

APPEALS POLICY

1.0 DEFINITION

- 1.1. Appellant: Refers to an individual or organization appealing a decision of viaSport.
- 1.2. Days: Includes any day of the week, including weekends and holidays.
- 1.3. Respondent: Refers to the decision-maker within viaSport whose decision is being appealed. The decision-maker may be a body, person or persons acting under the authority of the Board of Directors of viaSport.
- 1.4. Appeal Administrator: Refers to an individual appointed to administer the dispute resolution process in this policy.

2.0 PURPOSE

- 2.1. The purpose of this policy is to enable appeals of viaSport decisions to be dealt with fairly, expeditiously, affordably and without recourse to legal proceedings.

3.0 APPLICATION

- 3.1. A person or organization who is directly affected by a decision of the viaSport Board of Directors, its committees or anybody, person or persons acting under its delegated authority, will have the right to appeal that decision if there are sufficient grounds for the appeal under the Grounds for Appeal section of this policy.
- 3.2 This Policy **will apply** to decisions relating to:
 - i. Suspension or Termination of Funds
 - ii. Coach Developer Evaluations
- 3.3 This Policy **will not apply** to decisions relating to:
 - i. Decisions related to funding eligibility or amounts
 - ii. Decisions or discipline arising within the business, activities, or events organized by entities other than viaSport
 - iii. Decisions made under this Policy

4.0 PRINCIPLES OF NATURAL JUSTICE

- 4.1. This shall adhere to the principles of natural justice, which means that:
 - 4.1.1. the parties will be advised of this policy;

- 4.1.2. the parties will receive copies of all documents and evidence to be considered by the decision making panel within a reasonable time in advance of the hear;
- 4.1.3. the parties will be given a reasonable opportunity to present evidence in support of their positions and to defend themselves against allegations;
- 4.1.4. the parties will have the right to be represented at any stage of the process at their own expense;
- 4.1.5. the decision-makers have a duty to listen fairly to both sides and to reach a decision untainted by bias.

5.0 CONFIDENTIALITY

- 5.1. Subject to any limits or disclosure requirement imposed by law or required by the policies of viaSport, including the policies contained herein, any and all information, oral and written, created, gathered, received or compiled during and through the course of a proceeding under these policies, including details regarding a proceeding itself, is to be treated as confidential by all parties; provided that decisions of the Appeals Panel shall be made public unless the Appeals Panel determines otherwise.

6.0 GROUNDS FOR APPEAL

- 6.1. Not every decision may be appealed. Decisions may only be appealed and appeals may only heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:
 - 6.1.1. Making a decision for which it did not have authority or jurisdiction as set out in the Respondent's governing documents;
 - 6.1.2. Failing to follow procedures as laid out in the bylaws or approved policies of viaSport;
 - 6.1.3. 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 or that the decision was influenced by factors unrelated to the substance or merits of the decision; and/or
 - 6.1.4. Making a decision that was grossly unreasonable.
- 6.2. 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 6.1 of this policy and that such circumstances had, or may reasonably have had, a material effect on the decision being appealed.

7.0 NOTICE OF APPEAL

- 7.1. An individual or organization who wishes to appeal a decision will have 15 days from the of the decision being appealed, to submit a Notice of Appeal in writing to the viaSport Chief Executive Officer.

- 7.2. The Notice of Appeal must contain:
- 7.2.1. contact information for the Appellant; and,
 - 7.2.2. the name of the Respondent and any affected parties known to the Appellant; and,
 - 7.2.3. date the Appellant received the decision being appealed; and,
 - 7.2.4. a copy of the decision being appealed, or description of decision if written documentation is not available; and,
 - 7.2.5. grounds for the appeal; and,
 - 7.2.6. detailed reasons for the appeal; and,
 - 7.2.7. all evidence that supports these grounds; and,
 - 7.2.8. the remedy or remedies requested; and,
 - 7.2.9. an indication as to whether or not the Appellant is willing to participate in Resolution Facilitation
 - 7.2.10. an administration fee of two hundred and fifty dollars (\$250), which will be returned if the appeal is successful
- 7.3. An individual or organization who wishes to initiate an appeal beyond the fifteen (15) 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 fifteen (15) day period will be at the sole discretion of the viaSport Chief Executive Officer and may not be appealed.

8.0 APPEAL ADMINISTRATION

- 8.1. Upon receipt of a Notice of Appeal, the Chief Executive Officer may act as the Appeal Administrator or appoint an Appeal Administrator.
- 8.2. The role of the Appeal Administrator is to administer the process for the appeal in accordance with this policy.
- 8.3. The Appeal Administrator will have no decision-making power in determining the outcome of any Appeal except as specified in clause 9 for the screening of appeals, setting timelines and appointing the Appeal Panel.
- 8.4. The Appeal Administrator must not have had any previous involvement with the decision being appealed, free of bias and conflict of interest;

9.0 SCREENING OF APPEAL

- 9.1. Within 14 days of receiving the Notice of Appeal, the Appeal Administrator will determine whether appropriate grounds for appeal (Clause 6), and whether the appeal has been brought in a timely way (Clause 7). This decision is at the sole discretion of the Appeal Administrator and may not be

appealed.

- 9.2. If the appeal is denied on the basis that there is no right of appeal, or that the appeal is based on insufficient grounds, or that the appeal is not timely, the Appellant will be notified of the decision in writing, giving reasons.
- 9.3. If the Appeal Administrator is satisfied that there is a right of appeal and that there are sufficient grounds for an appeal, and that the appeal is timely, they shall:
 - 9.3.1. notify the Appellant and Respondent of this decision in writing; and,
 - 9.3.2. establish whether both Appellant and Respondent are willing to participate in resolution facilitation; and/or
 - 9.3.3. convene and appoint an Appeal Panel.

10.0 APPEAL PANEL

- 10.1. The Appeal Administrator will appoint an Appeal Panel consisting of either one (1) or three (3) persons.
- 10.2. The members of an Appeal Panel will hold the qualifications, skill and training determined to be appropriate by the Appeal Administrator and will not have had any prior involvement with the decision being appealed and will be free from any actual bias or conflict.
- 10.3. Appointments to the Appeal Panel are at the sole discretion of the Appeal Administrator and may not be appealed.

11.0 PROCEDURE FOR APPEAL HEARING

- 11.1. The Case Manager shall notify the Parties that the appeal will be heard.
- 11.2. If the Appellant chooses not to participate in the hearing, the hearing will proceed in any event.
- 11.3. 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 Appeal Panel deem appropriate in the circumstances, provided that:
 - 11.3.1. The hearing will be held within the appropriate timeline determined by the Appeal Administrator.
 - 11.3.2. In the case of an oral or in-person hearing, the Parties will be given reasonable notice of the day, time and place of the hearing.
 - 11.3.3. The Appeal Panel may request that any other individual participate and give evidence.
 - 11.3.4. If a decision in the appeal may affect another person or organization to the extent that the other person or organization would have recourse to an appeal in their own right

under this Policy, that person or organization will become a party to the appeal in question and will be bound by its outcome.

11.3.5. The decision to uphold or reject the appeal will be by a majority vote of the Panel members.

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

12.0 APPEAL DECISION

12.1. The Panel shall issue its decision, in writing with reasons, within 14 days or such other time period as agreed upon amongst the parties. In making its decision, the Appeal Panel may decide:

12.1.1. To reject the appeal and confirm the decision being appealed; or

12.1.2. To uphold the appeal and refer the matter back to the initial decision-maker for the new decision; or

12.1.3. Vary the decision.

12.2. The decision of the Appeal Panel will be final and binding on the parties with no further appeal available.