

Alternative Dispute Resolution Policy

The Alberta Basketball Association (ABA) supports the principles of Alternative Dispute Resolution and is committed to the techniques of negotiation, facilitation, mediation and arbitration as effective ways to resolve disputes with and among members, and to avoid the uncertainty, costs and other negative effects associated with litigation.

The ABA encourages all Individuals to communicate openly and to collaborate in using problem-solving and negotiation techniques to resolve their differences. In almost all cases, a negotiated settlement is preferable to any outcome achieved through other dispute resolution techniques, and negotiated resolutions to disputes with and among Individuals are strongly encouraged.

The purpose of the Alternative Dispute Resolution policy is to provide a mechanism to resolve disputes and avoid the harm of litigation.

Applicability-

This Policy applies to all Individuals as defined in the Definitions.

Negotiation, Facilitation, Mediation and Arbitration-

Opportunities for negotiation, facilitation, mediation and arbitration may be pursued at any point in a dispute within the ABA where it is appropriate.

The cost of Mediation and Arbitration will be shared equally by the parties or as agreed to in the Mediation or Arbitration.

No Legal Action-

No action, application for judicial review or any other legal proceeding will be commenced against the ABA respecting any dispute or claim, until all remedies provided by all the ABA Policies have been exhausted

Definitions-

- “Individual” shall mean members as defined in the Alberta Basketball Association Bylaws, provided they are in good standing at the time of the complaint and/or the appeal is filed, as well as all individuals engaged in activities with Alberta Basketball, including, but not limited to, athletes, coaches, directors, officers, managers and referees.
- “Alternative Dispute Resolution” shall mean a series of processes that are alternatives to litigation. Alternative Dispute Resolution processes include prevention, negotiations, mediation, facilitation and arbitration. The goals of an Alternative Dispute Resolution system are to:
 - Reduce time and costs for dispute resolution;
 - Maintain or improve disputants’ relationships;

- Ensure that the outcome of the system is workable, durable and implementable; and
- Develop a process that people can learn from. The two most common forms of ADR are mediation and arbitration.
- “Arbitration” shall mean a dispute resolution process in which disputes are submitted to a neutral adjudicator through presentation of evidence and arguments. The arbitrator is empowered to render a binding decision.
- “Arbitrator” shall mean the adjudicator of an Arbitration who is empowered to render a binding decision.
- “Mediation” shall mean a collaborative process in which two or more parties meet and attempt, with the assistance of a mediator, to resolve issues in dispute between them.
- “Mediator” shall mean a neutral and impartial facilitator with no decision-making power who assists parties in negotiating a mutually acceptable settlement of issues in dispute between them.

20.2 Arbitration

Any Dispute which cannot be resolved by negotiation as provided in **Article 20.1**, shall be finally settled by final and binding arbitration conducted by a board of arbitration (hereinafter referred to in this Article 20, the "Board") in accordance with this **Article 20.1** as follows:

- (a) Any judgment upon the award rendered in any such arbitration may be entered in any court having jurisdiction thereof, or application may be made to such court for a judicial acceptance of the award and an enforcement order, as the applicable laws of such jurisdiction may require or allow;
- (b) Other than any action taken necessary to enforce the award of the Board, the Parties agree that the provisions of this **Article 20.2** are a complete defence to any suit, action or other proceeding instituted in any court or before any administrative tribunal with respect to any Dispute arising under or in connection with this Agreement; and
- (c) Any Disputes referred to the Board shall be settled in accordance with the provisions of the **Arbitration Act (Alberta)** and any amendments thereto, upon and subject to the following procedure:
 - (i) Subject to **Article 20.2(c)(ii)**, the Board will be composed of one Person appointed by the Shareholders or Principals requesting a Board (collectively, the "Applicant"), one Person appointed by the other Parties (collectively, the "Respondent") and one Person appointed by the appointed Board members;
 - (ii) The Applicant shall deliver to the Respondent written notice of its intent to refer the Dispute to the Board and shall at the same time name its appointee to the Board. The Respondent(s) shall within fifteen (15) Business Days of receipt of such notice advise the Applicant, in writing, of the name of its respective appointee to the Board. If the Respondent fails to notify the Applicant of its appointee within such fifteen (15) Business Days, that Respondent shall be deemed to have concurred in the appointment of the single arbitrator appointed by the Applicant, and such single arbitrator shall constitute the Board;

- (iii) If the Respondent(s) appoint arbitrators pursuant to paragraph (ii) above, then, within five (5) Business Days of the appointment of such additional arbitrators, the appointed arbitrators (if more than one) shall agree on the appointment of the third arbitrator to act as chairperson (hereinafter referred to in this Article 20 as the "Chairperson"). If the appointed arbitrators cannot agree on the additional arbitrator within such five (5) Business Days, the Applicant or any Respondent may apply to the courts of the Province of Alberta to appoint an impartial Person to act as Chairperson or promptly take such other action to appoint a Chairperson as the Parties to such Dispute may agree;
- (iv) No Person may be appointed as an arbitrator unless he or she is independent of the Applicant and Respondent(s), is skilled in the subject matter of the Dispute, and is not directly or indirectly carrying on or involved in a business being carried in competition with the business of the Parties;
- (v) The Board shall conduct the arbitration consistent with the goal of accomplishing a fair, speedy and cost effective resolution of Dispute;
- (vi) The decision of the Board shall be made by a majority vote or by the sole arbitrator, as the case may be;
- (vii) The decision of the Board with respect to the Dispute shall be made in writing within thirty (30) Business Days following the appointment of the last member to the Board, shall be final and binding on the Parties, not subject to any appeal, and shall deal with the question of costs of arbitration and all related matters. Such decision shall be deemed to be a judgment rendered by the Courts of the Province of Alberta and is enforceable as such without promulgation;
- (viii) the Parties agree that the arbitration shall be kept confidential and that the existence of the proceeding and any element of it (including any pleadings, briefs or other documents submitted or exchanged, and testament or any oral submissions in any awards) shall not be disclosed beyond the arbitrator, the Parties, their respective counsel and any person necessary to the conduct of the arbitration proceeding, except as may be lawfully required in a judicial proceedings relating to the arbitration or otherwise;
- (ix) the Corporation and each Party to the arbitration shall forthwith provide to the arbitrator any information reasonably requested by the arbitrator;
- (x) The arbitration shall take place in Edmonton, Alberta; and
- (xi) The time limits referred to in this **Article 20.2** may be extended by the mutual written agreement of the Parties.

Board Approval and Review –

- Policy reviewed by the ABA Staff in May 2023
- Policy reviewed by the ABA Board in _____ 2023
- Passed by ABA Board on _____, 2023