

DISPUTE RESOLUTION POLICY

(Excerpt from the Rugby Ontario Operations Manual)

9.0 Appeals and Pardons

Policy

9.1 Discipline Panel/Judicial Officer Decisions

9.1.1 Depending on the nature of the infraction or misconduct, the following Appellants may appeal a decision or, prior to a decision being reached, may appeal the time elapsed to reach a decision:

- (i) Any alleged offender who has been sanctioned or is under investigation and who is not represented by a Member;
- (ii) The Member to which the alleged offender belongs;
- (iii) The Referees' Society that appointed the Match Official;
- (iv) The Member or other rugby organization that has been sanctioned, or is under investigation;
- (v) Rugby Ontario.

9.1.2 A decision may only be appealed on the grounds of:

- (i) Evidence or information that was unknown or unavailable to the Appellant or the Discipline Panel/Judicial Officer when the decision was made; or
- (ii) Failure to handle the reported infraction/misconduct in accordance with the established procedures indicated in this Manual

Procedures

9.1.3 The Appeal must:

- (i) Be sent by e-mail to the CEO who will determine if it is to be forwarded to the President of the Branch Union that had jurisdiction over the original decision;
- (ii) Be received within five (5) days of being notified of the original decision.
- (iii) Include a certified cheque, cash or money order payable to Rugby Ontario for \$100. However, if an appeal is received from a Referees' Society on the grounds of gross misconduct or from Rugby Ontario where the safety of its members is considered to be at risk by a failure to impose appropriate sanctions or conditions of membership, there will be no charge.

- (iv) All, some or none of this fee will be returned at the discretion of the Appeals Committee.

9.1.4 The CEO, or their designate, immediately upon receipt of the Appeal, will establish an Appeals Committee consisting of three (3) persons, one of whom will be appointed to the Chair. If possible, this Committee should consist of current or former Directors of Rugby Ontario, or current or former Presidents and Vice-Presidents of Branch Unions but must exclude anyone involved in the original incident or the rendering of the decision.

9.1.5 The Appeals Committee will:

- (i) prior to considering the Appeal, obtain a report of the incident, all related information, record of proceedings and the decision;
- (ii) if the Appellant requests a Hearing or the Appeals Committee decides that a Hearing is appropriate, notify all involved parties of the time and place of the Hearing and give them the opportunity to respond to any new information or arguments presented.
- (iii) advise the procedures to be followed for the Hearing;
- (iv) after considering the written appeal and any presentations, render its decision.

9.1.6 Unless (a) an error in fact or in application of the correct procedures has been demonstrated; or (b) new information has been presented which was not available at the time of the original decision for reasons beyond the control of the Appellant, the Appeals Committee will uphold the original decision.

9.1.7 In its deliberations, the standard of proof on all evidence heard by the Appeal Committee will be the balance of probabilities.

9.1.8 If an error has been demonstrated or new information presented, the Appeals Committee may uphold or reverse the original decision, or may increase or decrease the sanctions imposed in accordance with the Schedule of Sanctions in Appendix A.

9.1.9 The Chair of the Appeals Committee will:

- (i) communicate its decision to the CEO and/or their designate;
- (ii) send the summary of the Hearing (if any) and its decision to the CEO and/or their designate for retention.

9.1.10 The CEO or their designate will advise:

- (i) the Appellant, by phone or in person, within one (1) day, the decision of the Appeals Committee and with subsequent written confirmation;
- (ii) the Chair of the relevant Rugby Ontario Committee and Branch Union President.

9.1.11 Until such time as the Appeals Committee renders its decision, the original decision will stand.

9.1.12 The decision of the Appeals Committee will be final.

9.2 Harassment Case Review Panel Decisions

Policy

9.2.1 Both the complainant and offender have the right to appeal the decision and recommendations of a Case Review Panel. A notice of intention to appeal, along with grounds for the appeal, must be provided to the CEO within the prescribed time period of the complainant or offender receiving the Panel's report.

9.2.2 The CEO will have the discretion to accept an appeal that was not lodged within the prescribed time period.

9.2.3 Permissible grounds for an appeal are:

- (i) The Panel did not follow the procedures laid out in the Harassment policy;
- (ii) One or more Panel members were influenced by bias; or
- (iii) The Panel reached a decision which was grossly unfair or unreasonable.

Procedures

9.2.4 The CEO, or their designate, immediately upon receipt of the Appeal, will establish an Appeals Committee consisting of three (3) persons, one of whom will be appointed to the Chair. Committee membership will include both genders. If possible, the members should be current or former Directors of Rugby Ontario, or current or former Presidents and Vice-Presidents of Branch Unions but must have no significant personal or professional involvement with either the complainant or offender and no prior involvement in the Harassment complaint.

9.2.5 The Appeals Committee will base its decision solely on a review of the following:

- (i) Complainant's and Offender's statements;
- (ii) PHO and Case Review Panel Report;
- (iii) Notice of Appeal

In its deliberations, the standard of proof on all evidence heard by the Appeals Committee will be the balance of probabilities.

9.2.6 Within 10 days of its appointment, the Chair of the Appeals Committee will present its findings in a report to the CEO, or their designate.



9.2.7 The Appeals Committee has the authority to:

- (i) Uphold the decision of the Case Review Panel;
- (ii) Reverse the decision of the Case Review Panel; or
- (iii) Modify any of the Case Review Panel's recommendations for disciplinary action or remedial measures.

9.2.8 A copy of Appeals Committee report will be provided by the CEO or their designate, within 15 days to the complainant and offender.

9.2.9 The decision of the Appeals Committee will be final.

9.2.10 The prescribed time period referred to in 9.2.1 is 30 days.

9.3 Board, Board Committee and RO Office Decisions

Policy

9.3.1 A Member may appeal to the Members, by way of a Special General Meeting (SGM) pursuant to Section 3.2 of the By-Laws, a decision of the Board; or of a Board Committee and the RO Office that is made on behalf of the Board provided that the appeal is received by the CEO within 60 days of when the decision was made and is accompanied by a fee of \$500 or such other amount as the Board may determine.

9.3.2 The appeal must clearly identify:

- (i) The Member appealing the decision
- (ii) The decision being appealed;
- (iii) The grounds that the appeal is based on; and
- (iv) The documentation supporting the appeal.

9.3.3 The decision being appealed must **not** involve:

- (i) The imposition of a fine or levy of under \$1,000 or such other amount as the Board may determine from time to time; or
- (ii) The implementation or enforcement of provisions contained in preceding sections of this Manual.

Procedures

9.3.4 Within 10 days of receiving the appeal, the CEO will call a SGM in accordance with the By-Laws and will send one copy of each Notice of Appeal together with all supporting documentation submitted by the appellant to all other affected parties.



9.3.5 The SGM will consider the appeals by providing a reasonable opportunity, consistent with fairness and natural justice, for affected parties to be heard and to hear the evidence considered at the time of the original decision and any other relevant information.

9.3.6 The SGM may reverse or amend the decision of the Board, Board Committee or RO Office as it sees fit through a Special Resolution (which requires a two-thirds majority of the votes cast); otherwise it remains binding.

9.3.7 If the appeal is successful, up to \$250 of the fee submitted by the appellant will be refunded.

9.3.8 If no decision is made by the SGM, or if there is no quorum at the commencement of the meeting, the original decision will be deemed to have been confirmed.

9.4 Pardons

Policy

9.4.1 On written request from an individual who has received a severe sanction from a Harassment Case Review Panel or Discipline Panel and provided that at least one (1) year has elapsed since the commencement of the sanction, the Board may, at its own discretion, consider a review of the sanctions imposed.

Procedures

9.4.2 Upon direction from the Board, the CEO will appoint a Pardon Committee consisting of three (3) persons, one of whom will be appointed to the Chair. Committee membership will include both genders. If possible, the members should be current or former Directors of Rugby Ontario, or current or former Presidents and Vice-Presidents of Branch Unions but must have no significant personal or professional involvement with either the complainant or offender and no prior involvement in the complaint.

9.4.3 Within 15 days of its appointment, the Pardon Committee will present its findings in a report to the CEO who will refer it to the Board. The Committee has the authority to recommend changes to lessen the sanctions currently in place.

9.4.4 The Board will accept, reject or vary the recommendations of the Pardon Committee and issue a report which will be the final decision of Rugby Ontario.

9.4.5 A copy of Rugby Ontario's final report will be provided, without delay, to the complainant and offender.

Approved by the Rugby Ontario Board of Directors February 9, 2020