

APPEALS/DISPUTE RESOLUTION POLICY

1. General

- 1.1 The Appeals Process of the Canadian 5 Pin Bowlers' Association (C5PBA) is available to all members, where the term "member" refers to all categories of members within C5PBA and its member associations, as well as to all individuals engaged in activities with or employed by C5PBA, including but not limited to: athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel).
- 1.2 At any point during this process, the matter may be referred to mediation.
- 1.3 This process does not apply to disputes relating to:
 - a. Matters of employment
 - b. Infractions for doping offenses, which are dealt with pursuant to the Canadian Doping Policy on Doping in Sport and Canadian Doping Control Regulations.
 - c. The rules of Bowling, which may not be appealed.
- 1.4 Steps for disputing appeal decisions:
 - a. Provincial 5 Pin Bowlers' Association
 - b. Canadian 5 Pin Bowlers' Association
 - c. Bowling Federation of Canada
 - d. Sport Dispute Resolution Centre of Canada

2. No Legal Action

- 2.1 No action, application for judicial review or other legal proceedings will be commenced against C5PBA or its member associations, unless the remedies of this policy have been exhausted.

3. Sanction/Intervention - Definition

- 3.1 *Right to Sanction*
The Corporation may sanction any activity or action, direct or indirect, related to 5 pin bowling in Canada.
- 3.2 *Sanction Defined*
Sanction shall be authorization of any activity or action included in Article 33:01 hereof and shall include the right to intervene in such activity or action if same is not authorized under the approved rules of the sport or the by-laws and regulations of the Corporation.
- 3.3 *Intervention Defined*
Intervention may be by penalty or punishment which penalty or punishment may include fine, suspension of rights, cancellation of rights, or any combination of penalty or punishment.
- 3.4 *Applied*
Sanction or intervention may be applied on any class of member or the entities or individuals of said class, or applied at any level within the Corporation.

4. Right to Appeal

- 4.1 *Individual/Entity*
Any individual or entity of the Corporation against which a sanction or intervention has been applied may appeal the sanction or intervention to the Executive Director of the Corporation at the head office of the Corporation. Said appeal shall be in writing as set by C5PBA policy. A fee of \$150.00 is required when launching an appeal. Any party found to be at fault will be responsible for costs associated with the Appeal process.

5. Tribunal (Schedule A)

5.1 *Tribunal Appointed*

The Executive Committee of the Corporation shall appoint a Tribunal to review and hear the matter under appeal, and shall appoint the Tribunal following the procedures set out in C5PBA policy.

5.2 *Hearing Held*

The Tribunal shall conduct a hearing under the rules delineated in C5PBA policy.

5.3 *Tribunal Determines Facts*

The facts of the matter under appeal shall be established by the Tribunal and from these said facts there shall be no appeal.

5.4 *Tribunal Decides*

The Tribunal shall make a decision based on the facts of the matter under appeal and said decision with the reasons therefore shall be rendered to the said parties directly involved in the appeal and filed with the Executive Director of the Corporation.

6. Appeal of Tribunal Decision (Schedule B)

6.1 *Leave to Appeal*

Either party to an appeal determined by a Tribunal may apply for leave to appeal the decision within fifteen (15) days of the date of the Tribunal decision on grounds of improper penalty or punishment or improper application of Corporate policy, or rules and regulations of the Corporation only. Application for leave to appeal shall be made to the Executive Director of the Corporation, and shall be in letter form stating the grounds and reasons why leave to appeal should be granted. The Executive committee of the Corporation shall determine, within thirty (30) days of receipt of application for leave to appeal, whether the said leave to appeal will or will not be allowed and their decision is final and binding. The Appeal Tribunal on leave to Appeal shall not be the same Tribunal who heard the matter in the first instance and determined the issues of fact.

6.2 *Leave to Appeal Refused*

If leave to appeal is not allowed, the decision of the Tribunal is confirmed and shall have force and effect forthwith.

6.3 *Leave to Appeal Granted*

If leave to appeal is granted, the Executive Committee shall appoint an appeal Board forthwith and set a date within sixty (60) days next for the appeal board to sit. A fee of \$150.00 is required when launching a Leave to Appeal. Any party found to be at fault will be responsible for costs associated with the Appeal process.

7. Appeal Board

7.1 *Appointed/Determines*

The Appeal Board shall be appointed as delineated in C5PBA policy. An Appeal Board may make a determination on any matter included in the written submissions for leave to appeal with or without a hearing. The Appeal Board shall not be comprised of any members of the previous two Appeal Tribunals.

7.2 *May Hold Hearing*

The Appeal Board may convene a hearing and both parties to the appeal shall be given opportunity to be heard if a hearing is convened. The Appeal Board shall convene a hearing if the Appeal Board calls any member or witness to give evidence.

7.3 *Powers*

The Appeal Board may call any member of the Corporation to attend to give evidence, or may call any witness, or may demand any Corporation documents to determine or assist in determining the matter appealed.

7.4 *Decision*

The decision of the Appeal Board shall be in writing with reasons therefore to the parties and the decision shall be filed with the Executive Director of the Corporation.

7.5 *Appeal of Decision*

Appeals to the decision of the Appeal Board must be made to the Bowling Federation of Canada.

7.6 If any party believes the panel has made an error, the matter may be deferred to independent arbitration. Such arbitration to be administered under the services of the Sport Dispute Resolution Centre of Canada.

SCHEDULE A

Appointment: Tribunal or Appeal Board

- A1 A Tribunal shall consist of those persons appointed by the Executive Committee of the Corporation.
- A2 A Tribunal shall consist of three persons, and all persons need not be members of the Corporation.
- A3 On appointment of a Tribunal, the Executive Committee shall ensure the following:
 - A) That no association exists between a party of appeal and a Tribunal member, either actual or apparent.
 - B) That no Tribunal member has been involved in any preliminary stage of the decision or matter under appeal.
 - C) That no Tribunal member has an apparent pre-set attitude or interest in the result of the appeal.
 - D) Apparent herein is defined as in appearance or reasonable likelihood.
- A4 An Appeal Board, if appointed, shall be appointed in like fashion as delineated above save and except Tribunal shall read Appeal Board.

SCHEDULE B

Tribunal or Appeal Board Procedures

- B1 Any notice for request for appeal shall be given in writing to the Executive Director of the Canadian 5 Pin Bowlers' Association and shall include the grounds and/or reasons for the appeal.
- B2 Any notice for request for appeal shall be made within seven (7) days of the sanction or intervention or decision being appealed and, notice shall mean date of post mark if mailed by registered mail or receipt of notice if delivered otherwise, and all notices shall be to the head office of the Corporation, and addressed as follows:
- Appeals
Executive Director
Canadian 5 Pin Bowlers' Association
206 – 720 Belfast Rd.
Ottawa, ON, K1G 0Z5
- B3 Within thirty (30) days of receipt of notice for request for appeal if leave for Appeal is granted,, a Tribunal shall be appointed; a date shall be set for a hearing which date shall be within sixty (60) days of appointment of the Tribunal; and notice to all parties of such date of hearing by the Tribunal shall be telephoned and confirmed by registered mail.
- B4 The Tribunal hearing shall proceed as scheduled unless both parties to the appeal consent to an extension. Said extension may not be for more than thirty (30) days past the original date set for a Tribunal hearing.
- B5
- A) The parties to an appeal shall be the member appealing, and the Corporation, represented by the member making the original sanction or intervention being appealed.
 - B) The grounds and/or reasons for appeal referred to in Article B1 shall be of sufficient particularity that the opposite party may respond in writing.
 - C) The Tribunal shall ensure that the appealing party has a response and that the appealing party has the grounds of appeal at least seven (7) days before the scheduled hearing.
 - D) In the absence of a response in writing, the Tribunal may allow the appeal or may extend the date of hearing up to fourteen (14) days.
 - E) In the continued absence of a response in writing, such that the appealing party does not have the response seven (7) clear days prior to the hearing, the appeal shall be granted.
 - F) If the Tribunal determines that the grounds of appeal are not of sufficient particularity of grounds, it may extend the date of hearing up to fourteen (14) days.
 - G) In the continued absence of particularity of grounds of appeal such that the responding party cannot respond to the appealing party seven (7) clear days prior to the hearing, the appeal shall be refused.
- B7 At the Tribunal hearing, either party may present information, witnesses, documents and/or personal statements, and either party may cross-examine or request any information of either party, or any witness, or any member of the Corporation.

- B8
- A) The Tribunal shall decide on the basis of materials presented during the hearing, the facts of the alleged misconduct being appealed, and shall file same in writing as part of the Tribunal decision.
 - B) The Tribunal shall make a decision in relation to the appeal with reasons therefore, and in writing.
 - C) The Tribunal shall deliver, to each party and the Corporation, its written decision within fourteen (14) days of the Tribunal hearing.
 - D) Notwithstanding sub-articles (B) & (C) of this article, a Tribunal may render a verbal decision forthwith at a hearing provided, sub-articles (A) to (C) of this article are properly completed thereafter.
 - E) The date on which the Tribunal shall be deemed to have rendered its decision, shall be the date on which such decision is posted by registered mail to the parties, notwithstanding a Tribunal action under sub-article (D) hereof.
 - F) An Appeal Board may make a determination on any matter included in the written submissions for leave to appeal with or without a hearing.