

DIVING PLONGEON CANADA

APPEAL POLICY

1. Purpose

- (a) The purpose of this policy is to enable disputes with Members and Participants to be dealt with fairly, expeditiously and affordably within DPC and without recourse to external legal procedures.

2. Definitions

- (a) “**Appellant**” means a person who appeals a decision in accordance with this policy.
- (b) “**Board**” means the Board of Directors of DPC.
- (c) “**COO**” means the DPC Chief Operating Officer or such other officer as may be substituted with the duties of the COO.
- (d) “**DPC**” means Diving Plongeon Canada and includes Canadian Amateur Diving Association, Inc..
- (e) “**Designated Official**” means an individual independent of the parties appointed by the COO to administer the appeal with respect to the parties.
- (f) “**Members**” means the members of DPC and includes athletes, coaches, officials, associate members/volunteers.
- (g) “**Panel**” has the meaning set out in Section 7.
- (h) “**Participants**” means the Members as well as DPC directors, officers, team managers, team medical personnel, staff, contractors and any other individual who participates in DPC programs, activities and events, including parents of athletes.
- (i) “**Respondent**” means the individual or body whose decision is being appealed.
- (j) Any reference to gender includes all gender and the plural includes the singular and vice versa, as the context requires.

3. Application of Policy

- (a) This policy applies to all Participants.
- (b) A Participant who is affected by a decision of:
 - i. the Board;
 - ii. any other Committee of the Board; or
 - iii. any body or individual who has been delegated authority to make decisions on behalf of the Board, will have the right to appeal that decision, provided there are sufficient grounds.
- (c) This policy applies to decisions taken by Provincial Sections for which there is no further internal recourse within the jurisdiction of such Provincial Section.
- (d) This right to appeal will not apply to decisions relating to:
 - i. Decisions of the Discipline Committee established pursuant to the Conduct Policy, appeals from which shall be made directly to Sport Dispute Resolution Centre of Canada (“SDRCC”);
 - ii. Infractions for doping offences, which are dealt with through the Canadian Anti-Doping Program;
 - iii. Eligibility or team selection matters that are within the jurisdiction of entities other than DPC;
 - iv. Matters of budgeting, budget implementation, or operational structure;
 - v. Matters that are decided by the general membership of DPC;
 - vi. Commercial matters for which another dispute resolution process exists under a contract or applicable law;
 - vii. The rules of the sport of diving; and
 - viii. Any decision made under Section 6 of this policy.

4. Notice of Appeal

- (a) Members who wish to appeal a decision will have 21 days from the date on which they received notice of the decision, to submit in writing notice of their intention to appeal to the COO.
- (b) The notice will contain:
 - i. contact information for the Appellant;
 - ii. name of the Respondent;
 - iii. grounds for the appeal consistent with Section 5 of this policy;
 - iv. a summary of the evidence that supports the grounds for the appeal; and
 - v. the remedy or remedies requested.
- (c) Upon receiving a notice of appeal, the COO will appoint a Designated Official.

5. Grounds of Appeal

- (a) Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:
 - i. Making a decision for which it did not have authority or jurisdiction as set out in governing documents;
 - ii. Failing to follow procedures as laid out in the bylaws or approved policies of DPC;
 - iii. 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 has made a decision that was influenced by factors unrelated to the merit of the decision; or
 - iv. Making a decision that is grossly unreasonable or unfair.

6. Screening of Appeal

- (a) Within 7 days of receiving the notice of an appeal, the Designated Official will determine whether there is a right of appeal (Sections 3 and 5), whether the appeal has been brought in a timely way (Section 4) and whether the appeal is brought on appropriate grounds (Section 5).
- (b) If the appeal is denied on the basis that there is no right of appeal, that the appeal is not timely, or that the appeal is based on insufficient grounds, the Designated Official will notify the Appellant of this decision in writing, giving reasons. This decision is at the sole discretion of the Designated Official, and may not be appealed.

7. Appeal Hearing

- (a) If the Designated Official is satisfied that there is a right of appeal and that there are sufficient grounds for an appeal, the Designated Official will establish an appeals panel (the "Panel") comprised of 3 persons. The Panel, assisted by the Designated Official, is responsible to ensure procedural fairness is respected at all times during the appeal process, and to carry out this process in a timely manner.
- (b) The Panel will determine the format of the appeal hearing, which may involve written submissions, an oral hearing in person, an oral hearing by telephone, a hearing based on written submissions or a combination of these methods.
- (c) The Panel will govern the hearings as it sees fit. The Appellant will be given reasonable notice of the hearing and will have the right to present documents, evidence and arguments before the Panel.
- (d) If the decision of the Panel may affect another party to the extent that the other party would have recourse to an appeal in the other party's own right under this policy, such other party will receive notice of the hearing, become a party to the appeal in question and will be bound by its outcome whether or not such other party chooses to participate in the appeal.

8. Appeal Decision

- (a) Following the hearing, the Panel will issue its written decision, with reasons.
- (b) In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:
 - i. To reject the appeal and confirm the decision being appealed; or
 - ii. To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
 - iii. To uphold the appeal and vary the decision but only where it is found that an error occurred and such an error cannot be corrected by the original decision-maker, including for reason of lack of clear procedure, lack of time or lack of neutrality.
- (c) A copy of the decision will be given to each of the parties and to the COO. The decision will not be a matter of public record, unless the Panel directs otherwise.
- (d) In extraordinary circumstances, the Panel may issue a verbal decision or a summary written decision, with written reasons to follow.

9. Final and Binding Decision

- (a) The decision of the Panel will be final and binding on the parties and on all members of DPC, subject to the right of the Appellant, Respondent or any affected party to seek a review of the decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).
- (b) Where the decision of the Panel relates to a carding matter governed by the policies and procedures of the Athlete Assistance Program, any review pursuant to the rules of the SDRCC will be preceded by a consultation of the parties with Sport Canada to determine the most appropriate procedure for reviewing the decision.