



DISPUTE RESOLUTION POLICY

PURPOSE

This Policy is intended to provide a process to allow the New Brunswick Equestrian Association (the NBEA) members and the NBEA to resolve certain disputes falling inside the jurisdiction of the Policy fairly and expeditiously.

DEFINITIONS

1. **Days:** total days, irrespective of weekends or holidays.
2. **Dispute:** an allegation, falling inside the jurisdiction of this Policy, that a member of the NBEA, or the NBEA has breached a rule or policy of the NBEA
3. **Member:** a member, who is in good standing, as defined in the NBEA Bylaws
4. **Complaint:** a formal submission in writing to the NBEA setting out the alleged breach of the NBEA rule or policy.
5. **Complainant:** a Member making a Complaint.
6. **Respondent:** the NBEA member alleged to have breached an NBEA rule or policy
7. **Affected Party:** any the NBEA member directly affected by the dispute.
8. **Licensed competition:** a competition which is sanctioned by the NBEA and is governed by the NBEA or EC rules.
9. **EC:** Equestrian Canada
10. **Qualified Person:** a person with knowledge of the horse industry or other expert such as a veterinarian, medical doctor or lawyer
11. **Committee of Inquiry:** a committee that may be formed to investigate any Complaint. This committee shall consist of either one (1) or three (3) Qualified Persons who will recommend whether or not the Dispute warrants a hearing and/or may investigate all relevant facts.
12. **Hearing Panel:** a panel formed by the NBEA consisting of three Qualified Persons who will hear the Complaint and render a decision.

SCOPE AND APPLICATION OF THIS POLICY

This policy does not apply to disagreements or grievances that:

- a) involve policies and rules that have been administered by the NBEA in accordance with EC policies and/or rules;
- b) relate to selection to teams or to the participation by an athlete in an the NBEA Team, or arising from the NBEA Athlete Agreement, as these issues are dealt with pursuant to the terms of the Selection Policy
- c) relate to employment issues at the NBEA, as these are dealt with pursuant to the NBEA Employee Handbook and relevant laws.
- d) relate to harassment, as this is dealt with pursuant to the NBEA Anti- Harassment Policy.
- e) relate to a matter that is primarily civil or commercial in nature as these issues are dealt with pursuant to the policies, rules and laws of the appropriate legal or governing authorities.
- f) relate to a Dispute where the NBEA rule or policy alleged to have been breached expressly precludes the application of this Policy.

REPORTING A COMPLAINT

A Member may file a Complaint, within 21 days of the date on which the alleged breach of the NBEA rule or policy occurred. All Complaints regarding a Dispute shall be sent directly to the President of the NBEA or his/her designate, and a brief summary, in writing, of the reasons and circumstances of the Dispute.

Prior to filing a Complaint, best efforts must be made by the Complainant to resolve the Dispute or the Complaint may not be accepted. In this regard, the NBEA must be satisfied that the Complainant, prior to filing a Complaint, has:

- a) brought the Dispute to the attention the Respondent by telephone or e-mail and sought a mutually satisfactory resolution; or
- b) demonstrated that the proposed resolution is clearly outside the jurisdiction of the Respondent or that the Respondent is biased or has a conflict of interest.
- c) Within 5 days of receiving the Complaint, the President of the NBEA or his/her designate shall determine in the exercise of his/her sole discretion two things. First, whether the Complainant has made the required best efforts to resolve the Dispute as outlined above; second, if the matters in Dispute and the parties to the Dispute are within the scope of this Policy or are more properly dealt with pursuant to another policy of the NBEA. The President's decision on the Complainant's best efforts and the proper scope of this Policy's application and whether or not this Policy applies to the Dispute is final and may not be appealed

Thereafter, the President of the NBEA or his/her designate shall within the same 5 days chose one of the following options:

- a) The Dispute does not warrant a hearing;
- b) The Dispute does warrant a hearing; or
- c) A Committee of Inquiry is required.

If it is determined that the dispute does not warrant a hearing, the President shall convey the reasons for this decision to the Complainant (e.g. the Complainant has not followed the required steps prior to filing the complaint, the Dispute is not within the scope of this policy, the Complainant is not eligible to file complaint, etc.).

INVESTIGATION

Depending on the nature of the Dispute, the President of the NBEA or his/her designate may establish a Committee of Inquiry to conduct an investigation to assist in making a decision whether or not the Dispute warrants a hearing and/or to investigate all relevant facts regarding the Dispute. The Committee of Inquiry members shall have no significant relationship with the Complainant or the Respondent(s) or any Affected Parties, shall have had no involvement with the Dispute and shall be free from any other actual or perceived bias or conflict. If a Committee of Inquiry is appointed, they shall carry out the required investigation in no more than thirty (30) days and at the conclusion of the investigation shall submit a written report to the President of the NBEA or his/her designate.

CARRIAGE OF the COMPLAINT

In the normal case where a Dispute will proceed to a hearing, the Complainant shall have the responsibility to raise and explain the Complaint that he or she has filed. The Complainant shall file all required documents and shall present the desired witnesses. However, in every case where it is determined that the Dispute does warrant a hearing, the President of the NBEA or his/her designate shall further consider and determine in the exercise of his or her sole discretion whether or not the NBEA should take carriage of the Complaint for the Complainant. This decision may not be appealed. There can be no assumption that this level of direct

involvement by the NBEA will occur in any particular case, or at all. Situations where this may occur are listed below. Should the President of the NBEA or his/her designate determine that the NBEA will assume the position of the Complainant and take carriage of the Complaint, the Complainant will have to agree to become a witness for the NBEA at the hearing to resolve the Dispute.

The NBEA **may** elect to prosecute a Complaint for a Complainant in these limited situations:

- a) When a Member files a Complaint against another member regarding an issue of governance and accountability, provided there is sufficient credible evidence to support the allegations.
- b) When a Member files a Complaint regarding an issue with important implications for the entire the NBEA membership or for a significant portion of the NBEA membership.

HEARING PANEL

Within (i) 14 days of having determined that a hearing is warranted or (ii) within 14 days of receiving the written report from the Committee of Inquiry if the President of the NBEA or his/her designate determines after considering the report that the Dispute warrants a hearing, the President of the NBEA or his/her designate shall establish a Hearing Panel (the "Panel") and select the members of the Panel as follows:

- a) The Panel shall be comprised of three individuals who shall have no significant relationship with the Dispute or the parties, shall have had no involvement with the Complaint, and shall be free from any other actual or perceived bias or conflict. The decision regarding the composition of the Panel shall be in the sole discretion of the President or his/her designate who must, in coming to his/her decision, ensure that the hearing process complies with the principles of natural justice and procedural fairness.
- b) The Panel members shall select from among themselves a chairperson.
- c) Whenever desired by the NBEA the Panel may be assisted by legal counsel at the expense of the NBEA. It will be the role of legal counsel to provide guidance and relevant supporting information to assist the Panel to conduct the hearing fairly and to issue a reasoned decision.

PRELIMINARY CONFERENCE

The Panel may determine that the circumstances of the Complaint warrant a preliminary conference. The issues that may be considered at a preliminary conference include:

- a) the format of the hearing, (hearing by documentary evidence, oral hearing (by phone or in person), or a combination of both);
- b) timelines for the exchange of documents;
- c) clarification of the issues in dispute;
- d) clarification of evidence to be presented to the Panel;
- e) order and procedure of the hearing;
- f) identification of witnesses; and
- g) any other procedural matter which may assist in expediting the hearing.

The Panel may delegate to its chairperson the authority to deal with any of these preliminary matters.

PROCEDURE FOR AN ORAL HEARING

Where the Panel has determined that the hearing shall be held by way of oral hearing, the Panel shall govern the hearing by such procedures as it deems appropriate and fair, provided that:

- a) the hearing shall be commenced within 21 days of the Panel's appointment;
- b) the parties involved shall be given at least 10 days' written notice of the date, time and place of the hearing, unless this requirement is waived in writing by all the parties;
- c) the parties shall receive a copy of the Committee of Inquiry report, if an investigation has been carried out;
- d) a quorum shall be all three Panel members;

- e) decisions of the Panel shall be by majority vote, where the chairperson carries a vote;
- f) if a decision of the Panel could significantly affect another person that person shall, upon making a formal written request to the Panel that is accepted, become an Affected Party to the hearing in question and shall thereafter be allowed to participate in the hearing as would the Complainant and the Respondent;
- g) any of the parties at the hearing may be accompanied by a representative or an advisor, including legal counsel, at their own cost and expense;
- h) the Panel may direct that any other person participates in the hearing.

PROCEDURE FOR A DOCUMENTARY HEARING

Where the Panel has determined that the hearing shall be held by way of documentary review, it shall govern the hearing by such procedures as it deems appropriate and fair provided that:

- a) all parties are given a reasonable opportunity to:
 - i. review the Committee of Inquiry report, if an investigation has been carried out;
 - ii. to provide written submissions to the Panel;
 - iii. to review the written submissions of the other parties;
 - iv. to provide written rebuttal; and
 - v. to provide final arguments.
- b) the applicable principles and timelines set out in this Policy are respected.

EVIDENCE THAT MAY BE CONSIDERED

As a general rule, the Panel shall consider any evidence that is relevant to the matters in dispute. The normal rules of evidence in civil proceedings will not be followed or may be relaxed. The Panel shall have authority to consider hearsay evidence provided the Panel gives to such evidence appropriate weight as might be reasonable in light of the circumstances of its inclusion.

THE DECISION

Within 14 days of concluding the hearing, the Panel shall issue its written decision, with reasons. The Panel may decide to:

- a) uphold the Complaint in full or in part;
- b) deny the Complaint;
- c) design a remedy for the Dispute that will fairly resolve the Dispute, however, in so doing the Panel is not authorized to change the NBEA constitution or alter any the NBEA rule, criteria, policy, procedure that has been properly passed and implemented. Any remedy designed by the Panel may include suspensions and financial penalties.

The Panel will determine how costs of the hearing, excluding the legal fees and legal disbursements of any of the parties, shall be allocated, if at all.

If the Panel upholds the Complaint in full or in part or designs a remedy that, in the opinion of the Panel, resolves the Dispute, the deposit shall be returned to the Complainant. If the Panel denies the complaint, the Complainant will forfeit the deposit to the NBEA.

A copy of the full reasoned decision shall be provided to all parties participating in the hearing. The decision shall be binding on all parties to the Dispute. Failure by any party to strictly comply with a decision and/or any remedy imposed by the Panel shall result in that party being designated Not in Good Standing at the NBEA, until such time as the decision and remedy are fully complied with.

The Panel may discover during the course of conducting the hearing, an area of concern to the NBEA regarding potential future Disputes. Where the Panel has determined that a risk of additional Disputes exists,

the Panel will under separate cover from the decision, send correspondence to the Board of Directors identifying the concern and any recommended actions. The Panel's recommendations shall not be binding on the NBEA Board of Directors.

TIMELINES

If the circumstances of the Complaint are such that this Policy will not allow a timely resolution of the Dispute, or if the circumstances of the Complaint are such that the Dispute cannot be resolved within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

Timelines	Description
21 Days	Any individual or organization to whom this policy applies may report a complaint, within 21 days from the date on which the alleged breach occurred, regarding an alleged breach of the Code of Ethics, Code of Conduct, or the NBEA Rules and Procedures to the NBEA
5 Days	Within 5 days of receiving the written notice of complaint and summary, the NBEA shall determine whether the complainant has made best efforts to resolve the issues as outlined. If satisfied that best efforts were made by the complainant to resolve the issues raised, the NBEA shall determine if the matters in dispute and the parties to the dispute are properly within the scope of this Policy, or are more properly to be dealt with pursuant to another policy of the NBEA.
14 Days	If the President of the NBEA, or his/her designate, is satisfied that this policy applies, then within 14 days of having received the original notice of complaint or within 14 days of receiving the written report of the Investigator, if an investigation was carried out, the entity responsible for managing the process shall establish a Hearing Panel
21 Days	The hearing shall be held within 21 days of the Panel's appointment
10 Days	The parties involved shall be given 10 days written notice of the date, time and place of the hearing
14 Days	Within 14 days of concluding the hearing, the Panel shall issue its written decision, with reasons.

CONFIDENTIALITY

The fact that a Complaint has been filed, the President's decision whether the Complaint proceeds to a hearing (or not) and the determination of the merits of the Complaint by way of a hearing (or otherwise) shall be considered confidential information and all procedures undertaken pursuant to this Policy shall be conducted in private with only the proper parties and the Panel in attendance. However, the ultimate decision on discipline matters involving a breach of the NBEA rules or policies shall be a matter of public record. Accordingly, a brief summary of the Panel's reasoned decision and the sanctions imposed (if any) will be made public. The summary will include, at a minimum, the names of the Panel members, the names of the parties, the NBEA rule that was breached, a brief factual account and the sanction (if any) or remedy designed. The brief summary will be posted on the NBEA website where it can be easily seen by all members for at least three months after the Panel renders its decision.

LOCATION

The hearing shall take place in the location most convenient to the Respondent as decided by the Panel conducting the hearing. At the specific request of a party, the Panel may consider a different location for the hearing as a preliminary matter. The Panel's decision regarding the hearing location may not be appealed.

PENALTIES and SUSPENSIONS

In all circumstances the Panel must ensure that the penalties and suspensions imposed are meaningful and proportionate to the conduct complained of and proven to have occurred. These penalties may include, but are not limited to, the penalties and suspensions set out in the Schedule of Fines and Penalties.

Approved by the New Brunswick Equestrian Association Board of Directors

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