



# Appeals Policy

## April 2016

The Nepean Skating Club (NSC) adheres to the belief of treating all its members including skaters, coaches, parents, board members, officials and other volunteers objectively when applying any disciplinary action. Every disciplinary decision can be appealed to the Appeals Committee.

The Directors of the NSC shall appoint on an annual basis at the AGM a Chairperson of the Appeals Committee who must be a past or present member of the Board of Directors.

Upon receiving a notice of appeal from the NSC Office, two additional members for the Appeal Committee will be selected by the Chairperson from the Board of Directors or other persons of the club as deemed necessary.

The members of the Appeal Committee shall have had no involvement with the decision being appealed, and shall be free to the greatest extent possible of bias or conflict. Only two of the three members may be members of the Board of Directors. This group of three will be the Appeal Committee to hear the appeal.

In the event that the Chairperson cannot exercise his or her duties, by reason of bias or conflict of interest or absence or otherwise, then the Chairperson, or in his or her absence the President, shall appoint an individual as Chairperson in the interim.

Any skater, coach, parent, board member, official or volunteer of the NSC, hereinafter referred to as individual, may appeal to the Appeals Committee:

- decisions for which the NSC's Bylaws or Policies provide for a right of appeal;
- decisions of a Member where the Chairperson of the Appeals Committee grants leave to appeal.

The Appeals Committee is the final authority on actions or recommendations being appealed, including all substantive and procedural decisions required to be made by the Appeals Committee in the course of an appeal.

The decision of the Appeals Committee shall be final and binding, and not open to any further appeal or intervention by any court.

### **PROCEDURE FOR APPEALS**

Any individual who wishes to appeal a decision shall have fifteen (15) days from the date on which they received written notice of the decision with reasons, to submit a written notice of appeal along with a \$100 fee to the NSC Office. Should the original decision be upheld, the \$100 fee will be forfeited unless otherwise determined by the Appeals Committee. Each notice of appeal must include the following information:

- the person, committee or body whose decision is being appealed;
- the capacity in which that person was acting when he or she made the decision, or the title of the Committee or Body making the decision;
- the date the decision was made, and;
- the particulars of their grounds for appeal, including a summary of the submissions and arguments in support of the appeal.

An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, the following:

- making a decision for which there was no authority or jurisdiction as set out in governing documents;
- failing to follow procedures as laid out in the bylaws or approved policies of the NSC;
- making a decision which was allegedly influenced by bias;
- failing to consider relevant information or taking into account irrelevant information in making the decision;
- exercising its discretion for an improper purpose; and/or
- making a decision that was unreasonable.

Within three (3) business days of receiving notice of an appeal, the NSC Executive Director will forward the notice of appeal to the Chairperson of the Appeals Committee.

The Chairperson of the Appeals Committee shall review the information submitted and within three (3) business days of receipt and, if in his or her preliminary view, the appeal appears to have no grounds, shall notify the appellant of that opinion, giving the appellant a reasonable opportunity to make further submissions before making a final decision. The final decision shall be made by the Chairperson of the Appeals Committee within three (3) business days of receipt of the further submissions. If the final decision is that the appeal has no grounds, the appellant shall be notified of that decision, in writing, with reasons, and the appeal shall be dismissed.

If the Appeals Committee conducts a hearing, it shall govern the hearing by such procedures as it deems appropriate in the circumstances, provided that:

- the Hearing shall be held within twenty-one (21) days of the Appeal Committee's appointment;
- the appellant and respondent shall be given 10 business days written notice of the day, time and place of the hearing;
- a quorum shall be all three Appeal's Committee members;
- decisions shall be by majority vote;
- copies of any written documents and information which either the appellant or respondent wish to have the Appeals Committee consider shall be provided to all parties at least five (5) business days in advance of the hearing;
- both the appellant and respondent may be accompanied by a representative or adviser, including legal counsel;
- the Appeals Committee may request that any other individual participate and give evidence at the hearing.

In order to keep costs to a reasonable level, the Appeals Committee may conduct the hearing by means of a conference call.

Within five (5) business days of concluding the hearing, the Appeals Committee shall issue its written decision, with reasons and may decide to:

- void, vary or confirm the decision being appealed;
- make any decision it feels should have been made;
- award costs to the appellant or respondent against the other, if the Appeals Committee is of the opinion that the conduct of either party was grossly unreasonable or in bad faith, but in such case, no award of costs may be made without giving the parties an opportunity to be heard on the issue of costs.

A copy of the decision shall be provided to the appellant, the respondent, the NSC President and the NSC Executive Director. The decision will be filed in the NSC Office.

Where just cause is shown, the Chairperson of the Appeals Committee may extend any time deadlines, after giving all interested parties an opportunity to make submissions.

If the parties agree, they shall have the right to decline a hearing in favour of a documentary review. Should this be the case, the Appeals Committee shall request both the appellant and the respondent to provide written submissions (if not already provided), upon which the Appeals Committee shall make its decision. The Appeals Committee may direct such timelines, as it deems appropriate in the circumstances in order to conclude the appeal in a timely manner.

An appeal does not operate as a stay but the Chair of the Appeals Committee may, upon application of the appellant, after giving the respondent an opportunity to respond, stay the decision being appealed if:

- the appeal grounds are strong;
- irreparable harm will be occasioned to the Appellant should the decision not be stayed and the Appeal is ultimately successful;
- irreparable harm will not be occasioned to the Respondent or other interested parties;
- the balance of convenience in weighing the above favours a stay.

## TERMS OF REFERENCE

### Appeals Committee

Mandate	<p>The Appeals Committee is a standing committee of the Nepean Skating Club (NSC). Its role is to assist the Board of the NSC in hearing, deliberating and formulating written decisions on appeals by NSC members. Appeals may be submitted on decisions for which the NSC bylaws or policies provide a right of appeal.</p>
Key Duties	<p>The Committee will perform the following key duties:</p> <ul style="list-style-type: none"><li>• Have no involvement with the decision being appealed and shall be free from actual or perceived bias or conflict.</li><li>• Attend a hearing within 21 days of being appointed to the Appeal Committee.</li><li>• Review and consider all pertinent submission and information pertaining to the appeal.</li><li>• Assist in formulating the written appeal decision within 5 days of the hearing.</li></ul>
Authority	<p>As per the policy of the NSC.</p>
Composition	<p>The Directors of the NSC shall appoint on an annual basis at the AGM a Chairperson of the Appeals Committee who must be a past or present member of the Board of Directors.</p> <p>Two additional members for the Appeals Committee will be selected by the Chairperson from the Board of Directors or other individuals/members of the club. Only two of the three members may be members of the NSC Board of Directors. This group of three will be the Appeals Committee to hear the appeal.</p> <p>In the event that the Chairperson cannot exercise his or her duties, by reason of bias or conflict of interest or absence or otherwise, then the Chairperson, or in his or her absence the President, shall appoint a past or present member of the Board of Directors or another member of the club Chairperson in the interim.</p>
Hearing Process	<p><b>PART 1 – Introduction</b></p> <ol style="list-style-type: none"><li>1. This is intended to provide guidance to those who are involved in Appeals.</li></ol> <p><b>PART 2 – Natural Justice</b></p> <ol style="list-style-type: none"><li>2. The Committee is required to follow the rules of natural justice. Put simply, it is the duty to be fair. The specific requirements are flexible, depending on the issues in question and the seriousness of the consequences. The typical requirements are:<ol style="list-style-type: none"><li>a. Adequate notice of the facts and offence alleged;</li><li>b. Adequate notice of the hearing;</li><li>c. Adequate preparation time;</li><li>d. A disinterested (unbiased) deciding body;</li><li>e. A fair hearing allowing presentations from both sides and an opportunity to rebut allegations;</li><li>f. Representation by an agent or lawyer;</li><li>g. A decision based on the evidence and arguments heard;</li><li>h. A decision in a reasonable time;</li><li>i. Reasons for the decision, preferably in writing;</li><li>j. An opportunity for independent review (appeal) of the decision.</li></ol></li></ol>