



BC SNOWBOARD ASSOCIATION

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APPEALS PROTOCOL May 2, 2008

Background

The BC Snowboard Association (BCSA) Appeals Protocol has been adapted from the Canadian Snowboard Federation (CSF) model.

Policy

The BCSA attempts to be fair and equitable in all manner of business. Disputes arising from the selections made are referred to a BCSA Appeals Officer.

BCSA Appeals Officers

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Protocol

1. Any member of the BCSA who is materially affected by a decision, related to a selection process of the BCSA, of the Board, of any Committee of the Board, or of any body or individual who has been delegated authority to make decisions on behalf of the Board shall have the right to appeal that decision.
2. This Protocol shall not apply to matters relating to selection criteria and quotas established by F.I.S., CSF, Canada West Ski Areas Association (CWSAA) or other outside organizations. This Protocol shall not apply to matters relating to allegations of harassment or to disciplinary matters, which have their own appeal procedures, or to matters relating to competition rules, which may not be appealed.
3. Members who wish to appeal a decision must, within the times specified in the "Appeals Timelines" attached, submit written notice of their intention to appeal, along with detailed reasons for the appeal, to an Appeals

Notes

This Protocol applies to all decisions related to the operation of BCSA programs, except Appeals Officer decisions and decisions specifically excluded from appeal in Section 2.

This Protocol is primarily intended to deal with appeals related to team selections, allocation of competitive opportunities and other BCSA selection processes.

Appeals are considered by an independent Appeals Officer. These persons are volunteers, and have full autonomy with respect to the appeals process. All decisions related

Officer. Different timelines are established for selection issues, issues related to the allocation of competitive opportunities, and other issues. All appeals must be accompanied by a \$50 appeals fee, payable to the BC Snowboard Association. This fee is non-refundable.

4. An appeal may only be heard if it is based on sufficient and appropriate grounds. These grounds include 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 the BCSA;
 - c) making a decision which was influenced by bias or a reasonable apprehension of bias;
 - d) failing to consider relevant information or taking into account irrelevant information in making the decision;
 - e) exercising its discretion for an improper purpose; and/or
 - f) making a decision which was unreasonable.
5. Within the appropriate timeline the Appeals Officer shall review the notice of appeal and reasons for the appeal, and shall determine whether or not there are sufficient grounds for an appeal. This decision is discretionary and may not be appealed.
6. If the Appeals Officer determines that there are not sufficient grounds for an appeal, he or she shall notify the appellant of this decision in writing, stating reasons. If the Appeals Officer is satisfied that there are sufficient grounds for an appeal, he or she shall conduct a Hearing.
7. If the Appeals Officer conducts a Hearing, she or he shall govern the Hearing by such procedures as she or he deems appropriate in the circumstances, provided that:
 - a) The Hearing shall be held within the appropriate timeline.
 - b) The appellant and respondent shall be given appropriate notice of the day, time, and place of the Hearing.
 - c) Copies of any written documents which either the appellant or respondent wish to have the Appeals Officer and the other party consider shall be provided to all parties in advance of the Hearing in accordance with the appropriate timeline.
 - d) Both the appellant and respondent may be accompanied by a representative or adviser, including legal counsel.
 - e) The Appeals Officer may request that any other individual participate and give evidence at the Hearing.
 - f) The Hearing shall be conducted in the official language of

to an appeal – including the decision to proceed with a Hearing – are made by the independent Appeals Officer.

A decision cannot be appealed just because one does not like it -- it may only be appealed if it is flawed in some way. In submitting reasons for the appeal, the appellant must demonstrate that the decision was wrong because the decision-maker did not have authority or the procedures were unfair -- in other words, that there are grounds for an appeal as described in this section.

This is a screening step. The Appeals Officer has the power to deny an appeal if she or he believes that the appeal is without grounds. This decision to deny the appeal cannot be appealed. For this reason, the Appeals Officer must not make this decision lightly. If anything, the Appeals Officer should err on the side of caution by allowing the appeal unless it can be clearly established that the appeal is without grounds.

The Appeals Officer is free to establish her or his own procedures, within these minimum guidelines. The purpose of procedures is always to safeguard fairness. The Appeals Officer may encounter circumstances in which fairness would require new or different procedures, in which case the Appeals Officer should adopt these.

The Appeals Officer, and only the Appeals Officer, has the power to include others in the Hearing. For example, the Appeals Officer may wish to hear from athletes who would

choice of the appellant.

be adversely affected by any decision on a selection matter.

8. In order to keep costs at a reasonable level the Appeals Officer may conduct the Hearing by means of a conference call or video conference. In order to expedite the hearing process, appeals of selection and competitive opportunity allocation decisions will ordinarily be considered by conference call.

9. At the conclusion of the Hearing, the Appeals Officer shall, within the appropriate timeline, issue her or his written decision, with reasons. The Appeals Officer may decide:

- a) To void, vary, or confirm the decision being appealed;
- b) To make any decision he or she feels the respondent should have made;
- c) To refer the matter back to the respondent for a new decision, correcting any errors that were made; and/or
- d) To determine how costs of the appeal shall be allocated.

A copy of this decision shall be provided to the appellant, to the respondent, and to the Athlete Program Director and the Executive Director (or designate) of the BCSA.

The Appeals Officer has the power to intervene in decision of the BCSA being appealed, but has no greater scope of power than the body making the initial decision. For example, if a selection committee lacks the power to consider an athlete for selection, the Appeals Officer cannot consider that athlete. The Appeals Officer can make any decision the committee could have made, including any decision he or she felt it should have made, keeping in mind the grounds for appeal set out in Section 4 of this Protocol. The Appeals Officer can also award costs against either party -- in this Protocol, the type and amount of costs are left open.

10. If the circumstances of the appeal are such that this Protocol will not allow a timely Hearing, the Appeals Officer may direct that these time lines be shortened. Should this be the case, the appellant and respondent shall make every reasonable effort to comply with the revised time lines in order to conclude the appeal in a timely manner.

These sections provide flexibility to adjust the time lines of the Protocol to suit the circumstances.

11. If the circumstances of the appeal are such that a Hearing cannot be concluded within the time lines of this Protocol, the Appeals Officer may seek agreement from the appellant and respondent to extend the time lines.

12. The appellant shall have the right to decline a Hearing in favour of a documentary review. Should this be the case, the Appeals Officer shall request both appellant and respondent to provide written submissions, upon which the Appeals Officer shall make her or his decision. The Appeals Officer may direct such time lines as she or he deems appropriate in the circumstances in order to

Some technical matters may lend themselves to an appeal on the written record. Out of the interest of fairness, however, only the appellant is given the right to waive a Hearing in favour of a documentary review.

conclude the documentary review in a timely manner.

13. The decision of the Appeals Officer shall be final and binding, subject only to the right of the appellant to seek recourse to the Sport Canada Alternate Dispute Resolution (ADR) process.
14. Decisions of Appeals Officers shall be retained by the BCSA, for reference in future appeals by both Appeals Officers and appellants. Any decisions used in this manner shall have the names of the appellant deleted.

APPEAL TIMELINES

ACTION	SELECTION APPEALS	APPEALS RE COMPETITIVE OPPORTUNITIES	OTHER APPEALS
Decision (by BCSA).			
Announcement of decision by BCSA (e-mail and website).	Within 2 days of decision.	Within 12 hours of decision.	Within 2 days of decision.
Submission of notice of appeal by appellant.	Within 4 days of announcement of decision.	Within 24 hours of release of written announcement.	Within 4 days of announcement of decision.
Review of notice of appeal and decision to proceed by Appeals Officer.	Within 3 days of receipt of notice of appeal by Appeals Officer.	Within 24 hours of receipt of notice of appeal by Appeals Officer.	Within 3 days of receipt of notice of appeal by Appeals Officer.
Appeal Hearing (time and date set by Appeals Officer).	Within 14 days of decision to proceed.	Within 24 hours of decision to proceed.	Within 14 days of decision to proceed.
Submission of written documentation by appellant and respondent.	No less than 2 days prior to Hearing.	No less than 12 hours prior to Hearing.	No less than 2 days prior to Hearing.
Release of written decision by Appeals Officer.	Within 3 days of Hearing.	Within 2 hours of Hearing.	Within 3 days of Hearing.

WHAT APPELLANTS SHOULD KNOW

The following points are a basic guideline for individuals who consider that they have grounds for an appeal and wish to initiate an appeal procedure.

1. If reasons for the decision which you are considering appealing have not been provided, you should request that the BCSA provide written reasons for its decision.
2. If, after reviewing the reasons you still wish to pursue an appeal, request a copy of the BCSA's Appeals Protocol, if you do not already have one. Ideally, all members should be familiar with the rules governing appeals before a complaint arises.
3. Send a written notice of appeal to the Appeals Officer:
 - ◆ Your notice should be signed, dated, and sent by registered mail or courier. You may also e-mail your notice, provided the original follows via registered mail or courier.
 - ◆ Your notice should clearly identify the incident in question and state the grounds for the appeal (refer to Sections 2 and 4 of the Appeals Protocol).
 - ◆ Your notice must be sent within the time frame specified in the "Appeals Timelines".
 - ◆ The BCSA is required to grant an appeal within a reasonable time period, and what is reasonable depends upon the circumstances. Please refer to the attached "Appeals Timelines" for further information. Where time is clearly of the essence (for example, if the decision relates to a competition occurring very soon), you may request that the organization respond to you within a shorter time than indicated in the appeal timelines.
4. Keep a copy of your notice of appeal for your own records and for use at the Hearing.
5. Gather all the documentation at your disposal relating to the matter you are appealing. Talk to others (athletes, coaches, team personnel) to determine who may be willing to assist you. Organize your materials in a form which will be understandable to the Appeals Officer. This will also assist you in evaluating the merits and weaknesses of your case.
6. If a Hearing is granted, confirm the place and time in writing.
7. Although they should be provided to you in any event, request copies of all materials that the Appeals Officer will be reviewing. Likewise, provide copies of all your materials in advance for the consideration of the Appeals Officer and the respondent.
8. If there are additional materials which had a bearing on the decision being appealed and which you have not received, request that they be provided to you.

9. Consider whether you wish to represent yourself at the Hearing, or whether you wish to be represented by an agent or counsel. If you choose to be represented, notify the Appeals Officer in advance. You may also inquire as to whether the other party is being represented by an agent or counsel. Keep in mind, however, that appeal procedures should be simple enough that legal representation is not necessary.
10. Attend at the Hearing with an open mind. Be organized, concise and objective. Be respectful towards the Appeals Officer and the other party. Adhere to the formal rules of procedure as directed by the Chairperson.
11. Although they should be provided to you anyway, request written reasons for the decision of the Appeals Officer.