

## ONTARIO VOLLEYBALL ASSOCIATION APPEAL POLICY

*This is a Pan-Canadian Policy applicable to Volleyball Canada and the Provincial/Territorial Associations.*

### Definitions

1. The following terms have these meanings in this policy:
  - a) *“Appellant”* – The Party appealing a decision
  - b) *“Affected Party”* - Any Individual or entity, as determined by the Appeal Manager, who may be affected by a decision rendered under this policy and who may have recourse to an appeal in their own right under this policy.
  - c) *“Carding Programs”* – refers to programs, including federal and/or provincial/territorial, which provides assistance to high-performance athletes, such as the Government of Canada’s Athletes Assistance Program.
  - d) *“Appeal”* – A formal request to change a decision as stated in section 4 of this policy.
  - e) *“Appeal Manager”* – An individual appointed by Volleyball Canada or a Provincial/Territorial Association who may be any staff member, committee member, volunteer, director, or an Independent Third Party, to oversee this policy. The Appeal Manager will have responsibilities that include, but are not limited to:
    - i. Ensuring procedural fairness;
    - ii. Respecting the applicable timelines; and
    - iii. Using decision making authority empowered by this policy.
  - f) *“Days”* – Days refers to working days, not including weekends and holidays
  - g) *“Independent Third Party”* – an independent person or organization that has no professional or personal ties to Volleyball Canada or a Provincial/Territorial Association
  - h) *“Individuals”* – refers to all categories of members and/or registrants defined in the Bylaws of Volleyball Canada and in the Bylaws of a Provincial/Territorial Association, as applicable, as well as all people employed by, contracted by, or engaged in activities with or on behalf of, Volleyball Canada or a Provincial/Territorial Association including, but not limited to, employees, contractors, athletes, volleyball clubs, coaches, mission staff, referees, volunteers, managers, administrators, committee members, parents or guardians, spectators, and directors and Officers
  - i) *“Party/Parties”* – The Appellant, Respondent, Affected Party, and any other Individuals affected by the appeal
  - j) *“Respondent”* – The Party responding to the Appeal
  - k) *“Registered Participant”* – Any person who is registered with Volleyball Canada and a Provincial/Territorial Associations as an athlete, coach, and/or referee, or who is participating in any sanctioned event.

### Purpose

2. The purpose of this policy is to enable fair, affordable, and expedient appeals of certain decisions made by Volleyball Canada or a Provincial/Territorial Association. Further, some decisions made during the process outlined in the *Discipline and Complaints Policy* 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 decision of Volleyball Canada or a Provincial/Territorial Association will 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 **will apply** to decisions relating to:
  - a) Eligibility and selection
  - b) Carding Programs nominations
  - c) Conflict of Interest
  - d) Discipline
  - e) Membership
  
5. This policy **will not apply** to 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 Volleyball Canada or a Provincial/Territorial 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) Volleyball Canada's or a Provincial/Territorial Association's operational structure and committee appointments
  - i) Decisions or discipline arising within the business, activities, or events organized by entities other than Volleyball Canada or a Provincial/Territorial Association (appeals of these decisions will be dealt with pursuant to the policies of those other entities unless requested and accepted by Volleyball Canada or a Provincial/Territorial Association at its sole discretion)
  - j) Commercial matters for which another appeals process exists under a contract or applicable law
  - k) Decisions made under this policy

### Timing of Appeal

6. Individuals who wish to appeal a decision have seven days from the date on which they received notice of the decision to submit, in writing to Volleyball Canada or a Provincial/Territorial 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) An administration fee of \$500 payable to Volleyball Canada or the Provincial/Territorial Associations, which will be refunded if the appeal is upheld

7. An Individual who wishes to initiate an appeal beyond the seven-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-day period will be at the sole discretion of the Appeal Manager and may not be appealed.

#### **Notice of Appeal**

8. The Notice of Appeal may be delivered in person, by email, fax, courier or special delivery to the Chief Executive Officer / Executive Director at the head office of Volleyball Canada or a Provincial/Territorial Association, as applicable.

#### **Grounds for Appeal**

9. A decision cannot be appealed on its merits. An Appeal may only be heard if there are sufficient grounds for Appeal. 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)
10. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made an 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, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), the Appeal Manager and the Appellant may agree that the appeal be dealt with by alternate dispute resolution (such as by mediation or a negotiated settlement).
12. If an appeal is resolved by alternate dispute resolution the administration fee will to be refunded to the Appellant.
13. If the appeal is not be resolved by alternate dispute resolution, the Appeal Manager (who must not be in a conflict of interest) will:
  - 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
14. 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.
15. If the Appeal Manager is satisfied there are sufficient grounds for an appeal, the Appeal Manager will appoint an Appeal Panel, which will consist of a single arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Appeal Manager, an Appeal Panel of three persons may be appointed to hear the appeal. In this event, the Appeal Manager will appoint one of the Appeal Panel's members to serve as the chair.

**Determination of Affected Parties**

16. In order to identify any affected Parties, the Appeal Manager will engage with Volleyball Canada or the Provincial/Territorial Association, as applicable. The Appeal Manager will determine whether a party is an Affected Party at his or her sole discretion.

**Procedure for Appeal Hearing**

17. The Appeal Manager will notify the Parties that the appeal will be heard. The Appeal Manager will then 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.

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

19. The format of the hearing may involve an in-person hearing, a 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 within the appropriate timeline determined by the Appeal Manager
- b) The Parties will receive no less than three days written notice of the date, time and place and format of the hearing
- 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, or legal counsel at their own expense
- e) The Appeal Panel may request that any other person participate and give evidence at the hearing
- f) The Appeal 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 will 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 Appeal Panel members, if applicable

20. In fulfilling its duties, the Appeal Panel may obtain independent advice.

**Appeal Decision**

21. The Appeal Panel will issue its decision, in writing and with reasons, within seven 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;
- or
- c) Uphold the appeal and vary the decision.

22. The Appeal Panel's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, Volleyball Canada, and the applicable Provincial/Territorial 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.

#### **Timelines**

23. 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**

24. The appeals process is confidential and involves only the Parties, the Appeal Manager, the Appeal Panel, and any independent advisors to the Appeal 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.

#### **Final and Binding**

25. The decision of the Appeal Panel will be binding on the Parties and on all Individuals; subject to the right of any Party to seek a review of the Appeal Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).
26. No action or legal proceeding will be commenced against Volleyball Canada, a Provincial/Territorial Association, or an Individual involved in a dispute until all processes set out in the policies of Volleyball Canada or a Provincial/Territorial Association, as applicable, regarding a dispute, including any Appeal, are concluded.

#### **Communication**

27. Volleyball Canada and the Provincial/Territorial Associations will identify those persons within their respective organizations who will be responsible for implementing this policy.

#### **Review and Amendment**

28. All significant amendments to this policy will be submitted to Volleyball Canada for review by its ad hoc committee on policies.
29. This policy will be reviewed every two years. Any significant policy amendments will be approved by the Volleyball Canada and the Provincial/Territorial Associations.

#### **Approval**

30. This policy was approved by Volleyball Canada and its Board of Directors on October 13, 2020.
31. This policy was approved by the OVA and its Board of Directors on April 15, 2021.