

	<p style="text-align: center;"><b>NSAWA Appeal Policy</b></p>	<p style="text-align: center;"><b>Approved:</b> May, 2022</p>	<p style="text-align: center;"><b>Up for review:</b> May, 2024</p>
---	---	---	--

## 1. Preamble

- 1.1. Nova Scotia Amateur Wrestling Association (hereinafter referred to as Wrestling Nova Scotia or WNS) recognizes members have a right to appeal decisions made by WNS and its representatives, and to access a dispute resolution process regarding these decisions.
- 1.2. The purpose of this Appeal Policy (the “Policy”) is to deal fairly with disputes without resorting to formal legal proceedings.
- 1.3. Unless the context requires otherwise in this Policy, words importing the singular include the plural and the plural singular, and importing gender include all genders.

## 2. Definitions

**Appeal Panel:** the appeal panel established under section 11 of this Policy.

**Appellant:** the member appealing a decision made by WNS.

**Bias:** a leaning, inclination, bent, or predisposition towards one side or another or a particular result. It represents a real or perceived condition or state of mind which may sway judgment and render a decision maker unable to exercise their functions impartially in a particular matter.

**Case Manager:** an impartial person nominated by WNS to oversee only the application of the process described in this Policy but who does not participate in adjudication of the appeal.

**Days:** the total number of days, regardless of whether those days include weekends or holidays.

**Decision:** any decision made by WNS’s Board of Directors (the “Board”) or its committees and/or delegates and can include the adoption or enforcement of any rules, by-laws, policies, or procedures.

**Interested Party:** an individual who could reasonably be expected to be directly affected by the Appeal Panel’s decision and: is accepted as such by the Parties; or is accepted or named as such by the Appeal Panel.

**Member:** refers to all categories of members of WNS, and all individuals engaged in activities with or employed by WNS. For clarity, this includes but is not limited to, athletes and their legal guardians, coaches, officials, volunteers, team managers, team captains, medical personnel, administrators, directors, officers, provincial or territorial WNSs, and employees and contract personnel.

**Notice of Appeal:** a notice filed by the Appellant through the form included as Appendix B.

**Respondent:** the body or person(s) whose decision is under appeal.

**Statement:** the written response submitted by the Respondent using the form included as Appendix C. **Business**

**days:** the total number of days, excluding weekends and holidays.

## 3. Scope of Appeal

- 3.1. Any member of WNS who is affected by a decision of the Board, a Board committee, or any body or individual delegated with making decisions on behalf of WNS or its Board will have the right to appeal a decision only after WNS’s dispute resolution process is exhausted, provided there are sufficient grounds for the appeal as set out in section 4 of the Policy.
- 3.2. Without limiting the scope of section 3.1, the Policy will not apply to decisions regarding:

- Those which are properly the subject of WNS's Dispute Resolution Policy. In the first instance, a member must file a Notice of Complaint and exhaust all avenues of recourse before they are permitted to appeal that decision;
- Doping offences, which are handled in accordance with the Canadian Anti-Doping Program;
- Disciplinary matters arising during events organized by entities other than WNS, which are properly within the jurisdiction of these other entities;
- Criminal offences for which the appellant seeks a criminal conviction;
- Commercial matters for which another appeal process exists under the applicable law or contract;
- WNS's policy and funding decisions; and
- Employment or labour disputes for which another appeal process exists under the applicable law or contract.

#### **4. Grounds of an Appeal**

- 4.1.** An Appellant cannot challenge a decision solely on the grounds that it was not favorable to them. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds are:
- the Respondent did not have authority or jurisdiction as set out in governing documents to make the decision;
  - the Respondent failed to follow procedures as established by the by-laws or policies of WNS;
  - the decision was influenced by bias; and/or
  - the Respondent exercised its discretion for an improper purpose.

#### **5. Timeline for Appeals**

- 5.1.** Members have fifteen (15) days from the date they receive notice of the decision to submit a Notice of Appeal to the Case Manager.
- 5.2.** Any Member who submits a Notice of Appeal beyond the 15-day period must provide a written statement with reasons for requesting an extension for submitting the Notice of Appeal.
- 5.3.** The decision to accept or deny a Notice of Appeal submitted after the 15-day period is at the discretion of the Appeal Panel Chairperson, as established in accordance with section 11 of this Policy.
- 5.4.** Other timelines in this Policy may be reasonably amended at the discretion of the Case Manager or the Appeal Panel when justified by the circumstances.

#### **6. Filing Notice of Appeal**

- 6.1.** Members must initiate the appeal by filing a Notice of Appeal (see Appendix B) with the Case Manager. The appeal process will not commence until a Notice of Appeal is filed. If the Case Manager is absent, or a member is unaware of who they are, the Notice of Appeal shall be provided to the Sport NS PSO Administrative Coordinator responsible for WNS.
- 6.2.** The Notice of Appeal must include:

- The Appellant's name and contact information, including:
    - Address;
    - Phone Number(s); and,
    - Email address.
  - The Respondent's name and any known contact information;
  - If the Decision under appeal is that of a committee or panel, and the name of the committee or panel chairperson;
  - A copy of the written decision and/or particulars of the decision under appeal;
  - The grounds for the appeal;
  - A brief summary of any evidence the Appellant intends to submit to the Appeal Panel To support their grounds of appeal, including a description of any documents, a list of witnesses, and a summary of their anticipated evidence;
  - The remedy sought or solutions proposed by the Appellant;
  - The names of any potential Interested Parties, if known;
  - The name of the Appellant's representative(s) and their contact information, if applicable; and
  - If applicable, the request for timeline-extension with justification as required by section 5.2.
- 6.3.** The Case Manager may contact the Appellant if the Notice of Appeal is incomplete or requires clarification.

## **7. Initial Screening of Appeal**

- 7.1.** The Case Manager has the discretion to decide whether a Notice of Appeal is admissible. Upon receipt of a Notice of Appeal, the Case Manager, in their sole discretion, may immediately dismiss the Appeal if it is determined that:
- The Appellant is not a member of WNS as defined in section 2;
  - The deadline for filing the Notice of Appeal has passed and there is no reasonable justification for a timeline extension; or
  - The decision under appeal is among the exclusions listed in section 3.2.
- 7.2.** For the purposes of section 7, the Case Manager will presume the facts presented by the Appellant are correct unless such facts are patently incorrect.
- 7.3.** If the appeal is dismissed under section 7, the Case Manager will provide the Appellant with written notice of their decision with reasons within two (2) business days of receipt of the Notice of Appeal.

## **8. Notification of the Appeal and Statement by the Respondent**

- 8.1.** If the appeal is deemed admissible, the Case Manager will provide a copy of the Notice of Appeal to the Respondent within two (2) business days and request a written Statement (see Appendix C) from the Respondent briefly outlining the basis or justification for the Decision under appeal.
- 8.2.** The Respondent's statement must include:
- A summary of facts of the matter;
  - A summary of evidence supporting the Respondent's decision, including a description of any documents, a list of witnesses, and a summary of their anticipated evidence;
  - Solutions proposed by the Respondent;
  - Any potential Interested Parties and their contact information, if applicable; and
  - The name of the Respondent's representative and their contact information, if applicable.
- 8.3.** The written statement must be signed and forwarded to the Case Manager within five (5) business days of receipt of the Case Manager's request or such shorter or longer period as the Case Manager may specify depending on the urgency of the matter.
- 8.4.** The Case Manager must forward a copy of the written Statement to the Appellant as soon as reasonably possible after receipt.
- 8.5.** If the Respondent submits an incomplete Statement or fails to submit the Statement in writing within the time-limit provided in section 8.3, the Case Manager will establish the Appeal Panel without further delay and notify the Parties accordingly.

## **9. Interested Parties**

- 9.1.** The Case Manager will notify Interested Parties of the appeal, and invite them to take part in the appeal as appropriate, only after the Appellant and the Respondent have provided their documents to the Case Manager.
- 9.2.** If the Appeal Panel determines that there are Interested Parties who have not been provided notice, the Appeal Panel may notify such parties and undertake steps as necessary to ensure the Interested Party is provided an opportunity to participate as appropriate.
- 9.3.** The right of Interested Parties to make submissions as part of the Appeal process shall be in a manner determined by the Appeal Panel, in its sole discretion.

## **10. Appeal Panel**

- 10.1.** The Case Manager will establish an Appeal Panel as follows within ten (10) business days of receipt of the Notice of Appeal:
  - The Case Manager will appoint a Chairperson from a list of volunteers pre-established by WNS for this purpose;
  - The Chairperson will decide, in their sole discretion, to hear the appeal as the sole member of the Appeal Panel, or to establish a panel with two additional members from the list of volunteers; and
  - The Case Manager will provide copies of all documents provided by the Parties in connection with the appeal to the Appeal Panel.
- 10.2.** The Appeal Panel must be satisfied that they can freely and independently adjudicate the appeal without bias. If any member of the panel believes they are or would be perceived to be biased for any reason, they must identify this to the Chairperson or, in the case the Chairperson is unable to act, to the Case Manager, and upon providing such notice, the Case Manager or Chairperson will appoint another panel member in their place.
- 10.3.** Without limiting the generality of section 11.2, Appeal Panel members are unable to act in the event they:
  - have a direct financial or personal relationship with the Parties involved;
  - had any form of personal involvement with the Decision under appeal or could be personally affected by the outcome of the appeal; or
  - are otherwise in a conflict of interest.
- 10.4.** Allegations of bias against a member of an Appeal Panel by a Party must be raised as soon as they are aware of the potential conflict.

## **11. Preliminary Conference**

- 11.1.** The Appeal Panel will hold a preliminary conference within five (5) business days of being established to determine procedural rules for the appeal. Issues to be determined at this conference may include the following:
  - date and location of the hearing;
  - a determination of any allegations of bias under section 11.4 (note: if no issues are raised, the Parties are deemed to have accepted the Appeal Panel as constituted);
  - timelines for receipt of documents;
  - format of the appeal (written or oral submissions, or a combination of both); or clarification of the issue(s) in dispute;
  - clarification of evidence to be presented to the Appeal Panel, including whether direct or cross examination of the parties is required;
  - order and procedure of the hearing;
  - any procedural matters;

- clarification of remedies sought;
  - any follow up conference that may be required; and
  - any other matter that may assist in expediting the appeal proceedings.
- 11.2.** The Chairperson shall determine whether the preliminary conference will be held by conference-call, in person, or through any other format.
- 11.3.** The participants in the preliminary conference shall be all Parties, their representatives, if any, the Case Manager, and the Appeal Panel members.
- 11.4.** The Chairperson and the Case Manager shall arrange the preliminary conference and its precise date and time in consultation with the participants.
- 11.5.** The Appeal Panel may delegate the authority to deal with these preliminary matters to the Chairperson.
- 11.6.** The Case Manager shall act as secretary of the preliminary conference and prepare a written confirmation of the appeal procedures established during that preliminary conference and provide a copy to all Parties within two (2) business days.

## **12. Procedures for the Appeal**

- 12.1.** The Appellant bears the burden of proof in the appeal. The Appellant must prove, on a balance of probabilities, that one of the grounds enumerated in section 4.1 applies to the Decision under appeal.
- 12.2.** The Appeal Panel shall govern the hearing by such procedures as it deems appropriate, including rules of evidence, and has authority to determine all procedures not specifically outlined in this Policy, provided that the following directives be applied:
- the appeal shall be heard as soon as reasonably possible, having regard to the nature of the appeal, and the circumstances of the case;
  - the Appeal Panel shall hear the appeal, and a majority in favour of the same result shall be sufficient to affect a decision in favour of a result;
  - each Party shall have the right to be represented at the hearing;
  - copies of any documents that any of the Parties want the Appeal Panel to consider shall be provided to the Panel and all other Parties, within the time limits established during the preliminary conference or by the Panel;
  - the appeal may proceed on the basis of written submissions provided all Parties are given a reasonable opportunity to present their written submissions and documentation to the Appeal Panel, review the written submissions and documentation of the other Parties, and provide a written reply and statement;
  - the Appeal Panel may direct that any other person or party participate in the appeal, as a Party or otherwise;
  - in the interest of efficient use of time and resources, a hearing by written submissions alone, telephone, or video conference is preferred with such safeguards as the Appeal Panel deems necessary to protect the interests of the Parties;
  - hearings conducted by telephone, video conference, or in person shall not be recorded; and
  - there shall be no communication between Appeal Panel members and the Parties except in the presence of, or by copy to the other Parties, unless otherwise agreed to by the Parties.

## **13. Rules of Evidence**

- 13.1.** As a general rule, the Appeal Panel will only consider evidence that was before the original Decision-maker. The Appeal Panel may in its discretion accept new material evidence that was unavailable when the original Decision was made.
- 13.2.** The Appeal Panel shall not accept additional argument, documentation, or information from a Party after the close of the submission period established at the preliminary conference, with the exception

of oral submissions of witnesses at the hearing, unless a Party can prove it was impossible for the Party to be aware of a fact or argument at the time they filed their evidence or submissions.

- 13.3.** The Appeal Panel has sole authority to refuse or consider additional evidence of any kind after the submission period has closed or the appeal hearing occurs, as long as all Parties have an opportunity to review and, if necessary, respond to the evidence.

#### **14. Appeal Decision**

- 14.1.** Within fifteen (15) business days of the hearing's conclusion, the Appeal Panel will issue its written decision, with reasons. The Panel will have no greater authority than that of the original decision-maker in making its decision. The Appeal Panel cannot amend a policy, rewrite selection criteria, or insert new clauses into an agreement. The Appeal Panel may decide to:
- reject the appeal and confirm the decision being appealed;
  - uphold the appeal and refer the matter back to the initial decision-maker for a new decision; and/or
  - uphold the appeal and vary the decision 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.
- 14.2.** The Appeal Panel may, at its own discretion, determine how the costs of the appeal, excluding legal fees and legal disbursements of any of the Parties, will be allocated, if at all. When granting such costs, the Appeal Panel shall take into account the outcome of the proceedings, the conduct of the Parties, and their respective financial resources.
- 14.3.** A copy of the decision will be provided to each of the Parties and the Case Manager.
- 14.4.** The Appeal Panel may issue an oral decision or a summary written decision, with reasons to follow, provided that the written reasons are rendered within the timelines specified in section 14.1.

#### **15. Urgent Appeals**

- 15.1.** Where the appeal relates to a decision arising during a WNS sanctioned tournament or meet and must be dealt with urgently, Notice of the Appeal will be provided to the Head Official of the tournament or meet within 30 minutes of the decision being communicated to the Appellant.
- 15.2.** Within 60 minutes of receiving Notice of the Appeal, the Head Official will appoint an Appeal Panel composed of three individuals who are free from any conflicts of interest or bias. The Head Official will designate one of the panel members to serve as Chairperson.
- 15.3.** The Appeal Panel will hear and decide the appeal using the following procedures:
- the hearing will be an oral hearing, held in as private a manner as possible;
  - the Parties will be given 30 minutes notice of the hearing, and may each be accompanied at the hearing by a representative;
  - decisions will be by majority vote where the Chairperson carries a vote;
  - The Appeal Panel will render its decision, with reasons, verbally within 20 minutes of the conclusion of the hearing.
- 15.4.** The Appeal Panel may, in its sole discretion, adapt such procedures and timelines to accommodate any unique, urgent, or unforeseen circumstances during a tournament or competition, at all times ensuring that the matter is heard and decided in a timely and fair manner.
- 15.5.** Where the appeal does not relate to a decision arising during a tournament or competition but is nonetheless of an extraordinary and urgent nature, upon receipt of the Notice of Appeal the Case Manager in their sole discretion may adapt procedures and timelines to ensure that the appeal is heard and decided in a fair and timely manner, respecting the principles set out in this Appeal Policy.

**16. Deference to Other Authorities**

- 16.1.** Where the Case Manager or Appeal Panel Chairperson believes that a person or persons whose conduct is subject of the appeal may be guilty of a criminal offence, that person shall refer the matter to the appropriate authority forthwith and where appropriate, adjourn the appeal pending resolution.

**17. Liability Disclaimer**

- 17.1.** Except in cases of willful misconduct, the Appeal Panel and the Case Manager will bear no liability in respect of either of the Parties for any act or omission in connection with the resolution of a dispute in accordance with the policies of WNS.
- 17.2.** The Case Manager and the members of the Appeal Panel may not be called as witnesses during an appeal or before any court of competent jurisdiction, including with respect to costs.
- 17.3.** No action or proceeding may be brought against WNS or its Members in respect of a dispute, unless WNS is failing or refusing to comply with the provisions with regards to appeals or dispute resolution as provided in the policies of WNS.

**18. Privative Clause**

- 18.1.** By utilizing this appeal policy, the Parties agree to be bound by the decision of the Appeal Panel and further the Appeal Panel's decision is final and cannot be appealed

## APPENDIX A – CHART OF TIMELINES

This table serves as a guide to establish reasonable timelines to process appeals. When an appeal process is launched, completing it on time allows justice to be done.

It is appropriate to provide some flexibility, as each case may have its own degree of urgency or complexity. On the one hand, for an urgent appeal it may be appropriate for the timeline to be expedited to ensure a decision is made before it is too late for the parties. On the other hand, in a case that is not time-sensitive but where the decision would have serious implications on the interested parties, insisting on timelines as prescribed may prohibit the fair and just resolution of the matter.

The steps outlined in the table below may overlap and are not necessarily successive. Some steps will begin before the previous step ends. In urgent cases, it may be the case that some steps should be consolidated. Timelines in the table below are for illustrative purposes only.

Step	Policy Section	Days since Appeal filed		Timelines According to Model Policy (Standard Process)
		Expedited Process	Standard Process	
Notice of Appeal filed	5	1	15	15 days from the day Appellant was advised of the decision
Initial screening of appeal	7.3	2	17	2 business days following receipt of Notice of Appeal and related documents
Notice of Appeal sent to Respondent	8.1	2	18	1 working day following completion of initial screening
Statement from Respondent	8.3	3	23	5 business days following date Notice of Appeal filed, or as specified by Case Manager
Amicable settlement of dispute	9	-	-	Upon receipt of the statement
Appeal Panel established	11.1	3	25	10 days following receipt of Notice of Appeal
Preliminary conference	12.1	4	30	5 business days following establishment of Appeal Panel
Written Confirmation of decisions made during preliminary conference	12.6	4	35	5 business days following end of preliminary conference
Hearing	13	As required	As agreed	On date set during preliminary conference
Oral or summary decision	15.3	As	As agreed	As required based on urgency

		required	
Written reasons	15.1	Dependent on hearing date	15 business days following hearing conclusion

**APPENDIX B – SAMPLE NOTICE OF APPEAL FORM**

<b>Date:</b>			
	DD	MM	YYYY

**Appellant**

<b>Name:</b>			
<b>Address:</b>			
<b>Telephone (home):</b>			
<b>Telephone (office):</b>			
<b>Telephone (cell):</b>			
<b>Email:</b>			
<b>Date of birth:</b>			
	DD	MM	YYYY

**Appellant's Representative** *(if applicable)*

*Note: An adult representative is required if Appellant is under the age of majority*

<b>Name:</b>			
<b>Address:</b>			
<b>Telephone (home):</b>			
<b>Telephone (office):</b>			
<b>Telephone (cell):</b>			
<b>Email:</b>			

**Decision**

What decision are you appealing?


In your own words, why was the decision wrong or unfair?


When was this decision rendered?

<b>Date:</b>			
	DD	MM	YYYY

**Respondent**

Who made the decision you are appealing?

--

**Grounds**

Please provide:

- 1. Grounds for the appeal; and
- 2. Summary of the evidence to support these grounds (documents, pictures, rules, by-laws, recordings, etc.)


**Witness(es)**

For each witness, provide the following information (if there is more than one witness, attach additional information to the form as necessary):

<b>Name:</b>	
<b>Telephone1</b> :	
<b>Telephone2</b> :	

<b>Email:</b>	
<b>Summary of evidence to be provided by witness:</b>	

**Recourse**

What action are you asking WNS to take to correct the situation?


**Exemption**

If the decision was rendered more than 15 days ago, why are you filing this Notice of Appeal after the 15-day limit provided by WNS’s Appeal Policy (Section 5)?


**Signature**

<b>Signature:</b>			
<b>Name (print):</b>			
<b>Function/Title:</b>			
<b>Date:</b>			
	DD	MM	YYYY

**APPENDIX C – SAMPLE FORM FOR RESPONDENT’S STATEMENT**

<b>Date:</b>			
	DD	MM	YYYY

**Respondent**

<b>Name:</b>			
<b>Address:</b>			
<b>Telephone (home):</b>			
<b>Telephone (office):</b>			
<b>Telephone (cell):</b>			
<b>Email:</b>			
<b>Date of birth:</b>			
	DD	MM	YYYY

**Respondent’s Representative** *(if applicable)*

*Note: An adult representative is required if Respondent is under the age of majority*

<b>Name:</b>			
<b>Address:</b>			
<b>Telephone (home):</b>			
<b>Telephone (office):</b>			
<b>Telephone (cell):</b>			
<b>Email:</b>			

**Justification**

Please provide:

1. Justification (i.e. reasons) for the decision under appeal; and
2. Summary of evidence that supports justification (documents, pictures, rules and by-laws, recordings, etc.)



**Interested Party(ies)**

Provide, to the best of your knowledge, the name and contact information of any person whose selection, carding, ranking, or other status could be affected by the decision. Where applicable, indicate the reasons why this person may be affected by the outcome of the appeal. For each Interested Party, provide the following information (if more than one Interested Party, attach additional information to the form as necessary):

<b>Name:</b>	
<b>Telephone 1:</b>	
<b>Telephone 2:</b>	
<b>Email:</b>	
<b>Reasons why this person could be affected:</b>	

**Witness(es)**

For each witness, provide the following information (if there is more than one witness, attach additional information to the form as necessary):

<b>Name:</b>	
<b>Telephone 1:</b>	
<b>Telephone 2:</b>	
<b>Email:</b>	
<b>Summary of evidence to be provided by witness:</b>	

**Signature**

<b>Signature:</b>			
<b>Name (print):</b>			
<b>Function/Title:</b>			
<b>Date:</b>			
	DD	MM	YYYY