

SECTION 14.4

**GRIEVANCE PROCEDURE
(Revised June 2008)**

ARTICLE I - GENERAL RULES

- 1.1 All members of the Canadian Amateur Wrestling Association are required to follow the procedures set forth in this document as the correct method to resolve a grievance only after all other reasonable means or procedures designed to settle the situation have been exhausted.

This includes but is not limited to, selection, carding issues, discipline, harassment, etc.

- 1.2 Notwithstanding paragraph 1.1 above, for any matters related to the Athlete Assistance Program Nomination or de-carding, all appeals must follow the Policies and Procedures of Sport Canada's Athlete Assistance Program (AAP) Section 13.1 http://www.pch.gc.ca/progs/sc/pol/athlete05/1_e.cfm.

- 1.3 The time limitations for notice and due process as outlined in this document will be respected so long as fundamental justice can be served.

Situations may arise that require the time limitations to be expanded or reduced to ensure that the decision rendered is fair and effective. In such cases the parties involved will be required to agree in writing upon a schedule that meets the needs of the situation.

- 1.4 All correspondence will be directed through the National Office (including correspondence to the President). Registered mail may be replaced by courier, fax or electronic mail providing receipt of material is confirmed in an appropriate form.

- 1.5 The President, or in absence of the President, the Vice President, Administration shall preside over these procedures.

- 1.6 The correct order of procedures to follow are:

- intent to grieve,
- notice of grievance,
- review and decision, and
- appeal.

ARTICLE II - INTENT TO GRIEVE

- 2.1 A written intent to grieve must be filed with the National Office to the attention of the President within twenty-one (21) days of the alleged incident (or upon the team's or individual's return to Canada from the trip on which the alleged incident occurred).

- 2.2 The person(s) filing the intent to grieve will be hereafter referred to as the complainant and the person(s) or organization to which the grievance applies, the respondent

- 2.3 A \$100.00 fee must accompany the filing of the intent to grieve. The \$100.00 fee will be refunded if a ruling is made in favour of the complainant.

- 2.4 The intent to grieve must clearly state the nature of the grievance, the parties involved, and be signed by the complainant.
- 2.5 The President may request clarification of the intent to grieve and will ensure that all other reasonable means to resolve the matter have been exhausted before a decision is made by the President to formally accept or reject the intent to grieve.
- 2.6 An intent to grieve can be rejected, where, in the opinion of the President, the matter is trivial, frivolous, vexatious, or has not been initiated in good faith OR the matter is provincial/territorial in its jurisdiction OR the matter is outside the jurisdiction of the CAWA.
- 2.7 The President will provide an acknowledgement of the intent to grieve by registered or electronic mail to the complainant stating whether the intent to grieve has been accepted or rejected.

Should an intent to grieve be rejected by the President, the complainant shall have the right to call for a Tribunal, composed of three neutral Directors of the CAWA, to make a binding ruling. A formal acknowledgement of this must be signed by both parties (complainant & CAWA President) prior to the Tribunal being held. The request for a Tribunal must be supported by the complainant's CAWA Affiliated Member Group as per Article 7. b) 1. of the CAWA Constitution. The Tribunal should be carried out within 15 days of the signing of the binding agreement. The Tribunal would normally be carried out via conference call at the cost of the CAWA.

Any expenses incurred by the complainant in participating in the Tribunal shall be borne by the complainant.

ARTICLE III - NOTICE OF GRIEVANCE

- 3.1 The President, upon accepting an intent to grieve, will immediately notify, by telephone or other means of communication, the respondent(s) identified in the intent to grieve, informing them that a grievance has been initiated and that the CAWA has agreed to proceed with a review of the matter.
- 3.2 The President will forward within 15 days, a copy of the notice of grievance to the respondent by registered mail. If applicable, the possible sanctions that relate to the grievance will be attached. The President will request that the respondent, or a designated representative, reply to the notice of grievance in writing to the national office within fifteen (15) days. The deadline for a response will be clearly identified.
- 3.3 If the grievance involves an athlete, copies of all correspondence will be mailed to the athlete's personal coach. At the request of the athlete, copies of all correspondence will also be mailed to the relevant Provincial Association.
- 3.4 If the respondent or a designated representative fails to reply in writing within the fifteen (15) day period the procedure will continue without representation by the respondent.

ARTICLE IV - REVIEW & DECISION

- 4.1 The parties shall make every effort to resolve the grievance to the satisfaction of both parties without a full hearing by holding a formal review of the matter.
- 4.2 The CAWA will work with both parties to establish an "Agreed Statement of Facts".
- 4.3 The President will convene a meeting of the CAWA Executive Committee to review the grievance.

The CAWA Executive Committee, acting with any of the neutral additional representatives noted below, will comprise the Review Committee.

If the grievance is athlete centred then the elected Athletes' Representative, or designate as agreed upon by both parties, will be automatically added to the committee.

If the grievance is coach centred then the elected Coaches' Representative, or designate as agreed upon by both parties, will automatically be added to the committee.

If the grievance is referee centred then the President of the Officials Association, or designate as agreed upon by both parties, will be automatically added to the committee.

The Executive Director may be present throughout the review but has no vote.

- 4.4 A conference telephone call is an acceptable forum to hold the review.
- 4.5 The EXECUTIVE COMMITTEE will examine the Agreed Statement of Facts and render one of two possible decisions:
 - rule in favour of the respondent.
 - rule in favour of the complainant. If the decision requires that a sanction be levied then the appropriate sanction will also be determined by the Executive Committee at the time of the review.
- 4.6 The President will notify both parties of the decision of the Executive Committee by registered **or electronic** mail.
- 4.7 The complainant and the respondent, both have a right to accept the decision of the EXECUTIVE COMMITTEE or to appeal that decision. The deadline for an appeal will be clearly identified.

ARTICLE V - APPEALS

- 5.1 Appeals of decisions of the Executive Committee will be heard by a neutral Appeal Panel.

- 5.2 A written notice of appeal must be filed with the National Office to the attention of the President within 30 days of the giving of notice of the decision by the Executive Committee.
- 5.3 For each appeal the President shall cause to be established a three member neutral Appeal Panel composed of arbitrators who are generally agreed to be outside the direct interests of the sport of wrestling yet still well informed on the issues and due process for sport in Canada.

The CAWA National office will provide a list of potential arbitrators that could participate in the Appeal Panel. The appellant will have the right to select two arbitrators and the respondent one.

The Executive Director may be present throughout the appeal but is not a member of the committee and has no vote.

- 5.4 The Appeal Panel shall hold its hearing session as soon as possible but not more than 30 days after the President of the CAWA has received the written request for appeal, unless both parties consent to an extension of this time period. A conference call is an acceptable forum to hold the hearing if such is determined to be required in the interest of time and cost.
- 5.5 At the appeal hearing, both parties shall have the right to submit written briefs, adduce evidence and to make a personal appearance, or to be represented by a third party.
- 5.6 Each party shall bear the costs of its own expenses.
- 5.7 The Appeal Panel shall rule in one of the three following ways:
- the decision of the Executive Committee be upheld,
 - the decision of the Executive Committee be overturned, or
 - the decision of the Executive Committee be altered.
- 5.8 The President will notify both parties of the decision of the Appeal Committee by registered mail.

ARTICLE VI - ALTERNATIVE DISPUTE RESOLUTION

- 6.1 The CAWA supports the principles of Alternative Dispute Resolution (ADR) and is committed to the use of arbitration and mediation as an effective means to resolve disputes with its members.
- 6.2 All differences or disputes shall first be submitted to appeal pursuant to the appeal process set out in Article V of this policy.
- 6.3 Any decision made by the Appeal Panel may be exclusively submitted by way of application to the Sport Dispute Resolution Centre of Canada (SDRCC) tribunal or its successor, which will resolve definitively the dispute in accordance with the SDRCC Code, as amended from time to time.

- 6.4 Should a matter be referred to arbitration or mediation, all parties to the original appeal shall be parties to this arbitration or mediation.
- 6.5 The award rendered by the SDRCC tribunal or its successor shall be final and binding upon the parties.
- 6.6 Notwithstanding the intent of 6.2, the parties involved in the dispute may agree to bypass the CAWA appeal process, Article V of this policy, if time or circumstances dictate (ie. Major Games selection matters).