

<b>STATEMENT of POLICY and PROCEDURE</b>			
Subject:	<b>Appeals Policy and Procedure</b>	Effective:	August 1, 2021
Issue to:	All Members of Weightlifting Canada Haltérophilie	Page:	1 of 10
		Replaces:	N/A
Issued by:	WCH Executive		

## Purpose

1. Weightlifting Canada Haltérophilie (WCH) is committed to providing a safe, welcoming, and inclusive environment for everything within its sphere of influence and when carrying out all of its activities. WCH is an athlete-centred organization which has identified the meeting of athlete needs as one of its top priorities. WCH commits to treating all individuals with respect which is characterized by the values of fairness, integrity, and open communication.
2. The WCH provides Individuals with this Appeal Policy to enable fair, affordable, and expedient appeals of certain decisions made by WCH.

## Definitions

3. The following terms are defined within this Policy as:
  - a) “Affected Party” – An Individual or a third party whose rights may be directly affected by the decision made by the Appeals Panel;
  - b) “Appellant” – The Party appealing a WCH’s decision;
  - c) “Case Manager” – An individual or organization appointed by WCH, who is not a WCH member or affiliated with WCH, to administer this Policy. The Case Manager shall comply with the position description described in Appendix “A”;
  - d) “WCH Employee” – an individual employed or contracted by WCH on a permanent full-time or permanent part-time basis;
  - e) “WCH” – Weightlifting Canada Haltérophilie;
  - f) “Days” – Any day of the week, including weekends and holidays;
  - g) “Exceptional Circumstances” – Reasons beyond the Individual’s control including: a medical reason, family reason or otherwise exceptional circumstance that prohibited a Party from filing the documents on time or participating in the Appeal’s hearing.
  - h) “Grounds” – The grounds prescribed in this Policy;
  - i) “Individuals” – All individuals engaged in WCH Business, Events and Activities including but not limited to, athletes, coaches, officials, volunteers, directors, registrants, officers, team managers, team captains, medical and paramedical personnel, administrators;
  - j) “Panel or Appeals Panel” – The Panel appointed pursuant to this Policy;
  - k) “Parties” – The Appellant, Respondent, and any Affected Party;
  - l) “Respondent” – The party whose decision is being appealed;
  - m) “SDRCC” – The Sport Dispute Resolution Center of Canada.

## Scope and Application of this Policy

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4. Any Individual, except any WCH employee or contractor, who is directly affected by a WCH decision shall have the right to appeal that decision, provided there are sufficient Grounds for the Appeal under the 'Grounds for Appeal' section of this Policy.
5. Subject to meeting the Grounds stipulated in this Policy, the Policy **shall apply** to decisions made by WCH relating to:
  - a) Selection;
  - b) Carding;
  - c) Any matter which has been the subject of an investigation or decision pursuant to WCH's and Discipline and Complaint Policy and Procedure or other Policies;
  - d) Appeals from final decisions of a PSO tribunal; and
  - e) Any other dispute for which resort to this Procedure is expressly mandated.
6. This Policy **shall not apply** to decisions relating to:
  - a) Employment issues;
  - b) Contractors, service providers, suppliers, or commercial disputes;
  - c) Infractions for doping offenses which are dealt with under the Canadian Policy Against Doping, or IWF or Major games related doping rules;
  - d) Matters relating to AAP for which WCH is not responsible;
  - e) The technical rules of rules of weightlifting (field of play) which may not be appealed;
  - f) Eligibility or team selection matters that are within the jurisdiction of entities other than WCH;
  - g) Selection criteria, quotas, policies, and procedures established by entities other than WCH;
  - h) Substance, content, and establishment of WCH team selection or carding criteria;
  - i) Budgeting and budget implementation and any financial decisions;
  - j) By-Laws related disputes unless otherwise determined by WCH Board of directors;
  - k) Governance or operational matters;
  - l) Decisions or discipline arising within the business, activities, or events organized by entities other than WCH (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless accepted by WCH at its sole discretion);
  - m) Decisions or discipline arising within competition; or
  - n) Disputes that do not meet the Grounds set out in this Policy

## The Appeal

7. Individuals who wish to appeal a decision have fourteen (14) days from the date on which they received notice of the decision, to submit the following information to WCH in writing:
  - a) Notice of the intention to appeal;
  - b) Contact information of the Appellant;
  - c) Name of the Respondent and any Affected Parties (if known);
  - d) Date the Appellant received notice of the decision being appealed;

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- e) A copy of the decision being appealed, or description of decision if a written document is not available;
  - f) Reasons in support of the Grounds for appeal stipulated in this Policy;
  - g) Detailed reasons for the Appeal;
  - h) Any evidence that supports these Grounds;
  - i) Requested remedy or remedies; and
  - j) Administrative fee of \$150.
8. An Individual who wishes to initiate an Appeal beyond the permitted fourteen (14) day period shall only be considered in Exceptional Circumstances beyond the control of the individual. A written request stating the Exceptional Circumstances and reasons for an extension must be provided. The decision to allow, or not allow an Appeal outside of the fourteen (14) day period shall be at the sole discretion of the Case Manager and may not be appealed.
9. Under circumstances where time is of the essence, as determined by WCH or the Case Manager at its discretion, the fourteen (14) day period may be reduced or extended.

### **Grounds for Appeal**

10. An appeal may only be heard if there are sufficient Grounds for Appeal. Grounds for Appeal are limited to arguments that the Respondent:
- a) rendered a decision that it did not have authority or jurisdiction (as set out in the relevant governing documents).
  - b) failed to follow its own procedures (as set out in the relevant governing documents).
  - c) made a decision that 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 or has not considered other views).
  - d) failed to consider relevant information or evidence or took into account irrelevant information or evidence in making the decision; or
  - e) made a decision that was grossly unreasonable.

Regardless of the ground of appeal cited, the Appellant must establish that he or she was prejudiced by the decision.

### **Onus and Standard of Review**

11. The Appellant bears the onus to demonstrate that the decision is or was unreasonable, the occurrence of at least one of the Grounds set out in Section 10 of this Policy, and that such Grounds had, or may reasonably have had, a material effect on the decision or decision-maker.

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### **Case Manager**

12. Upon receiving the notice of the Appeal, and all other information outlined in Section 7 above, WCH shall appoint a Case Manager to manage and administer Appeals filed in accordance with this Policy and such appointment is not appealable. The Case Manager shall not be connected in any way to the issue being appealed.
13. Within three (3) days of receipt of the notice of Appeal, the Case Manager shall:
- a) Determine if the Appeal falls under the scope of this Policy;
  - b) Determine if the Appeal was submitted in a timely manner; and
  - c) Decide whether the Appellant has demonstrated the existence of any potential Grounds for Appeal pursuant to section 10 above.
14. If the Appeal is denied on the basis of lack of Grounds, because it was not submitted in within the stated time, or because it did not fall under the scope of this Policy, the Case Manager shall notify the Parties, in writing, of the reasons for this decision. This decision may not be appealed under the terms of this Policy.

### **Alternative Dispute Resolution**

15. Unless determined otherwise determined by the Case Manager, the Case Manager shall enquire if the Parties would be willing to attempt to resolve the dispute by way of mediation. If Parties consent to mediation, the Case Manager will mediate, appoint a mediator or, if available, request the resolution facilitator services of the SDRCC.
16. Should one of the Parties not agree to mediation or if the mediation fails to settle dispute, an Appeal hearing shall be conducted in accordance with this Policy. The mediation process may suspend the timelines described in this Policy.

### **Conduct of the Appeal**

17. If the Case Manager is satisfied that the Appeal should be allowed to proceed, the Case Manager shall appoint an Appeals Panel composed of three (3) persons to act as members of the Appeals Panel. The Case Manager shall appoint one of those persons to serve as the Chair of the Appeals Panel. Members of the Appeals Panel shall have had no involvement with the dispute, or the decision being appealed and shall be free from any other real or perceived conflict of interest.

### **Preliminary meeting**

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18. The Case Manager and/or Panel may determine that the circumstances of the dispute warrant a preliminary meeting with the Parties to discuss and determine the procedural issues such as but not limited to, date and location of the Hearing, timelines for exchange of documents, format for the Appeal hearing, clarification of issues in dispute, any procedural matter, order and conduct of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.

### **Procedure for Appeal Hearing**

19. The Appeals Panel in consultation with the Case Manager, shall decide the format under which the Appeal shall be heard. The following criteria suggest that an oral hearing, and not a mere review of documentary evidence, be held:

- a) complex issues involved;
- b) credibility findings must be made; or
- c) a large amount of documentation is to be considered;
- d) The Case Manager shall notify the Parties of such decision in writing. This decision may not be appealed.

20. The hearing may be held by teleconference or videoconference, in person, based on a review of documentary evidence and submissions, or a combination of these methods. The hearing shall be governed by the procedures that the Appeals Panel deems appropriate in the circumstances, provided that:

- a) The hearing shall be held within seven (7) days from the appointment of the Panel unless otherwise determined by the Appeals Panel;
- b) The Parties shall be given reasonable notice of the day, time and if applicable the means of accessing the hearing;
- c) Copies of any written documents which the Parties wish to have the Panel consider shall be provided to all Parties in advance of the hearing and the Appeals Panel shall assign:
  - i. a first deadline for the Appellant's documents and submissions; and
  - ii. a second deadline for the Respondent's documents and submissions based on the appropriate timeline determined by the Appeals Panel, allowing for adequate consideration of the documents and submissions in the circumstances;
- d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense;
- e) The Panel may request that any other individual participate and give evidence at the hearing;
- f) The Panel may allow as evidence at the hearing any oral evidence and/or written documentation relevant to the subject matter of the Appeal, but may exclude such evidence that is unduly repetitive and shall place such weight on the evidence as it deems appropriate;
- g) If a decision in the Appeal may affect another person to the extent that the other person would have recourse to an Appeal in their own right under this Policy, that person shall become an

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Affected Party to the Appeal in question, shall be invited to make submissions and attend the hearing and shall be bound by its outcome;

- h) The decision to uphold or reject the Appeal shall be by a majority vote of Appeals Panel members;
- i) If a Party chooses not to participate in the hearing, the hearing shall proceed in any event without his or her participation.

### **Appeal Decision**

21. Within seven (7) business Days of the hearing, the Panel shall issue its written decision with reasons. In making this decision, the Panel shall have no greater authority than that of the original decision-maker. If more than seven days are required for decision, the Appeals Panel shall provide reasons for the delay in the decision. The Panel may decide:
  - a) To uphold the decision and dismiss the Appeal;
  - b) To void the decision and refer the matter back to the initial decision-maker for a new decision;
  - c) To vary the decision where it is found that an error occurred and such an error should not 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; and
  - d) To determine how costs of the Appeal shall be allocated excluding the legal costs and legal disbursements, if at all.
22. In extraordinary circumstances, the Panel may issue an oral decision or a short-written decision, with reasons to follow, provided that the written decision with reasons is rendered within seven (7) business days of the short decision.
23. The Appeals Panel's written decision, with reasons, shall be distributed to all Parties, the Case Manager, and WCH Chief Executive Officer within seven (7) days of the hearing unless otherwise determined by the Appeals Panel after consulting with the Parties. Distribution to additional Parties shall be determined pursuant to the Confidentiality section of this Policy.

### **Confidentiality**

24. The Appeals process is confidential and involves only the Parties, the Case Manager, and the Panel once initiated and until a decision is released. Except for the decision to be made public by WCH or by the Appeals Panel, at all time, none of the Parties shall disclose confidential information to any person not involved in the proceedings.

### **Records and Distribution of Decision**

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25. Any decision rendered under this Policy may be disclosed to any third party deemed required by and appropriate by WCH such as the SDRCC or any other legal body charged with the responsibility of reviewing such decision. For example, Appeal decisions that are matters of public interest may be publicly available with the names of the individuals redacted. Likewise, names of persons affected may be disclosed to the extent necessary to give effect to any decision imposed.

### **Final and Binding**

26. The decision of the Panel shall be binding on the Parties and on all Individuals associated with WCH, subject to the right of any Party to seek review of the Appeal Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada ("SDRCC").

27. No action or legal proceeding shall be commenced against WCH or Individuals in respect of a dispute, unless WCH has refused or failed to provide or abide by the dispute resolution process and/or Appeal process as set out in WCH's policies, procedures, rules and regulations.

### **Location and jurisdiction**

28. Appeals shall take place in Ottawa unless held by way of telephone/video conference call or held elsewhere as may be decided by the Panel as a preliminary matter.

29. This Procedure shall be governed and construed in accordance with the laws of the Alberta, even though the Appeal may take place in any other province.

### **Administrative Fee**

30. If the Appeal is successful, the administrative fee shall be reimbursed to the Appellant.

31. If the Appeal is unsuccessful, the administrative fee shall not be reimbursed to the Appellant.

**APPENDIX “A”  
CASE MANAGER POSITION DESCRIPTION**

**Purpose**

1. In this Policy, WCH requires the appointment of a Case Manager. This position description outlines the role, identity, responsibilities, and tasks of the Case Manager.

**Identity**

2. The Case Manager, appointed by WCH at their sole discretion, should be experienced with the management of disputes in an unbiased manner. The individual or organization shall not be connected in any way to the issue being disputed.
3. The Case Manager’s identity does not need to be approved by any of the Parties involved in the dispute or an Appeal, excluding WCH.

**Discretion – Appeals (Appeals Policy)**

4. When an Appeal is filed, the Case Manager is required to:
  - a) Propose the use of an alternative dispute resolution mechanism;
  - b) Determine if the Appeal falls under the scope of the Appeal Policy;
  - c) Determine if the Appeal was submitted in a timely manner;
  - d) Decide whether there are any Grounds for the Appeal;
  - e) Appoint the Appeals Panel, if necessary;
  - f) Coordinate all administrative aspects and set timelines in conjunction with the Appeals Panel;
  - g) Provide administrative assistance and logistical support to the Parties and Appeals Panel as required; and
  - h) Provide any other service or support that may be necessary to ensure a fair and timely proceeding.
5. When determining if there are identified Grounds for Appeal, the Case Manager is not acting as the Panel and determining the merits of the Appeal, but instead determining whether the Appellant has properly shown that a Ground, as described in the Appeal Policy, has been demonstrated. The Case Manager shall carefully consult WCH’s policies and procedures, and analyze the process that contributed to the decision, to determine whether there are appropriate Grounds.

**Discretion – Alternative Dispute Resolution**

6. When the Parties agree to an alternative dispute resolution, the Case Manager may be required to:
  - a) Appoint the mediator or facilitator;



- b) Coordinate all administrative aspects and set timelines; and
- c) Provide administrative assistance and logistical support to the mediator or facilitator as required.

### **Hearing Format – Discretion**

7. If necessary, the Case Manager, in conjunction with the Appeals Panel, as appropriate, is required to exercise their discretion to determine the format of the hearing. Hearings typically take the following forms:
  - a) Documentary review only
  - b) Conference call or videoconference;
  - c) In-person hearing;
  - d) Written evidence and submissions; or
  - e) A combination of those means
8. In determining the format of the hearing, the Case Manager should consider:
  - a) The relationship between the Parties;
  - b) The time commitment of the Panel;
  - c) The timelines for a decision;
  - d) The language barriers between the Parties;
  - e) The gravity of the complaint/appeal;
  - f) The complexity of the issues involved;
  - g) The amount of documentary evidence;
  - h) Whether one or both parties are represented by legal counsel;
  - i) The existence of written arguments provided in advance;
  - j) Whether credibility findings must be made; or
  - k) Accommodations required due to a Party's disability.

### **Panel Appointment**

9. The Case Manager is required to appoint members of the Appeals Panel. The Panel members are more important to the resolution of the dispute than the Case Manager and should have the following characteristics:
  - a) Experience in dispute resolution;
  - b) Experience with sport disputes;
  - c) No connection to either party;
  - d) Decisiveness;
  - e) Fluent in the language in which the Appeal is being argued; and
  - f) Available to render a decision on the Appeal within the timeframes set under this policy.

10. The Case Manager is remunerated position.

11. The members of the Appeals Panel shall receive an honorarium.