



**Policy Name:** Appeal Policy  
**Policy Number:** NCSA-002-06.17.2020  
**Policy Approver:** NCSA Board of Directors  
**Approval Date:** 06/17/2020

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## **POLICY STATEMENT AND OBJECTIVES**

**Nose Creek Swim Association (NCSA), strives to provide a safe environment where all of its members are required to conduct themselves in an appropriate and ethical manner. The purpose of this policy is to provide members with the procedure to appeal a decision made by the NCSA Board of Directors, Case Manager or the Appeal Panel as outlined and implemented by Policy NCSA-001.**

**This policy applies to all employees, directors, volunteers, coaches, athletes, officials and members of NCSA.**

1. The following terms have these meanings in this Policy:
  - a. Affected Party - Any individual or entity, as determined by the Case Manager, who may be affected by a decision rendered under this Policy and who may have recourse to an appeal in their own right under this Policy
  - b. Appellant – Any Affected Party that has put forward an Appeal
  - c. Case Manager - Shall mean the NCSA President, and in the event of a conflict of interest, shall be a person designated by the NCSA Board of Directors to administer this Policy as described herein.
  - d. Complainant - The Party alleging an infraction
  - e. Days - Days including weekend and holidays
  - f. Frivolous - Having no sound basis in fact or law
  - g. Incident - Matters giving rise to the complaint
  - h. Member - All individuals employed by, or engaged in activities with NCSA including, but not limited to, clubs, athletes, coaches, officials, volunteers, managers, administrators, directors and officers of NCSA, and parents/guardians of athletes
  - i. NCSA Board of Directors – The President, Vice President, Secretary, Treasurer and other Members as appointed to the Board of NCSA
  - j. NSCA Executive Board of Directors - includes the President, Vice President, Secretary and Treasurer

## **1 GENERAL GUIDELINES**

**1.1** Any member of NCSA who is affected by a decision of the NCSA Board of Directors, Case Manager or the Discipline Panel as outlined and implemented by Policy NCSA-001, shall have the right to appeal that decision.

**1.2** This policy shall not apply to any matters that have their own appeal procedures, or to matters relating to Rules of the Competition which may not be appealed.

**1.3** Hereinafter “Respondent” shall be defined as the NCSA Board of Directors, Case Manager or the



Discipline Panel as outlined and implemented under Policy NCSA-001.

## **2 APPEAL PROCEDURE**

**2.1** Members who wish to appeal a decision shall have ten (10) days from the date on which they received notice of the decision to submit written notice to the NCSA Board of Directors President, or the NCSA Executive Board of Directors, in the event of a conflict of interest, of their intention to appeal.

**2.2** An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds may include:

- Respondent making a decision for which it did not have authority or jurisdiction as set out in the governing documents;
- Respondent failing to follow procedures as laid out in the bylaws or approved policies of NCSA;
- Respondent failing to consider relevant information or taking into account irrelevant information in making the decision; or
- Respondent had an unrecognized conflict of interest.

**2.3** Within ten (10) days of receiving a notice of an appeal, the NCSA Board of Directors President (or designate) shall appoint a minimum of three (3) persons to constitute an Appeal Panel in accordance with the following:

- a) The Appeal Panel shall be comprised of members in good standing of NCSA who shall have no significant relationship with the Appellant, shall have had no involvement with the decision being appealed, and shall be free from actual or perceived bias or conflict.
- b) At least one of the Panel members shall be from the Appellant's peers (NCSA Member, coach, official, etc.)
- c) In appointing the Appeal Panel, consideration shall be given to the geographic location of the Appellant, Respondent, and Panel members, in order to minimize the inconvenience and expense to all parties.
- d) The Appellant shall be given an opportunity to recommend one of the Appeal Panel members, provided the member satisfies criteria (a) and (c) above.
- e) The NCSA Board of Directors President (or designate) may appoint a qualified third party if unable to create an unbiased panel as outlined above.

**2.4** Within seven (7) days of its appointment, the Appeal Panel shall review the reasons and notice of appeal and shall decide whether or not there are sufficient grounds to proceed. The decision is discretionary and may not be appealed.

**2.5** If the Appeal Panel is satisfied there are not sufficient grounds for the appeal, it shall notify the Appellant of this decision in writing stating the reasons, and such original decision shall be final and binding. If the Appeal Panel is satisfied that there are sufficient grounds for an appeal, it shall conduct a hearing.

**2.6** If the Appeal Panel conducts a Hearing, it shall govern the Hearing by such procedures as it deems appropriate in the circumstances provided that:



- a) The Hearing shall be held within twenty-one (21) days of the Appeal Panel's appointment;
- b) The Appellant and Respondent shall be given ten (10) days written notice of the day, time, and place of the Hearing;
- c) Appeal Panel members shall select from themselves a Chairperson;
- d) A quorum shall be all three (3) Appeal Panel members;
- e) Decisions shall be by majority vote;
- f) Copies of any written documents which either Appellant or Respondent wish to have the Appeal Panel consider, shall be provided to all parties at least two (2) days in advance of the Hearing;
- g) Both the Appellant and Respondent may be accompanied by a representative or advisor, including legal counsel at their own expense; and
- h) The Appeal Panel may request that any other individual participate and give evidence at the Hearing.

**2.7** In order to keep costs to a reasonable level, the Appeal Panel may conduct the Hearing by means of a conference call or video conference

**2.8** Within three (3) days of concluding the Hearing, the Appeal Panel shall issue its written decision, with reasons. The Appeal Panel may decide:

- a) To void or confirm the decision being appealed; or
- b) To refer the matter back to the Respondent for a new decision, correcting any errors that were made; and
- c) To determine how costs of the appeal shall be allocated. Such appeal costs shall be limited to cover any third party, out-of-pocket expenses reasonably incurred by NCSA during the appeal process, including but not limited to meeting room rentals, photocopying, etc.

A copy of the decision shall be provided to the Appellant, the Respondent, and the NCSA Board of Directors President (or designate).

**2.9** If the circumstances of the dispute are such that this policy will not allow a timely appeal, the NCSA Board of Directors President (or designate) may direct that the timelines be shortened. Should this be the case, the Appellant, Respondent, and members of the Appeal Panel will make every reasonable effort to comply with the revised timeliness in order to conclude the appeal in a timely manner.

**2.10** If the circumstances of the dispute are such that an appeal cannot be concluded within the timelines of the policy, the NCSA Board of Directors President (or designate) may seek agreement from the Appellant and Respondent to extend the timelines

**2.11** The Appellant shall have the right to decline a hearing in favour of a review of written submissions. Should this be the case, the Appeal Panel shall request both Appellant and Respondent to provide written submissions, upon which the Appeal Panel shall make its decision. The Appeal Panel may direct such timelines as it deems appropriate in the circumstances in order to conclude the appeal in a timely manner.

**2.12** The decision of the Appeal Panel shall be final and binding.

**2.13** The Appellant has the option to pursue this matter through a complaint to Swim Alberta if unsatisfied with the decisions at the NCSA Board of Directors level.