



APPEALS POLICY

EFFECTIVE AUGUST 22, 2022

Appeal Policy

1. Purpose

1.1. The Federation provides Individuals with this Appeal Policy to appeal certain decisions made by the Federation.

2. Definitions

2.1. The following terms have these meanings in this Policy:

2.1.1. “Appellant” – The Party appealing a decision.

2.1.2. “Appeals Panel” – A single person, or in extraordinary circumstances and at the discretion of the Case Manager, three persons, who will hear and decide the appeal.

2.1.3. “Federation” – Ontario Cheerleading Federation (OCF).

2.1.4. “Case Manager” – An individual appointed by the Federation, who need not be a member or affiliated with the Federation, to administer this Appeal Policy.

2.1.5. “Days” – Any day of the week, including weekend and holidays.

2.1.6. “Individuals” – All categories of membership defined in the Federation’s Bylaws, as well as all individuals engaged in activities with the Federation including, but not limited to, athletes, coaches, officials, volunteers, administrators, committee members, and directors and officers of the Federation.

2.1.7. “Respondent” – The body whose decision is being appealed, if the Federation made the decision. If a Panel made the decision, the complainant or respondent in the complaint is the Respondent, as the case may be.

3. Scope and Application of this Policy

3.1. Any Individual who is directly affected by a Federation decision will have the right to appeal that decision; provided the appeal falls within the jurisdiction of this Policy and there are sufficient grounds for the appeal under the ‘Grounds for Appeal’ section of this Policy.

3.2. This Policy will not apply to decisions relating to:

3.2.1. Matters that are decided by and within the jurisdiction of the general membership of the Federation, including enactment of, and amendment of, the bylaws and election of Directors and Officers.

3.2.2. Enactment of an amendment to or repeal of competition rules.

3.2.3. Those decisions which are required of or imposed upon the Federation by outside authorities or agencies (e.g. World Anti-Doping Agency, Cheer Canada, International Cheer Union, etc.)

3.2.4. Decisions made based on the Rules of Cheerleading which have their own appeal procedures that must be followed.

3.2.5. Matters of budgeting and budget implementation.

3.2.6. Matters of operational structure, employment and staffing. (not score check related)

3.2.7. Volunteer appointments and the withdrawal of termination of those appointments.

3.2.8. Decisions rendered by entities other than Federation (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by Association at its sole discretion).

3.2.9. Decisions made under this Policy.

3.2.10. Decisions of the Board of Directors.

3.3. Disputes arising within the business, activities, or events organized by entities other than the Federation will be dealt with pursuant to the policies of the other entities.

4. Timing and Conditions of Appeal

4.1. Individuals who wish to appeal a decision have fourteen (14) days from the date on which they received notice of the decision to submit, in writing to the Federation, the following:

4.1.1. Notice of the intention to appeal.

4.1.2. Contact information and status of the Appellant.

4.1.3. Name of the Respondent and any affected parties, when known to the Appellant.

4.1.4. Date the Appellant was advised of the decision being appealed.

4.1.5. A copy of the decision being appealed, or description of decision if written document is not available.

4.1.6. Grounds for the appeal.

4.1.7. Detailed reasons for the appeal.

4.1.8. All evidence that supports the appeal.

4.1.9. Requested remedy or remedies.

4.1.10. An appeal fee of five hundred dollars (\$500.00) which will be refunded if the appeal is successful, or forfeited if the appeal is denied. (Email the Treasurer to make payment).

4.2. An Individual who wishes to initiate an appeal beyond the fourteen (14) day period must provide a written request stating the reasons for 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 Case Manager and may not be appealed.

4.3. Appeals should be submitted to:

By email: Executive Director complaints@ontariocheer.ca

By mail: Ontario Cheerleading Federation
Attention: Executive Director
PO Box 30006 Woodstock RPO
Woodstock, ON
N4S 0E3

5. Case Manager

5.1. Within five (5) days the receipt of an appeal, the Federation will appoint an independent Case Manager to manage and administer appeals submitted in accordance with this Policy and such appointment is not appealable.

6. Grounds for Appeal

6.1. An appeal may only be heard if there are sufficient grounds for appeal, as determined by the Case Manager. Sufficient grounds only include the Respondent or decision maker, in the case of a Discipline Panel:

6.1.1. Made a decision that it did not have the authority or jurisdiction (as set out in the Federation's governing documents).

6.1.2. Failed to follow its own procedures (as set out in the Federation's governing documents).

6.1.3. 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).

6.1.4. Made a decision that was grossly unreasonable.

6.2. The Appellant must demonstrate, on a balance of probabilities, that the Respondent or decision maker, in the case of a Discipline Panel has made a procedural error as described in the 'Grounds for Appeal' section of this Policy.

7. Alternate Dispute Resolution

7.1. Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), the Appeal Panel may suggest, and the Parties may consent, the appeal to be heard under the Federation's Alternate Dispute Resolution Policy.

7.2. Appeals resolved by mediation under the Federation's Alternate Dispute Resolution Policy will cause the administration fee to be refunded to the Appellant.

8. Screening of Appeal

8.1. Should the appeal not be resolved by using the Alternate Dispute Resolution Policy, the Case Manager will have the following responsibilities:

8.1.1. Determine if the appeal falls under the scope of this Policy.

8.1.2. Determine if the appeal was submitted in a timely manner.

8.1.3. Decide whether there are sufficient grounds for the appeal.

8.2. If the appeal is denied 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 and the Federation will be notified, in writing, by the Panel of the reasons for this decision. This decision may not be appealed.

8.3. If there are sufficient grounds for an appeal, the Case Manager will appoint an Appeal Panel (the “Panel”) which shall consist of a single Adjudicator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint three Panel members and designate one of the appointees to serve as the Chair.

8.4. The Case Manager will establish and adhere to timeframes that ensure procedural fairness and that the matter is heard in a timely fashion.

9. Procedure for Appeal Hearing

9.1. The Case Manager, in cooperation with the Panel, shall then decide the format under which the appeal will be heard. This decision may not be appealed.

9.2. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone/telecommunications or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:

9.2.1. The hearing will be held within a timeline determined by the Case Manager or the Panel.

9.2.2. The Parties will be given reasonable notice of the day, time and place of the hearing, in the case of an oral in-person hearing, an oral hearing by telephone or other telecommunications.

9.2.3. Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing.

9.2.4. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense.

9.2.5. The Panel may request that any other individual participate and give evidence at the hearing.

9.2.6. The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate.

9.2.7. If a decision in the appeal may affect another party to the extent that the other party would have recourse to an appeal in their own right under this Policy, that party will become a party to the appeal in question and will be bound by its outcome.

9.2.8. The decision to uphold or reject the appeal will be by a majority vote of the Panel.

9.3. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.

9.4. In fulfilling its duties, the Panel may obtain independent advice.

10. Appeal Decision

10.1. The Panel shall issue its decision, in writing and with reasons, after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:

10.1.1. Reject the appeal and confirm the decision being appealed.

10.1.2. Uphold the appeal and refer the matter back to the initial decision-maker for a new decision.

10.1.3. Uphold the appeal and vary the decision.

10.2. The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the Federation within 14 days of the hearing's conclusion. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel.

11. Confidentiality

11.1. The appeals process is confidential and involves only the Parties, the Case Manager, the Panel, 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.

12. Final and Binding

12.1. The decision of the Panel will be binding on the Parties and on all the Federation's Individuals.

12.2. No action or legal proceeding will be commenced against the Federation or Individuals in respect of a dispute, unless the Federation has refused or failed to provide or abide by the appeal process as set out in this Policy.

13. Modification of Criteria

13.1. This Policy may be revised at any time at the discretion of the Federation.