



## ACA Dispute Resolution and Internal Appeal Policy

### SCOPE OF APPEAL

1. Any member of the ACA who is affected by a decision of the Board, of any Committee of the Board, or of anybody or individual who has been delegated authority to make decisions on behalf of the Board, shall have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 5 of this policy. Such decisions may include, but are not limited to, employment, contract matters, harassment, selection and discipline.

2. This policy shall not apply to matters relating to disputes arising within competitions, which has its own appeal procedures, or to matters relating to the rules of the sport as set out in the Laws of Cricket and Local Rules & Condition, which may not be appealed.

### TIMING OF APPEAL

3. Members who wish to appeal a decision shall have 21 days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, along with detailed reasons for the appeal, to the President of the ACA.

4. Any party wishing to initiate an appeal beyond the 21 day period must provide a written request stating reasons for an exemption to this requirement. The decision to allow, or not allow an appeal outside the 21 day period shall be at the sole discretion of the Executives of ACA.

### GROUNDINGS FOR APPEAL

5. A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include the respondent:

- a) making a decision for which it did not have authority or jurisdiction as set out in governing documents;
- b) failing to follow procedures as laid out in the bylaws or approved Guidelines of the ACA;
- c) making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views;
- d) Exercising its discretion for an improper purpose; e) making a decision which was grossly unreasonable.

### SCREENING OF APPEAL

6. Within 3 days of receiving the notice of appeal, the Executives shall decide whether or not there are sufficient grounds for an appeal.



7. If the appeal is denied on the basis of insufficient grounds, the appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the Executives and may not be appealed. If the Executive board is satisfied that there are sufficient grounds for an appeal, he or she shall direct that the President (or designate) establish an Appeals Committee.

#### **APPEALS COMMITTEE**

8. Within 10 days of receiving notice of an appeal, the President (or designate) shall appoint three persons to constitute the Appeals Committee (the "Committee"), in accordance with the following:

The Committee shall be comprised of three individuals who shall have no significant relationship with the affected parties, shall have had no involvement with the decision being appealed, and shall be free from any other actual or perceived bias or conflict. At least one of the Committee's members shall be from among the appellant's peers.

In appointing the Committee, consideration shall be given to the geographical location of the appellant, any affected parties, the respondent and other Committee members, in order to minimize the inconvenience and expense to all parties.

#### **PRELIMINARY CONFERENCE**

9. The Committee may determine that the circumstances of the dispute warrant a preliminary conference:

The matters which may be considered at a preliminary conference include date and location of hearing, timelines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.

The Committee may delegate to its Chairperson the authority to deal with these preliminary matters.

#### **PROCEDURE FOR THE APPEAL**

10. The Committee shall govern the appeal by such procedures as it deems appropriate, provided that:

- a) The appeal hearing shall be held within 21 days of the Committee's appointment.
- b) b) The appellant, respondent and affected parties shall be given 14 days written notice of the date, time and place of the appeal hearing.
- c) c) The Committee's members shall select from themselves a Chairperson.
- d) d) A quorum shall be all three Committee members.
- e) e) Decisions shall be by majority vote.



- f) f) Copies of any written documents which any of the parties would like the Committee to consider shall be provided to the Committee, and to all other parties, at least 5 days in advance of the hearing.
- g) g) Any of the parties may be accompanied by a representative or advisor.
- h) h) If the matter under appeal relates to team selection, any person potentially affected by the decision of the Committee shall become a party to the appeal.
- i) The Committee may direct that any other individual participate in the appeal.
- j) In the event that one of the Committee's members is unable or unwilling to continue with the appeal, the matter will be concluded by the remaining two Committee members.
- k) The timelines stipulated in this Section may be varied in accordance with Section 13 of this policy.
- l) Unless otherwise agreed by the parties, there shall be no communication between Committee members and the parties except in the presence of, or by copy to, the other parties.

11. In order to keep costs to a reasonable level the Committee may conduct the appeal by means of a conference call or video conference.

### **APPEAL DECISION**

12. Within 7 days of concluding the appeal, the Committee shall issue its written decision, with reasons. In making its decision, the Committee shall have no greater authority than that of the original decision-maker. The Committee may decide:

To void or confirm the decision being appealed;

To vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;

To refer the matter back to the initial decision-maker for a new decision; and

To determine how costs of the appeal, (other than costs of legal counsel which shall be the responsibility of the respective parties) shall be allocated, if at all.

A copy of this decision shall be provided to each of the parties.

### **POLICY TIMELINES**

13. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Committee may direct that these timelines be shortened.

If the circumstances of the dispute are such the appeal cannot be concluded within the timelines dictated in this policy, the Committee may extend the timelines.



### **DOCUMENTARY APPEAL**

14. Any party to the appeal may request that the Committee conduct the appeal by way of documentary evidence.

The Committee may seek agreement from the other parties to proceed in this fashion. If agreement is not forthcoming, the Committee shall decide whether the appeal shall proceed by way of documentary evidence or in-person hearing.

### **ARBITRATION**

15. All differences or disputes shall first be submitted to appeal pursuant to the appeal process set out in this policy.

If any party believes the Appeal Panel has made an error such as those described in Section 5 of this Policy, the matter shall be referred to arbitration, such arbitration to be administered under the Alternative Dispute Resolution (ADR) Program for Amateur Sport and its Rules of Arbitration, as amended from time to time.

16. Should a matter be referred to arbitration, all parties to the original appeal shall be parties to the arbitration.

17. The parties to arbitration shall enter into a formal Arbitration Agreement and the decision of any arbitration shall be final and binding and not subject to any further review by any court of competent jurisdiction or any other body.

### **LOCATION AND JURISDICTION**

18. Any appeal shall take place in the Provincial Capital Region, unless held by way of telephone conference call or held elsewhere as may be decided by the Committee as a preliminary matter.

19. This policy shall be governed and construed in accordance with the laws of the Province of Alberta.

20. No action or legal proceeding shall be commenced against the ACA in respect of a dispute, unless the ACA has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute, as set out in this policy.