

APPEAL POLICY

Definitions

1. These terms will have these meanings in this policy:
 - a) “*Appellant*”- The party appealing a decision.
 - b) “*Days*” - Days irrespective of weekends or holidays.
 - c) “*Respondent*” - The body whose decision is being appealed.
 - d) “*Member*”- All categories of membership defined in the Organization’s Bylaws.
 - e) “UCSC” – The University of Calgary Swim Club.

Purpose

2. The purpose of this Policy is to enable appeals within UCSC to be dealt with fairly and expeditiously.

Scope and Application of this Policy

3. Any Member affected by a decision will have the right to appeal the decision of UCSC, the Board of Directors, any committee of UCSC, or any individual who has been delegated authority to make decisions on behalf of UCSC, provided there are sufficient grounds for the appeal as set out in Section 8 of this Policy and subject to the limitations contained in Sections 5 and 11 of this Policy.
4. This Policy will apply to decisions relating to eligibility, selection, discipline, membership or any other matter deemed appropriate by UCSC.
5. This Policy will **not** apply to decisions relating to:
 - a) Matters of employment;
 - b) Matters of operational structure, committees, staffing, employment or volunteer opportunities;
 - c) Matters of budgeting and budget implementation;
 - d) Infractions for doping offences which are dealt with pursuant to the *Canadian Anti-Doping Program* or any successor policy;
 - e) The rules of competitive swimming or disputes over competition rules;
 - f) Discipline matters and decisions arising during events organized by entities other than those within UCSC, which are dealt with pursuant to the policies of these other entities;
 - g) Disputes arising within competitions which have their own appeal procedures; and
 - h) Any decisions made under Sections 7 and 11 of this Policy.

Timing of Appeal

6. Members who wish to appeal a decision will have fourteen (14) days from the date on which a decision has been made available to the Appellant Member, to submit in writing to the club office of UCSC the following:
 - a) Notice of their intention to appeal;
 - b) Contact information of the Appellant;
 - c) Name of the Respondent;
 - d) Grounds for the appeal;
 - e) Detailed reason(s) for the appeal;
 - f) All evidence that supports the reasons and grounds for an appeal;
 - g) The remedy or remedies requested, and
 - h) A payment of two hundred fifty dollars (\$250.00), which may be refundable depending on whether the appeal will be allowed to proceed or whether the Appeal is successful.
7. Any party wishing to initiate an appeal beyond the fourteen (14) day period must provide a written request stating reasons for an exemption to the requirement of Section 6. The decision to allow, or not to allow an appeal outside the 14-day period will be at the sole discretion of the Case Manager appointed by UCSC and may not be appealed.

Grounds for Appeal

8. Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:
 - a) Making a decision for which it did not have authority or jurisdiction as set out in the Respondent's governing documents;
 - b) Failing to follow procedures as laid out in the bylaws or approved policies of UCSC;
 - c) Making 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 or that the decision was influenced by factors unrelated to the substance or merits of the decision; and/or
 - d) Making a decision that was grossly unreasonable or unfair, considering all the circumstances of the decision appealed from.
9. The Appellant will bear the burden of proof in the appeal, and thus must be able to demonstrate, on a balance of probabilities, that the Respondent has made an error as described in Section 8.

Case Manager

10. UCSC will appoint a Case Manager to oversee the management and administration of appeals submitted in accordance with this Policy, who may or may not be a member of UCSC. The Case Manager has an overall responsibility to ensure procedural fairness is observed at all times in the implementation of this Policy, and to implement this Policy in a timely manner. There is a presumption of procedural fairness with regard to any appeals and the burden to prove otherwise lies with the Appellant. More specifically, the Case Manager has a responsibility to:
 - a) Determine if the appeal lies within the jurisdiction of this Policy;
 - b) Determine if the appeal is brought in a timely manner;
 - c) Determine if the appeal is brought on permissible grounds;
 - d) Appoint the Panel to hear the appeal;
 - e) Determine the format of the appeal hearing;
 - f) Coordinate all administrative and procedural aspects of the appeal; and
 - g) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

Screening of Appeal

11. Upon receipt of the notice, grounds of an appeal, supporting evidence and the required fee, the Case Manager will review the appeal and will decide whether or not there are sufficient grounds for an appeal.
12. If the Case Manager, upon review of all the above, is satisfied that there **are not** sufficient grounds for an appeal, the parties will be notified in writing, stating reasons for the decision. There shall be no appeal from a decision to dismiss the appeal.
13. If the Case Manager is satisfied that there **are** sufficient grounds for an appeal, then a hearing will take place.

Appeals Panel

14. If the Case Manager is satisfied that there are sufficient grounds for an appeal, the Case Manager will establish an Appeals Panel (the "Panel") consisting of one (1) to three (3) persons to hear the appeal. The Case Manager will appoint one of the Panel's members to serve as the Chair.

Procedure for the Hearing

15. The Case Manager will determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by teleconference, a hearing based on written submissions or a combination of

these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:

- a) The hearing will be held within 21 days of the Panel's appointment, unless there are reasonable grounds for a different timeline as deemed appropriate by the Case Manager.
- b) The Parties will be given at least 7 days notice of the day, time and place of the hearing, if required.
- c) Copies of any written documents which the Parties wish to have the Panel consider will be provided to all Parties in advance of the hearing in accordance with the appropriate timeline.
- d) Both Parties may be accompanied by a representative or advisor.
- e) The Panel may request that any other individual with relevant information participate and give evidence at the hearing.
- f) Decisions of the Panel will be by majority vote.

Appeal Decision

16. Within fourteen (14) days of concluding the appeal, the Panel will issue its written decision, with reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:

- a) Reject the appeal and confirm the decision being appealed; or
- b) Allow the appeal and refer the matter back to the initial decision-maker for a new decision; or
- c) Allow the appeal and vary the decision appealed from.

17. The decision will be considered a matter of public record. A copy of this decision will be provided to the Parties and to UCSC. Where time is of the essence, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision with reasons is rendered within the appropriate timelines.

Confidentiality

18. The appeal process is confidential involving only the parties, the Case Manager and the Panel. Once initiated and until a written decision is released, none of the parties or the Panel will disclose confidential information relating to the appeal to any person not involved in the proceedings.

Final and Binding Decision

19. The decision of the Panel will be binding on the parties and on all UCSC Members.

20. No action or legal proceeding will be commenced against UCSC or its members in respect of a dispute.