

SASKATCHEWAN HIGH SCHOOLS ATHLETIC ASSOCIATION (SHSAA)

APPEAL POLICY FLOWCHART

All appeals are to be submitted to Sask Sport's identified Independent Third-Party for appeal submissions and will be screened by the Independent Appeal Manager to determine next steps.

Appellant files appeal to Independent Third Party within 14 days of receipt of the decision

Following notification by Independent Third Party that an appeal has been received, [PSO] will appoint an independent Appeal Manager (from Sask Sport website) who has the following responsibilities:

Screening of Appeal

- To determine if the appeal falls under the scope of the Appeal Policy (Sections 2-5)
- To determine if the appeal was submitted in a timely manner (Sections 6 and 7)
- To decide whether there are sufficient grounds for the appeal (Section 8)

Appeal to Proceed

1. Appeal Manager to propose the Parties attempt to resolve the dispute using the *Alternate Dispute Resolution Policy*
2. If alternative dispute resolution (mediation) is not agreed upon by both parties or not successful, the Appeal Manager will appoint an appeal panel in accordance with Sections 14 and 15

Appeal is Dismissed

1. The Appeal is dismissed if the Appeal Manager determines:
 - a. Not within scope of the Appeal Policy
 - b. Not submitted in a timely manner (14 days) of required deadline without extension or approval
 - c. Insufficient grounds for appeal

Appeal Hearing (ADR Unsuccessful or Denied)

1. The Appeal Manager will:
 - a. Appoint the appeal panel
 - b. With cooperation of the panel, determine the format of the appeal hearing
 - c. Provide notice of the hearing
 - d. Ensure all evidence and submissions are disclosed to all parties and the panel
 - e. Set all timelines
2. The panel:
 - a. May request other individuals participate in the hearing
 - b. Will determine the admissibility of evidence
 - c. Will render a written decision within 14 days and provide it to the Appeal Manager who will distribute the decision as necessary
3. The panel's decision may:
 - a. Reject the appeal
 - b. Uphold the appeal and refer matter back to the initial decision maker for a new decision
 - c. Uphold the appeal and vary the decision
4. The panel's decision is final and is not appealable.

Alternative Dispute Resolution Policy

1. ADR may be pursued at any point in an appeal upon the consent of the parties
2. The Independent Third Party will:
 - a. Facilitate the appointment of a facilitator or mediator with the consent of the parties
 - b. Appoint a mediator or facilitator
3. The mediator/facilitator will decide the format for mediation/facilitation
4. If a negotiated settlement is reached, the settlement will be reported to the Association (Safe Sport Liaison) and the Appeal Manager
5. If a negotiated settlement is not reached, the complaint will be referred back to the Appeal Manager or appeal panel
6. Any negotiated settlement will be binding on the parties and not subject to appeal

Appeal is Resolved

Outcomes and those implications are communicated to the parties, applicable organizations, and individuals (Section 25). Appeal ruling posted on Sask Sport website.

SASKATCHEWAN HIGH SCHOOLS ATHLETIC ASSOCIATION (SHSAA)

APPEAL POLICY

Effective date	JUNE 18, 2024
Archived date	-
Date last reviewed	JUNE 18, 2024
Scheduled review date	JUNE 18, 2024
Replaces and/or amends	N/A
Approved by and date	SHSAA Board of Directors, JUNE 18, 2024
Appendix(-ces) to this Policy	-

Purpose

1. This Policy provides Individuals with a fair, affordable, and expedient appeal process.

Scope and Application of this Policy

2. This Policy applies to all Individuals. However, it does not apply to appeals of decisions that were managed by the OSIC, which shall be handled in accordance with the policies and procedures of the OSIC or the Director of Sanctions and Outcomes, as applicable.
3. Subject to Section 2, any Individual who is affected by a decision taken by SHSAA specifically with regard to that Individual, including a decision by the Board, by any committee of the Board, or by any body or individual within SHSAA who has been delegated authority to make decisions in accordance with SHSAA's bylaws and governance policies (as applicable), shall have the right to appeal that decision provided that it is a decision that is subject to appeal pursuant to Section 4 of this Policy, that the conditions indicated in Sections 6 or 7 of this Policy (as applicable) have been satisfied, and provided that there are sufficient grounds for the appeal pursuant to Section 8 of this Policy.
4. This Policy **will apply** to decisions relating to:
 - a) conflict of interest
 - b) disciplinary decisions made pursuant to SHSAA in relation to complaints managed under Sections 39 and following of SHSAA's *Discipline and Complaints Policy*
 - c) membership
5. This Policy **will not apply** to the following decisions relating to:
 - a) Reported complaints that were managed by the OSIC;
 - b) Any decisions rendered by a Complaint Resolution Officer pursuant to Section 36 of SHSAA's *Discipline and Complaints Policy*
 - c) Matters of general application such as amendments to the SHSAA's bylaws;
 - d) SHSAA's operational structure and committee appointments;
 - e) Issues of budgets and budget implementation;
 - f) Employment matters or matters of operational structure or staffing or volunteer leadership opportunities;
 - g) Except as otherwise provided for in this Policy, decisions made by organizations other than SHSAA, such as Sask Sport or any other governing body;
 - h) Selection criteria, quotas, policies and procedures established by entities other than SHSAA;

- i) Substance, content and establishment of team selection criteria;
- j) The Athlete Assistance Program (AAP, Future Best) policies and procedures established by Sask Sport;
- k) Policy and procedures established by any other agency, association or organization external to SHSAA (except as otherwise permitted under Section 3);
- l) Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program, by the Canadian Centre for Ethics in Sport;
- m) Contractual matters between SHSAA and its staff or Members for which another dispute resolution process exists under the provisions of the applicable contract; or
- n) Settlements negotiated pursuant to the *Alternate Dispute Resolution Policy*.

Submission and Timing of Appeal

6. Individuals who wish to appeal a decision have fourteen (14) days from the date on which they received notice of the decision to submit to the Independent Third Party the following:
 - a) Notice of the intention to appeal
 - b) Their contact information
 - c) Name of the Respondent and any Affected Parties, when known to the Appellant
 - d) Date the Appellant was advised of the decision being appealed
 - e) A copy of the decision being appealed, or description of the decision if a written document is not available
 - f) Grounds and detailed reasons for the appeal
 - g) All evidence that supports these grounds
 - h) Requested remedy or remedies
 - i) An administration fee of no more than two hundred dollars (\$200), which will be refunded if the appeal is upheld
7. An Individual who wishes to initiate an appeal beyond the fourteen (14) day period may only do so if exceptional circumstances prevented them from filing their appeal within the deadline indicated in Section 6 above. Any such Individual must provide a written request stating the reasons for which they are seeking an exemption. The decision to allow, or not allow, an appeal outside of the fourteen (14) day period will be at the sole discretion of the Appeal Manager.

Grounds for Appeal

8. A decision cannot be appealed on its merits alone or because an Individual (or Individuals) do not like or agree with a decision. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
 - a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make;
 - b) Failed to follow its own procedures (as set out in the Respondent's 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 appears not to have considered other views); or
 - d) Made a decision that was grossly unreasonable.

9. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 8 of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

Screening of Appeal

10. Following notification by the Independent Third Party that an appeal has been received, SHSAA will appoint an independent Appeal Manager who has the following responsibilities:
 - a) To determine if the appeal falls under the scope of this Policy (Sections 2-5)
 - b) To determine if the appeal was submitted in a timely manner (Sections 6 and 7)
 - c) To decide whether there are sufficient grounds for the appeal (Section 8)

The Appeal Manager may not be an employee, volunteer, or member of SHSAA, must not be in a conflict of interest or have any direct relationship with the Parties, and must have appropriate experience and training to act as the Appeal Manager.

11. If the Appeal Manager denies the appeal on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision.
12. If the Appeal Manager accepts an appeal because it falls under the scope of this Policy, there are sufficient grounds and it was submitted in a timely manner, the Appeal Manager will notify the Parties of their decision in writing and will follow the steps described hereunder.
13. The Appeal Manager shall propose and, if appropriate in the circumstances, encourage that the Parties attempt to resolve the dispute using the *Alternate Dispute Resolution Policy*. If the Parties do not all agree to use the *Alternate Dispute Resolution Policy*, or if the Parties are unable to resolve the dispute using the *Alternate Dispute Resolution Policy*, the Appeal Manager will appoint an appeal panel in accordance with Section 14 below.

Appointment of Appeal Panel

14. If an appeal is accepted, the Appeal Manager will appoint an appeal panel which shall consist of a single member to hear the appeal. However, at the discretion of the Appeal Manager, an appeal panel composed of three members may be appointed to hear the appeal. In this event, the Appeal Manager will appoint one of the panel's members to serve as the chair.
15. When appointing the appeal panel, the Appeal Manager must select individuals who are impartial, free from any real or perceived conflict of interest (and who shall remain so until a final decision has been rendered or the proceedings have otherwise finally terminated), and who do not have any direct relationship with any of the Parties. Although not a strict requirement, the Appeal Manager should attempt to appoint individuals to the appeal panel who have a legal background and who understand high school sport. When justified by the circumstances, the Appeal Manager may appoint individuals to the appeal panel who have specific areas of expertise that would assist in resolving the matter.

Determination of Affected Parties

16. In order to confirm the identification of any Affected Parties, the Appeal Manager will engage SHSAA. The Appeal Manager may determine whether a Party is an Affected Party in their sole discretion.

Procedure for Appeal Hearing

17. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager, in collaboration with the appeal panel, shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Appeal Manager and may not be appealed.

18. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.

19. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, a hearing based on documentary submissions alone, or a combination of these methods. The hearing will be governed by the procedures that the Appeal Manager and the appeal panel deem appropriate in the circumstances, provided that:

- a) The hearing will be held in a timely manner within a timeline determined by the Appeal Manager
- b) The Parties will be given reasonable notice of the day, time and place of an oral in-person hearing or oral hearing by telephone or electronic communications.
- c) Copies of any written documents which the Parties wish to have the appeal panel consider will be provided to all Parties in advance of the hearing
- d) The Parties may be accompanied by a representative, advisor, translator, transcription services, or legal counsel at their own expense
- e) The appeal panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
- f) The appeal panel may exclude any evidence filed by the Parties that is unduly repetitious or otherwise an abuse of process. The appeal panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to any evidence filed by the Parties
- g) Nothing is admissible in evidence at a hearing that:
 - i. would be inadmissible in a court by reason of any privilege under the law of evidence; or
 - ii. is inadmissible by any statute.
- h) Any Affected Party shall be permitted to make submissions and file evidence before the appeal panel. The appeal panel's decision is binding on any Affected Party
- i) The decision to uphold or reject the appeal will be by a majority vote of the appeal panel members, except in cases where the panel consists of a single member

20. In fulfilling its duties, the appeal panel may obtain independent advice.

Appeal Decision

21. The appeal panel shall issue its decision, in writing and with reasons, within fourteen (14) 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, in whole or in part, and refer the matter back to the initial decision-maker for a new decision
 - c) Uphold the appeal, in whole or in part, and vary the decision
 - d) Determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, may be assessed against any Party. In assessing costs, the appeal panel will take into account the nature and amount of the costs, the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources
22. The appeal panel's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, SHSAA, and Sask Sport. SHSAA may provide the appeal panel's decision to the relevant Member(s). 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.
23. Subject to Section 24 below, unless the matter involves a Vulnerable Participant, Sask Sport shall publish the outcome of the appeal on their website. Publication shall be limited to, where applicable, the provision(s) of any relevant policies that have been violated, the name of the Respondent(s) involved, the sanction(s) or order imposed, if any. Additionally, where SHSAA acts as the Complainant under Section 16 of the *Discipline and Complaints Policy* and any decision issued pursuant to that Policy is appealed, only SHSAA, and not the original Complainant, shall be identified as an involved Individual. Identifying information regarding Minors or Vulnerable Participants will never be published by SHSAA.
24. If the appeal panel dismisses the appeal, the decision may only be published, as provided for in Section 23, with the Respondent's consent. If the Respondent does not provide such consent, the decision will be kept confidential by the Parties, the Appeal Manager, SHSAA, the relevant Member(s), and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to this Policy.
25. Sask Sport will publish the outcome of the case as provided for in Sections 23 or 24, as and when applicable, by placing the required information on its website and shall leave the information up for the longer of one (1) month or the duration of the sanction.
26. Other individuals or organizations, including but not limited to, other Members, shall be advised of the outcome of any decisions rendered in accordance with this Policy.
27. Any decision rendered pursuant to this Policy shall apply automatically to and must be respected by SHSAA, its Members and any Individuals involved.
28. Records of all decisions will be maintained by SHSAA in accordance with its privacy policies.

29. Any decision by SHSAA's appeal panel in relation to an appeal filed pursuant to this *Appeal Policy* shall be final and binding on the parties. The decision shall not be subject to any further appeal before the Sport Dispute Resolution Centre of Canada (SDRCC), unless the original Parties to the appeal seize the SDRCC on a fee-for-service basis.

Timelines

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

Confidentiality

31. The appeals process is confidential and involves only the Parties, the Appeal Manager, the appeal panel, the relevant Member(s), and any independent advisors to the panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.
32. Any failure to respect the aforementioned confidentiality requirement may result in disciplinary action being taken against the Individual(s) in accordance with SHSAA's relevant and applicable policies.

Final and Binding

33. No action or legal proceeding will be commenced against SHSAA or any Individuals in respect of a dispute, unless SHSAA has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.

Privacy

34. The collection, use and disclosure of any personal information pursuant to this Policy is subject to SHSAA's usual policies and practices regarding private and/or confidential information.
35. SHSAA or any of its delegates pursuant to this Policy (i.e., Appeal Manager, appeal panel) shall comply with SHSAA's usual policies and practices regarding private and/or confidential information in the performance of their services under this Policy.