

APPEALS



PURPOSE

The purpose of this policy is to establish and outline the process used by the Carstairs Minor Hockey Association for instances where an Appeal is filed resulting from a decision or ruling of the CMHA Board as outlined by this Policy.

DEFINITIONS

- “Appellant”** shall mean the Member filing an Appeal resulting from a decision made by the Carstairs Minor Hockey Association Board
- “Chair”** shall mean the Member appointed as the Discipline Committee Chair by the CMHA Board.
- “In-Closed Session”** shall mean a portion of a meeting closed to the public except the Committee Members required, and permitted, to participate in accordance with this Policy.
- “Respondent”** shall mean the representative of the CMHA Board as appointed by the Board.

SECTION 1: GENERAL GUIDELINES

- 1.1 Any Member of the CMHA that is dissatisfied with a **decision or ruling as it relates to CMHA’s Bylaw or Policies**, may file an appeal with the Appeals Committee.

Decisions of the Board under the Disciplinary policy may only be appealed on the following:

Procedural Fairness:

- a) Was a fair and impartial process followed consistent with CMHA policy?;
- b) Was there an opportunity for the parties to represent themselves?;
- c) Have any circumstances been identified post-decision that might affect the outcome of the process?

Severity of Punishment

- a) Did the Board levy a sanction that was appropriate to the contravention?

- 1.2 The Appeal Committee shall focus on the legislation that the Board utilized to make its decision or ruling and review the processes followed in its decision making. The Committee shall exercise extreme caution when reviewing whether an operational decision was ‘appropriate’ and shall at all times give weight to the role, purpose and authority established upon the CMHA Board by its Bylaws and Policies.

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- 1.3 All Appeals will be addressed to the Chair as noted on the CMHA Website. In the event that the Chair is the Respondent of the Appeal, the Appeal shall be addressed to the CMHA President who shall appoint another Board Member to act as the Chair for that respective appeal.
- 1.4 All Appeals are required to be submitted on the form provided in 'Schedule A' of this Policy. Appeals may be submitted via email, but shall contain all information required by Schedule A.
 - a) Notwithstanding the above, the Appeal Committee may, at their discretion, choose to proceed with the Appeal Hearing without all required information if it is deemed that all information that is necessary for their decision making has been received.
- 1.5 Members are hereby notified that all information submitted to the Appeal Committee may be subject to release to all parties involved in the Appeal Hearing to allow all parties an opportunity to respond and provide clarity to the Appeal Committee.
- 1.6 All Members and their submissions as part of the Appeal Process will be protected as much as reasonably possible except as required to conduct a fair, equitable and effective hearing. The Committee shall not provide any details on the Appeal to any individual except as required by this Policy.
- 1.7 Once an Appeal has been filed, all communication relative to the Appeal shall be submitted through the Chair.
- 1.8 During the process of an Appeal Hearing, the decision of the Board shall remain valid until deemed otherwise by the Appeal Committee.

SECTION 2: APPEAL COMMITTEE COMPOSITION

- 2.1 Annually, the CMHA Board shall establish an Appeal Committee that shall be composed of the Chair and a maximum of five (5) individuals that may, or may not be, Members of the Association but shall not be Members of the CMHA Board. The Chair may be a member of the CMHA Board.
- 2.2 At the time of receipt of an Appeal, the Committee Chair shall survey Committee Members to identify which are able to demonstrate neutrality to continue participate in the Appeal Hearing Process. The following are some reasons, but not a comprehensive list of reasons, as to why a Member should be disqualified from participating:
 - a) They are the Appellant;
 - b) They may be called as a witness by the Appellant;
 - c) They are related to the Appellant;

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- d) They deem they are unable to maintain a neutral position due to their relationship with the Appellant.

A Member shall not be disqualified from participating simply due to their involvement on the team the Appeal is related to.

- 2.3 In the event that the Committee Chair is unable to participate in the Appeal Hearing Process, the remaining Members shall elect a Member from amongst themselves to perform the role of the Committee Chair for that respective Appeal Hearing.
- 2.4 The minimum amount of Members for any Appeal Hearing shall be three (3). In the event that there are insufficient Members, the Committee shall notify the Board immediately for an additional appointment(s) to fill the additional position for that respective Appeal Hearing.

SECTION 3: APPEAL HEARING PROCESSES

- 3.1 Upon receiving an Appeal, the Chair shall within 24 hours, confirm receipt with the Appellant.
- 3.2 The Appeal Committee shall, within 72 hours of initial receipt, review the contents to make the following determinations:
 - a) If the Appeal submitted is complete with all necessary information and in alignment with this Policy.
 - b) If the Appeal is related to a decision or ruling of the CMHA Board and is eligible to be appealed.
- 3.3 Immediately following the Committee's determination that the Appeal submitted is complete and valid, the Committee shall notify the President of the CMHA Board that an Appeal has been filed. Upon receiving notification, the Executive Directors of the CMHA Board shall appoint their representative to act as the Respondent.
- 3.4 Following the appeal process, the Board shall be provided with a file which shall be retained by the Board and include the following:
 - a) Submitted Appeal and any correspondence received from the Parties;
 - b) Any correspondence from the Committee to the Parties;
 - c) Written decision of the Committee;
 - d) Any other documentation the Committee deemed relevant to the matter.

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SECTION 4: APPEAL HEARING

Upon determination that the submitted Appeal is Complete and Valid, the Committee shall follow the following process:

- 4.1 The Appeal Committee shall establish a date and time for the Appeal Hearing which shall be a maximum of seven (7) days after the determination of validity of the Appeal.
- 4.2 At least three (3) days prior to the Appeal Hearing, the Appeal Committee shall provide notice to the Appellant and to the Respondent, which shall outline the following
 - a) The date, time and location of the hearing;
 - b) The process that will be followed at the hearing;
 - c) The Appeal that was filed;
 - d) Any other information that the Committee requires in preparation for, or at, the Appeal Hearing.
- 4.3 If either the Appellant or the Respondent fail to appear at the Formal Hearing after being duly notified in accordance with Section 4.2, the Appeal Hearing shall be conducted with the available parties and information available to the Committee.
- 4.4 The Chair of the Appeal Committee shall chair the Appeal Hearing and be responsible for the orderly conduct of the process. The Chair shall only be involved in the management of the process and shall not be permitted to ask questions of parties, nor vote on the final recommendation of the Committee.
- 4.5 The order of the Appeal Hearing agenda shall be as follows:
 - a) Introduction of the Appeal Committee by the Chair;
 - b) Opportunity for any objections to the members of the Appeal Committee by either the Appellant or Respondent;
 - a. In the event that there is an objection, the Appeal Committee shall recess to discuss the objection and determine if the objection is valid. The Committee shall have the final discretion to determine if the objection is valid resulting in the dismissal of the Committee member from the Appeal Hearing. In the event that this dismissal leaves the Committee with less than three (3) Members, the Appeal Hearing shall be postponed until such time that another Member can be appointed.
 - c) Overview of the Appeal Hearing Process which shall include:
 - a. Addressing all comments through the Chair only when requested;
 - b. The prohibition of cross examination;
 - c. The necessity for respect of all parties.
 - d. The process following the Appeal Hearing
 - d) Appellant(s) Presentation
 - e) Respondent (s) Presentation
 - f) Committee requested witnesses

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- g) Final Rebuttal
 - a. Appellants Rebuttal
 - b. Respondents Rebuttal
 - h) Final Questions of the Committee
 - i) Dismissal and Deliberations
- 4.6 The Appeal Hearing is not a legal proceeding, but instead an information gathering process for the Committee to receive all necessary information prior to deliberations. As such, no individuals will be sworn in, nor will there be a transcript taken of the proceedings. Further, neither the Appellant nor the Respondent may audio or video record the proceedings.
- a) In accordance with Section 4.6, no party may utilize legal counsel at the Formal Hearing.
- 4.7 The Respondent and the Appellant may only appear in person and may not be represented at the hearing by another individual except in instances where minors are involved. In these instances, the minors must be accompanied by a parent or guardian.
- 4.8 There shall be no cross examination of any party. The Committee shall be the only individuals permitted to ask questions of any presenter in an effort to obtain further information. The final rebuttal shall be used by the Appellant and/or Respondent to clarify any misinformation provided throughout the Formal Hearing.
- 4.9 The Committee shall make final deliberations independently In-Closed Session.
- 4.10 Within three (3) days of the close of the Appeal Hearing, the Committee shall provide a written decision to the Respondent and the Appellant of its findings and whether the ruling of the Board shall be confirmed or altered. The decision of the Committee shall become final and binding upon delivery to the Board.

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SCHEDULE A "APPEAL FORM"

NAME OF MEMBER FILING APPEAL: _____

CMHA DECISION BEING APPEALED:

RELEVANT SECTION OF BYLAW OR POLICY IF APPLICABLE: _____

SUMMARY OF APPELLANTS REASON FOR APPEAL (ATTACH EXTRA PAGES IF REQUIRED):

DESIRED RESOLUTION:

SIGNATURE

DATE