

## Appeals Policy

### Category:

1. Organization & Governance

### Policy Number:

1.5.3

### Policy Section:

Ethical Conduct

### Approved by:

Executive Director, Board

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### Contact:

Executive Director

## 1 PURPOSE

1.1 The purpose of this appeals policy is to enable disputes with Members to be dealt with fairly, expeditiously and affordably, within Youth Science Canada, without recourse to formal legal and court-like procedures.

## 2 DEFINITIONS

2.1 These terms will have these meanings in this policy:

1. ?Appellant?- The party appealing a decision.
2. ?CWSF? will mean ?Canada Wide Science Fair?.
3. ?Days? - Days irrespective of weekends or holidays.
4. ?Finalist? will mean any young person who has been chosen to attend a Youth Science Canada event (i.e., CWSF, ISEF, MILSET, etc.).
5. ?Individual(s)? will mean all categories of membership defined in the Youth Science Canada Bylaws, as well as all people employed by Youth Science Canada or engaged in programs and events with Youth Science Canada including but not limited to, delegates, alternate delegates, finalists, CWSF host committee members, guests, judges, volunteers, staff and members of Youth Science Canada.
6. ?Respondent? - The body whose decision is being appealed.

## 3 SCOPE OF APPEAL

3.1 Any Member of Youth Science Canada who is affected by a decision of the Board of Directors, the Executive Director, any Committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of the Youth Science Canada, will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 5 of this policy subject to the limits in Section 4 of this Policy. Examples of decisions that may be appealed are those relating to discipline, eligibility, selection, and conflict of interest or any other matter deemed appropriate by Youth Science Canada. This policy will not apply to decisions relating to:

1. Matters of employment;
2. Discipline matters arising during events organized by entities other than Youth Science Canada, which are dealt with pursuant to the policies of these other entities;
3. Volunteer appointments and the withdrawal or termination of those appointments;

4. Matters of operational structure, committees, staffing, employment or volunteer opportunities;
5. Commercial matters;
6. Matters of budgeting and budget implementation;
7. The rules of Youth Science Canada or disputes over competition rules;
8. Matters relating to the substance, content and establishment of selection or qualification criteria;
9. Policies and procedures established by entities other than Youth Science Canada;
10. Disputes arising within competitions which have their own appeal procedures; and
11. Any decisions made under Sections 4.3 and 6.2 of this policy.

## **4 TIMING OF APPEAL**

4.1 Members who wish to appeal a decision will have twenty-one (21) days from the date on which they receive notice of the decision to submit, in writing to the Executive Director or the Chair of the Youth Science Canada Board of Directors at head office of Youth Science Canada the following:

1. Notice of their intention to appeal;
2. Contact information of the Appellant;
3. Name and contact information of the Respondent;
4. Grounds for the appeal;
5. All evidence that supports these grounds for an appeal; and
6. The remedy or remedies requested.

4.2 If the appeal is being presented by the Executive Director of Youth Science Canada on his or her own behalf or the decision being appealed was made by the Executive Director, the written notice of appeal will be sent to the Chair of the Youth Science Canada Board of Directors.

4.3 Any party wishing to initiate an appeal beyond the 21-day period must provide a written request stating reasons for an exemption to the requirement of Section 4.1. The decision to allow, or not allow, an appeal outside the 21-day period will be at the sole discretion of the Executive Director or the Chair of the Youth Science Canada Board of Directors, and may not be appealed.

## **5 GROUNDS FOR APPEAL**

5.1 Not every decision may be appealed. The merits of a decision cannot be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:

1. Making a decision for which it did not have authority or jurisdiction as set out in Youth Science Canada's governing documents and policies;
2. Failing to follow procedures as laid out in the bylaws or policies of Youth Science Canada;
3. Making a decision that was influenced by bias.

5.2 The Appellant will bear the onus of proof in the appeal, and thus must be able to demonstrate, on a balance of probabilities, that the Respondent has made an error as described in Section 5.1.

## **6 SCREENING OF APPEAL**

6.1 Upon receipt of the notice, grounds of an appeal and supporting evidence, the Executive Director or Chair, Board of Directors will determine whether there are appropriate grounds for the appeal to proceed; as set out in Section 5. In the absence of the Executive Director or Chair, Board of Directors, a designate will perform this function.

6.2 If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified in writing of this decision, giving reasons. If the appeal is granted on the basis that there are sufficient grounds for an appeal, then a hearing will take place. This decision is made at the sole discretion of the Executive Director or Chair, Board of Directors, or designate, and may not be appealed.

## **7 APPEALS PANEL**

7.1 If the Executive Director or Chair, Board of Directors, or designate, is satisfied that there are sufficient grounds for an appeal, he or she will establish an Appeals Panel (the "Panel") within 14 days of having received the original notice of appeal, as follows:

1. The Panel will be composed of three individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived bias or conflict.
2. The Panel's members will select from among themselves a Chairperson.

## **8 PRELIMINARY CONFERENCE**

8.1 The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:

1. Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both);
2. Timelines for exchange of documents;
3. Clarification of issues in dispute;
4. Clarification of evidence to be presented to the Panel;
5. Order and procedure of hearing;
6. Identification of witnesses;
7. Any other procedural matter that may assist in expediting the appeal proceedings.

8.2 The Panel may delegate to its Chairperson the authority to deal with these preliminary matters.

## **9 PROCEDURE FOR THE HEARING**

9.1 Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:

1. The hearing will be held within the appropriate time line determined by the Panel.
2. The Appellant and Respondent will be given reasonable notice of the date, time and place of the hearing.
3. Copies of any written document that the Parties wish to have the Panel consider will be provided to all Parties in advance of the hearing.
4. A quorum will be all three Panel members and decisions will be by majority vote.
5. Decisions will be by majority vote, where the Chairperson carries a vote.
6. If the decision of the Panel may affect another party to the extent that the other party would have recourse to an appeal in their own right, that party will become a party to the appeal in question.
7. Any of the parties may be accompanied by an advisor, including legal counsel.
8. The Panel may direct that any other person participate in the appeal.
9. The Panel may conduct the appeal by means of a telephone conference.

## **10 PROCEDURE FOR DOCUMENTARY APPEAL**

10.1 Where the Panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures as it deems appropriate, provided that:

1. All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument.
2. The applicable principles and timelines set out in Section 9.1 are respected.

## **11 EVIDENCE THAT MAY BE CONSIDERED**

11.1 As a general rule, the Panel will only consider evidence that was presented to the original decision-maker. At its discretion, the Panel may hear new evidence that is material and that was not available at the time the original decision was made.

## **12 APPEAL DECISION**

12.1 In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:

1. To reject the appeal and confirm the decision being appealed; or
2. To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
3. To 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;

12.2 Within 14 days of concluding the appeal, the Panel's written decision, with reasons, will be submitted to the Executive Director or Chair, Board of Directors who will distribute a notice of decision to all parties within 21 days of the conclusion of the hearing.

12.3 In extraordinary circumstances, the Panel may issue an oral decision or a summary written decision, with reasons to follow, provided the written decision with reasons is rendered within the timelines specified in Section 12.1

12.4 The decision will be considered a matter of public record. A copy of this decision will be provided to the Parties and to Youth Science Canada.

## **13 CONFIDENTIALITY**

13.1 The appeal process is confidential involving only the parties, the Executive Director and/or Chair, Board of Directors and the Panel. Once initiated and until a written decision is released, none of the parties or the Panel will disclose confidential information relating to the appeal to any person not involved in the proceedings.

## **14 TIMELINES**

14.1 If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such that the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

## **15 LOCATION**

15.1 The appeal will take place in a location designated by the Executive Director or Chair, Board of Directors of Youth Science Canada, unless the Panel decides the appeal is to be held by way of telephone conference, or unless, at the specific request of a party, the Panel as a preliminary matter mandates a different location.

## **16 FINAL AND BINDING**

16.1 The decision of the Panel will be final and binding on the parties and on all Members of Youth Science Canada.

16.2 No action or legal proceeding will be commenced against Youth Science Canada or its Members in respect of a dispute, unless Youth Science Canada has refused or failed to abide by the provisions for appeal.

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