active Members who wish to appeal a decision shall have seven (7) days from the date on which they received notice of the decision, to submit a Notice of Appeal to the Chief Executive Officer of Volleyball Canada, along with payment in the amount of \$250.00 payable to Volleyball Canada. Payment will be returned to the Appellant only if the appeal is successful.
10. The Notice of Appeal shall contain the following information:
- a) The intention to appeal.
  - b) Name, address and membership status of the Appellant.
  - c) Identity of the Respondent and any Affected Parties.
  - d) Date the Appellant was advised of the decision being appealed.
  - e) Copy of the decision being appealed, or description of decision if a written decision or document is not available.
  - f) Grounds for the appeal.
  - g) Detailed reasons for the appeal
  - h) All evidence that supports the grounds for appeal.
  - i) The suggested remedy or remedies requested.



11. The Notice of Appeal may be delivered in person, by e-mail, fax, courier or special delivery to the Chief Executive Officer at the Volleyball Canada head office.
12. The Chief Executive Officer shall refer the Notice of Appeal to the Volleyball Canada Ethics Committee for the purpose of resolving the dispute at the earliest stage possible.
13. The Ethics Committee shall review the Notice of Appeal and discuss the potential for resolving the appeal with the Appellant.
14. In the event that the appeal cannot be immediately resolved, Volleyball Canada will appoint a Case Manager to oversee the management and administration of an appeal under this Policy within seven (7) days of the Chief Executive Officer having received the Notice of Appeal.
15. In the case of an appeal involving the Chief Executive Officer, the Chair of the Board of Directors will appoint a Case Manager.
16. The Case Manager has the overall responsibility to screen the appeal, ensure procedural fairness is respected during the appeal process and administer the appeal in a timely manner. More particularly, the Case Manager has the responsibility to:
  - a) Determine if the appeal falls under the jurisdiction of this policy.
  - b) Determine if the appeal has been made in a timely manner.
  - c) Determine whether the appeal has been brought forward on permitted grounds as set out in section 7.
17. The Case Manager reserves the right to modify the timelines set out herein in order to accommodate the particular circumstances of any appeal.
18. If the Case Manager is not satisfied that the appeal lies within the jurisdiction of this policy, has not been brought forward in a timely fashion, or has not been brought forward on permitted grounds, the parties will be notified of this decision in writing, stating the reasons for this decision. The appeal will be considered concluded and may not be appealed further within the jurisdiction of Volleyball Canada.
19. If a hearing is to take place, the Case Manager will appoint a panel comprised of one (1) individual to hear the appeal. In extraordinary circumstances and at the discretion of the Case Manager, a panel of three (3) individuals may be appointed and the Case Manager will designate one of those individuals to serve as Chairperson.
20. Individuals serving on the panel must have no significant relationship with the affected parties, no involvement in the decision being appealed, and must be free from any actual bias or conflict.
21. The Case Manager may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at the preliminary conference include:
  - a) Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both).
  - b) Timelines for exchange of documents.
  - c) Clarification of the issues in dispute.
  - d) Identification of affected parties.
  - e) Clarification of evidence to be presented to the panel.



- f) Order and procedure of hearing.
  - g) Format and location of any oral hearing.
  - h) Identification of witnesses.
  - i) Any other procedural matter that may assist in expediting the appeal proceeding.
22. The Case Manager, in consultation with the panel, will have the authority to deal with these preliminary matters on behalf of the panel.
23. 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 must be held within a timeline determined by the Case Manager.
  - b) The Appellant and the Respondent must be given reasonable written notice of the date, time and place of the hearing.
  - c) Copies of any written document which the parties wish to have the panel consider must be provided to all parties in advance of the hearing in accordance within appropriate timelines, as determined by the Case Manager.
  - d) Either party may be accompanied by a representative or adviser, including legal counsel.
  - e) The panel may request and/or make an interim order for disclosure from the parties prior to or during the hearing.
  - f) The panel may request that any other individual participate and give evidence at the hearing;
  - g) 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 shall become a party to the appeal in question (an Affected Party), with the right to present evidence and the right to cross-examination where allowed and will be bound by its outcome.
  - h) The hearing will be conducted in the official language of choice of the Appellant.
  - i) In the situation where the hearing is conducted by a panel consisting of three persons, a quorum will be all three persons and decisions will be by majority vote where the Chairperson carries a vote.
  - j) The Panel may allow, as evidence at the hearing, any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate.
24. For reasons of expediency, geographic imperative or cost efficiency, the panel may conduct the appeal by means of a telephone or video conference.
25. At the conclusion of the hearing, the panel will, within five (5) days, issue a written decision with reasons. All matters will respect Federal and/or Provincial laws.
26. The panel will have no greater authority than that of the original decision-maker. The panel may decide:
- a) To reject the appeal and confirm the decision being appealed.
  - b) To allow the appeal and refer the matter back to the initial decision-maker for a new decision.
  - c) To allow the appeal and vary the decision.
  - d) To determine whether costs of the appeal, excluding legal fees but including legal disbursements of any of the parties, will be assessed against any party. In assessing costs, the panel will take into account the outcome of the appeal, the conduct of the parties and their respective financial resources.



27. The decisions of the panel will be considered a matter of public record. A copy of the decision(s) will be provided to the parties and to the Chief Executive Officer of Volleyball Canada.
28. 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 an appropriate timeline.
29. 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.
30. The decision of the panel will be final and binding upon the parties and upon all Individuals and Active Members of Volleyball Canada subject to the right of the Appellant, Respondent or any Affected Party to seek a review by way of judicial review of the Panel's decision before the Sport Dispute Resolution Centre of Canada (SDRCC), pursuant to the rules of the SDRCC as amended from time to time and subject to the following limitation:
  - a) Where a decision under appeal relates to a carding matter governed by the policies and procedures of the Athlete Assistance Program (AAP) of the federal government, any review pursuant to the rules of the SDRCC will be preceded by a consultation with Sport Canada to determine the most appropriate procedure for reviewing the decision.

### **Appeals Involving Nomination for AAP**

31. A number of individuals shall be designated in advance of any Nomination for AAP Carding decisions, to serve on an appeal panel, if required. The member(s) of the appeal panel will familiarize themselves with the published criteria by which nominations for AAP Carding are to be made so as to be able to respond quickly in the event of an appeal.
32. The foregoing sections of this policy shall apply to an appeal involving AAP Carding subject to modification as follows:
  - a) Registered Participants who wish to appeal an AAP Carding decision must submit a Notice of Appeal to the Chief Executive Officer of Volleyball Canada within three (3) days of receipt of notification of the decision.
  - b) The Chief Executive Officer shall refer the Notice of Appeal to the Ethics Committee forthwith and upon receiving the Notice of Appeal, the Ethics Committee shall discuss the potential for resolving the appeal with the Appellant within three (3) days of the Chief Executive Officer having received the Notice of Appeal.
  - c) In the event that the appeal is not resolved, Volleyball Canada will appoint a Case Manager pursuant to this policy.
  - d) If the Case Manager is satisfied that the appeal falls under the jurisdiction of this policy, is timely, and there are sufficient grounds to support the appeal, the Case Manager shall within seven (7) days of the Chief Executive Officer having received the original Notice of Appeal, establish an appeals panel that will conduct a preliminary conference and conduct a hearing within fourteen (14) days of the Chief Executive Officer having received the original Notice of Appeal.
  - e) The Parties shall receive no less than three (3) days written notice of the date, time and place and format of the hearing.



- f) The appeal panel will provide its decision on Nomination for AAP Carding within twenty (20) days of the Chief Executive Officer having received the original Notice of Appeal.

### **Communications**

33. This policy must be effectively communicated to those who will be responsible for abiding by the policy, as well as to those who will be responsible for its implementation.

### **Review**

34. This policy will be reviewed at least every two years or as decided by the Chief Executive Officer and/or the Volleyball Canada Board of Directors.

35. This policy will next be reviewed in December 2020.

### **Approval**

36. This policy was approved by the Volleyball Canada Board of Directors on November 8<sup>th</sup>, 2018.