

Bandy Manitoba's Appeals Policy

1. Purpose

The purpose of this appeals policy is to enable disputes to be dealt with fairly, expeditiously and affordable, within Bandy Manitoba, without recourse to external legal procedures. The principles underlying the appeals procedure are those of fairness and natural justice. These principles shall be applied to the extent reasonable in the circumstances including considerations of urgency, the issue on appeal, and the severity of the potential sanction.

2. Definitions

These terms will have these meanings in this policy:

- a) *Days* -- will mean total days, irrespective of weekends or holidays.
- b) *Member* -- refers to all categories of members of Bandy Manitoba, as well as to all individuals engaged in activities with or employed by Bandy Manitoba, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees including contract personnel
- c) *Appellant* -- refers to the person appealing a decision
- d) *Respondent* -- refers to the individual or committee of Bandy Manitoba whose decision is being appealed.

3. Scope of Appeal

3.1 Any Member of Bandy Manitoba 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, will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Paragraph 4.1 of this policy. Examples of decisions that may be appealed include but are not limited to those relating to eligibility, provincial athlete assistance, harassment, team selection, discipline and entitlements and obligations under an athlete agreement.

3.2 This policy will not apply to decisions relating to:

- a) Matters of employment;
- b) Infractions for doping offences, which are dealt with pursuant to the *Canadian Policy on Doping in Sport* and the *Canadian Doping Control Regulations*;
- c) The rules of Bandy, which may not be appealed;
- d) Discipline matters arising during events organized by entities other than Bandy Manitoba, which are dealt with pursuant to the policies of these other entities, provided that they have an appeal policy in place;
- e) Any decisions made under Paragraph 4.3 and 4.5 of this policy

4. Appeal Procedure

4.1. Grounds

An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds include the respondent:

- a) making a decision for which it did not have authority or jurisdiction;
- b) failing to follow procedures laid out in the bylaws or approved policies of the association;
- c) making a decision which was influenced by 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 that was grossly unfair or unreasonable.

4.2. Appellant's Rights

The appellant should be granted the following:

- a) notice of the case to be met (that is, specific charges or alleged violations)
- b) reasonable time between receipt of notice and hearing within which to prepare a case;

- c) the hearing conducted at such time and place as will make it practical for the person affected to attend;
- d) a hearing before a disinterested and impartial panel;
- e) the opportunity to be assisted in the presentation of one's case at the hearing, including the assistance of legal counsel at the appellant's expense, if desired;
- f) the ability to call witnesses and present oral and written evidence and argument;
- g) the opportunity to cross-examine adverse witnesses;
- h) a written decision, with reasons therefore, based solely on the evidence of record, and handed down in a timely fashion.

4.3. Timing for the appeal

- a) A decision of an authorized individual or committee of Bandy Manitoba (for example, Discipline Committee, Selection Committee) may be appealed by filing a written notice of appeal (Appendix A) stating: the grounds upon which the appeal is based, summary of evidence that supports these grounds, and the remedy sought, with the Chair of the Appeals Committee within fourteen (14) days of receiving notification of the decision. An Appeal fee of \$50 must accompany the appeal.
- b) Any person wishing to file an appeal beyond the 14-day period must provide a written request stating the reasons for an exception to the requirement. The decision to allow, or not allow an appeal outside the 14 day period will be at the sole discretion of the Chair of the Appeal Committee, and may not be appealed.

4.4. Appeals Panel

Within 14 days of receiving the notice of appeal, the Chair of the Appeal Committee shall:

- a) ensure that the appellant and respondent have attempted to resolve the dispute by means of negotiation or facilitation;
- b) notify the respondent whose decision is under appeal promptly and request a justification and the reason(s) for the decision;
- c) name the three member Appeal Panel, each party in the dispute may nominate a panel member and then these two members may nominate a third person from among a roster of nominees that has been established previously. All members of the Appeal Panel shall not a significant relationship with the appellant or respondent, shall have had no involvement with the decision being appealed, and shall be free from actual or perceived bias or conflict;
- d) The members of the Appeal Panel shall select among themselves their own chair.

4.5. Screening the Appeal

- a) Within fourteen (14) days of its appointment, the Appeal Panel shall review the notice of appeal and reasons for the appeal and shall decide whether or not there are sufficient grounds for an appeal.
- b) If the Appeal Panel is satisfied that there are not sufficient grounds for an appeal, it shall notify the appellant of this decision in writing, stating reasons.
- c) This decision is discretionary and may not be appealed.
- d) If the Appeal Panel is satisfied that there are sufficient grounds for an appeal, it shall conduct a hearing.

5. Preliminary Conference

5.1. 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) Clarification of issues in dispute;
- d) Clarification of evidence to be presented to the Panel;
- e) Order and procedure of hearing;
- f) Date and location of hearing, where the hearing is an oral hearing;
- g) Identification of witnesses; and
- h) Any other procedural matter that may assist in expediting the appeal proceedings.

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

6. Procedure for the Hearing

6.1 If the Appeal Panel is to conduct a hearing, the Chair of the Appeal Panel shall, in consultation with the appellant, set a hearing date, time and place.

6.2 The hearing shall take place as soon as possible, and no more than sixty (60) days from the receipt of the notice of appeal by the Chair of the Appeals Committee.

6.3 The parties shall be notified of the date, time and place of the hearing by telephone and in writing at least fourteen (14) days prior to the hearing. These time periods may be abridged with the consent of the parties.

6.4 The Appeals Panel shall endeavor to locate the hearing in the locale of the appellant. The appellant has the right to a hearing in person however with the consent of all parties the appeal may be based on written documentation only or heard by telephone conference call or video conference.

6.5 The appeal shall be conducted as follows:

- a) Copies of any written documents which either the appellant or respondent wish to have the Appeal Panel consider shall be provided to all parties at least seven (7) days in advance of the hearing.
- b) The Appellant, the appellant's representative, the respondent and respondent's representative may be present and are entitled to make oral representation;
- c) The Appeal Panel shall have the opportunity to consider such evidence as it requires, and the Appeal Panel may call upon any other person or representative of any body to address it on any aspect of a matter before it;
- d) All interested parties shall be given, in the opinion of the Appeal Panel, a fair and reasonable opportunity to be heard. The appellant shall present evidence first at the hearing and has the right to reply to any evidence brought before the Appeal Panel Adherence to formal rules of evidence is not required;
- e) If the decision of the Panel 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 questions and will be bound by its outcome;
- f) A quorum shall be all three members of the Appeal Panel. Decisions shall be by majority vote.

7. Appeal Decision

7.1 The Appeal Panel shall render its written decision with reasons within fourteen (14) days of the conclusion of the hearing. In mailing its decision, the Appeal Panel will have no greater authority than that of the original decision-maker. The Appeal Panel may decide:

- i. to void, vary or confirm the decision being appealed;
- ii. to make any decision it feels the respondent should have made;
- iii. to refer the matter back to the respondent for a new decision, correcting any error that were made.

7.2 The Appeal Panel shall deliver a copy of its decision to the appellant, the respondent, the Chair of the Appeals Committee, and to the President.

8. Modification of timelines

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 that the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

9. Costs and Expenses

9.1 An Appeal fee of \$50 must accompany the appeal. The fee may be in any form accepted by Bandy Manitoba but in any event it must be received before the appeal will be considered.

9.2 If the panel determines sufficient grounds that an appeal exists, the appellant may request from the Appeal Panel the return of the appeal-filing fee.

9.3 The Appeals Panel shall have the discretion to impose against the appellant up to a maximum of \$250.00 if the appellant is unsuccessful. Costs could include: long distance phone charges, fax costs, staff time or other reasonable expenses upon application by Bandy Manitoba or the representative of Bandy Manitoba. Bandy Manitoba shall ensure that the appellant is made aware of these costs as they are incurred. Receipts may be requested.

9.4 The Appeals Panel shall have the discretion to impose costs against Bandy Manitoba up to a maximum of \$250.00 to the appellant if successful. Costs could include: long distance charges, fax costs or other reasonable expenses upon application by the appellant or the representative of the appellant. Receipts may be requested.

10. Confidentiality

Unless otherwise provided by the parties, all information received by the panel and disclosed by or on behalf of the parties during the appeal, shall be deemed to be confidential information and shall not be disclosed.

11. Location

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

12. Final and Binding Decision

The decision of the Panel will be final and binding on the parties and on all members of Bandy Manitoba, subject only to the provisions of Bandy Manitoba's policy relating to Alternative Dispute Resolution.

Appendix A – Bandy Manitoba Formal Appeal Form

Date of submission: _____

APPELLANT INFO

Name: _____ Age of appellant: _____

Address of appellant: _____

Home phone: _____ Work phone: _____ Other phone: _____

Fax number of appellant: _____ Email of appellant _____

If you have a representative, rep’s name & contact info : _____

Home phone: _____ Work phone: _____ Other phone: _____

Fax number: Email of rep:

GROUND S

Please list the grounds for the appeal and provide a summary of the evidence that supports these grounds (attach additional pages as required).

Costs and Expenses (excerpt from Bandy Manitoba’s appeals policy)

An Appeal fee of \$50 must accompany the appeal. The fee may be in any form accepted by Bandy Manitoba but in any event it must be received before the appeal will be considered.

If the panel determines sufficient grounds that an appeal exists, the appellant may request from the Appeal Panel the return of the appeal-filing fee.

The Appeals Panel shall have the discretion to impose costs up to a maximum of \$250.00 if the appellant is unsuccessful. Costs could include: long distance phone charges, fax costs, staff time or other reasonable expenses upon application by Bandy Manitoba or the representative of Bandy Manitoba. Bandy Manitoba shall ensure that the appellant is made aware of these costs as they are incurred. Receipts may be requested.