



# Baseball Canada's

# Appeals Policy

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**NOTE: IN THIS POLICY "MEMBER" REFERS TO** all categories of members in Baseball Canada, as well as to all individuals engaged in activities with or employed by Baseball Canada, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, medical and paramedical personnel, and administrators.

Approved:

# APPEALS POLICY

## SCOPE OF APPEAL

1. Any member of Baseball Canada who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of the Board of Directors, 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, carding, contract matters, harassment, selection and discipline. With respect to employment matters, grievances will be dealt with pursuant to the Personnel Policies.
2. This policy shall not apply to matters relating to baseball rules, 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 Baseball Canada (or a designate). The appeal shall include an appeal fee of \$250, which may be retained by Baseball Canada or returned to the appellant in the discretion of the President (Designate) and/or the Panel.
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 President of Baseball Canada (or a designate).

## 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. To have sufficient grounds the appeal must be based on one or more of the following potential errors having been made by 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 policies of Baseball Canada;
  - 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 7 days of receiving the notice of appeal, the President of Baseball Canada (or a designate) shall decide whether or not the appeal is based on one or more of the categories of possible error by the respondent as set out in Section 5. The President of Baseball Canada (or a designate) shall not determine if an error has been made, only if the appeal is based on such an allegation of error by the respondent.

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 President of Baseball Canada (or a designate) and may not be appealed.

## **APPEALS PANEL**

8. If the President of Baseball Canada (or a designate) is satisfied that there are sufficient grounds for an appeal, within 10 days of having received the original notice of appeal he or she shall establish an Appeals Panel (the “Panel”). The Panel shall be comprised of at least one individual and no more than three individuals. The number of individuals to form the Panel shall be in the sole discretion of the President of Baseball Canada (or a designate). An individual on the Panel shall have had no involvement with the decision being appealed and the parties to the Appeal. An individual on the Panel shall be free from any other actual or perceived bias or conflict.

## **PRELIMINARY CONFERENCE**

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

- a) 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.
- b) The Panel may delegate to its Chairperson (when appropriate) the authority to deal with these preliminary matters.

## **PROCEDURE FOR THE APPEAL**

10. The Panel 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 Panel’s appointment.
- 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) When a Panel is composed of three members then the Panel's members shall select from themselves a Chairperson. Decisions shall be by majority vote, where the Chairperson carries a vote.
- d) Copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least 5 days in advance of the hearing.
- e) Any of the parties may be accompanied by a representative or advisor, including legal counsel.
- f) If the matter under appeal relates to team selection, any person potentially affected by the decision of the Panel shall become a party to the appeal.
- g) The Panel may direct that any other individual participates in the appeal.
- h) When a Panel is composed of three members 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.
- i) Unless otherwise agreed by the parties, there shall be no communication between Panel 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 Panel may conduct the appeal by means of a conference call or video conference.

### APPEAL DECISION

12. Within 14 days of concluding the appeal, 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 refer the matter back to the initial decision-maker for a new decision; and
- c) 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;
- d) To determine how costs of the appeal shall be allocated, if at all.

13. A copy of this decision shall be provided to each of the parties and to the President of Baseball Canada.

### TIMELINES

14. 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 disputes are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be extended.

### **JURISDICTION**

15. This policy shall be governed and construed in accordance with the laws of the Province of Ontario.

### **FINAL AND BINDING**

16. The decision of the Panel will be final and binding subject to the right of any party to the appeal to seek an appeal of the Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada.

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