

COACHING ASSOCIATION OF CANADA (CAC) APPEAL POLICY

Note: This document is separate from the Professional Coaching Appeal Procedure which applies to decisions related to Professional Coaching

Definitions

1. The following terms have these meanings in this Policy:
 - a) “*Appellant*” – The Party appealing a decision
 - b) “*Respondent*” – The body whose decision is being appealed
 - c) “*Parties*” – The Appellant, Respondent, and any other Members or persons affected by the appeal
 - d) “*Days*” – Days including weekends and holidays
 - e) “*Individuals*” – Other than the exceptions as described in this Policy, Individuals are defined as all categories of membership in the CAC’s Bylaws, as well as all individuals engaged in activities with the CAC including but not limited to volunteers, committee members, and Directors and Officers of the CAC

Purpose

2. The CAC is committed to providing an environment in which all Individuals involved with the CAC are treated with respect and fairness. The CAC provides Individuals with this *Appeal Policy* to enable fair, affordable, and expedient appeals of certain decisions made by the CAC. Further, some decisions made by the process outlined in the CAC’s *Code of Conduct with Complaint Process* may be appealed under this Policy.

Scope and Application of this Policy

3. This Policy applies to all Individuals. Any Individual who is directly affected by a CAC decision 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.
4. This Policy does not apply to decisions made by the License and Registration Committee, any matter involving an individual who is a Licensed or Registered Coach, and any matter affecting Professional Coaching. Such matters will be addressed under the CAC’s *Appeal Procedure* for Professional Coaching. Exceptions will be made at the CAC’s sole discretion.
5. This Policy **will apply** to decisions relating to:
 - a) Conflict of Interest;
 - b) Discipline of Individuals;
 - c) CAC Membership; and
 - d) Other decisions made by the CAC at its sole discretion.

6. This Policy **will not apply** to decisions relating to:
- a) Employment;
 - b) NCCP content;
 - c) Selection criteria, quotas, policies, and procedures established by entities other than the CAC;
 - d) Volunteer/coach appointments and the withdrawal or termination of those appointments
 - e) Budgeting and budget implementation;
 - f) The CAC's operational structure and committee appointments;
 - g) Decisions or discipline arising within the business, activities, or events organized by entities other than the CAC (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by the CAC at its sole discretion);
 - h) Commercial matters for which another appeals process exists under a contract or applicable law; or
 - i) Decisions made under this Policy.

Timing of Appeal

7. 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 CAC, 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; and
 - i) Requested remedy or remedies.
8. 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 Case Manager and may not be appealed.

Grounds for Appeal

9. 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; or

e) Made a decision that was grossly unreasonable.

10. 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.

Screening of Appeal

11. Upon receiving the notice of the appeal and all other information (outlined in the 'Timing of Appeal' section of this Policy), the CEO of the CAC, or designate, will act as Case Manager and has the responsibility to attempt to resolve the appeal by means of mediation. If mediation fails, the Case Manager 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; and
- c) Decide whether there are sufficient grounds for the appeal.

12. If the appeal is denied on the basis of insufficient ground, 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 Case Manager is satisfied there are sufficient grounds for an appeal, the Case Manager will appoint an Appeals Tribunal which shall consist of a minimum of a single Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Tribunal of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Tribunal's members to serve as the Chair.

Procedure for Appeal Hearing

14. The Case Manager shall notify the Parties that the appeal will be heard. The Case Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Case 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 Case Manager and the Tribunal deem appropriate in the circumstances, provided that:

- a) The hearing will be held within a timeline determined by the Case 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 Tribunal 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 Tribunal may request that any other individual participate and give evidence at the hearing;

- f) The Tribunal 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; and
- h) The decision to uphold or reject the appeal will be by a majority vote of Tribunal members.

17. In fulfilling its duties, the Tribunal may obtain independent advice.

Appeal Decision

18. The Tribunal shall issue its decision, in writing and with reasons, within seven (7) days of the hearing's conclusion. In making its decision, the Tribunal will have no greater authority than that of the original decision-maker. The Tribunal 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; or
- c) Uphold the appeal and vary the decision if the Tribunal determines that the initial decision-maker is unable to render a new decision for various reasons including lack of time, lack of neutrality, or lack of proper procedure.

19. The Tribunal will also determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, will be assessed against any Party. In assessing costs, the Tribunal will take into account the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources.

20. The Tribunal's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the CAC. In extraordinary circumstances, the Tribunal 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 Tribunal.

Timelines

21. 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 Case Manager and/or Tribunal may direct that these timelines be revised.

Confidentiality

22. The appeals process is confidential and involves only the Parties, the Case Manager, the Tribunal, and any independent advisors to the Tribunal. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

Final and Binding

23. The decision of the Tribunal will be binding on the Parties and on all the CAC's Individuals; subject to the right of any Party to seek a review of the Tribunal's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).

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

Review date	Action	Board approval date
June 2018	Policy review – June 7 2018	June 7 2018