

ROWONTARIO APPEAL POLICY AND PROCEDURE

As approved May 2014

INTRODUCTION

1. This document sets out the policy and procedure for appeals by all categories of participants and members of ROWONTARIO in response to decisions that affect them. It provides for an internal process and, in most cases, a final external process. The purpose of this Policy is to enable disputes with participants and members to be dealt with fairly, expeditiously and affordably within ROWONTARIO and without recourse to external procedures.

PRINCIPLES

2. Any participant or member of ROWONTARIO who is affected by a decision taken by ROWONTARIO, specifically with regard to that member by the Board, by any Committee of the Board or by individual within ROWONTARIO who has been delegated authority to make decisions in accordance with ROWONTARIO's constitution, shall have the right to appeal that decision subject to the terms and conditions set out in this Policy.

3. This Policy will apply to decisions made by ROWONTARIO relating to eligibility, selection, allocation of competitive opportunities, and harassment.

4. For further clarity, this Policy **will not apply** to matters relating to:

- a. Subjects of general application such as amendments to the ROWONTARIO Constitution;
- b. Issues of budgets and budget implementation;
- c. Employment matters or matters of operational structure or staffing or volunteer leadership opportunities;
- d. Matters relating to regattas in Canada governed by other organizations such as the Canada Games Council, or Rowing Canada Aviron (RCA) and similar events;
- e. Selection criteria, quotas, policies and procedures established by entities other than ROWONTARIO.
- f. Provincial Team selection as this process includes an appeal procedure within the Canada Games Team selection policy.
- g. Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program, the Canadian Centre for Ethics in Sport and the World Anti-Doping Agency;
- h. Disputes over competition rules governed by the RCA Rules of Racing or FISA Rules of Racing;
- i. Contractual matters between ROWONTARIO and its members for which another dispute resolution process exists under the provisions of the applicable contract.

5. A decision cannot be appealed simply because a member does not like or agree with it; there must be sufficient grounds for the appeal. The **grounds for appeal** are that the individual, group or committee making the decision:

- a. Did not have authority or jurisdiction as set out in governing documents to make the decision;
- b. Failed to follow procedures as laid out in the Constitution or approved policies of ROWONTARIO;
- c. Made a decision which was influenced by bias (bias being defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views, including conflict of interest);

- d. Exercised its discretion for an improper purpose;
- e. Made a decision that was grossly unreasonable or unfair.

6. ROWONTARIO shall appoint a Case Manager to oversee management and administration of appeals submitted in accordance with this Policy. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy and to implement the Policy in a timely manner. More particularly, the Case Manager has a responsibility to:

- a. Receive appeals;
- b. Determine if appeals lie within the jurisdiction of this Policy;
- c. Determine if appeals are brought in a timely manner;
- d. Determine if appeals are brought on permissible grounds;
- e. Appoint the Appeal Panel to hear appeals and/or determine the preliminary questions set out in paragraph 6 (a) to (d) above;
- f. Determine the format of the appeal hearing;
- g. Coordinate all administrative and procedural aspects of the appeal;
- h. Provide administrative assistance and logistical support to the Appeal Panel as required; and
- i. Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

PROCEDURE

GENERAL

7. The following timelines shall govern this Policy. Note that “days” refers to the total number of calendar days including weekends or holidays. The Case Manager reserves the right to modify these timelines to accommodate the particular circumstances of any appeal.

8. Unless otherwise specified in this Policy, a participant or member wishing to appeal a decision must submit a written Notice of Appeal to the Case Manager within fourteen (14) days of being notified of the decision that the participant or member wishes to appeal.

9. The appeal must be accompanied by the sum of Five Hundred Dollars (\$500.00) (cash, certified cheque, bank draft or credit card) made out to ROWONTARIO. This sum shall be refunded if the appeal is upheld.

10. The participant or member appealing a decision (the “Appellant”) will bear the onus of proof in the appeal and therefore must be able to demonstrate, on a balance of probabilities, that the Respondent to the Appeal has made an error as described in paragraph 5 above.

11. Within the appropriate time lines, the Case Manager shall in consultation with the President of ROWONTARIO, appoint an Appeal Panel consisting of a single adjudicator to hear the appeal. In extraordinary circumstances and at the sole discretion of the Case Manager an Appeal Panel of three (3) persons may be appointed to hear and decide a case. In this event the Case Manager will appoint one of the Appeal Panel’s members to serve as the Chair of the Appeal Panel and the Appeal Panel Chair shall appoint the remaining two (2) members of the Panel. Each member of the Appeal Panel shall be appointed for his or her independence and expertise.

12. The Appeal Panel will first consider whether sufficient grounds for making an appeal have been demonstrated and will reject the appeal without further consideration if s/he

determines that the required criteria for an appeal set out in paragraph 5 have not been met. If satisfied that there are not sufficient grounds for an appeal, the parties will be notified of this decision in writing with reasons. If satisfied that there are sufficient grounds for an appeal, then a hearing will take place in accordance with the provisions of this Policy.

13. The Case Manager has the authority to establish the Appeal Panel's process provided that it respects the basic principles of fairness - the right to know the case to be met and the right to make a case in response. All parties are entitled to receive all material put before the Appeal Panel

14. The Case Manager shall give the concerned parties at least fourteen (14) days' notice of the time and date at which the appeal is to be heard and whether the hearing will be on the basis of documentary submissions or whether it will be expanded to allow verbal submissions (which may be made in person or via teleconference) In the latter case, all parties have the right to be present at the same time and to rebut information.

15. The Appeal Panel is expected to render its decision within seven (7) days of hearing the appeal but the Case Manager may vary this time frame according to the circumstances and complexity of the matter.

16. The appeal process is confidential involving only the parties, the Case Manager and the Appeal Panel. Once initiated and until a decision is released, none of the parties or the Appeal Panel shall disclose information relating to the appeal to any person not involved in the proceedings save and except legal counsel.

17. The decision of the Appeal Panel shall be final and binding upon the parties and upon all participants or members of ROWONTARIO subject to the right of any party to seek judicial review of the Appeal Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC) as amended from time to time and subject to the following limitations:

- a. In the event that a participant or member is successful during the process of judicial review before the SDRCC, the SDRCC Tribunal shall only have the jurisdiction to remit the matter back to ROWONTARIO to correct the error identified by the SDRCC, unless this is not practicable in the circumstances or the parties agree otherwise;
- b. The parties will execute an arbitration agreement that shall confirm the jurisdiction of the SDRCC Tribunal to decide the matter, specifically the precise decision under appeal and the issues in dispute and shall specify other matters that the parties agree will be binding on themselves and the SDRCC Tribunal.

Disputes arising under the terms of an agreement with a member, including but not limited to hosting agreements

18. The manner of resolving disputes arising under the terms of an Agreement is usually spelled out in the agreement between the parties. In cases where this is not so, ROWONTARIO will agree to enter into arbitration of such disputes in accordance with the provisions of paragraphs 7 to 17 above.