

Ontario Cycling Appeals Policy

Definitions

1. The following terms have these meanings in this Policy:
 - a) “*Appellant*” – The Individual appealing a decision.
 - b) “*Case Manager*” – An individual appointed by Ontario Cycling, who may be Ontario Cycling staff or a Third Party, to oversee this Policy. The Case Manager will have responsibilities that include, but are not limited to:
 - I. working to ensure procedural fairness;
 - II. enforcing applicable timelines; and
 - III. exercising decision-making authority as empowered by this Policy.
 - c) “*Days*” – Days refers to business days, not including weekends and not including holidays in the Province of Ontario.
 - d) “*Third Party*” – a person or organization that has no professional or personal ties to Ontario Cycling or to Cycling Canada.
 - e) “*Individuals*” – All categories of Membership as defined in Ontario Cycling’s Bylaws, as applicable, as well as all people engaged in activities operated or sanctioned by Ontario Cycling, including, but not limited to athletes, cycling clubs/teams, coaches, mission staff, commissaires, volunteers, managers, administrators, committee members, parents or guardians, spectators, and directors and officers of Ontario Cycling.
 - f) “*Party/Parties*” – The Appellant and the Respondent.
 - g) “*Respondent*” – The person responding to the Appeal.

Purpose

2. The purpose of this Policy is to enable fair, affordable, and expedient appeals of certain decisions made by Ontario Cycling. Further, some decisions made during the process outlined in the *Discipline and Complaints Policy* may be appealed under this Policy.

Scope and Application of this Policy

3. This Policy applies to all Individuals. Any Individual who is directly affected by a decision of Ontario Cycling listed in Section 4 has the right to appeal that decision if there is a sufficient ground for appeal under the ‘Grounds for Appeal’ section of this Policy.
4. This Policy **applies** to decisions made by the Ontario Cycling relating to (unless otherwise specified):

- a) Eligibility.
 - b) Selection.
 - c) Conflict of Interest.
 - d) Discipline.
 - e) Membership.
5. This Policy **does not apply** to decisions relating to:
- a) Employment.
 - b) Independent contractor arrangements or contracts.
 - c) Infractions for doping offenses.
 - d) The rules of sport.
 - e) Selection criteria, quotas, policies, and procedures established by entities other than Ontario Cycling.
 - f) Substance, content, and establishment of team selection criteria.
 - g) Volunteer/coach appointments and the withdrawal or termination of those appointments.
 - h) Budgeting and budget implementation.
 - i) Ontario Cycling's operational structure and committee appointments.
 - j) Decisions or discipline arising within the business, activities, or events organized by entities other than Ontario Cycling (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless accepted by Ontario Cycling at its sole discretion).
 - k) Commercial matters for which another appeals process exists under a contract or applicable law.
 - l) Decisions or discipline arising within competition.
 - m) Decisions made under this Policy.

Timing of Appeal

6. Individuals who wish to appeal a decision have seven (7) Days from the date on which they received notice of the decision to submit in writing to Ontario Cycling (by email to Ontario Cycling's President & CEO at pam.julian@ontariocycling.org) the following:
- a) Notice of the intention to appeal.
 - b) Contact information and status of the Appellant.
 - c) Name of the Respondent.
 - d) Date the Appellant was advised of the decision being appealed.
 - e) A copy of the decision being appealed, or a description of the decision being

appealed if written documentation is not available.

- f) Ground(s) for appeal.
 - g) Detailed reasons for the appeal.
 - h) All evidence that supports the ground(s) for appeal and the reasons for the appeal.
 - i) Requested remedy or remedies.
 - j) An administrative fee of \$500 payable to Ontario Cycling which will be refunded (without interest) if the appeal is resolved by alternate dispute resolution or if the appeal is upheld.
7. An Individual who wishes to initiate an appeal after the end of the seven (7) Day period described in Section 6 must provide a written request to the Case Manager stating the reasons for an exemption. The decision to allow, or not to allow an appeal to be initiated after the end of such seven (7) Day period will be at the sole discretion of the Case Manager and cannot be appealed.

Grounds for Appeal

8. A decision cannot be appealed on its merits alone. An appeal can only be heard if there are sufficient grounds for appeal. Sufficient grounds for appeal are limited to submissions that allege that the Respondent in making an identified decision made one (1) or more of the following errors:
- a) Decided that the Respondent did not have authority or jurisdiction (as set out in the relevant governing documents) to make.
 - b) Failed to follow its own procedures (as set out in the relevant governing documents).
 - c) 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).
 - d) Failed to consider relevant information or considered irrelevant information in making the decision.
9. The Appellant must demonstrate, on a balance of probabilities, that the Respondent made one (1) or more of the as described in the 'Grounds for Appeal' section of this Policy and that such error(s) had, or may reasonably have had, a material effect on the decision or decision-maker.

Screening of Appeal

10. Upon receiving the notice of the intention to appeal, and all other information (outlined in the 'Timing of Appeal' section of this Policy), the Case Manager and the Appellant may agree that the appeal should be dealt with by alternate dispute resolution (such as by mediation or a negotiated settlement).

11. If an appeal is resolved by alternate dispute resolution the administration fee will to be refunded to the Appellant.
12. If the appeal is not to be resolved by alternate dispute resolution, the Case Manager (who must not be in a conflict of interest) will determine whether:
 - a) The appeal falls under the scope of this Policy.
 - b) The appeal was submitted in a timely manner.
 - c) Whether there are sufficient grounds for appeal.
13. If the appeal is denied by the Case Manager for any reason listed in Section 12, the Appellant will be notified, in writing, of the reasons for this decision. This decision cannot be appealed.
14. If the Case Manager, after considering the matters listed in Section 12, is satisfied that the appeal can proceed, the Case Manager will appoint an Appeal Panel which shall consist of one (1) individual to hear the appeal, provided that, at the sole discretion of the Case Manager, the Case Manager may appoint an Appeal Panel of three (3) individuals to hear the appeal (in which case, the Case Manager will appoint one (1) of the Appeal Panel to serve as the Chair of the Appeal Panel).

Procedure for Appeal Hearing

15. The Case Manager shall notify the Parties that the appeal will be heard. The Case Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Case Manager and cannot be appealed.
16. If an Appellant or a Respondent chooses not to participate in a hearing under this Policy, the hearing will proceed in any event.
17. The format of the hearing may involve an in-person hearing, a hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these formats. The hearing will be governed by the procedures that the Case Manager and the Appeal Panel consider appropriate in the circumstances, provided that:
 - a) The hearing will be held within the timeline determined by the Case Manager.
 - b) The Parties will receive no less than three (3) Days written notice of the date, time and place and format of the hearing.
 - c) Copies of any written documents which either Party wishes to have the Appeal Panel consider will be provided to the Parties in advance of the hearing.

- d) Each Party may be accompanied at a hearing by one (1) representative, advisor, or legal counsel at their own expense.
 - e) The Appeal Panel may request that any other individual participate and give evidence at the hearing.
 - f) The Appeal 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) The decision to uphold or reject an appeal will be by a majority vote of Appeal Panel, if applicable.
18. In fulfilling its duties, the Appeal Panel may request that Ontario Cycling engage one (1) or more expert advisors and Ontario Cycling shall consider the request acting reasonably and considering the timing and the cost of such expert advice in relation to the nature of the matter being appealed. If Ontario Cycling does not engage any such expert advisor(s), the Appeal Panel shall continue to fulfil the Appeal Panel's responsibilities under this Policy.

Appeal Decision

19. The Appeal Panel shall issue its decision, in writing and with reasons, within seven (7) Days after the hearing's conclusion. In making its decision, the Appeal Panel will have no greater authority than that of the original decision-maker. The Appeal 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; or
 - c) Uphold the appeal and vary the decision.
20. The Appeal Panel's written decision, with reasons, will be distributed to the Parties, the Case Manager, and Ontario Cycling. In extraordinary circumstances, the Appeal 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 Appeal Panel.

Timelines

21. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Case Manager and/or the Appeal Panel may direct that these timelines be revised.

Confidentiality

22. The appeals process is confidential and involves only the Parties, the Case Manager, the Appeal Panel, and any independent advisors to the Appeal Panel. Once initiated and until a decision is released, Parties will not disclose information related to the proceedings to any person not involved in the proceedings.

23. Appeal decisions that are matters of public interest shall be publicly available with the names of persons redacted if names of persons disciplined/affected may be disclosed to the extent which the Appeal Panel considers necessary in order to give effect to an appeal decision.

Final and Binding

24. The decision of the Appeal Panel will be binding on the Parties and on all persons (including without limitation, Individuals) associated with the Ontario Cycling.

25. No action or legal proceeding will be commenced against Ontario Cycling or Individuals in respect of a dispute, unless Ontario Cycling has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in Ontario Cycling's policies, procedures, rules, and regulations (including without limitation, this Policy).