



## Nordic Sports PEI Appeal Policy

### Policy Statement

1. Nordic Sports PEI believes Individuals have the right to appeal certain decisions made by Nordic Sports PEI and shall enable Individuals to appeal such decisions through a fair and independent process. Nordic Sports PEI is committed to providing an environment in which all Individuals involved with the Organization are treated with respect and fairness.

### Purpose

2. The purpose of this policy is to outline how Individuals can appeal certain decisions made by the Organization or within the Organization's Sport business, activities, and events in a fair, affordable, and expedient manner. Further, some decisions made by the process outlined in the Organization's Discipline and Complaints Policy may be appealed under this Policy.

### Scope and Application

3. Any Individual who is directly affected by the Organization's 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 **will apply** to decisions relating to:
  - a) Eligibility
  - b) Selection
  - 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 the Organization
  - 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) Organization's operational structure and committee appointments
  - i) Decisions or discipline arising within the business, activities, or events organized by entities other than the Organization (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by the Organization's Board of Directors 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

### Definitions

6. The following terms have these meanings in this Policy:
  - a) "*Organization*" – Nordic Sports PEI Inc. (also known as Nordic Sports PEI and NSPEI)
  - b) "*Appellant*" – The Party appealing a decision
  - c) "*Appeal Panel*" - An individual or individuals appointed by the Case Manager who may be any staff member, committee member, volunteer, Director, or an independent third party, who was not involved in the initial decision to oversee the Appeal. The Appeal Panel 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.
  - d) "*Days*" – Days including weekend and holidays
  - e) "*Individuals*" – All categories of membership defined in the Organization's Bylaws, as well as all individuals engaged in activities with the Organization, including but not limited to, athletes, coaches, convenors, medical personnel, officials, volunteers, managers, administrators, committee members, parents or guardians, spectators at events, and Directors and Officers of the Organizations.
  - f) "*Case Manager*" – An individual appointed by the Organization who may be any staff member, committee member, volunteer, Director, or an independent third party, to oversee an Appeal. The Case 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.
- g) “Parties” – The Appellant, Respondent, and any other Individuals affected by the appeal
- h) “Respondent” – The body whose decision is being appealed
- i) “Sport business, activities and events” - Any place where sport business or sport-related activities are conducted. These include but are not limited to, the Organization’s sport-related social functions, sport assignments, sport-related travel, and sport-related conferences or training sessions.

### Timing of Appeal

7. Individuals who wish to appeal a decision have seven (7) days from the date on which they received notice of a written decision, to submit in writing to the Association, the following:
  - a) Notice of the intention to appeal
  - b) Contact information
  - 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 two hundred fifty dollars (\$250) which will be refunded if the appeal is successful or forfeited if the appeal is denied
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. An appeal may only be heard if there are sufficient grounds for appeal. A decision cannot be appealed on its merits alone. 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 take into account irrelevant information in making the decision
  - a) 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. On a timely basis, upon receiving the notice of the appeal, the fee, and all other information (outlined in the ‘Timing of Appeal’ section of this Policy), the Organization’s Board of Directors may suggest the appeal be heard under the Organization’s *Dispute Resolution Policy*.
12. Appeals resolved by mediation under the Organization’s *Dispute Resolution Policy* will cause the administration fee to be refunded to the Appellant.
13. Should the appeal not be resolved by using the Organization *Dispute Resolution Policy*, the Organization’s Board of Directors, on a timely basis, will appoint an independent Case Manager (who must not be in conflict) who 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
  - 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 Case Manager is satisfied there are sufficient grounds for an appeal, the Case Manager will, on a timely basis, appoint an Appeals Panel which shall consist of a single Adjudicator, to hear the appeal. In extraordinary circumstances, and at the discretion of

the Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.

### **Procedure for Appeal Hearing**

16. 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.
17. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
18. 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 with a minimum of three (3) days 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 Panel 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 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 Panel may request that any other individual participate and give evidence at the hearing
  - f) 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
  - 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 Panel members
19. In fulfilling its duties, the Panel may obtain independent advice.

### **Appeal Decision**

20. 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:
  - 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
  - c) Uphold the appeal and vary the decision
21. The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the Organization Board of Directors. In extraordinary circumstances, 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.

### **Timeline Adjustments**

22. 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 Panel may direct that these timelines be revised.

### **Confidentiality**

23. The appeals process is confidential and involves only the Parties, the Case Manager, 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. The information obtained about an appeal (including identifying information about any individuals involved) will remain confidential, unless disclosure is necessary for the purpose of investigating or taking corrective action, or is otherwise required by law.
24. The Panel will make every effort to preserve the confidentiality of the complainant, respondent, and any other party. However, the Organization recognizes that maintaining anonymity of any party may be difficult for the Panel during the course of the investigation.

### **Final and Binding**

25. The decision of the Panel will be binding on the Parties and on all of the Organization's Individuals.
26. No action or legal proceeding will be commenced against the Organization or Individuals in respect of a dispute, unless the Organization has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in the Organization's governing documents.