



**DRAFT**  
**The Chimo Gymnastics Club**  
**Administration Policy**  
**A3-1: Appeal Policy and Procedure**

**Effective:** January 2018  
**Revised:**  
**Related Policies:** A1-1: Bullying and Harassment Policy, A2-1: Complaints and Discipline Policy and Procedure, A5-1: Case Committee Policy and Procedure

### **Scope**

Any Individual who is directly affected by The Chimo Gymnastics Club's (the Club) decision will have the right to appeal that decision; provided the appeal falls within the jurisdiction of this Policy and there are sufficient grounds for the appeal under the 'Grounds for Appeal' section of this Policy.

### **Definitions**

Appellant: A person who formally files an appeal, as described in this Policy

Appeals Panel: A single person, or in extraordinary circumstances and at the discretion of the Case Manager, three persons, who will hear and make decisions on the appeal.

Case Manager: An individual appointed by the Club, who need not be a member or affiliated with the Club, to administer this Policy. The Case Manager will comply with the position description described in *Case Committee Policy and Procedure*.

Days: Business days excluding weekends and holidays

In writing: A letter, fax or email sent directly to the Club in confidence

Individual(s): Individual(s) may include anyone who interacts with the Club including, but not limited to, employees, directors, administrators, contractors, volunteers, parents, guardians, athletes, activity participants, officials, and members of the Club.

Respondent: A person whom a complaint is filed against.

### **Policies**

This Policy **will not apply** to decisions relating to:

- a) Employment
- b) Infractions for doping offenses
- c) The rules of the sport
- d) Budgeting and budget implementation
- e) Operational structure and committee appointments
- f) Volunteer appointments and the withdrawal or termination of those appointments
- g) Decisions rendered by entities other than the Club (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by the Club at its sole discretion)
- h) Commercial matters
- i) Decisions made under this Policy

### **Procedures**

### Timing and Conditions of Appeal

1. Individuals who wish to appeal a decision have ten (10) days from the date on which they received notice of the decision to submit, in writing to the Club, the following:
  - a) Notice of the intention to appeal
  - b) Contact information and status of the Appellant
  - c) Name of the Respondent and any affected parties, when known to the Appellant
  - d) Date the Appellant was advised of the decision being appealed
  - e) A copy of the decision being appealed, or description of decision if written document is not available
  - f) Grounds for the appeal
  - g) Detailed reasons for the appeal
  - h) All evidence that supports the appeal
  - i) Requested remedy or remedies
  - j) An appeal fee of two hundred fifty dollars (\$250) which will be refunded if the appeal is successful, or forfeited if the appeal is denied.
2. An Individual who wishes to initiate an appeal beyond ten (10) days period must provide a written request stating the reasons for an extension. The decision to allow, or not allow, an appeal outside of the ten (10) days period will be at the sole discretion of the Case Manager and may not be appealed.
3. Appeals must be submitted to the Executive Director or the Chair of the Board of Directors.

### Case Manager

4. Upon the receipt of an appeal, the Club will appoint an independent Case Manager to manage and administer appeals submitted in accordance with this Policy and such appointment is not appealable.

### Grounds for Appeal

5. An appeal may only be heard if there are sufficient grounds for appeal, as determined by the Case Manager. Sufficient grounds only include the Respondent:
  - a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents)
  - b) Failure to follow its own procedures (as set out in the Respondent's governing documents)
  - c) 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 appears not to have considered other views)
  - d) Made a decision that was grossly unreasonable
6. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy.

### Alternate Dispute Resolution

7. Upon receiving the notice of the appeal, the fee, and all other information (as outlined in the 'Timing of Appeal' section of this Policy), the Case Manager may suggest, and the Parties may consent, the appeal to be heard under the Club's *Alternate Dispute Resolution Policy*.
8. Appeals resolved by mediation under the Club's *Alternate Dispute Resolution Policy* will cause the administration fee to be refunded to the Appellant.

#### Screening of Appeal

9. Should the appeal not be resolved by using the *Alternate Dispute Resolution Policy*, the Case Manager will have the following responsibilities:
  - a) Determine if the appeal falls under the scope of this Policy
  - b) Determine if the appeal was submitted in a timely manner
  - c) Decide whether there are sufficient grounds for the appeal
10. If the appeal is denied on the basis of insufficient ground, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant and the Club will be notified, in writing, by the Case Manager of the reasons for this decision. This decision may not be appealed.
11. If the Case Manager is satisfied there are sufficient grounds for an appeal, the Case Manager will appoint an Appeals Panel (the "Panel"), which shall consist of a single Adjudicator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.
12. The Case Manager will establish and adhere to timeframes that ensure procedural fairness and that the matter is heard in a timely fashion.

#### Review of Appeal

13. When determining if there are sufficient grounds for appeal, the Case Manager is not acting as the Panel and determining the merits of the appeal, but instead determining whether the Appellant has properly shown that an error, as described in the Appeal Policy, has been properly argued. The Case Manager will need to carefully consult the Club's policies and procedures, and analyze the process that contributed to the decision, to determine whether there are appropriate grounds.

#### Discretion – Alternate Dispute Resolution

14. When the parties agree to the jurisdiction of the *Alternate Dispute Resolution Policy*, the Case Manager may be required to:
  - a) Appoint the mediator or facilitator
  - b) Coordinate all administrative aspects and set timelines
  - c) Provide administrative assistance and logistical support to the mediator or facilitator as required

#### Hearing Format - Discretion

15. If necessary, the Case Manager is required to exercise their discretion to determine the format of the hearing. Hearings typically take the following forms:

- a) In person
- b) Conference call
- c) Written submissions
- d) Conference call + written submissions

16. In determining the format of the hearing the Case Manager must consider:

- a) The distance between the parties
- b) The animosity between the parties
- c) The time commitment and location of the Panel
- d) The timelines for a decision
- e) The language barriers between the parties
- f) The gravity of the complaint/appeal

#### Panel Appointment

17. The Case Manager is required to appoint a Panel of one person, or three in extraordinary circumstances, to decide the issue. The individual(s) of the panel should have the following characteristics:

- a) Experience in dispute resolution
- b) Experience with sport disputes
- c) No connection to either party
- d) Preferably no connection with the Parties
- e) Decisive

18. The Case Manager should remind the Panel to adhere to the powers given to the Panel by the applicable policy. For example, if the policy does not permit the Panel to suspend the respondent indefinitely, then the Panel cannot sanction the respondent in this manner.

#### Communication

19. Especially when the hearing is to be held by written submissions, the Case Manager is required to communicate swiftly, clearly, and decisively with each party. The parties must adhere to the deadlines set by the Case Manager or by the applicable policy and the process must move forward even if a party misses a deadline.

20. When coordinating an oral hearing, the Case Manager should first consider the schedule of the Panel, then the schedule of the complainant, and then the schedule of the respondent in an attempt to find a suitable time for everyone.

21. Minutes and records of the meeting(s) and any relevant information must be submitted as the record and will be held in confidence and in trust by the Club.