

TRIATHLON ONTARIO ("TRIATHLON ONTARIO") APPEAL POLICY

Definitions

1. These terms will have these meanings in this policy:
 - a) "*Appellant*" - The party appealing a decision.
 - b) "*Days*" - Days irrespective of weekends or holidays.
 - c) "*Respondent*" - The body whose decision is being appealed.
 - d) "*TRIATHLON ONTARIO Member*" - All categories of membership within TRIATHLON ONTARIO the Bylaws, as well as all individuals engaged in activities with TRIATHLON ONTARIO, including race directors, athletes, coaches, judges, officials, volunteers.

Purpose

2. The purpose of this Policy is to enable disputes with TRIATHLON ONTARIO Members to be dealt with fairly, expeditiously and affordably, within TRIATHLON ONTARIO and without recourse to external legal procedures.

Scope and Application of this Policy

3. Any TRIATHLON ONTARIO Member will have the right to appeal a decision of the TRIATHLON ONTARIO Board of Directors, of any committee of TRIATHLON ONTARIO, or any body or individual who has been delegated authority to make decisions on behalf of TRIATHLON ONTARIO, provided there are sufficient grounds for the appeal as set out in Section 8 of this Policy subject to the limits in Section 6 and 10 of this Policy.
4. This Policy will apply to decisions made by TRIATHLON ONTARIO relating to eligibility, selection, or discipline.
5. This Policy will not apply to decisions relating to:
 - a) Infractions for doping offences which are dealt with pursuant to the *Canadian Anti-Doping Program* or any successor policy;
 - b) The rules of triathlon or disputes over competition rules;
 - c) Matters relating to the substance, content and establishment of selection criteria;
 - d) Policies and procedures established by entities other than TRIATHLON ONTARIO;
 - e) Issues of operational structure, staffing, employment or volunteer opportunities;
 - f) Commercial matters for which another dispute resolution process exists under a contract or applicable law;
 - g) Issues of budgeting and budget implementation;
 - h) Discipline matters and decisions arising during events organized by entities other than TRIATHLON ONTARIO, which are dealt with pursuant to the policies of these other entities;
 - i) Disputes arising within competitions which have their own appeal procedures; and
 - j) Any decisions made under Paragraphs 6 and 9 of this Policy.

Timing of Appeal

6. TRIATHLON ONTARIO Members 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 head office of TRIATHLON ONTARIO the following:
 - a) Notice of their intention to appeal;

- b) Coordinate of the Appellant;
 - c) Name of the Respondent;
 - d) Detail reason(s) for the appeal;
 - e) Grounds for the appeal;
 - f) All evidence that supports these reason(s) grounds for the appeal,
 - g) The remedy or remedies requested, and
 - h) A payment of two hundred fifty dollars (\$250), which is refundable if the appeal is successful.
7. 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 requirement of Paragraph 6. The decision to allow, or not allow an appeal outside the 14-day period will be at the sole discretion of the President of TRIATHLON ONTARIO and may not be appealed.

Grounds for Appeal

8. 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:
- a) Making a decision for which it did not have authority or jurisdiction as set out in the Respondent's governing documents;
 - b) Failing to follow procedures as laid out in the bylaws or approved policies of TRIATHLON ONTARIO;
 - c) 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 that the decision was influenced by factors unrelated to the substance or merits of the decision;
 - d) Exercising its discretion for an improper purpose; and/or
 - e) Making a decision that was grossly unreasonable.
9. 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.

Case Manager

10. The Executive Director of TRIATHLON ONTARIO will act as the Case Manager and will oversee management and administration of appeals submitted in accordance with this Policy. If the appeal is based on the actions of the Executive Director, the President will become the Case Manager. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all time in this Policy, and to implement this Policy in a timely manner. More specifically, the Case Manager has a responsibility to:
- a) Determine if appeals lie within the jurisdiction of this Policy;
 - b) Determine if appeals are brought in a timely manner;
 - c) Determine if appeals are brought on permissible grounds;
 - d) Appoint the tribunal to hear appeals;
 - e) Determine the format of the appeal hearing;
 - f) Coordinate all administrative and procedural aspects of the appeal;
 - g) Provide administrative assistance and logistical support to the tribunal as required; and
 - h) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

Screening of Appeal

11. Upon receipt of the notice and grounds of an appeal and the required fee, the Case Manager will review the appeal and will decide whether or not there are sufficient grounds for an appeal. 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 consisting of a single Adjudicator to hear the appeal. At the discretion of the Case Manager, an Appeals Panel of three persons may be appointed to hear and decide an appeal. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.

Procedure for the Hearing

13. The Case Manager will determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by telephone, a hearing based on written submissions 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:
 - a) The hearing will be held within the appropriate timeline determined by the Case Manager.
 - b) The parties will be given appropriate notice of the day, time and place of the hearing.
 - c) 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 in accordance with the appropriate timeline.
 - d) Both parties may be accompanied by a representative or adviser, including legal counsel.
 - e) The Panel may request that any other individual participate and give evidence at the hearing.
 - f) 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.
 - g) The hearing will be conducted in the official language of choice of the Appellant.
 - h) In the situation where the hearing is conducted by a Panel consisting of three persons, a quorum will be all three and decisions will be by majority vote.

Appeal Decision

14. Within fourteen (14) days of concluding the appeal, the Panel will issue its written decision, with reasons. 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 confirm the decision being appealed; or
 - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
 - c) Uphold the appeal and vary the decision; and
15. The decision will be considered a matter of public record. A copy of this decision will be provided to the parties and to TRIATHLON ONTARIO. 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 with the appropriate timelines.

Confidentiality

16. 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 tribunal will disclose confidential information relating to the appeal to any person not involved in the proceedings.

Final and Binding Decision

17. The decision of the Panel will be binding on the parties and on all TRIATHLON ONTARIO Members.
18. No action or legal proceeding will be commenced against TRIATHLON ONTARIO or its members in respect of a dispute, unless TRIATHLON ONTARIO has refused or failed to abide by the provisions for appeal as set out in the TRIATHLON ONTARIO policies.