



# APPEAL POLICY

October 2015

---

**TABLE OF CONTENTS**

Definitions ..... 3

Purpose ..... 3

Scope and Application of this Policy ..... 3

Timing of Appeal ..... 4

Grounds for Appeal ..... 4

Screening of Appeal ..... 5

Procedure for Appeal Hearing ..... 5

Confidentiality ..... 6

Final and Binding ..... 6

## DEFINITIONS

1. The following terms have these meanings in this Policy:
  - a) *“Appellant”* – The Party appealing a decision
  - b) *“Respondent”* – The body whose decision is being appealed
  - c) *“Parties”* – The Appellant, Respondent, and any other Individuals or persons affected by the appeal
  - d) *“Days”* – Days irrespective of weekends and holidays
  - e) *“Individuals”* – All categories of membership defined in the Wrestling Canada Lutte Bylaws, as well as all individuals employed by, or engaged in activities with, Wrestling Canada Lutte including, not limited to, athletes, coaches, convenors, referees, officials, volunteers, managers, administrators, committee members, directors and officers of Wrestling Canada Lutte.

## PURPOSE

2. Wrestling Canada Lutte is committed to providing an environment in which all Individuals involved with Wrestling Canada Lutte are treated with respect. Wrestling Canada Lutte provides Individuals with this *Appeal Policy* to enable fair and expedient appeals of certain decisions made by Wrestling Canada Lutte.

## SCOPE AND APPLICATION OF THIS POLICY

3. This Policy applies to all Individuals. Any Individual who is directly affected by a Wrestling Canada Lutte 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.
4. This Policy **will apply** to decisions relating to:
  - a) Eligibility
  - b) Nomination and Selection
  - c) Conflict of Interest
  - d) Discipline
  - e) Membership
  - f) Athlete Assistance Program (AAP) carding nominations
5. This Policy **will not apply** to decisions relating to:
  - a) Employment
  - b) Infractions for doping offenses
  - c) The rules of wrestling
  - d) Nomination and selection criteria, quotas, policies, and procedures established by entities other than Wrestling Canada Lutte
  - e) Substance, content and establishment of team nomination and selection criteria
  - f) Budgeting and budget implementation

- g) Wrestling Canada Lutte's operational structure and committee appointments
- h) Decisions or discipline arising within the business, activities, or events organized by entities other than Wrestling Canada Lutte (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by Wrestling Canada Lutte at its sole discretion)
- i) Commercial matters for which another appeals process exists under a contract or applicable law
- j) Decisions made under this Policy

## **TIMING OF APPEAL**

6. Individuals who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit, in writing to the attention of the Executive Director at the Wrestling Canada Lutte's office, the following:
  - a) Notice of the intention to appeal
  - b) Contact information and status of the appellant
  - c) Name of the Respondent and any affected parties
  - d) Date the Appellant was advised of the decision being appealed
  - e) A copy of the decision being appealed, or description of decision if written document is not available
  - f) Grounds for the appeal
  - g) Detailed reasons for the appeal
  - h) All evidence that supports these grounds
  - i) Requested remedy or remedies
  - j) A \$1,000.00 fee must accompany the filing of the intent to appeal.
7. An Individual who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an exemption.

## **GROUNDINGS FOR APPEAL**

8. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
  - a) Made a decision that it did not have authority or jurisdiction (as set out in the Respondent's governing documents)
  - b) Failed to follow its own procedures (as set out in the Respondent's 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 other views)
  - d) Failed to consider relevant information or took into account irrelevant information in making the decision
  - e) Made a decision that was grossly unreasonable

9. The Appellant bears the onus of proof and must demonstrate, on a balance of probabilities, that the Respondent has made an error as described in the 'Grounds for Appeal' section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

## **SCREENING OF APPEAL**

10. Upon receiving the notice of the appeal and all other information (outlined in the 'Timing of Appeal' section of this Policy), Wrestling Canada Lutte shall direct the appeal to be heard first by the mediator/case manager appointed for and paid by Wrestling Canada Lutte.
11. The mediator/case manager shall decide the format under which the dispute shall be mediated, and shall specify a deadline before which the parties must reach a negotiated decision. Should a negotiated decision be reached, the decision shall be reported to and approved by Wrestling Canada Lutte. Should the appeal be resolved through mediation, the appeal fee may be refunded at the discretion of the mediator.
12. Should the appeal not be resolved through mediation or the negotiated decision not be approved by Wrestling Canada Lutte, the Case Manager will have the following responsibilities:
  - a) Determine if the appeal falls under the scope of this Policy
  - b) Determine if the appeal was submitted in a timely manner
  - c) Decide whether there are sufficient grounds for the appeal
13. If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
14. If the Case Manager is satisfied there are sufficient grounds for an appeal, the Case Manager will appoint a single arbitrator, to be approved by the Management Team, to hear the appeal.

## **PROCEDURE FOR APPEAL HEARING**

15. The Arbitrator shall then decide the format under which the appeal will be heard and date the appeal will be heard. This decision is at the sole discretion of the Arbitrator and may not be appealed.
16. In fulfilling its duties, the Arbitrator may obtain independent advice.
17. The Arbitrator shall issue its decision, in writing and with reasons, after the hearing's conclusion. In making its decision, the Arbitrator will have no greater authority than that of the original decision-maker. The Arbitrator may decide to:
  - a) Reject the appeal and confirm the decision being appealed
  - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
  - c) Uphold the appeal and vary the decision

18. The Arbitrator's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Wrestling Canada Lutte. In extraordinary circumstances, the Arbitrator may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Arbitrator. Should the Arbitrator resolve the matter in favour of the Appellant, the appeal fee may be refunded to the Appellant at the discretion of the Arbitrator.

## **CONFIDENTIALITY**

19. The appeal process is confidential and involves only the Parties, the Case Manager, the Arbitrator, and any independent advisors to the Arbitrator. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

## **FINAL AND BINDING**

20. The decision of the Arbitrator will be binding on the Parties and on all Wrestling Canada Lutte Individuals; subject to the right of any Party to seek a review of the Arbitrator's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).

21. No action or legal proceeding will be commenced against Wrestling Canada Lutte or Individuals in respect of a dispute, unless Wrestling Canada Lutte has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in Wrestling Canada Lutte's governing documents.