

SPECIAL OLYMPICS CANADA AND New Brunswick
APPEAL POLICY

This Policy has been prepared by Special Olympics Canada and is a Pan-Canadian Policy applicable to Special Olympics Canada and its Chapters. This document cannot be modified by a Chapter without consultation and approval from Special Olympics Canada.

EFFECTIVE DATE: DECEMBER 6, 2017

LAST REVISED: MAY 3, 2014

Definitions

1. The following terms have these meanings in this Policy:
 - a) *“Appeal Panel”* - A single person to hear and decide the appeal or at the discretion of the Case Manager, three persons may be appointed to hear and decide the complaint.
 - b) *“Appellant”* – The Party appealing a decision
 - c) *“Case Manager”* – An individual appointed by Special Olympics Canada or its Chapter, who may be any Staff, Committee member, Volunteer, Director, or an independent third party, to oversee this Policy. 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.
 - d) *“Chapter”* – The Provincial/Territorial organization recognized by Special Olympics Canada to govern Special Olympics within their applicable Province/Territory.
 - e) *“Days”* – Any day of the week, including weekends and holidays
 - f) *“Individuals”* – All categories of membership defined in Special Olympics Canada or Chapter Bylaws, as well as all individuals engaged in activities with Special Olympics Canada or its Chapters including, but not limited to, athletes, coaches, mission staff, chefs de missions, officials, volunteers, committee members, parents or guardians, and directors and officers.
 - g) *“Policy”* – This Appeal Policy.
 - h) *“Parties”* – The Appellant, Respondent, and any other Individuals or persons affected by the appeal
 - i) *“Respondent”* – The party whose decision is being appealed

Purpose

2. Special Olympics Canada and its Chapters are committed to providing an environment in which all Individuals are treated with respect. Special Olympics Canada and its Chapters provide Individuals with this *Appeal Policy* to enable fair, affordable, and expedient appeals of certain decisions made by Special Olympics Canada or its Chapters.

Scope and Application of this Policy

3. This Policy applies to all Individuals.
4. Any Individual who is directly affected by a Special Olympics Canada or a Chapter 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. This Policy does not apply to any Special Olympics Canada or Chapter employees as such matters are governed by policies that expressly apply to its respective employees.
5. Jurisdiction of appeals and implementation of this Appeal Policy will be the responsibility of Special Olympics Canada or the applicable Chapter whose decision is being appealed.
6. This Policy **will apply** to decisions relating to:
 - a) Eligibility
 - b) Coach/Athlete Selection for a Team
 - c) Conflict of Interest
 - d) Discipline
 - e) Membership

7. This Policy **will not apply** to decisions relating to:
- Employment
 - Infractions for doping offenses
 - The rules of sport
 - Selection criteria, quotas, policies, and procedures established by entities other than Special Olympics Canada or its Chapters
 - Substance, content and establishment of team selection criteria
 - Volunteer appointments and the withdrawal or termination of those appointments
 - Budgeting and budget implementation
 - Operational structure and committee appointments
 - Decisions or discipline arising within the business, activities, or events organized by entities other than Special Olympics Canada or its Chapters
 - Decisions or discipline arising within competition
 - Decisions made under this Policy

Timing of Appeal

8. Individuals who wish to appeal a decision have fourteen (14) days from the date on which they receive notice of the decision to submit in writing to Special Olympics Canada or the applicable Chapter office, the following (collectively hereinafter known as "Notice"):
- Notice of the intention to appeal
 - Contact information of the Appellant
 - Name of the Respondent and any affected parties when known to the Appellant
 - Date the Appellant was advised of the decision being appealed
 - A copy of the decision being appealed, or description of decision if written document is not available
 - Grounds for the appeal
 - Detailed reasons for the appeal
 - All evidence that supports these grounds
 - Requested remedy or remedies
 - An administration fee of one hundred and fifty dollars (\$150), which will be returned if the appeal is successful
9. An Individual who wishes to initiate an appeal beyond the fourteen (14) 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 fourteen (14) day period will be at the sole discretion of the Case Manager and may not be appealed.

Grounds for Appeal

10. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds are limited to submissions that include the Respondent:
- Made a decision that it did not have authority or jurisdiction (as set out in the relevant governing documents) to make
 - Failed to follow its own procedures (as set out in the relevant governing documents)
 - 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 is unable to consider other views)
 - Failed to consider relevant information or took into account irrelevant information in making the decision
11. The Appellant bears the onus of proof and must demonstrate, on a balance of probabilities, the occurrence of one of the circumstances set out in Section 10 of this Policy and that such circumstances had, or may reasonably have had, a material effect on the decision or decision-maker.

Screening of Appeal

12. Upon receiving the Notice, by way of personal delivery, e-mail, fax or mail, of the appeal, Special Olympics Canada or its Chapter, as applicable, will appoint an independent third-party Case Manager who has the following responsibilities:
- Determine if the appeal falls under the scope of this Policy
 - Determine if the appeal was submitted in a timely manner
 - Decide whether there are sufficient grounds for the appeal
 - Propose the use of the *Dispute Resolution Policy*
13. 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.

14. If the Case Manager is satisfied that the appeal should not be denied, the Case Manager may propose using the *Dispute Resolution Policy* with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the Parties refuse to use the Dispute Resolution Policy, the Case Manager will appoint an Appeals Panel to hear the appeal. Panel members must not have had any involvement with the decision being appealed and will be free from any actual bias or conflict.

Procedure for Appeal Hearing

15. The Case Manager shall notify the Parties that the appeal will be heard.

16. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.

17. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone, a hearing based on a review of documentary evidence submitted 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 the appropriate 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 person to the extent that the other person would have recourse to an appeal in their own right under this Policy, that person 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

18. In fulfilling its duties, the Panel may obtain independent legal advice.

Appeal Decision

19. The Panel shall issue its decision, in writing and with reasons, after the hearing's conclusion. 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

20. The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Special Olympics Canada or the applicable Chapter. 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.

Confidentiality

21. 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 any information to any person not involved in the proceedings and at the time of such decision, the only confidential information that may be disclosed is the result of such decision.

22. Appeal decisions that are matters of public interest shall be publicly available with the names of the individuals redacted. Names of persons disciplined/affected may be disclosed to the extent necessary to give effect to any decision imposed.

Final and Binding

23. The decision of a Chapter Appeal Panel will be binding on all Parties and on all Individuals and not subject to further appeal.

24. The decision of a Special Olympics Canada Appeal Panel will be binding on all Parties and on all Individuals, subject to the right of any Party to seek a review of the Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).