



APPEAL POLICY

Purpose

1. This *Appeal Policy* provides Individuals with a fair, affordable, and expedient appeal process.

Scope and Application of this Policy

2. This Policy applies to all Individuals.
3. Subject to Section 2, any Individual who is affected by a decision taken by the MLA specifically with regard to that Individual, including a decision by the Board, by any Committee of the Board, or by any body or individual within the MLA who has been delegated authority to make decisions in accordance with the MLA by-laws and governance policies (as applicable), shall have the right to appeal that decision provided that it is a decision that is subject to appeal pursuant to Section 4 of this Policy, that the conditions indicated in Sections 6 or 7 of this Policy (as applicable) have been satisfied, and provided that there are sufficient grounds for the appeal pursuant to Section 8 of this Policy.
4. This Policy **will apply** to decisions relating to:
 - a) Eligibility
 - b) Selection
 - c) Conflict of Interest
 - d) Disciplinary decisions made pursuant to the MLA's relevant and applicable policies
 - e) Membership
5. This Policy **will not apply** to decisions relating to:
 - a) Matters of general application such as amendments to the MLA's by-laws;
 - b) the MLA's operational structure and committee appointments;
 - c) Issues of budgets and budget implementation;
 - d) Employment matters or matters of staffing or volunteer leadership opportunities;
 - e) Except as otherwise provided for in this Policy, decisions made by organizations other than the MLA, such as the MLA's Member Clubs, international federations, or any other governing body;
 - f) Selection criteria, quotas, policies and procedures established by entities other than the MLA;
 - g) Substance, content, and establishment of team selection criteria;
 - h) The Athlete Assistance Program (AAP) policies and procedures established by Sport Canada;



- i) Policy and procedures established by any other agency, association or organization external to the MLA;
- j) Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program, by the Canadian Centre for Ethics in Sport and by international federations;
- k) Contractual matters between the MLA and its staff or Member Clubs for which another dispute resolution process exists under the provisions of the applicable contract; or
- l) Settlements negotiated pursuant to the *Dispute Resolution Policy*.

Timing of Appeal

- 6. 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 MLA's Board of Directors, the following:
 - a) Notice of the intention to appeal
 - b) Contact information
 - 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 and detailed reasons for the appeal
 - g) All evidence that supports these grounds
 - h) Requested remedy or remedies
 - i) An administration fee of five hundred dollars (\$500)

Notwithstanding the above, appeals in relation to disciplinary decisions made pursuant to the *Discipline and Complaints Policy* must be filed with the Independent Third Party and must otherwise comply with the requirements of this Section 6.

- 7. An Individual who wishes to initiate an appeal beyond the seven (7) day period may only do so if exceptional circumstances prevented them from filing their appeal within the deadline indicated in Section 6 above. Any such individual must provide a written request stating the reasons for which they are seeking an exception. The decision to allow, or not allow, an appeal of the fourteen (14) day period will be at the sole discretion of the Appeal Manager.

Grounds for Appeal

- 8. A decision cannot be appealed on its merits alone or because an Individual (or Individuals) do not like or agree with a decision. 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; or
 - e) Made a decision that was grossly unreasonable or unfair.
9. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 8 of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

Submitting an Appeal

Complaint Resolution Officer Decision

10. A decision made by the MLA's Complaint Resolution Officer following a request for reconsideration by one of the Parties pursuant to the *Discipline and Complaints Policy* may be appealed to the appeal panel in accordance with the terms of this *Appeal Policy*.

Discipline Panel Decision

11. A decision made by the MLA's discipline panel pursuant to the *Discipline and Complaints Policy* may be appealed to the appeal panel in accordance with the terms of this *Appeal Policy*.

Other decisions

12. Any other MLA decision relating to the matters indicated in Section 4 above may be appealed in accordance with Sections 16 and following of this Policy.
13. The MLA shall appoint an Appeal Manager and shall follow the process outlined in Sections 16 and following of this *Appeal Policy*.

Dispute Resolution

14. The Parties may first attempt to resolve the appeal through the *Dispute Resolution Policy* once the notice of the appeal, the fee, and the information required pursuant to Section 6 has been received.



Screening of Appeal

15. Should the appeal not be resolved by using the *Dispute Resolution Policy*, the MLA Board of Directors will appoint an independent Appeal Manager (who must not be in a conflict of interest or have any direct relationship with the Parties) who has the following responsibilities:
 - a) Determine if the appeal falls under the scope of this Policy (Sections 2-5)
 - b) Determine if the appeal was submitted in a timely manner (Sections 6-7)
 - c) Decide whether there are sufficient grounds for the appeal (Section 8)
16. If the Appeal Manager denies the appeal 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.
17. If the Appeal Manager accepts an appeal because it falls under the scope of this Policy, there are sufficient grounds, and it was submitted in a timely manner, the Appeal Manager will notify the Parties of their decision in writing and will follow the steps described hereunder.

Appointment of Appeal Panel

18. If an appeal is accepted, the Appeal Manager will appoint an appeal panel which shall consist of a single member to hear the appeal. However, at the discretion of the Appeal Manager, an appeal panel composed of three members 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.
19. When appointing the appeal panel, the Appeal Manager must select individuals who are impartial, free from any real or perceived conflict of interest (and who shall remain so until a final decision has been rendered or the proceedings have otherwise finally terminated), and who do not have any direct relationship with any of the Parties. Although not a strict requirement, the Appeal Manager should attempt to appoint individuals to the appeal panel who have a legal background and who understand the sport of lacrosse. When justified by the circumstances, the Appeal Manager may appoint individuals to the appeal panel who have specific areas of expertise that would assist in resolving the matter.



Determination of Affected Parties

20. In order to confirm the identification of any Affected Parties, the Appeal Manager will engage the MLA. The Appeal Manager may determine whether a Party is an Affected Party in their sole discretion.

Procedure for Appeal Hearing

21. 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.

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

23. 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 appeal panel deem appropriate in the circumstances, provided that:

- a) The hearing will be held in a timely manner within a timeline determined by the Appeal Manager
- b) The Parties will be given reasonable notice of the day, time and place of an oral in-person hearing or oral hearing by telephone or electronic communications
- c) Copies of any written documents which the parties wish to have the appeal panel consider will be provided to all Parties in advance of the hearing
- d) The Parties may be accompanied by a representative, advisor, translator, transcription services, or legal counsel at their own expense
- e) The appeal panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications
- f) The panel may exclude any evidence filed by the Parties that is unduly repetitious or otherwise an abuse of process. The appeal panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to any evidence filed by the Parties
- g) Nothing is admissible in evidence at a hearing that:
 - i. would be inadmissible in a court by reason of any privilege under the law of evidence, or
 - ii. is inadmissible by any statute
- h) Any Affected Party shall be permitted to make submissions and file evidence before the appeal panel. The appeal panel's decision is binding on any Affected Party.
- i) The decision to uphold or reject the appeal will be by a majority vote of the appeal panel



members, except in cases where the appeal panel consists of a single member

24. In fulfilling its duties, the appeal panel may obtain independent advice.

Provisional Measures

25. 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

26. 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, in whole or in part, and refer the matter back to the initial decision-maker for a new decision
- c) Uphold the appeal, in whole or in part, and vary the decision
- d) Determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, may be assessed against any Party. In assessing costs, the appeal panel will take into account the nature and amount of the costs, the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources

27. The appeal panel's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and the MLA. 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.

28. If the appeal panel dismisses the appeal, the decision may only be published, as provided for in Section 29, with the Respondent's consent. If the Respondent does not provide such consent, the decision will be kept confidential by the Parties, the Appeal Manager, and the MLA and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to the *Discipline and Complaints Policy*.

29. Other individuals or organizations, including but not limited to, Provincial/Territorial Organizations and/or Member Clubs, shall be advised of the outcome of any decisions rendered in accordance with this Policy.

30. Any decision rendered pursuant to this Policy shall apply automatically to and must be respected by the MLA and Provincial/Territorial Organizations and/or Member Clubs.



31. Records of all decisions will be maintained by the MLA and Provincial/Territorial Organizations and/or Members Clubs, if applicable, in accordance with their respective privacy policies.
32. The appeal panel's decision is final and binding on the Parties.

Timelines

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

Confidentiality

34. 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.
35. Any failure to respect the aforementioned confidentiality requirement may result in disciplinary action being taken against the Individual(s) in accordance with the MLA's applicable policies.

Final and Binding

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

Privacy

38. The collection, use and disclosure of any personal information pursuant to this Policy shall be in accordance with any applicable privacy policies and practices of the MLA.
39. The MLA and any of its delegates pursuant to this Policy (i.e., Appeal Manager, appeal panel) shall comply with the MLA's applicable privacy policies and practices in the performance of their services under this Policy.

Board Approved: March 28, 2023