

BRITISH COLUMBIA WRESTLING ASSOCIATION

APPEAL POLICY

1. PURPOSE

The British Columbia Wrestling Association (“BCWA”) is committed to providing an environment in which all Participants involved with the organizations are treated with respect and fairness. BCWA provides Participants with this Appeal Policy to enable fair, affordable, and expedient appeals of certain decisions made by BCWA. Further, some decisions made by the process outlined in the Discipline and Complaints Policy may be appealed under this Policy.

2. APPLICATION OF THIS POLICY

- a. This Policy applies to all Participants. Any Participant who is directly affected by a decision made by BCWA 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.
- b. This Policy will apply to decisions relating to:
 - i. Eligibility
 - ii. Nomination and Selection
 - iii. Conflict of Interest
 - iv. Discipline
 - v. Membership
 - vi. Athlete Assistance Program (AAP) Carding Nominations
- c. This Policy will not apply to decisions relating to:
 - i. Employment
 - ii. Infractions for doping offenses
 - iii. The rules of the sport (“Competition Rules”)
 - iv. Nomination and selection criteria, quotas, policies, and procedures established by entities other than BCWA
 - v. Substance, content and establishment of team nomination and selection criteria
 - vii. Volunteer/coach appointments and the withdrawal or termination of those appointments
 - viii. Budgeting and budget implementation
 - ix. The organization’s operational structure and committee appointments
 - x. Decisions or discipline arising within the business, activities, or events organized by entities other than BCWA (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by the organization at its sole discretion)
 - xi. Commercial matters for which another appeals process exists under a contract or applicable law
 - xii. Decisions made under this Policy

3. TIMING OF APPEAL

- a. Participants who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit a Request for Appeal Form to the BCWA, which includes the following:
 - i. Notice of the intention to appeal
 - ii. Contact information and status of the appellant
 - iii. Name of the respondent and any affected parties, when known to the Appellant
 - iv. Date the appellant was advised of the decision being appealed
 - v. A copy of the decision being appealed, or description of decision if written document is not available
 - vi. Grounds for the appeal
 - vii. Detailed reasons for the appeal
 - viii. All evidence that supports these grounds
 - ix. Requested remedy or remedies
 - x. An administration fee of five hundred dollars (\$500)
- b. A Participant 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 BCWA and may not be appealed.

4. GROUNDS FOR APPEAL

- a. 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:
 - i. Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
 - ii. Failed to follow its own procedures (as set out in the Respondent's governing documents)
 - iii. 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)
- b. 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.

5. SCREENING OF APPEAL

- a. Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), the parties may first determine that the appeal be considered under the Dispute Resolution Policy.
- b. Appeals resolved by mediation under the Dispute Resolution Policy will cause the administration fee to be refunded to the Appellant.

- c. Should the appeal not be resolved by using the Alternative Dispute Resolution Policy, the BCWA has the following responsibilities:
 - i. Determine if the appeal falls under the scope of this Policy
 - ii. Determine if the appeal was submitted in a timely manner
 - iii. Decide whether there are sufficient grounds for the appeal
- d. 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.
- e. If the BCWA is satisfied there are sufficient grounds for an appeal, they will appoint an Appeal Panel which shall consist of a single Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the BCWA, a Panel of three persons may be appointed to hear the appeal. In this event, the BCWA will appoint one of the Panel's members to serve as the Chair.

6. DETERMINATION OF AFFECTED PARTIES

- a. The BCWA will determine whether a party is an Affected Party at their sole discretion.

7. PROCEDURE FOR APPEAL HEARING

- a. The BCWA shall notify the Parties that the appeal will be heard. The BCWA shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the BCWA and may not be appealed.
- b. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
- c. 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 Complaints & Appeal Officer and the Panel deem appropriate in the circumstances, provided that:
 - i. The hearing will be held within a timeline determined by the BCWA.
 - ii. 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.
 - iii. 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
 - iv. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
 - v. The 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
 - vi. 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
- vii. 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
 - viii. The decision to uphold or reject the appeal will be by a majority vote of Panel members
- d. In fulfilling its duties, the Panel may obtain independent advice.

8. APPEAL DECISION

- a. The Panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
 - i. Reject the appeal and confirm the decision being appealed
 - ii. Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
 - iii. Uphold the appeal and vary the decision
 - iv. May refund the appeal administration fee if the appellant is successful in their appeal.
- b. The Panel's written decision, with reasons, will be distributed to all Parties and the BCWA. The 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 Panel.

9. TIMELINES

- a. 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 BCWA and/or Panel may direct that these timelines be revised.

10. CONFIDENTIALITY

- a. The appeals process is confidential and involves only the Parties, the BCWA, the 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.
- b. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Discipline Panel.

11.FINAL AND BINDING

- a. The decision of the Panel will be binding on the Parties; subject to the right of any Party to seek a review of the Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).
- b. No action or legal proceeding will be commenced against BCWA, or Participants in respect of a dispute, unless BCWA has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.