

Policy Title: APPEALS POLICY	Policy No: P-4
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1. GOAL

1.1 This policy guides the appeal process of Volleyball New Brunswick.

2. FIELD OF APPLICATION & AUTHORITY

2.1 Any member of Volleyball New Brunswick who is affected by a decision 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.

2.2 This policy shall not apply to matters relating to Doping Infractions or Code of Conduct violations at VNB sanctioned events, each of which have their own appeal procedures, or to matters relating to the Rules of the Game, which may not be appealed.

3. DEFINITIONS

3.1 **Member:** refers to any director, employee (including contract personnel), coach, athlete, official, manager, committee member, volunteer or any affiliate association of VNB.

3.2 **Appellant:** refers to the member appealing a decision.

3.3 **Respondent:** refers to the body whose decision is being appealed.

3.4 **Appeals Panel:** refers to the three persons appointed by the President to hear appeals of decisions made by Committees or by the Board of the organization.

4. PRINCIPLES

4.1 Volleyball New Brunswick recognizes its “duty to be fair” in how it deals with athletes, coaches and other members. Volleyball New Brunswick recognizes the need for an alternative dispute resolution system, incorporating mediation and arbitration, and that such a system must be based on a foundation of clear, consistent and effective internal procedures for handling disputes within the Organization.

As part of Volleyball New Brunswick’s duty of fairness, it must abide by the following principles:

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- 4.1.1 Decisions which affect an individual may only be made by the person or persons expressly authorized to make such decisions;
 - 4.1.2 The individual must be informed of the criteria to be met, well enough in advance to prepare properly;
 - 4.1.3 The individual must be informed of the charges or allegations, if the decision is about discipline;
 - 4.1.4 The individual is entitled to a hearing within a reasonable time-frame, before those who will decide, at which he or she, or a representative, can present the case;
 - 4.1.5 The individual must have the opportunity to respond to the decision by means of an appeal mechanism;
 - 4.1.6 Those making decisions must be free from actual or perceived bias, including any financial interest, personal or professional association, pre-judgement of the case or other lack of neutrality on the case; and
 - 4.1.7 Those hearing the appeal must not be those who made the original decision being appealed.

5. POLICY STATEMENT

- 5.1 Volleyball New Brunswick is committed to its duty of fairness in its treatment of members, and as such is committed to a dispute resolution system that is based on a foundation of clear, consistent and effective internal procedures for resolving disputes within the Organization.

6. PROVISIONS

- 6.1 Members who wish to appeal a decision shall have 21 days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, along with detailed reasons for the appeal, to the Executive Director.
 - 6.1.1 Notice of Appeal
Within the appropriate timeline noted above, members who wish to appeal a decision shall deliver a written Notice of Appeal, which contains the following information:
 - a) Name, address and status of the Appellant;
 - b) Identity of the Respondent and any Affected Parties;
 - c) Date the Appellant was advised of the decision being appealed;
 - d) Copy of the decision being appealed, or description of decision if written document is not available;
 - e) Grounds for appeal;
 - f) Detailed reason(s) for the appeal;
 - g) All evidence that supports the reasons and grounds for appeal;

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- h) The remedy or remedies requested
- 6.2 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 as set out in governing documents;
 - b) failing to follow procedures as laid out in the operational manual or approved policies of the Association;
 - c) 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;
 - d) failing to consider relevant information or taking into account irrelevant information in making the decision;
 - e) making a decision which was unreasonable.
- 6.3 Within 14 days of receiving notice of an appeal, the President shall appoint three persons to constitute an Appeals Panel, in accordance with the following:
- a) The panel shall be comprised of members in good standing of the Association who shall have no significant relationship with the appellant, shall have had no involvement with the decision being appealed, and shall be free from actual or perceived bias or conflict.
 - b) At least one of the appeal panel members shall be from among the appellant's peers (for example, if the appellant is an athlete one panel member shall be an athlete; if the appellant is a coach one panel member is a coach etc.)
 - c) In appointing the panel, consideration shall be given to the geographic location of the appellant, respondent and panel members, in order to minimize the inconvenience and expense to all parties.
- 6.4 The President will also appoint a staff member or volunteer who will act as the liaison with the Appeals Panel should more information, documentation or clarification be required during the appeal process.
- 6.5 Within 14 days of its appointment, the Appeals 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. This decision is discretionary and may not be appealed.
- 6.6 If the panel is satisfied that there are not sufficient grounds for an appeal, it shall notify the appellant of this decision in writing, stating reasons. If the panel is satisfied that there are sufficient grounds for an appeal, it shall conduct a Hearing.
- 6.7 If the Appeals Panel conducts a Hearing, it shall govern the Hearing by such procedures as it deems appropriate in the circumstances, provided that:
- a) The Hearing shall be held within 21 days of the Appeals Panel appointment;
 - b) The appellant and respondent shall be given 10 days written notice of the day, time and place of the Hearing;

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- c) Appeals panel members shall select themselves a Chairperson;
 - d) A quorum shall be all three appeals panel members;
 - e) Decisions shall be by majority vote;
 - f) Copies of any written documents which either the appellant or respondent wish to have the appeals panel consider shall be provided to all parties at least 2 days in advance of the Hearing;
 - g) Both the appellant and respondent may be accompanied by a representative or adviser, including legal counsel;
 - h) The appeals panel may request that any other individual participate and give evidence at the Hearing.
- 6.8 In order to keep costs to a reasonable level, the appeals panel may conduct the Hearing by means of a conference call or video conference.
- 6.9 Within 7 days of concluding the Hearing, the appeals panel shall issue its written decision, with reasons. The appeals panel may decide:
- a) To void, vary or confirm the decision being appealed;
 - b) To make any decision it 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.
 - e) A copy of this decision shall be provided to the appellant, the respondent and the Executive of the Association.
- 6.10 If the circumstances of the dispute are such that this policy will not allow a timely appeal, the President may direct that these timelines be shortened. Should this be the case, the appellant, respondent and members of the appeal panel will make every reasonable effort to comply with the revised timelines in order to conclude the appeal in a timely manner.
- 6.11 If the circumstances of the dispute are such that an appeal cannot be concluded within the timelines of this policy, the President may seek agreement from the appellant and respondent to extend the timelines.
- 6.12 The appellant shall have the right to decline a Hearing in favour of a documentary review. Should this be the case, the appeal panel shall request both appellant and respondent to provide written submissions, upon which the appeal panel shall make its decision. The appeal panel may direct such timelines as it deems appropriate in the circumstances in order to conclude the appeal in a timely manner.
- 6.13 The decision of the appeal panel shall be final and binding, and not open to any further appeal or intervention by any court, with the exception of a review by mediation or arbitration as set out in VNB's participation in Sport New Brunswick's Arbitrators Program.

7. REVIEW AND APPROVAL

7.1 This policy was approved by the Volleyball New Brunswick Executive on the ___ day of _____, 200_.

7.2 Date of last review: _2013_____

7.3 Original policy development lead: