

FDSA POLICY

SUBJECT: APPEALS

Adopted May 2003

In this policy, "member" refers to any director, employee, coach, athlete, parent, official, manager, committee member, or volunteer of the FDSA; "appellant" refers to the member appealing a decision; and "respondent" refers to the body whose decision is being appealed.

1. Any member of the FDSA 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. Members who wish to appeal a decision shall have 48 hours from the time at which they received notice of the decision, to submit to the FDSA office written notice of their intention to appeal, along with detailed reasons for the appeal and an appeal fee in the amount of \$50, which fee shall only be refunded if the appeal is successful.
3. 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 bylaws, constitution or 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; and/or
 - (e) exercising its discretion for an improper purpose.
4. Within 10 days of receiving notice of an appeal a Tribunal shall be constituted, in accordance with the following:
 - (a) The Tribunal shall comprise members in good standing of the Association, members retired from the Association or members of other sport organizations. These persons 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) One Tribunal member shall be appointed by the President (or designate) of the Association, provided the member satisfies criterion (a) above
 - (c) One Tribunal member shall be appointed by the appellant , provided the member satisfies criterion (a) above.
 - (d) The third Tribunal member shall be selected jointly by the other two members.
5. Within 7 days of its appointment the Tribunal 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. If the Tribunal is satisfied that there are not sufficient grounds for an appeal, it shall notify the appellant of this decision in writing, stating reasons and returning the appellant's appeal fee. If the Tribunal is satisfied that there are sufficient grounds for an appeal, it shall conduct a Hearing.
 7. If the Tribunal 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 Tribunal's appointment;
 - (b) The appellant and respondent shall be given 10 days written notice of the day, time and place of the Hearing;
 - (c) Tribunal members shall select from themselves a Chairperson;
 - (d) A quorum shall be all three Tribunal members;
 - (e) Decisions shall be by majority vote;
 - (f) Copies of any written documents which either the appellant or respondent wish to have the Tribunal consider shall be provided to all parties in advance of the Hearing;
 - (g) Both the appellant and respondent may be accompanied by a representative or adviser;
 - (h) The Tribunal may request that any other individual participate and give evidence at the Hearing;
 8. In order to keep costs to a reasonable level the Tribunal may conduct the Hearing by means of a conference call.

9. Within 3 days of concluding the Hearing the Tribunal shall issue its written decision, with reasons. The Tribunal may decide:
 - (a) to void, vary or confirm the decision being appealed;
 - (b) to make any decision it feels the respondent should have made; and/or
 - (c) to refer the matter back to the respondent for a new decision, correcting any errors that were made.

A copy of this decision shall be provided to the appellant, the respondent and the Association.

10. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the President (or designate) may direct that these timelines be shortened. This will apply, in particular, to those appeals respecting player selection for which the timelines shall be shortened in order to respect team selection deadlines.

- 11 If the circumstances of the dispute are such that an appeal cannot be concluded within the timelines of this policy, the President (or designate) may seek agreement from the appellant and respondent to extend the timelines.
- 12 The appellant shall have the right to decline a Hearing in favour of a documentary review. Should this be the case, the Tribunal shall request both appellant and respondent to provide written submissions, upon which the Tribunal shall make its decision. The Tribunal may direct such timelines as it deems appropriate in the circumstances in order to conclude the appeal in a timely manner.
- 13 The decision of the Tribunal shall be final and binding, and not open to any further appeal or intervention by any court.