

AFL Canada – Appeal Policy

Last revised: January 21, 2018



DEFINITIONS

1. These terms will have these meanings in this Policy:
 - a. “AFLC” - AFL Canada
 - b. “Appellant” - Any person or entity who is appealing a decision and is a member of AFLC as defined in AFL Canada Bylaws, provided they are in good standing at the time the appeal is filed (or the appeal relates to a decision to remove them from good standing), as well as all individuals engaged in activities with AFLC, including, but not limited to, athletes, coaches, officials, directors, officers, and managers. “Respondent” – the individual or body whose decision is being appealed. “Days” – Calendar days, irrespective of weekends or holidays.

PURPOSE

2. The purpose of this Policy is to enable disputes between AFLC and its members to be dealt with fairly, expeditiously and affordably, within AFLC and without recourse to external legal procedures. This policy may also serve as a suggested template for member clubs to implement (at their option) within their own leagues to assist them with implementing a governance structure around appeals.

SCOPE AND APPLICATION

3. Any member of AFLC who is affected by a decision of the AFLC Board of Directors, any committee of AFLC, or any individual or entity who has been delegated authority to make decisions on behalf of AFLC will have the right to appeal the decision, provided there are sufficient grounds for the appeal as set out in this Policy, subject to the limits set out in this Policy.
4. This Policy will apply to decisions made by AFLC relating to eligibility, selection, discipline or any other matter deemed appropriate by the Case Manager.
5. This Policy will **not** apply to matters relating to:
 - a. Matters of employment.
 - b. Volunteer appointments and the withdrawal or termination of those appointments.
 - c. Matters of operational structure, committees, staffing, employment or volunteer opportunities.
 - d. Commercial matters.
 - e. Matters of budgeting and budget implementation.
 - f. Infractions for doping offences which are dealt with pursuant to the *Canadian Anti-Doping Program* or any successor policy.
 - g. Selection criteria, quotas, policies and procedures established by entities other than AFLC.
 - h. Policy and procedures established by any other agency, association or organization external to AFLC.
 - i. Disputes over competition rules or the rules of Australian football.
 - j. Disputes arising within competitions which have their own appeal procedures.
 - k. Any decisions made under Sections 9 and 13 of this Policy.
6. An Appellant must demonstrate that it has grounds to appeal a decision. Decisions may only be appealed on procedural grounds where the Appellant has demonstrated that the Respondent did one or more of the following:
 - a. Made a decision for which it did not have authority or jurisdiction as set out in the Respondent’s governing documents.
 - b. Failed to follow, in a material way, procedures as laid out in the bylaws or approved policies of AFLC.
 - 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 or that the decision was influenced by factors unrelated to the substance or merits of the decision.
7. The Appellant will bear the onus of proof in the appeal, and thus must be able to demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 8.

TIMING OF APPEAL

8. Appellants who wish to appeal a decision will have fourteen (14) days from the date on which they received notice of the decision, to submit in writing to the President of AFLC the following:
 - a. Notice of their intention to appeal.
 - b. Contact information and status of the Appellant with AFLC.
 - c. Name of the Respondent and any affected parties.
 - d. Date the Appellant was advised of the decision being appealed.
 - e. A copy of the decision being appealed, or description of decision if written document is not available.
 - f. Grounds for the appeal.
 - g. Detailed reason(s) for the appeal.
 - h. All evidence that supports the reasons and grounds for an appeal.
 - i. The remedy or remedies requested.
 - j. A payment of \$100 dollars (\$100), which shall be refunded if the appeal is granted (but shall be retained by AFLC if the appeal is denied).
9. Any party wishing to initiate an appeal beyond the fourteen (14) day period must provide a written request stating reasons for an exemption to the requirements of Section 6. The decision to allow, or not to allow an appeal outside the 14-day period will be at the sole discretion of the Case Manager appointed by AFLC and may not be appealed.

CASE MANAGER

10. AFLC will appoint an independent Case Manager to oversee management and administration of a formal appeal under this Policy. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this policy in a timely manner. More specifically, the Case Manager has a responsibility to:
 - a. Facilitate informal discussions between the Appellant and Respondent with a view to resolving the dispute without a formal appeal.
 - b. Screen the appeal as described in Section 14.
 - c. Appoint an Appeals Panel to hear the appeal.
 - d. Determine the format of the appeal hearing.
 - e. Coordinate all administrative and procedural aspects of the appeal.
 - f. Provide administrative assistance and logistical support to the Appeals Panel as required.
 - g. Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

SCREENING OF APPEAL

11. Upon conclusion of the informal proceedings, if any, receipt of the notice, grounds of an appeal, supporting evidence and the required fee, the Case Manager will review the appeal and will decide whether or not the appeal lies within the application of this policy, has been brought in a timely manner, and is brought on permissible grounds. If the Case Manager is satisfied that there are not sufficient grounds for an appeal, the parties will be notified in writing, stating reasons. If the Case Manager is satisfied that there are sufficient grounds for an appeal, then a hearing will take place. This decision is at the sole discretion of the Case Manager and may not be appealed.

APPEALS PANEL

12. If the Case Manager is satisfied that there are sufficient grounds for an appeal, the Case Manager will establish an Appeals Panel (the "Panel") consisting of one (1) to three (3) persons to hear the appeal. The Case Manager will appoint one of the Panel's members to serve as the Chair. Members of the Panel shall be independent of the dispute in question. If there is more than one (1) member of the Panel, then at least one of the members shall be of the opposite gender to the other member(s).

PROCEDURE FOR HEARING

13. The Case Manager will determine the format of the hearing, which may involve a review of any official report relating to the decision in question, an oral hearing in person, an oral hearing by teleconference, a hearing based on written submissions or a combination of these methods.
14. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:
 - a. The hearing will be held within the appropriate timeline as determined by the Case Manager.
 - b. The Appellant and Respondent (the "Parties") will be given reasonable notice of the day, time and place of the hearing.
 - c. Copies of any written documents that the Parties wish to have the Panel consider will be shared with the other Party in advance of the hearing in accordance with the timeline set out by the Case Manager.
 - d. Both Parties may be accompanied by one (1) representative or adviser, which may be that Party's legal counsel.
 - e. The Panel may request that any other individual participate and give evidence at the hearing or request further information from the Parties.
 - f. If a decision in the appeal may affect another person or entity to the extent that that person or entity would have recourse to an appeal in their own right under this Policy, that person or entity may be deemed a party to the appeal at the discretion of the Case Manager, and such party will be bound by its outcome.
 - g. The hearing will be conducted in the official language of choice of the Case Manager, having regard to the official language of the Appellant, the Respondent, and the available members of the Panel.
 - h. Decisions of the Panel will be determined by majority vote.

APPEAL DECISION

15. Within fourteen (14) days of concluding the appeal, the Panel will issue its written decision, with reasons. Where time is of the essence, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision with reasons is rendered within the appropriate timelines. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
 - a. Reject the appeal and uphold the decision of the Respondent being appealed. or
 - b. Allow the appeal and refer the matter back to the initial decision-maker for a new decision. or
 - c. Allow the appeal and vary the decision, providing such varied decision is permissible under the relevant bylaws, rules, policies, and procedures of AFLC.
16. The decision of the Panel will be final and binding upon the Parties and upon all members of AFLC.

CONFIDENTIALITY

17. The appeal process is confidential involving only the Parties, the Case Manager and the Panel. Once initiated and until a written decision is released, none of the parties or the Panel will disclose any information relating to the appeal to any other person or entity.
18. To respect the confidentiality of all participants, the decision will be provided only to the Parties and to AFLC.
19. Notwithstanding the significant interest of confidentiality, the decision, application materials, and evidence may be shared with law enforcement if such disclosure is required by law or necessary in the interests of public safety (in the sole discretion of AFLC, acting reasonably).