

# APPEAL POLICY

## Purpose

1. The Canadian Lacrosse Association is committed to providing an environment in which all Individuals involved with the Canadian Lacrosse Association are treated with respect and fairness. The Canadian Lacrosse Association provides Individuals with this *Appeal Policy* to enable fair, affordable, and expedient appeals of certain decisions made by the Canadian Lacrosse Association. Further, some decisions made by the process outlined in the Canadian Lacrosse Association's *Discipline and Complaints Policy* may be appealed under this Policy.

## Scope and Application of this Policy

2. This Policy applies to all Individuals. Any Individual who is directly affected by a decision of the Canadian Lacrosse Association shall have the right to appeal that decision provided there are sufficient grounds for the appeal under the 'Grounds for Appeal' section of this Policy.
3. This Policy **will apply** to CLA decisions relating to:
  - a) Eligibility
  - b) Selection
  - c) Conflict of Interest
  - d) Discipline
  - e) Member Association Membership
4. This Policy **will not apply** to CLA 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 the Canadian Lacrosse Association
  - 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) the Canadian Lacrosse Association's operational structure and committee appointments
  - i) Decisions or discipline arising within the business, activities, or events organized by entities other than the Canadian Lacrosse Association (appeals of these decisions shall be dealt with pursuant to the policies of those other entities)
  - j) Commercial matters for which another appeals process exists under a contract or applicable law
  - k) Decisions made under this Policy

## Timing of Appeal

5. 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 the Canadian Lacrosse Association, 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 written document is not available
  - f) Grounds for the appeal
  - g) Detailed reasons for the appeal
  - h) All evidence that supports these grounds
  - i) Requested remedy or remedies
  - j) Subject to Section 10 below, a non-refundable administration fee of five hundred dollars (\$500)
6. An Individual who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an exemption. The decision to allow, or not allow, an appeal outside of the seven (7) day period will be at the sole discretion of the Appeal Manager and may not be appealed.

### **Grounds for Appeal**

7. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
- a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
  - b) Failed to follow its own procedures (as set out in the Respondent's governing documents)
  - 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 appears not to have considered other views)
  - d) Failed to consider relevant information or took into account irrelevant information in making the decision
  - e) Made a decision that was grossly unreasonable
8. The Appellant 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 and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.
9. Upon receiving the notice of the appeal, the fee, and all other information required by Section 5, the Canadian Lacrosse Association and the Appellant may first attempt to resolve the dispute pursuant to the Canadian Lacrosse Association's *Dispute Resolution Policy* or through the Early Resolution Facilitation services offered by the Sport Dispute Resolution Centre of Canada (SDRCC).
10. Appeals resolved by mediation under the Canadian Lacrosse Association's *Dispute Resolution Policy* or through the Early Resolution Facilitation at the SDRCC will result in the administration fee indicated in Section 5(j) being refunded to the Appellant.

### **Screening of Appeal**

11. Should the appeal not be resolved by using the *Dispute Resolution Policy* or through resolution facilitation at the SDRCC, the Executive Director or President of the Canadian Lacrosse Association will appoint an independent Appeal Manager (who must not be in a conflict of interest) who has 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

12. If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
13. If the Appeal Manager is satisfied there are sufficient grounds for an appeal, the Appeal Manager will appoint an impartial appeal panel which shall consist of a single arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Appeal Manager, an impartial panel of three persons may be appointed to hear the appeal. In this event, the Appeal Manager will appoint one of the panel's members to serve as the Chair.

#### **Procedure for Appeal Hearing**

14. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager shall then, in collaboration with the appeal panel, decide the format under which the appeal will be heard. This decision is at the sole discretion of the Appeal Manager and may not be appealed.
15. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
16. 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 Appeal Manager and the panel deem appropriate in the circumstances, provided that:
  - a) The hearing will be held within a timeline determined by the Appeal 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 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
  - 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 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 the appeal panel members, unless the appeal panel consists of a single member
17. In fulfilling its duties, the appeal panel may obtain independent advice.

#### **Provisional Measures**

18. The decision that is subject to appeal shall remain in effect pending the outcome of the appeal unless the appeal panel grants provisional measures if applied for by the Appellant. The appeal panel's decision to grant or reject provisional measures is not subject to appeal.

#### **Appeal Decision**

19. The appeal panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the appeal panel will have no greater authority than that of the original decision-maker. The appeal panel may decide to:
  - a) Reject the appeal and confirm the decision being appealed
  - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
  - c) Uphold the appeal and vary the decision
20. The appeal panel's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and the Canadian Lacrosse Association. In extraordinary circumstances, the appeal 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 appeal panel.
21. The appeal panel's decision may be appealed by any of the Parties to the SDRCC in accordance with the Canadian Sport Dispute Resolution Code.

#### **Timelines**

22. 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 Appeal Manager and/or appeal panel may direct that these timelines be revised.

#### **Confidentiality**

23. The appeals process is confidential and involves only the Parties, the Appeal Manager, the appeal 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. Failure to respect the aforementioned confidentiality requirements may result in disciplinary action being taken against the Party(ies) in breach.

#### **Final and Binding**

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

#### **SDRCC**

25. By agreement between the Parties, the internal appeal process may be bypassed and the appeal may be heard directly by the SDRCC.