



Appeal

1. Purpose

a) The purpose of this appeals policy is to enable disputes with members and participants to be dealt with fairly, expeditiously, and affordably, within Grapple Yukon without recourse to external legal procedures.

2. Definitions

a) These terms will have these meanings in this policy:

- i. *Days* -- will mean total days, irrespective of weekends or holidays.
- ii. *Member* -- refers to all categories of members in Grapple Yukon as well as to all individuals engaged in activities with or employed by Grapple Yukon, including, but not limited to directors, officers, coaches, athletes, officials, volunteers, medical and paramedical personnel, employees, and members.
- iii. *Appellant* -- refers to the Member appealing a decision
- iv. *Respondent* -- refers to the body whose decision is being appealed.

3. Scope and Application of this Policy

a) Any Member of Grapple Yukon 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, including a Discipline Panel, will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 5 of this policy. Examples of decisions that may be appealed include but are not limited to those relating to eligibility, harassment, team selection, discipline and entitlements and obligations under an athlete agreement.

b) This policy will not apply to decisions relating to:

- i. Matters of employment;
- ii. Infractions for doping offences, which are dealt with pursuant to the *Canadian Anti-Doping Program*;
- iii. The rules of Grapple, which may not be appealed;
- iv. Discipline matters arising during events organized by entities other than Grapple Yukon, which are dealt with pursuant to the policies of these other entities;
- v. Matters relating to the substance, content and establishment of team selection criteria, which may not be appealed;
- vi. Volunteer appointments and the withdrawal of those appointments by the Board of Directors, which may not be appealed;
- vii. Matters of budgeting and budget implementation, which may not be appealed;
- viii. Matters of operational structure and committees, which may not be appealed; and

ix. Any decisions made under Section 4(b) or Section 6 (b) of this policy.

4. Timing of Appeal

a) Members who wish to appeal a decision will have 21 days from the date on which they received notice of the decision, to submit in writing notice of their intention to appeal, grounds for the appeal a summary of the evidence that supports these grounds, and the remedy or remedies requested to the President of Grapple Yukon.

b) Any party wishing to initiate an appeal beyond the 21-day period must provide a written request stating reasons for an exemption to the requirement of Section 4(a). The decision to allow, or not allow an appeal outside the 21 day period will be at the sole discretion of the President, and may not be appealed.

5. Grounds for Appeal

a) Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:

- i. Making a decision for which it did not have authority or jurisdiction as set out in Grapple Yukon's governing documents;
- ii. Failing to follow procedures as laid out in the bylaws or approved policies of Grapple Yukon, including policies for selection; or
- iii. Making a decision that was influenced by bias.

b) Appeals may also be heard in cases where new information, which may have affected the decision, was not available at the time of the decision.

6. Screening of Appeal

a) Within 7 days of receiving the notice and grounds of an appeal, the President will determine whether there are appropriate grounds for the appeal to proceed as set out in Section 5. In the absence of the President, a designate will perform this function.

b) If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President, or designate, and may not be appealed.

7. Appeals Panel

a) If the President, or designate, is satisfied that there are sufficient grounds for an appeal, within 14 days of having received the original notice of appeal the President will establish an Appeals Panel (hereafter referred to as the "Panel") as follows:

- i. The Panel will be comprised of three individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived bias or conflict.
- ii. The President, or designate, may name one of the Panel members to serve as Chairperson of the Panel. In the event the President, or designate, does not name a Chairperson, the members of the Panel will select from themselves a Chairperson.

b) If, due to reasons of urgency, complexity, sensitivity or lack of independence, the President, or designate, is unable to appoint a three person Appeal Panel, then the President, or designate, may appoint a single independent adjudicator to serve as an Appeal Panel under this policy.

8. Preliminary Conference

b) The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The Panel may delegate to one of its members the authority to deal with these preliminary matters, which may include but are not limited to: format, date and location of the appeal (hearing by documentary evidence, oral hearing, or a combination of both); timelines for the exchange of documents; clarification of issues in dispute; order and procedure of the hearing; location of the hearing, where the hearing is an oral hearing; identification of witnesses; or any other procedural matter that may assist in expediting the hearing.

9. Procedure for the Hearing

a) Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing fairly and as it sees fit, provided that:

- i. The hearing will be held within 21 days of the Panel's appointment.
- ii. the parties will be given 10 days written notice of the day, time and place of the hearing;
- iii. Where the Panel has three members, a quorum will be all three members, and decisions will be by majority vote where the Chairperson carries a vote;
- iv. the Panel will refrain from communicating with the parties except in the presence of, or by copy to, the other parties;
- v. If the decision of the Panel 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;
- vi. A representative or advisor, including legal counsel may accompany any of the parties.
- vii. The Panel may direct that any other person participate in the appeal;
- viii. the hearing will be held in private; and
- ix. each party will bear its own costs.

10. Procedure for Documentary Appeal

a) Where the Panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures, as it deems appropriate provided that:

- i. All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument; and
- ii. The applicable principles and timelines set out in Section 9 are respected.

11. Appeal Decision

a) Within 14 days of concluding the appeal, the Panel will issue its written decision, with reasons. The decision will follow this format:

- i. Issue to be decided;
- ii. Background to the case;
- iii. Statement of the facts;
- iv. Authorities considered;
- v. Decision; and
- vi. Reasons for decision.

b) In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:

- i. To reject the appeal and confirm the decision being appealed; or
- ii. To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
- iii. To uphold the appeal and vary the decision but only where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time, or lack of neutrality; and
- iv. To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.

c) The decision will be considered a matter of public record. A copy of the decision will be provided to each of the parties and to the President, or designate.

d) In extraordinary circumstances, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision with reasons is rendered within the timelines specified in Section 9.

12. Timelines

a) If the circumstances of the dispute are such that this policy will not allow a timely appeal, or 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 revised.

13. Location

a) The appeal will take place in the location designated by the President, or designate, unless the Panel decides the appeal is to be held by way of telephone conference, or unless, at the specific request of a party, a different location is mandated by the Panel as a preliminary matter.

14. Final and Binding Decision

a) The decision of the Panel will be final and binding on the parties and on all members of Grapple Yukon, subject only to the provisions of Grapple Yukon's Dispute Resolution Policy.