

SECTION III: COMPLIANCE, ETHICS & MEMBER CONDUCT		
Policy Number and Name: II-07: APPEAL POLICY & PROCEDURE	Date of Approval: March 31, 2022	Activation Date: April 1, 2022

1. Definitions

Capitalized terms have the following meanings in this Policy:

- 1.1 **“Affected Parties”** means any individual or entity, as determined by the Case Manager, who may be affected by a decision rendered under this Policy and who may have recourse to an appeal in their own right under this Policy.
- 1.2 **“AGF Activities”** means all events that are sanctioned, sponsored or otherwise supported by AGF, including but not limited to those ordinarily arising in the course of AGF’s business and incident thereto, such as: competitions, practices, training camps, travel associated with AGF activities, and meetings. For the purposes of this Policy, **“AGF Activities”** also includes other non-AGF events and circumstances outside of the foregoing, when such conduct adversely affects relationships within AGF (and its work and sport environment) and/or among its Members or is detrimental to the image and reputation of AGF. Such applicability will be determined by AGF, in its sole discretion.
- 1.3 **“AGF Personnel”** means all employees, consultants and contractors to AGF, members of AGF’s board of directors, and any person serving on an AGF committee who is not also a director.
- 1.4 **“AGF Policy”** or **“AGF Policies”** refers to the Bylaws, the **Code of Conduct**, and any other policy, procedure, rule and regulation of AGF that is in effect from time to time, or any one of them, as the context requires.
- 1.5 **“Appeal Panel”** has the meaning set forth in Section 7.1 hereof.
- 1.6 **“Appellant”** means the Party appealing a decision permitted to be appealed pursuant to this policy.
- 1.7 **“Bylaws”** means the Bylaws of AGF, as the same may be amended from time to time;
- 1.8 **“Case Manager”** means the independent person designated by AGF as the case manager pursuant to the **Complaints, Hearings and Discipline Policy & Procedure**, this Policy or any other AGF Policy, and having such duties and responsibilities as are set forth in the position description for “Case Manager” attached to the **Complaints, Hearings and Discipline Policy & Procedure**.
- 1.9 **“Member”** has the meaning set forth in the Bylaws (which for clarity includes individuals and organizations, as the context requires), and includes but is not limited to registered participants such as coaches, athletes, parents and/or guardians of athletes and officials.
- 1.10 **“Panel”** has the meaning set forth in the **Complaints, Hearings and Discipline Policy & Procedure**.

- 1.11 “**Parties**” means the Appellant, the Respondent and any Affected Party.
- 1.12 “**Respondent**” means the Party identified as the respondent in the appeal submitted by the Appellant.

2. Purpose of this Policy and Procedure

The purpose of this Policy is to outline a fair, expeditious and affordable process for appeals of decisions that are within the scope of this Policy, as set forth in Section 4 below, made by AGF or a Panel, as applicable.

3. AGF’s Commitment and Expectations

AGF is committed to providing an appeal process that is consistent with principles of natural justice. Wherever possible and appropriate, AGF intends for this process to be straightforward and accessible, without resulting in a need or requirement for regular recourse by the Parties to external legal counsel or processes.

4. Scope and Application of this Policy

- 4.1 This Policy applies to:
- 4.1.1 A decision made by a Panel pursuant to the ***Complaints, Hearings and Discipline Policy & Procedure***; and
 - 4.1.2 Except as specifically excluded in Section 4.2 below, a decision made by AGF relating to eligibility, participation, or any other non-disciplinary matter deemed appropriate by AGF.
- 4.2 Appeals of any of the following matters or decisions made by AGF or AGF Personnel are not permitted:
- 4.2.1 Employment of AGF Personnel;
 - 4.2.1 Selection criteria, quotas, policies, and procedures established by entities other than AGF;
 - 4.2.2 Substance, content and establishment by AGF of team selection criteria;
 - 4.2.3 Volunteer appointments and the withdrawal or termination of those appointments;
 - 4.2.4 Budgeting and budget implementation;
 - 4.2.5 AGF’s operational structure and committee appointments;
 - 4.2.6 Matters pertaining to competition outcomes and judging decisions;
 - 4.2.7 Decisions or discipline arising within the business, activities, or events organized by entities other than AGF (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by AGF at its sole discretion);
 - 4.2.8 Commercial matters; and
 - 4.2.9 Decisions made by the Independent Third Party and/or a Case Manager in accordance with this or any other AGF Policy which indicate they are not appealable.

5. Appeal Submission Requirements

- 5.1 **Deadline for Submission:** An appeal that falls within Section 4.1 of this Policy shall be submitted by the Appellant to the Case Manager within seven (7) days from the date on which the decision being appealed was received by the Appellant. The appeal must contain the following information:
- 5.1.1 Contact information of Appellant;
 - 5.1.2 Identification of the decision being appealed;
 - 5.1.3 Detailed reasons or grounds upon which the decision is being appealed;
 - 5.1.4 Evidence the Appellant is relying on in support of the appeal, including references to applicable AGF Policies;
 - 5.1.5 A description of the remedy sought; and
 - 5.1.6 \$250 payable to AGF, which will be refunded if the appeal is upheld.
- 5.2 **Extension of Time:** An Appellant may request an extension to the deadline set forth in Section 5.1. The extension request must be received by the Case Manager prior to the expiry of the seven (7) day time period and must state the reasons for the requested extension and the requested length of time of the extension requested. The decision to allow, or not allow, an appeal where either the notice of appeal or the reasons for appeal have been submitted outside of the prescribed time periods and an extension had not been granted by the Case Manager, is at the sole discretion of the Case Manager, and may not be appealed.
- 5.3 **Notice to Respondent and Affected Parties:** The Case Manager shall, within three (3) days of receipt of the submissions of the Appellant, notify the Respondent and any other Affected Parties that an appeal has been submitted by the Appellant.

Grounds for Appeal

- 5.4 An appeal of a decision itself cannot be appealed. An appeal may only proceed pursuant to this Policy if there are sufficient grounds for appeal. Sufficient grounds for appeal exists where the Panel (or AGF, in the case of appeal of a decision made by AGF) is alleged to have:
- 5.4.1 Made a decision that it did not have authority or jurisdiction to make, or which exceeded its authority or jurisdiction (as set out in applicable AGF Policies);
 - 5.4.2 Failed to follow the AGF Policies; or
 - 5.4.3 Made 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).

The Appellant bears the onus of proof and must demonstrate, on a balance of probabilities, that the grounds for appeal as are substantiated as described in this Section.

6. Preliminary Screening of Appeals by Case Manager

6.1 **Preliminary Steps:** Upon receipt of a notice of intention to appeal and documents describing the grounds for appeal, all as set forth in Section 5 above, including the prescribed fee, the Case Manager will:

6.1.1 Determine if the appeal was submitted in a timely manner;

6.1.2 Determine if the appeal falls under the scope of this Policy;

6.1.3 Determine whether there may be sufficient grounds for the appeal.

6.2 **Decision to Proceed:** If the Case Manager determines that all criteria listed in Section 6.1:

6.2.1 have been satisfactorily met, the appeal will proceed to a hearing as set forth in this Policy;

6.2.2 have not been satisfactorily met, the Appellant will be notified, in writing, of the reasons for this decision and the appeal will not proceed further.

This decision of the Case Manager may not be appealed.

6.3 **Identification of Affected Parties:** In order to ensure the identification of any Affected Parties, the Case Manager will engage AGF, the Appellant and the Respondent for their input on whether a party is an Affected Party. The Case Manager will then determine whether a party is an Affected Party in their sole discretion.

6.4 **Notification to Parties:** Within three (3) days of receipt of the appeal submissions, the Case Manager shall notify the Parties as to the determination made pursuant to Sections 6.2 and 6.2.1 of this Policy.

7. Nomination of Appeal Panel and Conduct of Appeals Hearing

7.1 **Nomination of an Appeal Panel:** Following the Case Manager's decision pursuant to Section 6.2.1, the Case Manager shall appoint an appeal panel (the "**Appeal Panel**") which shall consist of between one (1) and three (3) independent persons, responsible for hearing and rendering a decision on the appeal. If an Appeal Panel of three (3) persons is appointed, the Case Manager will appoint one of the Appeal Panel's members to serve as the chairperson of the Appeal Panel.

In fulfilling its duties, the Appeal Panel may obtain independent advice, including legal or such other expert advice as is deemed to be necessary or advisable.

7.2 **Format of Hearing:** The Appeal Panel has the sole discretion to determine whether the resolution of the appeal shall proceed by way of a documentary hearing, or an oral hearing.

7.2.1 **Documentary Hearing:** A documentary hearing refers to a hearing conducted by means of a review solely of the decision being appealed, the applicable AGF Policies, and any additional documentary submissions by the Appellant, the Respondent and other Affected Parties as requested by the Appeal Panel.

- 7.2.2 **Oral Hearing:** An oral hearing refers to a hearing conducted in-person, by telephone, by video-conference or by such other electronic means as the Appeal Panel may decide, to be attended by any or all of the Appellant, the Respondent and other Affected Parties as requested by the Appeal Panel. The Appeal Panel conducting an oral hearing may also request that the Parties, and any other Affected Parties, provide written submissions in advance of the oral hearing.
- 7.3 **Appeal Hearing Procedures:** Hearings will be governed by the procedures that the Appeal Panel deem appropriate in the circumstances, provided that the following shall always apply:
- 7.3.1 Timelines will be established and adhered to that ensure procedural fairness.
- 7.3.2 The Appeal Panel shall review all relevant AGF Policies and other relevant sources of information.
- 7.3.3 Copies of any written documents which the parties wish to have the Appeal Panel consider will be provided to all Parties in advance of the hearing. Redactions may be made, at the discretion of the Appeal Panel, where appropriate, having regard to privacy considerations and the context of the complaint generally, for example where the identification of a Vulnerable Individual may be undesirable.
- 7.3.4 Any decisions will be by a majority vote of Appeal Panel members.
- 7.3.5 In the case of an oral hearing:
- 7.3.5.1 the Parties will be given appropriate notice of the day, time, and place of the hearing and whether such oral hearing shall be conducted in-person, by telephone, by video-conference or by such other electronic means.
- 7.3.5.2 The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense.
- 7.4 **External Advice:** Support will be provided to the Appeal Panel by external legal counsel or other external third parties, such as subject-matter experts, if appropriate and as-needed, having regard to the seriousness of the allegations in the complaint and the complexity of the complaint and investigation.

8. Decision of the Appeal Panel

- 8.1 **Limit of Authority:** In making its decision, the Appeal Panel will have no greater authority than that of the original Panel or other decision-maker (in the case of a decision made by AGF). The Appeal Panel may decide to:
- 8.1.1 Reject the appeal and confirm the decision being appealed; or
- 8.1.2 Uphold the appeal and vary the decision.

- 8.2 **Authority to Assess Costs:** The Appeal Panel has the authority to determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, will be assessed against any Party. In assessing costs, the Appeal Panel will take into account the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources.
- 8.3 **Written Reasons:** Within seven (7) days of the hearing's conclusion, the Appeal Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager and AGF. In extraordinary circumstances, the Appeal Panel may first issue a verbal or summary decision immediately or soon after the hearing's conclusion, with the full written decision to be issued by the end of the seven (7) day period. The decision of the Appeal Panel will be considered a matter of public record, with appropriate redactions made to ensure privacy, where applicable, unless decided otherwise by the Appeal Panel.
- 8.4 **Decision of Appeal Panel is Final and Binding:** The decision of the Appeal Panel will be binding on the Parties and on all Members. Any further appeal or consideration of the issue shall only be permitted pursuant to applicable law, however no action or legal proceeding will be commenced against AGF or any of its Members in respect of a disciplinary matter or an appeal unless AGF has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in AGF's policies and procedures.

9. Confidentiality:

- 9.1 **General:** Subject only to sections of this Policy which permits the final appeal decision itself to be a matter of public record for AGF Members, all other information with respect to the appeals process shall be, and is required by all participants in the process to be, treated as confidential and shall not be disclosed to anyone until the appeal has concluded, except as needed to follow this Policy. Until a final decision has been made by the Appeal Panel, disclosure of any information with respect to the appeal process shall be limited to the following persons, who are subject to the confidentiality and non-disclosure restrictions contained in the preceding sentence:
- 9.1.1 the Case Manager;
 - 9.1.2 the Parties (and their designated representative(s), if applicable);
 - 9.1.3 the Appeal Panel;
 - 9.1.4 those AGF Personnel who have a genuine and legitimate need to be aware of the information pertaining to the hearing and/or disciplinary process, and
 - 9.1.5 any independent legal advisors consulted by the Appeal Panel in the discharge of his, her or their responsibilities pursuant to this Policy.

None of the forgoing persons or their representatives shall disclose any information relating to the appeal process or the underlying complaint, hearing or disciplinary process, to any person not listed above and not involved in the proceedings. Any breach of confidentiality shall itself be subject to discipline as set forth in the ***Complaints, Hearings and Discipline Policy & Procedure***.