

# **MTU Appeal Policy SOP 6.0**

**1.** The purpose of the appeal policy is to enable disputes with and between members of MTU to be dealt with fairly, expeditiously and affordably, within MTU, without recourse to external legal procedures such as the courts.

**2. Definitions**

These terms will have these meanings in this policy:

- 2.1. Days -- will mean total days, irrespective of weekends or holidays.
- 2.2. Member -- refers to any individual belonging to any of the categories of registration in MTU as per its Bylaw / Policy(s).
- 2.3. Appellant -- refers to the party appealing a decision
- 2.4. Respondent -- refers to the body whose decision is being appealed.

**3. Scope of Appeal**

- 3.1. Any individual who feels unfairly affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of the Board of Directors (such as MTU Sanctions Committee), will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Paragraph 5 of this policy. Examples of decisions that may be appealed include, but are not limited to, those relating to eligibility, Board decisions, harassment, discipline and entitlements, inappropriate benefits and obligations, or any other agreement.
- 3.2. This policy cannot be used and will not apply to decisions relating to:
  - 3.2.1. Matters of employment;
  - 3.2.2. Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program;
  - 3.2.3. The rules of amateur Taekwondo, which may not be appealed;
  - 3.2.4. Matters relating to the substance, content and establishment of team selection criteria, which may not be appealed - the only exception being that of attendance at the criteria event with respect to its timing relative to a National and/or International event(s) as per accepted standards;
- 3.3. Volunteer appointments and the withdrawal of those appointments by the Board of Directors, which may not be appealed;
  - 3.3.1. Matters of budgeting and budget implementation, which may not be appealed;
  - 3.3.2. Matters of operational structure and staffing, which may not be appealed.

**4. Timing of Appeal**

- 4.1. Any individual who wishes to appeal a decision from the Board and/or Board Committee will have 21 days from the date on which they received notice of the decision, to submit in writing notice of their intention to appeal, along with grounds for the appeal and a summary of the evidence that supports these grounds.
- 4.2. Appellants must submit a \$250 CAD money order or certified cheque with their notice of appeal. If their appeal is granted they will receive a refund of the \$250 in full. If their appeal is denied they will not receive a refund.

**5. Grounds for Appeal**

- 5.1. 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:
  - 5.1.1. Making a decision for which it did not have authority or jurisdiction;
  - 5.1.2. Failing to follow procedures as laid out in the bylaws or approved policies of MTU;
  - 5.1.3. Making a decision that was influenced by bias.

6. Screening of Appeal
    - 6.1. Within 14 days of receiving the notice and grounds of an appeal, the President will determine whether there are appropriate grounds for the appeal to proceed as set out in Paragraph 5. In the absence of the President, the Vice President or a designate will perform this function.
    - 6.2. In the case where the appearance of or an actual conflict of interest occurs the President will recuse him or herself and assign the responsibility to the Vice President or other designate.
    - 6.3. If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President, or designate.
  7. Appeals Panel
    - 7.1. If the President, or designate, is satisfied that there are sufficient grounds for an appeal, within 21 days of having received the original notice of appeal the President will establish an Appeals Panel (hereafter referred to as the "Panel") as follows:
      - 7.1.1. The Panel will be comprised of three individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived conflict.
      - 7.1.2. The President, or designate, may name one of the Panel members to serve as Chairperson of the Panel. In the event the President, or designate, does not name a Chairperson, the members of the Panel will select from themselves a Chairperson.
  8. Preliminary Conference
    - 8.1. The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:
      - 8.1.1. Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both);
      - 8.1.2. Timelines for exchange of documents;
      - 8.1.3. Clarification of issues in dispute;
      - 8.1.4. Clarification of evidence to be presented to the Panel;
      - 8.1.5. Order and procedure of hearing;
      - 8.1.6. Location of hearing, where the hearing is an oral hearing;
      - 8.1.7. Identification of witnesses; and
      - 8.1.8. Any other procedural matter that may assist in expediting the appeal proceedings.
    - 8.2. The Panel may delegate to its Chairperson the authority to deal with these preliminary matters on behalf of the Panel.
  9. Procedure for the Hearing
    - 9.1. Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:
      - 9.1.1. The Committee will make every effort to hold the hearing within 21 days of the Panel's appointment.
      - 9.1.2. The Appellant and Respondent will be given 10 days written email notice of the date, time and place of the hearing.
      - 9.1.3. A quorum will be all three Panel members.
      - 9.1.4. Decisions will be by majority vote, where the Chairperson carries a vote.
      - 9.1.5. If the decision of the Panel 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.
      - 9.1.6. A representative or advisor, including legal counsel, may accompany any of the parties.

- 9.1.6.1. Any costs or fees associated with the hiring of legal council is solely the responsibility of the party that engages that service.
  - 9.1.6.2. The decision to engage legal counsel on behalf of the MTU must be brought to the Executive Committee for approval prior to such services being engaged.
- 9.1.7. The Panel may direct that any other person participate in the appeal process.
- 9.2. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone conference.

#### 10. Procedure for Documentary Appeal

- 10.1. Where the Panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures as it deems appropriate, provided that:
  - 10.1.1. All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written and/or oral submissions of the other parties, and to provide written rebuttal and argument; and
  - 10.1.2. The applicable principles and timelines set out in Paragraph 9.1 are respected.

#### 11. Appeal Decision

- 11.1. Within 14 days of concluding the appeal, the Panel will issue its written decision, with reasons. The decision will follow this format:
  - 11.1.1. Issue to be decided
  - 11.1.2. Statement of the facts
  - 11.1.3. Authorities considered
  - 11.1.4. Decision
  - 11.1.5. Reasons for decision
- 11.2. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:
  - 11.2.1. To reject the appeal and confirm the decision being appealed; or
  - 11.2.2. To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
  - 11.2.3. To uphold the appeal and vary the sanction and/or decision. It is found based on sound supporting rationale and documentation by the lack of: and,
  - 11.2.4. To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all. This decision is final.
- 11.3. The decision will be considered a matter of public record and may be placed on MTU website or forwarded to others if deemed applicable. A copy of the decision will be provided to each of the parties and to the President, or designate.
- 11.4. In extraordinary circumstances, 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 timelines specified in Paragraph 11.1.

#### 12. Timelines

- 12.1. If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

#### 13. Location

The appeal will take place in the location or venue (conference call) as determined by the Panel, keeping in mind the Society's budget.

#### 14. Urgent Appeals

14.1. Where the appeal is of an extraordinary and urgent nature, upon receiving notice of the appeal the President will respect the principles set out in this policy and may, in his or her sole discretion, adapt procedures and timelines to ensure that the appeal is heard and decided in a fair and timely manner.

15. Decision

- 15.1. The decision of the Panel is the final step of the MTU Appeal process.
- 15.2. It is the right of the Appellant to refer disputes to the NSO, and possibly the Sport Dispute Resolution Centre of Canada (SDRCC) once the MTU decision has been made. NSO and SDRCC appeal policies will take effect should this be the next and final step of the Appellant. The appellant cannot take their appeal any further than the SDRCC. If the appellant decides to, the appellant will be 100% responsible for all claims and legal costs carried by MTU to defend or participate in such a process if the appeal is found to be without merit.