

CANADIAN LUGE ASSOCIATION APPEALS POLICY

Purpose

1. *The purpose of this policy is to enable disputes between athletes and/or coaches and the Canadian Luge Association to be dealt with fairly, expeditiously and affordably, without recourse to formal legal and court-like procedures.*

Application

2. *This policy applies to athletes and/or coaches who participate in programs, use facilities or receive services from the Canadian Luge Association. It applies to decisions made by the Board of Directors, by any Committee of the Board of Directors, or by any body or individual who has been delegated authority to make decisions on behalf of the Board of Directors. Any athlete and/or coach who is affected by such a decision may appeal the decision, provided there are sufficient grounds for the appeal as defined in this policy.*

3. *This policy does not apply to:*

- a) Operational Structure or matters of employment;
- b) Matters that are within the jurisdiction of a National Sport Federation or International Sport Federation;
- c) Matters relating to the *Canadian Policy on Doping in Sport* and the *Canadian Doping Control Regulations*;
- d) Matters relating to harassment;
- e) Decisions made under Section 9 of this policy; or
- f) The rules of the sport.
- g) Budgeting or budget implementation.

Interpretation

4. *In the event of a dispute between the English and French versions of this policy, the English version shall take precedence. Timelines in this policy are in total days, irrespective of weekends or holidays. Where a deadline falls on a weekend or holiday, the next business day shall be the deadline for the purpose of this policy.*

Timing of Appeal

5. Any athlete and/or coach who wishes to appeal a decision shall have 2 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 (or designate) of the Canadian Luge Association.

6. Any athlete and/or coach wishing to initiate an appeal beyond the 2 day period must provide a written request stating reasons for an exemption to the requirement of Section 5. The decision to allow, or not allow an appeal outside the 2 day period shall be at the discretion of the President (or designate) and 2 CLA Board Members.

7. Athletes/Coaches who wish to appeal a decision must submit a written notice of the Appeal to the President within the appropriate timeline indicating;

- a) Their intention to appeal;
- b) Coordinates of the Appellant;
- c) Name of the Respondent;

- d) Detail reason(s) of the appeal;
- e) Grounds for the appeal;
- f) Summary of the evidence in support of these reason(s);
- g) The suggested remedy or remedies requested
- h) The appeal must be accompanied with a \$250.00 administrative fee. (may be refundable if the appeal is successful)

Grounds of Appeal

8. A decision cannot be appealed nor can an appeal be heard, on the merits of the decision. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are limited to the Canadian Luge Association:

- a) making a decision for which it did not have authority or jurisdiction as set out in the governing documents of the Canadian Luge Association;
- b) failing to follow procedures as laid out in the bylaws or approved policies of the Canadian Luge Association;
- c) making a decision that 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.

Screening of Appeal

9. Within an appropriate timeline, the President (or designate), and 2 CLA Board Members shall decide whether or not the appeal is based on one or more of the grounds described in Section 8.

10. If the appeal is denied on the basis of insufficient grounds, the athlete and/or coach shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President (or designate) and 2 CLA Board Members and may not be appealed.

Appeals Panel

11. If the President (or designate) and 2 CLA Board Members are satisfied that there are sufficient grounds for an appeal, within an appropriate timeline of receiving the notice of appeal the President shall establish an Appeals Panel (the "Panel") as follows:

- a) The Panel 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;
- b) At least one the Panel's members shall be a former athlete; and
- c) The Panel's members shall select from themselves a Chairperson.

Preliminary Conference

12. The Panel may determine that the circumstances of the dispute warrant a preliminary conference. The matters that may be considered at a preliminary conference include:

- a) Format for the appeal (hearing by documentary evidence, oral hearing in-person, oral hearing by telephone conference, or a combination of these methods);
- b) Date and location of hearing;
- c) Timelines for exchange of documents;
- d) Clarification of issues in dispute;
- e) Clarification of evidence to be presented to the Panel;
- f) Order and procedure of hearing;
- g) Remedies being sought;
- h) Identification of witnesses; and
- i) Any other matter that may assist in expediting the appeal proceedings.

13. The Panel may delegate to its Chairperson or to one of its members the authority to deal with these preliminary matters.

Procedure for the Appeal

14. Where the Panel has determined that the appeal shall be held by way of oral hearing, the Panel shall govern the hearing by such procedures as it deems appropriate in the circumstances, provided that:

- a) The hearing shall be held within an appropriate timeline of the Panel's appointment.
- b) A quorum shall be all 3 Panel members.
- c) Decisions shall be by majority vote, where the Chairperson carries a vote.
- d) If the decision of the Panel may affect another party to the extent that the other party could have recourse to an appeal under this policy, that party shall become a party to the appeal in question.
- e) The athlete and/or coach, the Canadian Luge Association and any affected parties shall be given within an appropriate timeline written, or verbal notice of the date, time and place of the appeal hearing.
- f) The Panel may direct that any other individual participate in the appeal.
- g) In the event that one of the Panel's members is unable or unwilling to continue with the appeal, the matter will be concluded by the remaining two Panel members who shall make their decision unanimously.
- h) Unless otherwise agreed by the parties, there shall be no communication between Panel members and the parties except in the presence of, or by copy to, the other parties.

Procedure for a Documentary Hearing

15. Where the Panel has determined that the appeal shall be held by way of documentary evidence, it shall govern the appeal by such procedures as it deems appropriate in the circumstances provided that:

- a) All parties are given an opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal.
- b) The applicable principles and timelines of Section 14 are respected.

Evidence That May be Considered

16. As a general rule, the Panel shall only consider that evidence that was before the original decision-maker. At its discretion the Panel may hear new evidence that is material and that was not available at the time of the original decision.

Appeal Decision

17. Within an appropriate timeline, the Panel shall issue its written decision, with reasons. In making its decision, the Panel shall have no greater authority than that of the original decision-maker. The Panel may decide:

- a) To void or confirm the decision being appealed;
- b) 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;
- c) To refer the matter back to the initial decision-maker for a new decision; and
- d) To determine how costs of the appeal shall be allocated, if at all.

18. A copy of this decision shall be provided to each of the parties and to the Appeals Committee

Timelines

19. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Panel may direct that these timelines be abridged. If the circumstances of the dispute are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be extended.

20. Where there is a need to render a decision quickly, the Panel may issue a summary decision with reasons to follow, provided the written decision, with reasons, is rendered within 5 days of concluding the appeal, or such other timeline as may be agreed to by the parties.

Jurisdiction

21. Matters that are of the Sport Dispute Resolution Centre of Canada (SDRCC) may be appealed or otherwise referred to the SDRCC for resolution.

22. No action or legal proceeding shall be commenced against the Canadian Luge Association in respect of a dispute, unless the Canadian Luge Association has refused or failed to abide by the provisions for appeal of the dispute, as set out in this policy.

