



## Appeal Policy

### Purpose

1. The purpose of this Appeal Policy is to enable disputes with Synchro Ontario Representatives to be dealt with fairly, expeditiously and affordably, within Synchro Ontario.

### Definitions

2. These terms will have these meanings in this policy:

- a) “*Appellant*” - refers to the party appealing a decision.
- b) “*Days*” – Business days.
- c) “*Respondent*” - refers to the body whose decision is being appealed.
- d) “*Synchro Ontario*” – Ontario Amateur Synchronized Swimming Association.
- e) “*Member Club*” – Competitive, Recreational, Scholastic, University synchronized swimming club or Trillium awards program provider.
- f) “*Synchro Ontario Representative*” - Any director, officer, committee member, volunteer, coach, athlete, official, referee, manager and member within Synchro Ontario or its Member Clubs.

### Scope and Application of this Policy

3. Any Synchro Ontario Representative who is affected by a decision of a Member Club or Synchro Ontario will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 7 of this Policy.

4. This Policy will not apply to decisions relating to:

- a) Matters of employment;
- b) Infractions for doping offences
- c) The rules of synchronized swimming;
- d) Discipline matters arising during events organized by entities other than Synchro Ontario, which are dealt with pursuant to the policies of these other entities;
- e) Matters relating to the substance, content and establishment of team selection criteria;
- f) Volunteer appointments and the withdrawal or termination of those appointments;
- g) Matters of budgeting and budget implementation;
- h) Matters of operational structure and committees; and
- i) Any decisions made under Paragraphs 6 and 9 of this Policy.

### Timing of Appeal

5. Synchro Ontario Representatives who wish to appeal a decision will have twenty-one (21) days from the date on which they received notice of the decision, to submit in writing to the Synchro Ontario Office the following:

- a) Notice of their intention to appeal,
- b) Grounds for the appeal,
- c) A summary of the evidence that supports these grounds,
- d) The remedy or remedies requested, and
- e) A payment of five hundred dollars (\$500), which will be refunded if the appeal is successful.

6. Any party wishing to initiate an appeal beyond the twenty-one (21) day period must provide a written request stating reasons for an exemption to the requirement of Paragraph 5. The decision to allow, or not allow an appeal outside the 21-day period will be at the sole discretion of the President, or designate, and may not be appealed.

### **Grounds for Appeal**

7. Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds listed as follows:

- a) Making a decision for which it did not have authority or jurisdiction as set out in Synchro Ontario's or the Member Club's governing documents;
- b) Failing to follow procedures as laid out in the bylaws or approved policies of Synchro Ontario or the Member Club, or
- 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.

### **Screening of Appeal**

8. Within fourteen (14) days of receiving the notice and grounds of an appeal and the required fee, the President, or designate if the President is not available or not able to act in this capacity because of a conflict of interest or any other reason, will determine whether there are appropriate grounds for the appeal to proceed as set out in Section 7.

9. If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President, or designate, and may not be appealed.

### **Appeals Panel**

10. If the President, or designate, is satisfied that there are sufficient grounds for an appeal the President will establish an Appeals Panel (hereafter referred to as the "Panel") as follows:

- a) The Panel will be comprised of three persons who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived bias or conflict.
- b) The President, or designate, will appoint one person to act as Chairperson.

### **Preliminary Conference**

11. The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:

- a) Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both);
- b) Timelines for exchange of documents;
- c) Clarification of issues in dispute;
- d) Clarification of evidence to be presented to the Panel;
- e) Order and procedure of hearing;
- f) Location of hearing, where the hearing is an oral hearing;
- g) Identification of witnesses; and
- h) Any other procedural matter that may assist in expediting the appeal proceedings.

12. The Panel may delegate to its Chairperson the authority to deal with these preliminary matters on behalf of the Panel.

### **Procedure for the Hearing**

13. Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:

- a) The hearing will be held within twenty-one (21) days of the Panel's appointment.
- b) The Appellant and Respondent will be given ten (10) days written notice of the date, time and place of the hearing.
- c) A quorum will be all three Panel members. Decisions will be by majority vote, where the Chairperson carries a vote.
- d) Copies of written documents that any of the parties would like the Panel to consider will be provided to the Panel and to all other parties at least five (5) days prior to the hearing.
- e) If the decision of the Panel may affect another party to the extent that the other party would have recourse to an appeal in their own right under this policy, that party will become a party to the appeal in question and will be bound by its outcome.
- f) A representative or advisor, including legal counsel may accompany any of the parties.
- g) The Panel may direct that any other person to participate in the appeal.
- h) Unless otherwise agreed by the parties, there will be no communication between the Panel and the parties except in the presence of, or by copy to, the other parties.

14. The Panel may conduct the hearing by means of conference call, video conference or in person.

### **Procedure for Documentary Appeal**

15. Where the Panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures as it deems appropriate provided that:

- a) All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument; and
- b) The applicable principles and timelines set out in Section 11 are respected.

### **Appeal Decision**

16. Within fourteen (14) days of concluding the appeal, the Panel will issue its written decision, with reasons. The decision will follow this format:

- a) Issue to be decided;
- b) Background to the case;
- c) Statement of the facts;
- d) Authorities considered;
- e) Decision; and
- f) Reasons for decision.

17. 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) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or

- c) Uphold the appeal and vary the decision but only where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time, or lack of neutrality; and
- d) Determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.
- e) Refund the appeal fee of \$500 to the Appellant.

18. The decision will be considered a matter of public record. A copy of the decision will be provided to each of the parties and to the President, or designate.

19. In extraordinary circumstances, 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 timelines specified in this policy.

### **Timelines**

20. If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

### **Final and Binding Decision**

21. The decision of the Panel will be final and binding on the parties and on all Synchro Ontario Representative, subject only to the provisions of Synchro Ontario's Dispute Resolution Policy.