

Water Polo West Appeals Policy

1. Purpose

Water Polo West recognizes the right of any Member to appeal its decisions and hereby provides for an appropriate process for resolving disputes that could arise from time to time from such decisions of WPW. This Appeal Policy enables Complaints to be dealt with fairly, expeditiously and affordably within Water Polo West.

2. Definitions

In this Policy:

- a) **Appeal Form** means the document initiating an appeal in the form attached as Appendix A
- b) **Appellant** means the person appealing a decision of WPW
- c) **Affected Party** means any person who could potentially be affected by a decision of a Panel and that has been added to an appeal as a Party
- d) **Arbitration** means the arbitration process established by the SDRCC Code as may be amended from time to time
- e) **Board** means the Board of directors of WPW or its delegate
- f) **Case Manager** means a neutral third party assigned to review complaints/appeals and assist with hearing procedures and administration
- g) **Hearing** means the procedure by which appeals are adjudicated before a Panel in accordance with this Policy
- h) **FINA** means the Fédération Internationale de Natation
- i) **Mediation** means the mediation process as established by the SDRCC Code as may be amended from time to time
- j) **Member** means all athletes, coaches, managers and volunteers affiliated with any member as defined in the Bylaws as well as all individuals employed by, engaged in activities with, or in attendance at events sanctioned by WPW, including but not limited to: athletes, coaches, convenors, facilitators, officials, volunteers, managers, persons affiliated with WPW member clubs, directors and employees of WPW, parents/guardians of youth athletes and spectators
- k) **Panel** means an appeal panel established pursuant to this Policy
- l) **Parties** means the Appellant(s), the Respondent(s) and any Affected Party(ies)
- m) **Policy** means this Appeal Policy as may be amended from time to time
- n) **Respondent** means a person, other than the Appellant, who is a party to the proceedings
- o) **SDRCC** means the Sport Dispute Resolution Centre of Canada or its successor
- p) **SDRCC Code** means the Canadian Sport Dispute Resolution Code established by the SDRCC outlining the procedural rules for all disputes submitted to SDRCC as may be amended from time to time
- q) **WPC** means Canadian Water Polo Association Inc. d.b.a. Water Polo Canada

- r) **Water Polo West or WPW** means Water Polo West Assn.
- s) **Written Response** means the response submitted by a Respondent, in the form attached as Appendix B

1. Scope of Appeal

- 1.1. Any Member who is affected by a decision of WPW, the Board, any Committee of the Board, or any body or individual who has been delegated authority to make decisions on behalf of WPW or the Board, will have the right to appeal that decision, provided there are sufficient grounds for the appeal, as set out in s. 2.
- 1.2. A Member may have a decision reviewed by the Executive Director before beginning the appeal process set out herein.
- 1.3. This Policy will not apply to decisions relating to:
 - a) Doping offences which are dealt with under the Canadian Anti-Doping Program administered by the Canadian Centre for Ethics in Sport;
 - b) The technical and competition rules of WPC and FINA or field of play disputes;
 - c) Disciplinary matters arising during events organized by entities other than WPW, which are dealt with under the policies of these other entities;
 - d) Criminal offences;
 - e) Commercial and employment matters which are subject to other applicable laws or contracts;
 - f) Decisions that are outside the scope of the Policy as described by WPW's Bylaws as may be amended from time to time;
 - g) Decisions rendered by other provincial sport organisations or clubs; or
 - h) Decisions related to the National Championship League (NCL).

2. Grounds for Appeal

- 2.1. An appeal may only proceed to a Hearing if the Executive Director or Case Manager finds there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to:
 - a) Lack of authority or jurisdiction;
 - b) Failing to follow appropriate procedures as laid out in WPW's Bylaws or policies;
 - c) Reasonable apprehension of bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views or that the decision was made on the basis of, or significantly influenced by, factors unrelated to the merits of the decision;
 - d) Bad faith or exercise of discretion for an improper purpose; and
 - e) Making a decision that was unreasonable or violates the principles of natural justice.

3. Timing for Appeal

- 3.1. Members who wish to appeal a decision will have fourteen (14) days from the date they received notice of a decision to submit an Appeal Form to the Executive Director or Case Manager, as the case may be.
- 3.2. Any Member wishing to submit an Appeal Form beyond the fourteen (14) day limit must provide a written request stating reasons the limit should be waived.
- 3.3. The decision as to whether to waive the fourteen (14) day limit will be at the sole discretion of the Executive Director or Case Manager.

PROCEDURE

4. Appeal Form

- 4.1. Members who wish to appeal a decision of WPW must apply to the Executive Director or Case Manager to initiate the appeal process using the Appeal Form (see Appendix A).
- 4.2. The Appeal Form will state:
 - a) The name(s) and contact information of the Appellant(s);
 - b) The name(s) and contact information of the Respondent(s);
 - c) When available, the name(s) of any Affected Party;
 - d) The decision being appealed;
 - e) The grounds for the appeal;
 - f) A summary of the evidence supporting the appeal;
 - g) If applicable, a list of the witnesses to be called at the hearing, with a summary of the evidence to be provided by them;
 - h) The remedy sought; and
 - i) Whether or not representative(s) will be present.

5. Screening of Appeal

- 5.1. Within seven (7) days of receiving the Appeal Form, the Executive Director or Case Manager will determine whether there are sufficient grounds for the appeal, as set out in s. 2.
- 5.2. The facts as alleged by the Appellant(s) in the Appeal Form shall be presumed to be correct unless such facts are, to the knowledge of the Executive Director or Case Manager, clearly erroneous or contrary to the facts as found in the decision under appeal.
- 5.3. If the appeal is denied on the basis of insufficient grounds, the Parties will be notified in writing without delay, of this decision and the reasons for the decision.
- 5.4. If the Appellant(s) believe the Executive Director or Case Manager made an error in denying leave to appeal a decision, the matter may be referred to arbitration or mediation by the SDRCC in accordance with the SDRCC Code.

6. Alternative Dispute Resolution

- 6.1. After screening and before proceeding to a Hearing, the Executive Director or Case Manager will ensure that the Parties have attempted to resolve the dispute privately.
 - 6.2. If, in the opinion of the Executive Director or Case Manager, the Parties have made reasonable attempts to resolve the dispute privately and resolution is unlikely in the foreseeable future, the Executive Director or Case Manager shall invite the Parties to informal mediation conducted by the Executive Director or Case Manager.
 - 6.3. If all Parties do not consent to mediation, or such mediation is unsuccessful, the Executive Director or Case Manager shall initiate the Hearing process by forwarding a copy of the Appeal Form to the Respondent(s) and the Affected Party(ies).
 - 6.4. If an appeal proceeds to a Hearing, the Appellant shall pay a filing fee of \$250. The Panel may determine at its sole discretion whether the filing fee will be returned to the appellant. Unless WPW waives or delays payment of the filing fee, the Hearing will not proceed until the filing fee is received by WPW.
7. Written Response by the Respondent and Affected Parties
 - 7.1. If alternative forms of dispute resolution are unsuccessful, the Executive Director or Case Manager will request a Written Response (see Appendix B) from the Respondent(s), and where appropriate any Affected Party(ies).
 - 7.2. The Written Response will contain:
 - a) A summary of the evidence that supports the Respondent's case;
 - b) If applicable, the list of witnesses to be called at the Hearing and the summary of the evidence to be provided by them;
 - c) Whether or not any representative(s) will be present; and
 - d) When available, the name(s) and contact information of any Affected Party(ies).
 - 7.3. The Written Response shall be received by the Executive Director or Case Manager within fourteen (14) days of the Respondent's receipt of the Appeal Form.
 - 7.4. The Executive Director or Case Manager shall forward a copy of the Written Response to the Appellant(s) and the Affected Party(ies).
 - 7.5. If requested by the Appellant or an Affected Party, such Party shall have seven (7) days upon receipt of a Respondent's Written Response to file a reply.
 - 7.6. Acceptance of late submissions outside of the timelines in this Policy will be at the sole discretion of the Panel.
 8. Appointment of the Appeal Panel
 - 8.1. Within ten (10) days of initiating the Hearing process, the Executive Director or Case Manager will appoint a Panel as follows:
 - a) The Panel will be comprised of three (3) individuals who shall determine among themselves who shall act as Chair of the Panel;

- b) The Panel members must have no connection to any Party;
 - c) The Panel members must have no involvement with the decision being appealed; and
 - d) The Panel members must be free from any actual or perceived bias or conflict of interest.
- 8.2. As soon as they are appointed, the members of the Panel will be forwarded copies of the Appeal Form, Written Response(s) and any reply submissions.
- 8.3. Once constituted, the Panel has final decisional authority in respect of the Appeal.
9. Preliminary Conference
- 9.1. Within seven (7) days of receiving the Appeal Form and Written Responses, the Panel shall hold a preliminary conference to consider various preliminary issues related to the Hearing, including but not limited to:
- a) Date, time and location of the Hearing;
 - b) Timelines for exchange of documents;
 - c) Format of the appeal (written or oral submissions or a combination of both);
 - d) Clarification of issues in dispute;
 - e) Clarification of evidence to be presented to the Panel;
 - f) Order and procedure of Hearing;
 - g) Any other procedural matters;
 - h) Clarification of remedies sought; and
 - i) Any other matter that may assist in the just, speedy and inexpensive determination of the appeal on its merits.
- 9.2. The preliminary conference can be held by conference-call or in person, depending on the circumstances. This decision is at the sole discretion of the Chair of the Panel and may not be appealed.
- 9.3. The participants in the preliminary conference shall be the Parties, their representatives, if any, the Executive Director or Case Manager, and the Panel.
- 9.4. The Chairperson and the Executive Director or Case Manager shall arrange the preliminary conference and its precise date and time in consultation with the participants.
- 9.5. The Panel may delegate to its Chairperson the authority to deal with preliminary matters;
- 9.6. The Case Manager shall act as secretary of the preliminary conference and shall send written confirmation of the details of the appeal procedure established at this preliminary conference to the Parties.
10. Procedure for the Appeal
- 10.1. The Panel shall conduct the Hearing by such procedures as it deems appropriate, provided that the following directives be applied:

- a) The appeal shall be heard as quickly as possible, and no later than 30 (30) days from the appointment of the Panel, unless otherwise agreed to by all Parties or determined by the Panel under exceptional circumstances, having regard to the nature of the appeal, and the circumstances of the case;
- b) All three (3) members of the Panel shall hear the appeal, but a majority in favour of the same result shall be sufficient to effect a decision;
- c) Each Party shall have the right to be represented at the Hearing;
- 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 Parties, within the time limits established during the preliminary conference or by the Panel;
- e) The appeal may proceed on the basis of written submissions and documentation if all Parties to the appeal consent;
- f) The Panel may request that any other person or party participate in the appeal;
- g) If the decision of the Panel may affect another Member to the extent that the other Member would have recourse to an appeal in their own right under this policy, that Member will be added as a Party to the appeal;
- h) For the sake of expediency and cost reduction, a Hearing by way of written submissions, telephone conference or video conference is to be preferred, with such safeguards as the Panel considers necessary to protect the interests of the parties; and
- i) 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.

11. Procedure for Documentary Appeal

- 11.1. Where the Panel has determined that the appeal will be held by way of written submissions, it will follow such procedures as it deems appropriate provided that:
 - a) All Parties are given a reasonable opportunity to provide written submissions to the Panel, to review the written submissions of the other Parties and in the case of the Appellant(s), to provide reply submissions;
 - b) The applicable principles and timelines set out in this Policy are respected.

12. Evidence that may be considered

- 12.1. As a general rule, the Panel will only consider evidence that was before the original decision maker. At its discretion, the Panel may receive new evidence that was not available at the time of the original decision.
- 12.2. If a Party believes the Panel has made an error in admitting or rejecting new evidence, the matter may be referred to the SCRCC for arbitration or mediation under the SDRCC Code.

13. Appeal Decision

- 13.1. Unless otherwise agreed to by all Parties or determined by the Panel in exceptional circumstances, the Panel will issue its written decision with reasons within thirty (30) days of concluding the Hearing. In reaching its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:
- a) To dismiss the appeal and affirm the impugned decision;
 - b) To allow the appeal and refer the matter back to the original decision-maker for a new decision;
 - c) To allow the appeal and vary the decision, where it is found that an error occurred and such an error cannot be corrected by the original decision-maker; and
 - d) To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all. When ordering such costs, the Panel shall take into account the outcome of the appeal, the conduct of the Parties and their financial resources.
- 13.2. A copy of the decision will be provided to each of the Parties and to the Executive Director or Case Manager. WPW will keep a copy of all decisions for its records.
- 13.3. In extraordinary circumstances, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided that the written decision with reasons is rendered within the timelines specified in this Policy.

14. Modification of Timelines

- 14.1. If the circumstances of the dispute are such that the appeal cannot be resolved within the timelines dictated in this Policy, the Panel may revise the timelines.

15. Arbitration and Mediation

- 15.1. All appeals shall first be adjudicated pursuant to this Policy.
- 15.2. Notwithstanding s. 15.1, any dispute which, if adjudicated by a Panel, could lead to irreversible consequences in the opinion of the Executive Director or Case Manager may be exclusively submitted by way of application to the SDRCC or its successor for adjudication in accordance with the SDRCC Code.
- 15.3. Should a Panel decision be referred to arbitration or mediation in accordance with the SDRCC Code, all parties to the original appeal shall be added as parties to this arbitration or mediation.
- 15.4. The decision rendered by the SDRCC shall be final and binding upon the Parties.

16. Confidentiality

- 16.1. The appeals process is confidential and involves only the Parties, the Executive Director or Case Manager, the Panel, and any independent advisors engaged by 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.

- 16.2. Panel decisions will be recorded and stored in WPW's records.
- 16.3. WPC and relevant provincial sport associations, as well as any clubs or other organizations with which a Party is affiliated may be advised of any decisions reached by a Panel.
- 16.4. Panel decisions are matters of public interest and will be publicly available with the names of the Parties redacted. Names of Members disciplined may be disclosed to the extent necessary to give effect to any sanction imposed. Pursuant to the WPW's Confidentiality Policy, the Panel may determine that disclosing a person's identity would unduly violate privacy and may decide that the decision, or part of the decision, shall be kept confidential.

APPENDIX A

APPEAL FORM

Complete this form honestly, accurately and to the best of your knowledge.

If you need more space than is provided, please fill out and attach multiple copies of this Form.

Total submissions are not to exceed ten (10) pages without the Panel's consent.

I. APPELLANT

Name of Appellant: _____

Appellant's address: _____

Appellant's telephone: _____

Appellant's email: _____

Will the Appellant have a representative for the appeal? (Y/N): _____

Name and contact information of the representative: _____

II. RESPONDENT

Name of Respondent: _____

Respondent's Address: _____

Respondent's telephone: _____

Respondent's email: _____

III. AFFECTED PARTIES

Name of Affected Party: _____

Affected Party's Address: _____

Affected Party's telephone: _____

Affected Party's email: _____

IV. DECISION

Date of decision sought to be appealed: _____

Briefly describe the decision sought to be appealed:

Briefly describe any additional background facts which may be relevant to understanding or resolving the appeal:

V. GROUND(S) FOR APPEAL

Identify the error(s) in the decision sought to be appealed:

VI. SUPPORTING EVIDENCE

Briefly describe the material facts or evidence that will be relied on in the appeal:

Please provide the names and contact information for all witnesses that may be called to testify in the appeal:

VII. RELIEF SOUGHT

Explain the remedy sought, or desired outcome of the appeal:

I certify that all of the information herein contained is true, accurate and complete to the best of my knowledge. I undertake to promptly notify the Executive Director or Case Manager (as the case may be) if there are any changes to the information contained in this Appeal Form.

Signature of Appellant:

Dated:

APPENDIX B

WRITTEN RESPONSE

Complete this form honestly, accurately and to the best of your knowledge.

If you need more space than is provided, please fill out and attach multiple copies of this Form.

Total submissions are not to exceed ten (10) pages without the Panel's consent.

I. RESPONDENT

Name of Respondent: _____

Respondent's Address: _____

Respondent's telephone: _____

Respondent's email: _____

Will the Respondent have a representative for the appeal? (Y/N): _____

Name and contact information of the representative: _____

II. AFFECTED PARTIES

(Not named in the Appellant's Appeal Form)

Name of Affected Party: _____

Affected Party's Address: _____

Affected Party's telephone: _____

Affected Party's email: _____

III. DECISION

(If different from the date and description in the Appellant's Appeal Form)

Date of decision sought to be appealed: _____

Briefly describe the decision sought to be appealed:

Briefly describe any additional background facts which may be relevant to understanding or resolving the appeal:

IV. ISSUES ON APPEAL

Briefly respond to the Appellant's grounds of appeal:

V. SUPPORTING EVIDENCE

Briefly describe the material facts or evidence that will be relied on in the appeal:

Please provide the names and contact information for all witnesses that may be called to testify in the appeal:

VI. DISPOSITION SOUGHT

Explain the desired outcome of the appeal:

I certify that all of the information herein contained is true, accurate and complete to the best of my knowledge. I undertake to promptly notify the Executive Director or Case Manager (as the case may be) if there are any changes to the information contained in this Written Response.

Signature of Respondent:

Dated:
