BADMINTON ONTARIO – APPEAL POLICY
(Updated February 2017)

Definitions

1. These terms will have these meanings in this policy:

a) "*Appellant"*- The party appealing a decision.
b) "*Days*" –Days irrespective of weekends or holidays.
c) "*BON*" – Badminton Ontario.
d) "*BON Member*"- All categories of membership within the BON.
e) "*Respondent"* - The body whose decision is being appealed.

Purpose

2. Badminton Ontario (BON) is committed to providing an environment in which all members are treated with respect. Irresponsible behavior by members can result in severe damage to the sport and to the support for Badminton Ontario. Conduct that violates these values may be subject to sanctions pursuant to BON's Discipline Policy. Since sanctions may be applied, it is only fair to provide BON members with some mechanism to appeal what may appear to be unfair treatment. The purpose of this Appeal Policy is to enable appeals within BON to be dealt with fairly, expeditiously and with low cost..

Scope and Application of this Policy

3. Any BON Member who is directly affected by a decision of Badminton Ontario will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 7 of this Policy.

4. This Policy will <u>not</u> apply to decisions relating to:

a) Matters of employment;
b) Infractions for doping offences;
c) The rules of badminton;
d) Matters relating to the substance, content and establishment of team selection criteria;
e) Volunteer appointments and the withdrawal or termination of those appointments;
f) Matters of budgeting and budget implementation;
g) Matters of operational structure and committees; and
h) Discipline matters and decisions arising during events organized by entities other than BON, which are dealt with pursuant to the policies of these other entities;
i) Any decisions made under Paragraphs 6 and 9 of this Policy.

Timing of Appeal

5. BON Members who wish to appeal a decision will have fourteen (14) days from the date on which they received notice of the decision, to submit in writing to the office of BON the following:

a) Notice of their intention to appeal,
b) Grounds for the appeal,
c) All evidence that supports these grounds,
d) The remedy or remedies requested, and
e) A payment of two hundred and fifty dollars ($250), which will be refunded if the appeal is successful.

6. Any party wishing to initiate an appeal beyond the fourteen (14) day period must provide a written request stating reasons for an exemption to the requirement of Paragraph 5. The decision to allow, or not allow an appeal outside the 14-day period will be at the sole discretion of the President, or designate, and may not be appealed.

Grounds for Appeal

7. A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for appeal. Sufficient grounds include the respondent:

a) Making a decision for which it did not have authority or jurisdiction as set out in BON's governing documents;
b) Making a decision based on a policy that is illegal or contrary to a statutory provision;
c) Failing to follow procedures as laid out in the bylaws or approved policies of BON, or
d) Making 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.

Screening of Appeal

8. Within seven (7) days of receiving the notice and grounds of an appeal (or as quickly as required if time limitations are identified as an issue in the appeal) and the required fee, the President, or designate if the President is not available or not able to act in this capacity because of a conflict of interest or any other reason, will nominate a Case Manager to manage the appeal process. The Case Manager will be an individual with professional training in this field and will be responsible for the administration of the appeal as a neutral party. The Case Manager will determine whether there are appropriate grounds for the appeal to proceed as set out in Section 7.

9. 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 Case Manager and may not be appealed.

Appeals Panel

10. If the Case Manager, is satisfied that there are sufficient grounds for an appeal, the Case Manager will liaise with BON to establish an Appeals Panel (hereinafter referred to as the "Panel") within seven (7) days as follows:

a) The Panel will be comprised of three persons 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.
b) The Panel will appoint one person to act as Chairperson.
c) The Appellant will be informed of the Panel selection by the Case Manager and will have the opportunity to accept the Panel make-up prior to the Panel starting its work.

Preliminary Conference

11. The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:

a) Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both);
b) Timelines for exchange of documents;
c) Date required for a decision, and whether there are time limitations for the hearing that need to be considered;
d) Clarification of issues in dispute;
e) Clarification of evidence to be presented to the Panel;

f) Order and procedure of hearing;
g) Location of hearing, where the hearing is an oral hearing;
h) Identification of witnesses;
i) Remedies sought ; and
j) Any other procedural matter that may assist in expediting the appeal proceedings.

12. The Panel may delegate to its Chairperson the authority to deal with these preliminary matters on behalf of the Panel.

Procedure for the Hearing

13. The Panel may conduct the hearing by means of documentary review, conference call, or in person.

14. Where the Panel has determined that the appeal will be held by way of oral hearing in person or via conference call, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:

a) The hearing will be held within fourteen (14) days of the Panel's appointment.
b) The Appellant and Respondent will be given at least five (5) days written notice of the date, time and place of the hearing.
c) A quorum will be all three Panel members. Decisions will be by majority vote, where the Chairperson carries a vote.
d) Copies of written documents that any of the parties would like the Panel to consider will be provided to the Panel and to all other parties at least three (3) days prior to the hearing.
e) 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.
f) A representative or advisor, including legal counsel may accompany any of the parties.
g) The Panel may direct any other person to participate or present evidence in the appeal.
h) Unless otherwise agreed by the parties, there will be no communication between the Panel and the parties except in the presence of, or by copy to, the other parties.

Procedure for Documentary Appeal

15. 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:

a) 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
b) The applicable principles and timelines set out in Section 14 are respected.

Appeal Decision

16. Within 10 (ten) days of concluding the appeal, the Panel will issue its written decision, with reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:

a) Reject the appeal and confirm the decision being appealed; or
b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
c) Uphold the appeal and vary the decision; and
d) Determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.
e) Refund the appeal fee of $250 to the Appellant.

17. 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 BON.

18. 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 this policy.

Timelines

19. 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.

Final and Binding Decision

20. The decision of the Panel will be final and binding on the parties and on all BON Members, subject only to the provisions of BON's Dispute Resolution Policy.

21. No action or legal proceeding will be commenced against BON in respect of a dispute, unless BON has refused or failed to abide by the provisions for appeal and/or dispute resolution as set out in the BON policies.

Costs

22. Parties will be responsible for their own costs in respect to the appeal process itself.

23. BON will be responsible for any costs incurred in respect to the engagement of the Case Manager for the appeal process, and will cover any costs associated with the operation of the Appeal Panel itself for the duration of the Appeal.

24. The Appeal Panel will determine any cost award to the Parties as an outcome of the Appeal – such costs will be the responsibility of the Party as awarded by the Panel.

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