



## **NEW BRUNSWICK EQUESTRIAN ASSOCIATION APPEALS POLICY**

Note: In this policy “member” refers to all categories of members in the New Brunswick Equestrian Association), as well as to all individuals engaged in activities with or employed by the NBEA, including but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, medical and paramedical personnel, administrators and employees. “Appellant” refers to the member appealing a decision and “Respondent” refers to the body whose decision is being appealed.

### **FILING AN APPEAL**

1. Appeals must be made in writing and submitted with a \$300 fee. The fee is non-refundable unless the appeal is decided in the Appellant’s favour.

### **SCOPE OF APPEAL**

2. Any member of the NBEA who is affected by a decision of the Executive or of any body or individual who has been delegated authority to make decisions on behalf of the Executive, shall have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 4 of this policy. Such decisions may include, but are not limited to, employment, harassment, selection, and discipline.

This policy shall not apply to matters relating to the rules of equestrian sport, which may not be appealed. This policy shall also not apply to circumstances in which Equestrian Canada discipline and appeals policies are applicable.

### **TIMING OF APPEAL**

3. Members who wish to appeal a decision shall have 21 days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, along with detailed reasons for the appeal, to the President of the NBEA.

### **GROUNDINGS FOR APPEAL**

4. A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include the respondent:

- a. making a decision for which it did not have authority or jurisdiction as set out in governing documents;
- b. failing to follow procedures as laid out in the bylaws or approved policies of the NBEA;
- c. making a decision which 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;

- d. exercising its discretion for an improper purpose;
- e. making a decision which was grossly unreasonable.

### **SCREENING OF APPEAL**

5. Within 5 days of receiving the notice of appeal, the President shall decide whether or not the appeal is based on one or more of the categories of possible errors by the respondent as set out in Section 4. The President shall not determine if the error has been made, only if the appeal is based on such an allegation of error by the respondent. In the absence of the President, a member of the Executive shall perform this function.

6. If the appeal is denied on the basis of insufficient grounds, the Appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President, or designate, and may not be appealed.

### **APPEALS PANEL**

7. The President shall establish an Appeals Panel within 10 days of having received the original notice of appeal if he/she is satisfied that there are sufficient grounds for an appeal. The Panel shall be comprised of the President and two unbiased NBEA senior members in good standing. These three individuals who shall have no significant relationship with the affected parties, shall have had no involvement with the decision being appealed, and shall be free from any other actual or perceived bias or conflict. The NBEA staff person will also serve as an ad hoc, non-voting member of the committee.

### **PRELIMINARY CONFERENCE**

8. The Panel may determine that the circumstances of the dispute warrant a preliminary conference:

- a. The matters which may be considered at a preliminary conference include date and location of hearing, time-lines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.
- b. The Panel may delegate to its chairperson the authority to deal with these preliminary matters.

### **PROCEDURE FOR THE APPEAL**

9. The Panel shall govern the appeal by such procedures as it deems appropriate, provided that:

- a. The appeal hearing shall be held within 14 days of the Panel's appointment.
- b. The Appellant, respondent and affected parties shall be given 7 days written notice of the date, time and place of the appeal hearing.

- c. The Panel's members shall select from themselves a Chairperson.
- d. A quorum shall be all three Panel's members.
- e. Decisions shall be by majority vote, where the Chairperson carries a vote.
- f. Copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least 5 days in advance of the hearing.
- g. The Appellant may have a support person or legal council with him/her. A support person must be a senior NBEA member in good standing and may not speak during the appeal. It is not necessary for legal council to be a member of the NBEA.
- h. If the matter under appeal relates to team selection, any person potentially affected by the decision of the Panel shall become a party to the appeal.
- i. The Panel may direct that any other individual participates in the appeal.
- j. In the event that one of the Panel's members is unable or unwilling to continue with the appeal, the matter shall be concluded by the remaining two Panel members.
- k. Unless otherwise agreed by the parties, there shall be no communication between Panel members and the parties except in the presence of, or by copy to, the other parties.
- l. Should the Appellant fail to attend the appeal, the \$300 fee is forfeited.

10. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a conference call or video conference.

## **APPEALS DECISION**

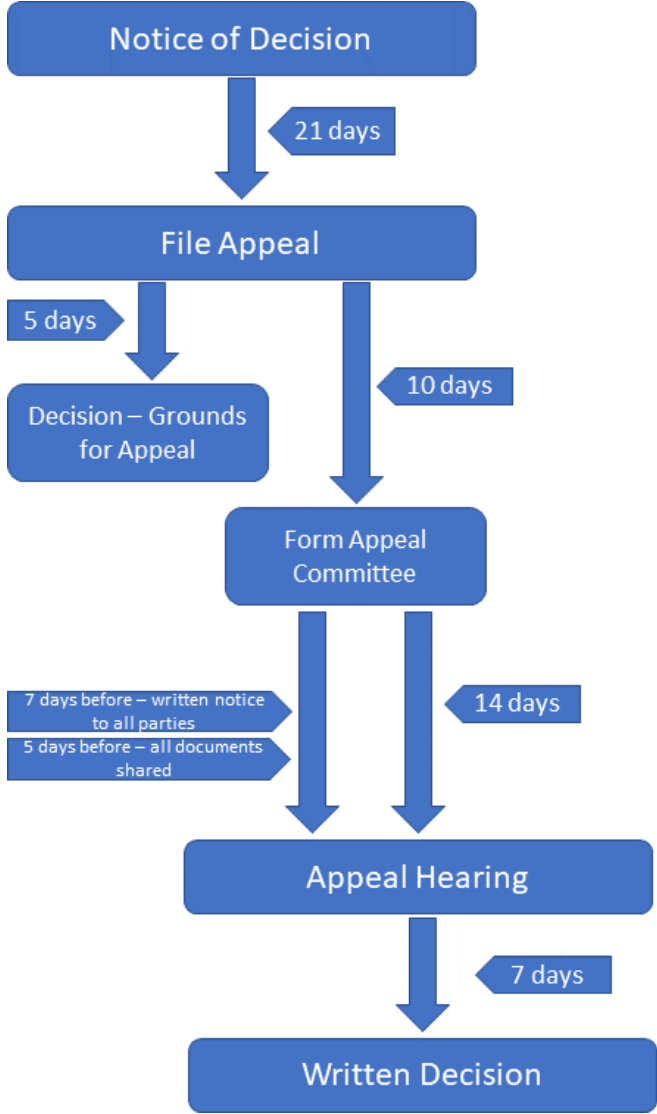
11. Within 7 days of concluding the appeal, the Panel shall issue its written decision, with reasons. In making its decision, the Panel shall have no greater authority than that of the original decision-maker. The Panel may decide:

- a. To void or confirm the decision being appealed;
- b. To vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;
- c. To return the appeal to the original decision-maker with directions for reconsideration.

12. A copy of this decision shall be provided to each of the parties and to the President.

**TIME-LINES**

13. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Panel may direct that these time-lines be abridged. If the circumstances of the disputes are such that the appeal cannot be concluded with the time-lines dictated in this policy, the Panel may direct that these time-lines be extended.



## **DOCUMENTARY APPEAL**

14. Any party to the appeal may request that the Panel conduct the appeal by way of documentary evidence. The Panel may seek agreement from the other parties to proceed in this fashion. If agreement is not forthcoming, the Panel shall decide whether the appeal shall proceed by way of documentary evidence or in- person hearing.

## **LOCATION AND JURISDICTION**

15. Any appeal shall take place in Fredericton, New Brunswick unless held by way of telephone conference call or held elsewhere as may be decided by the Panel as a preliminary matter.

16. No action or legal proceeding shall be commenced against the NBEA in respect of a dispute, unless the NBEA has refused or failed to apply the provisions for the appeal of the dispute, as set out in this policy.

Approved by the New Brunswick Equestrian Association Board of Directors  
March 27, 2022