

Dispute Resolution



Date: November 2012

Alberta Deaf Sports Association's Dispute Resolution

(Includes Provincial Office Staff)

"ADSA" – Alberta Deaf Sports Association

Definitions

All categories of membership within the ADSA, as well as all individuals employed by or engaged in activities with the Alberta Deaf Sports Association, including but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, medical personnel, administrators and employees (including contact personal).

Purposes

- a) ADSA supports the principles of Alternate Dispute Resolution (ADR) and is committed to the techniques of negotiation, facilitation, mediation and arbitration as effective ways to resolve disputes with and among ADSA Members, and to avoid the uncertainty, costs and other negative effects associated with litigation.
- b) ADSA encourages all ADSA Members to communicate openly and to collaborate in using problem-solving and negotiation techniques to resolve their differences. In almost all cases a negotiated settlement is preferable to any outcome achieved through other dispute resolution techniques, and negotiated resolutions to disputes with and among ADSA Members are strongly encouraged.

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1. Dispute Resolution Bodies

Two bodies will be appointed to resolve disputes, to which this Policy applies.

1.1 Investigation Committee

- a) The investigation committee is established consisting of a chairperson and such other persons as the chairperson may appoint.
- b) The Board shall appoint the chairperson of the investigation committee.
- c) The chairperson may appoint members to the committee from time to time for the purpose of that appointee serving as investigator of a specific complaint.
- d) Members of the hearing committee and members of the Board are not eligible to be a member of the investigation committee.

1.2 Hearing Committee

- a) The President of this Association (the "President"), upon receipt of a report from the investigation committee which recommends that a hearing be conducted, shall appoint a hearing committee consisting of one or three persons.
- b) Members of the investigation committee and members of the Board are not eligible to be appointed as a member of the hearing committee.
- c) If the President considers it appropriate to do so, he or she may appoint to the hearing committee a person nominated by each party to the dispute.

2. Referral and Review of Complaints

2.1 A complaint to investigate the application of the Policy must be made to the President promptly and within the time guidelines set by policy of the Board.

7.2 The President may extend the time for submission of a complaint notwithstanding the expiration of the time set by Board guidelines.

2.3 The President shall refer complaints to the Chairperson of the Investigation Committee.

2.4 The chairperson of the investigation committee may require that a complaint be stating in writing.

2.5 If the chairperson of the investigation committee is satisfied that the complaint is not valid or does not raise an issue appropriate under this Policy, the chairperson shall advise the complainant and thereafter shall take no future action (under the terms of this Policy) in relation to that complaint.

2.6 Where the chairperson has not dismissed a complaint pursuant to 3.5, the chairperson shall appoint one or more members of the investigation committee as investigator of the complaint or incident.

2.7 The chairperson may appoint himself or herself as the investigator or as one of the investigators.

3. Investigation

3.1 The investigator shall:

- a) Review the complaint or the request
- b) Make such inquiries as necessary to determine the circumstances of the complaint or incident, which may include:
 - I. Sending a copy of summary of the complaint to those named in the complaint, those making the complaint or to any witnesses with a request that they respond in writing to the allegations by a date set by the investigator;
 - II. Communicating with or interviewing persons involved in the incident or whose conduct is the subject to the complaint; and
 - III. Communicating with or interviewing other persons who may have relevant information.
- c) Extend the investigation to include any other incident that comes to the attention of the investigator in the course of the investigation.
- d) When practical to do so, encourage the parties to resolve the dispute directly.
- e) With the agreement of the parties, arrange mediation of the dispute.

3.2 On completion of the investigation, the investigator shall make a written report to the President recommending:

- a) That the President appoint a hearing committee to hear and resolve the dispute or to hear the charges, as the case may be; or
- b) That no further action be taken with respect to the matter investigated because:
 - I. The matter has been resolved between the parties,
 - II. No further action is warranted on the facts of the case.

3.3 The matter sets out in a written report may relate to any matter disclosed during the investigation.

3.4 A report signed by a majority of the investigation committee is a decision of investigators.

4. Interim Suspension of Member

4.1 In cases of alleged serious misconduct of if there is a risk of physical or emotional harm to other persons, the investigator may submit written reasons to the President recommending that, pending the outcome of an investigation, a player, team, coach, official, parent/guardian or spectator under investigation:

- a) Be suspended from participation of
- b) Be allowed to continue participation subject to conditions or restrictions, (notwithstanding any other provision in the By-Laws or mandated authority to discipline the member of the Association in any other official or officer including but not limited to his Commissioner for sports).

4.2 Upon receiving the written recommendations of the investigator, the President shall:

- a) If satisfied that continued participation is inappropriate in the circumstances, may order suspension of involvement in organization activities or impose other less restrictive conditions pending the recommendations of the hearing committee.
- b) If satisfied that continued participation is appropriate in the circumstances, decline the recommendation of the investigator.

4.3 An order of suspension or the imposition of conditions on a member, pending the recommendations of the hearing committee, shall:

- a) Terminate 30 days after the date of the suspension or imposition of conditions, unless renewed or revised by the President upon a further written recommendation by the investigator.
- b) Be superseded by the recommendations of the hearing committee.

5. Acting upon the Investigator's Report

5.1 If the investigation committee recommends no further action on a complaint, the President shall provide a copy of the investigation committee's reason for that recommendation to the person or person(s):

- a) Whose conduct is the subject of the complaint
- b) Who initiated the complaint

5.2 If the investigation committee is of the opinion that a hearing committee should be appointed, the President shall appoint a hearing committee.

5.3 The President shall report a decision not to appoint a hearing committee to the next meeting of the Board.

6. Hearings

6.1 The hearing committee shall conduct a fair hearing of dispute reported in the investigation committee's report.

6.2 At the request of the hearing committee, the President shall communicate the time and place of the hearing and any other pertinent information to the parties.

7. Hearing Procedure

7.1 In disputes of a nature that the hearing committee considers to be minor, the hearing may be conducted in writing. The parties shall be:

- a) Informed that a hearing committee has been established;
- b) Informed of the dispute to be heard;
- c) Provided with a copies of the dispute resolution policy;
- d) Invited, within a time specified by the committee, to make written submission of any information or arguments relevant to the deliberations of the committee;
- e) Informed of the findings of the hearing committee

7.2 If the hearing committee does not consider the dispute to be minor, the parties shall have a right to be heard in person:

1. At least 3 days before the date of the hearing the parties shall be:
 - a) Informed that a hearing committee has been established;
 - b) Informed of the dispute to be heard;
 - c) Provided with a copy of the dispute resolution policy
2. The hearing committee shall hear the dispute and shall rule on the issues in dispute.
3. Parties may be represented by legal counsel at their own expense.
4. There is to be full right:
 - a) To examine, cross-examine and re-examine all witnesses
 - b) To present evidence in defence and reply.
5. Where a party fails to attend the hearing, the hearing committee may proceed in his or her absence.
6. If, during the course of a hearing, the evidence shows that the accused may be guilty of misconduct different from or in addition to any issue specified to be heard, the hearing committee shall adjourn the hearing for any period that the committee considers sufficient to give the accused an opportunity to prepare a response, unless the respondent consents to continue the hearing.
7. The hearing committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.
8. The hearing committee may accept a record of a criminal conviction or the written reasons for a decision imposing discipline by any other organization as evidence of the conduct giving rise to the conviction or discipline.
9. On its own initiative or at the request of any party, the hearing committee may restrict the public from the hearing. The hearing committee shall exclude the public if the committee is of the opinion that an open hearing will unduly violate the privacy of any person.
10. The deliberations of the hearing committee shall be conducted in private, and no person who is not a member of committee shall be present.

8. Disciplinary Powers

8.1 The hearing committee may specifically, and in addition to any other decision make one or more of the following orders, in writing:

1. An order that the person(s) be suspended from the Association for a specific period
2. An order that the person(s) be suspended pending the satisfaction and completion of any condition specified in the order
3. An order that the respondent may continue to participate only under conditions specified in the order
4. Any order reprimanding the respondent
5. Any other order that the hearing committee considers just.

8.2 In making an order the hearing committee shall take in consideration:

1. The age, experience and maturity of the person(s)
2. The nature of the matters complained of;
3. Any information which, in the opinion of the committee is reliable and relevant to the determination of an appropriate order, including:
 - a) Previous misconduct of the respondent, regardless of whether or not that misconduct was the subject of discipline
 - b) The character of the respondent

9. Deference to Other Authorities

9.1 Where the President, chairperson of the investigation committee or the chairperson of the hearing committee believes that the person(s) whose conduct is being investigated may be guilty of a criminal offence, that person may refer the matter to an appropriate authority.

10. Time of Completion

10.1 The investigation, hearing and decision of the hearing committee shall be completed as soon as practical in the circumstance of the complaint.

10.2 The Board may set time guidelines for any matters that the Board considers appropriate, including the time for complaints to be made to the President, and the time for completion of steps in the hearing process.

10.3 In deciding an appeal from a decision of the hearing committee, the Board may consider the failure to comply with time guidelines.

11. Appeal to the Board

11.1 A person(s) may appeal the decision or any order of the investigation committee or the hearing committee to the Board by serving a written notice of appeal within seven (7) days of receipt of the decision or order.

11.2 The written notice shall state the grounds of appeal.

11.3 The President shall not participate in the hearing of an appeal.

11.4 No Board member shall participate in the hearing of an appeal if:

- a) The Board member has a conflict of interest or is biased
- b) If there is any reasonable basis on which it may appear that the Board member may have a conflict of interest or may be biased.

11.5 The participation by a Board member in any step of the investigation process prior to the hearing of the appeal shall be deemed to create the appearance of a bias.

11.6 The participation by a Board member in any step of the investigation or hearing process prior to the hearing of the appeal shall be deemed to create the appearance of a bias.

11.7 If all Board members are unable to participate in the hearing, the Board shall appoint a committee of not more than three persons to hear the appeal.

11.8 On hearing an appeal the Board of the appointed committee may:

- a) Dismiss the appeal
- b) Allow the appeal and in so doing:
 - i. Order a new hearing;
 - ii. Vary the order of the hearing committee;
 - iii. Substitute its new decision for that of the hearing Committee, or provide for such other remedy as it may see fit in the circumstances.

There is no further appeal from the decision of the Board.

12. Effect of Suspension

12.1 When a person(s) is suspended from the organization pursuant to this policy, that person(s) is not eligible to serve any function within the organization or attend any organization activities.

13. Conflict of Interest or Bias

13.1 In the event that any member of either the investigation committee or the hearing committee, other than one nominated by the parties, has a conflict of interest or is biased, that person shall declare the conflict or biased and the President shall appoint a replacement.

13.2 In the event of a conflict of interest on the part of a Board member, that member shall not participate in the decision of the Board.

14. Records of Use of Decisions

14.1 The organization shall maintain a record of all decisions of hearing committees and of all decisions of the Board on appeal.

14.2 The hearing committee and Board may consider the decisions of previous hearing committees and Boards, but are not bound by the precedent.

14.3 Decisions of a hearing committee and decisions of the Board on appeal are matters of public interest and shall be publicly available without disclosing the names of the individuals involved. Names of persons disciplined may be disclosed to the extent necessary to give effect to any sanction imposed.

14.4 If the committee or Board decides that making the decision publicly available will unduly violate the privacy of any person, the committee or Board may direct that the decision or part of the decision should be kept confidential.

14.5 Decisions resulting in termination of membership or in a suspension of membership rights for one year or longer shall be reported to the Edmonton Association of the Deaf who may provide information from the decisions to its membership, including the names of persons who have been the subject of the discipline.

15. Expulsion from the Association

- 15.1 A member may be expelled from the Association upon a resolution of two thirds of the members voting in favour of expulsion, at a duly constituted meeting of the members.
- 15.2 In such event, the processes as set out in this policy shall apply (where not otherwise in conflict) mutatis mutandis.
- 15.3 There is no right of appeal from resolution expelling a member from the Association.