

POLICY 801-1 RISK MANAGEMENT

Section 9. Risk Management Appeals.

- A. Any individual who has been sent a notice of disqualification or suspension in accordance with Policy 801-1, Section 8.A. shall have a right to appeal.

- B. An individual who wishes to appeal a disqualification or suspension must file a notice of appeal with the RMC as follows:
 - 1. The RMC may publish a form of Notice of Appeal, but the form is not required as long as required information is included.
 - 2. The notice must be in writing and be signed by the individual who has been disqualified or suspended.
 - 3. The notice must include the following information:
 - a. The name of the person appealing
 - b. A statement that the person is appealing from a disqualification or suspension
 - c. The postmark date shown on the notice
 - d. The date the individual received the notice
 - e. A statement of the grounds for appeal.

- C. The Notice of Appeal will be accepted only if it includes the required filing fee in the amount of \$100.00

- D. Time of Appeal
 - 1. The Notice of Appeal must be delivered to the RMC not later than 14 days following the date the notice of disqualification is received, or 21 days after the notice of disqualification was mailed, whichever comes first.
 - 2. The Notice of Appeal must be received in the office of the Association by the close of business on the date stated in the Notice of Disqualification or Suspension.
 - 3. The RMC may extend the date for filing the Notice of Appeal for good cause.

4. Failure to receive a notice of disqualification because the individual has moved and has not updated the mailing address shown in the individual's registration account in OYSA's Affinity database shall not be considered good cause to extend the time to file a Notice of Appeal.
5. If the Notice of Appeal is not received within the required time and no good cause is shown for an extension of the filing date, the RMC shall notify the appellant that the appeal has been dismissed.

E. Grounds for Appeal

1. The notice of appeal must state a specific reason why the decision of the RMC should be set aside.
2. Grounds for appeal include:
 - a. Factual errors that affect the risk management decision, such as:
 - (1) Incorrectly identifying the person disqualified;
 - (2) The background report does not show a court's reduction in the level of an offense at sentencing;
 - (3) A conviction has been set aside;
 - (4) Parole or probation supervision has been terminated by the supervising authority;
 - (5) An order of dismissal has been entered upon completion of diversion; or
 - (6) Other factual matters which may have affected the decision to disqualify.
 - b. The activities that are the basis of the disqualification are not detrimental to youth players as defined in Policy 801-1, Section 6.B.; or
 - c. The appellant does not present a risk to players or member clubs despite the criminal history.
3. A claim that the disqualification or suspension will have an adverse effect on the appellant is not a ground for appeal.
4. The RMC shall dismiss an appeal if the Notice of Appeal does not state any grounds for appeal.

F. Reconsideration by RMC

1. If the stated ground for appeal is a factual error, the RMC will reconsider the disqualification.
2. If the RMC determines that the disqualification was based on a factual error, the RMC shall take one of the following steps:

- a. Reinstate the individual and change the person's risk status to Approved;
 - b. Enter into a CAA with the individual; or
 - c. Leave the disqualification in effect despite the factual error and forward the appeal to the Vice President for presentation to a Risk Management Appeal Committee.
- 3. If the RMC determines that no factual error occurred, the appeal shall be forwarded to the Vice President for presentation to a Risk Management Appeal Committee.
- G. The RMC shall forward the Notice of Appeal to the Vice President as soon as practical after it has been received.
- H. The RMC shall send the Risk Management Record of the appellant to the Vice President along with the Notice of Appeal. The Risk Management Record shall include:
 - 1. A copy of the appellant's Administrator Application, including the Criminal History Disclosure;
 - 2. A copy of the background report for the individual;
 - 3. A copy of the relevant statutes defining the crime(s) appearing in the background report; and
 - 4. Copies of all written communications between the RMC and the appellant regarding the subject matter of the disqualification or suspension.
- I. Appeal Committee
 - 1. The Association Board of Directors shall appoint a panel of 5-7 persons who agree to hear risk management appeals.
 - a. The persons appointed to the panel will serve for a term of one year.
 - b. The panel shall consist of persons who are not currently Administrators of the Association or any of its member clubs.
 - c. The panel may include individuals who have children actively participating in the programs of the Association or its member clubs.
 - 2. Upon receipt of an appeal forwarded by the RMC, the Vice President shall appoint a committee of 3 persons drawn from the panel to hear the appeal.
 - 3. The Vice President shall select persons who are impartial to the outcome of the hearing. The committee members shall not:

- a. Have a business or personal relationship with the appellant; or
 - b. Be members, or former members, of a club at which the appellant is a member.
4. The members of an appeal committee shall keep confidential all information received during the course of a hearing and all deliberations of the committee.

J. Appeal Hearing

1. The Vice President shall schedule the date and time for the appeal hearing within 10 days following the Association's receipt of a Notice of Appeal.
2. The hearing shall take place within 30 days following the Association's receipt of the Notice of Appeal, unless the appellant agrees to a later date.
3. Unless otherwise arranged by the Vice President, Appeal Hearings will take place at the office of the Association, 4840 SW Western Ave, Suite 800, Beaverton, OR 97005.
4. The appellant and all witnesses are required to attend in person, unless an arrangement has been made with the Vice President for attendance by conference call.
5. The appellant may submit written documentation in support of the appeal. All such documentation shall be sent to the RMC who will forward the materials to the Vice President. The Vice President shall be responsible for providing copies of all written materials to the Appeal Committee
6. The RMC may submit a written report to the Appeal Committee regarding the appeal.
7. The Vice President will chair the Appeal hearing and participate in deliberation, but will not participate in the committee's decision.
8. The appellant may call witnesses in support of the appeal.
 - a. The committee will question the witnesses.
 - b. The appellant may question the witnesses after the committee has done so.
9. The committee may call the RMC as a witness to discuss the Risk Management Record or the RMC's report.
10. After hearing from witnesses and receiving any oral statement from the appellant, the Appeal Committee shall deliberate in private to reach a

decision on the appeal. Only the members of the committee and the Vice President may be present during deliberations.

- a. The committee may make notes of its deliberations and shall make a written record of its decisions.
- b. The committee shall make specific written findings in support of its decision.

K. Scope of Review

1. The committee will not accept any evidence that is offered to show that the appellant is not guilty of a conviction appearing on the appellant's background report or that any such conviction was improperly obtained. All elements required by the statute defining the crime of which the person was convicted are conclusively presumed to have been proven or admitted as the basis for the conviction.
2. The committee will not accept any evidence regarding the legal process that resulted in any conviction appearing on the appellant's background report.
3. The committee will accept evidence that bears on the grounds for appeal stated in the Notice of Appeal.
4. The appellant has the burden of establishing the basis for the appeal.
 - a. If the basis of the appeal is a disputed question of fact, the appellant must provide clear and convincing evidence that the facts are as stated by the appellant.
 - (1) Issues regarding the judgment of a court may only be controverted by certified copies of court records
 - (2) Issues of identity must be established by appropriate documentary evidence.
 - b. If the basis of the appeal is a disagreement with the RMC's decisions regarding matters within the authority of the RMC, the committee shall uphold the RMC's decision unless the appellant establishes by clear and convincing evidence that the decision of the RMC is based on bias against the appellant, the RMC has abused his or her discretion, or there is not a reasonable basis to support the RMC's decision. Matters within the RMC's authority include:
 - (1) Determining whether an Administrator's criminal history or other actions are detrimental to youth players as defined in Policy 801-1, Section 6.C.
 - (2) Determining whether an Administrator poses a risk to youth players, the Administrator's club, or to the Association based on the individual's background report.

5. In evaluating the appellant's claims on appeal, the committee shall consider that serving as an Administrator for the Association or any of its member clubs is a privilege, not a right. The programs of the Association and its member clubs are not intended to operate as a means of rehabilitating individuals who have encountered legal problems. They are intended to provide programs where youth players can participate in an environment of reasonable safety.

L. Decision on Appeal

1. The committee shall make specific findings regarding all issues in dispute on the appeal.
2. The committee shall make one of the following decisions:
 - a. Deny the appeal leaving the disqualification or suspension in effect;
 - b. Uphold the appeal and direct the RMC to change the appellant's risk status to Approved; or
 - c. Return the matter to the RMC with directions to enter into a CAA with the appellant and the appellant's club under the conditions set by the committee.
3. The Vice President shall prepare a memorandum which states the specific findings of the committee on the issues in dispute and the decision of the committee.
4. The Vice President will send the committee's decision to the appellant not later than 10 days following the hearing. The decision will be sent by both regular postal mail and certified mail, return receipt requested.
5. If the committee has directed that the parties enter into a CAA, the RMC shall prepare a CAA incorporating the conditions imposed by the committee and shall arrange to obtain signatures of the parties to the agreement.
6. The RMC shall maintain a database containing a record of the decisions of the committee.
 - a. Records of prior decisions, with names redacted, shall be made available to the committee.
 - b. Decisions in prior appeals that address the same or similar issues may be considered as a guide, but are not binding on the committee.