SECTION 13 - APPEALS

PROCEDURE 1.0 - PURPOSE

1.1 The purpose of this appeals procedure is to enable disputes with *registrants and Registered Organizations* to be dealt with fairly, expeditiously and affordably, within Ontario Soccer without recourse to external legal procedures.

PROCEDURE 2.0 - SCOPE AND APPLICATION

2.1 Any *Registrant* and/or Registered Organization, the Accused or Victim of the accused who is directly affected by a decision of a Governing Organization or of anybody or individual who has been delegated authority to make decisions on behalf of the Governing Organization, will have the right to seek *Leave to Appeal* of that decision to the next higher Governing Organization, provided there are sufficient grounds for the appeal as set out in Procedure 4.2. See Procedure 3.0 for Jurisdiction of Appeals.

2.2 This operational procedure will not apply to decisions relating to:

a) Matters of employment;

b) Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program

c) The FIFA Laws of the Game,

d) Discipline matters and penalties imposed under the Discipline by Review (D.B.R.) System if the accused opted to accept the standard penalty and did not request a Discipline Hearing,

e) Matters relating to the substance, content and establishment of team selection criteria,

f) Volunteer appointments and the withdrawal of those appointments by the Board of Directors,

g) Matters of budgeting and budget implementation,

h) Matters of operational structure and committees,

i) This operational procedure will not apply to any matters which should be dealt with under Ontario Soccer's Dispute Resolution Policy

j) The selection or non-selection of any organization, team, team official, match official, and/or player to any Ontario Soccer program, league, and/or member association.

k) Matters of discipline and/or complaints that have not gone through the appropriate avenues of resolution and been provided with Rights to Appeal to Ontario Soccer.

2.3 If there is an outstanding fine, fee, bond or penalty related to the decision being appealed that has not been paid prior to the submission of an appeal, the appeal will not proceed except under Operational Procedure 2.4.

2.4 When an appeal is filed on the basis that the monetary fine, fee, bond or penalty is excessive, then an amount of the lesser of the fee/fine or $500.00 will be paid in trust to the next higher Governing Organization together with the normal appeal fee and the appeal process will proceed. If the appeal is upheld, the amount paid will be refunded to the Appellant, if the appeal is denied the amount paid will be applied to the fee/fine with the balance to be paid forthwith to the Governing Organization which levied the fine, fee, bond or penalty being appealed.

PROCEDURE 3.0 - JURISDICTION OF APPEALS

Levels of Appeals for Decisions made by each Jurisdictional Level									
Organization	**Ontario Soccer**	**District Association**	**Provincial League (L1O, OPDL & PISL)**	**Regional League**	**District Comp. League (governed by Ontario Soccer)**	**District Comp. League (governed by District Association)**	**District Rec. League or District Dev. League**	**Club**	**Local League or Local Rec. League**
"1st Level of Appeal" for decision made by this organization	Canada Soccer	Ontario Soccer Appeals Comm.	Ontario Soccer Appeals Comm.	Ontario Soccer Appeals Comm.	Ontario Soccer Appeals Comm.	District Assoc.	District Assoc.	District Assoc.	Club
"2nd Level of Appeal" for decision made by this organization		Canada Soccer	Canada Soccer	Canada Soccer	Canada Soccer	Ontario Soccer Appeals Comm.	Ontario Soccer Appeals Comm.	Ontario Soccer Appeals Comm.	District Assoc.
"3rd Level of Appeal" for decision made by this organization						Canada Soccer	Canada Soccer	Canada Soccer	Ontario Soccer Appeals Comm.
"4th Level of Appeal" for decision made by this organization:									Canada Soccer

PROCEDURE 4.0 - SUBMISSION AND TIMING OF APPEAL

4.1 Registrants and/or Registered Organizations who wish to seek *Leave to Appeal* a decision will have fourteen (14) days from the date on which they received notice of the decision together with their rights of appeal, to submit in writing the following: (Note: this is for appeals to Ontario Soccer only)

a) A completed Ontario Soccer leave to appeal application form inclusive of their intention to appeal and grounds for the appeal, see 4.2
b) all evidence that supports these grounds, including all documents
c) the remedy or remedies requested,
d) a copy of the written decision being appealed, or the Appellant's understanding of the decision (if the decision has not been received, in writing, by the *Appellant*);
e) a signature of the *Appellant* or authorized representative of the *Appellant*
f) Evidence that any outstanding fine, fee or bond has been paid
g) Include the Appeal Fee in accordance with Operational Procedure Section 13.0 Procedure 11.0 in the form of a recorded payment for appeals to Ontario Soccer or as per the Governing Organization's published schedule of fees, fines bonds and penalties.

4.2 Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, upon the following grounds:

a) Making a decision for which the *Respondent* did not have authority or jurisdiction as set out in applicable governing documents;
b) New facts (within a time limit) that were not available when the decision was made;
c) Failing to properly interpret the relevant Published Rules;
d) Failing to follow procedures as laid out in the relevant Published Rules; or

e) Making a decision that was influenced by bias
f) Alleged excessive fine, fee, penalty or bond.

4.3 If the requirements of Procedure 4.1 are not met within the 14-day period, the request will be ruled out of order and will not be heard.

4.4 Any party wishing to initiate *Leave to Appeal* beyond the 14-day period must provide a written request stating reasons for an exemption to the requirement of Procedure 4.1. The decision to allow, or not allow *Leave to Appeal* outside the 14-day period will be at the sole discretion of the Governing Organization's Appeals Committee's Administrator or Disposition Manager and may not be appealed.

4.5 The *Governing Organization* receiving the request for *Leave to Appeal* is required to advise all affected parties about the requests which are to be considered-and to provide them with a copy of all relevant documents per *Procedure 4.1*.

4.6 The appeal fee will be refunded to the Appellant if the appeal is successful. Administrative fees as outline in Ontario Soccer's Schedule of Fees and Financial Penalties will be applied to the appropriate party based on the outcome of the appeal.

PROCEDURE 5.0 - SCREENING OF APPEAL

5.1 The Governing Organization will appoint a Disposition Manager and Administrator to oversee the management and administration of appeals submitted in accordance with this Procedure. The same person may be appointed as both the Disposition Manager and Administrator.

The Administrator will:

a) Implement this Procedure in a timely manner;
b) Determine if appeals are brought in a timely manner;
c) Appoint the tribunal to hear appeals;
d) Coordinate all administrative aspects of the appeal;
e) Provide administrative assistance and logistical support to the tribunal as required; and
f) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

The Disposition Manager will:

a) Implement this Procedure in a timely manner;
b) Determine whether leave to appeal will be granted base on the requirements of Policy 4.0;
c) Determine if the appeal lies within the jurisdiction of this Policy;
d) Determine if appeals are brought on permissible grounds; and
e) Determine the format of the appeal hearing.

5.2 Upon receiving the request for *Leave to Appeal* and the Administrator determined the appeal was brought in accordance operational procedures, the Disposition Manager will review the appeal, determine whether or not there are grounds for an appeal and prepare a disposition for, and to be signed by, a member of the Discipline and Appeals Committee who will not have any further involvement in the appeal.

5.3 If it is determined that there are sufficient grounds for the appeal to be heard or considered, the Administrator will provide the Respondent a copy of the appeal and supporting documents/evidence and request a written response and all supporting documents/evidence to be received within the time line established by the Administrator. If the Disposition Manager, at its sole discretion, is satisfied that there are no grounds for an appeal based on the requirements of Procedure 4.0, all parties will be notified in writing, stating reasons.

5.4 If the Respondent fails to return a written response and/or supporting documents/evidence, the appeal will proceed nonetheless.

5.5 If the circumstances of the appeal are such that this Appeal Procedure will not allow a timely appeal, or if the circumstances of the appeal are such the appeal cannot be concluded within the timelines dictated in this procedure, the Appeal Hearing Panel, Disposition Manager or Administrator may direct that these timelines be revised and shall notify the Appellant and Respondent of the revised timelines.

PROCEDURE 6.0 - AFFECTED PARTIES

6.1 The filing of an appeal shall not affect the decision being appealed until the decision of the *Appeal Hearing Panel* is released, unless otherwise stipulated in an Ontario Soccer Governing Document.

6.2 Any individual or organization that is involved with, or could be *directly affected by a decision* of the Panel will, upon the discretion of the Appeal Hearing Panel, Disposition Manager or Administrator, be granted status as a party, and that party will be bound by the decision of the Panel subject to their rights of appeal to the next higher *Governing Organization.*

6.3 Individuals or organizations granted party status will have the right to request and receive a copy of all submitted materials, and an opportunity to respond and present submissions, written or oral, as applicable within the time limit specified by the panel.

PROCEDURE 7.0 - APPEAL HEARING PANEL

7.1 If the Disposition Manager and a member of the Discipline and Appeals Committee is satisfied that there are sufficient grounds for an appeal, the Administrator will establish an *Appeal Hearing Panel* (hereafter referred to as the "Panel" as follows:

a) The Administrator will appoint a Panel which will be comprised of three persons 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.
b) The Administrator, will appoint one certified person to act as Chairperson.
c) The appointed *Appeals Committee* member responsible to determine if *leave to appeal* is granted will not sit on the Panel.

PROCEDURE 8.0 - PROCEDURE FOR DOCUMENTARY APPEAL

8.1 Where the Disposition Manager and a member of the Discipline and Appeals Committee have 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:

a) The Appellant's appeal and all supporting evidence is disclosed to the Respondent;
b) The Respondent is provided an opportunity to submit a Respondent's Response Document, which will be disclosed to the Appellant;
c) The Appellant will be provided an opportunity to submit a rebuttal document;
d) In the case that the Appellant's written rebuttal introduces new information, as determined by the Case Manager and/or Administrator, the Respondent will be provided an opportunity to submit an additional Respondent's Response responding to the new information. If it is determined by the Case Manager and/or Administrator that an additional Respondent's Response is required, the Administrator will notify the parties.

PROCEDURE 9.0 - PROCEDURE FOR THE APPEAL HEARING

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

a) The Appellant's appeal and all supporting evidence is disclosed to the Respondent;

b) The Respondent is provided an opportunity to submit a Respondent's Response Document, which will be disclosed to the Appellant;
c) The Appellant will be provided an opportunity to submit a rebuttal document;
d) In the case that the Appellant's written rebuttal introduces new information, as determined by the Case Manager and/or Administrator, the Respondent will be provided an opportunity to submit an additional Respondent's Response responding to the new information.
e) The hearing will be held on the date established by the Administrator;
f) The Appellant and Respondent will be given 7 days written notice of the date, time and place of the hearing, unless the Parties agree to waive the notice requirement;
g) A quorum will be all three Panel members except as provided for in Procedure 9.2. Decisions will be by majority vote, where the Chairperson carries a vote;
h) Copies of written documents that any of the parties would like the Panel to consider will be provided to the Panel and to all other parties at least 5 days prior to the hearing by the Governing Organization convening the appeal, unless determined otherwise by the Administrator, Case Manager and/or the Panel;
i) A representative or advisor, including legal counsel may accompany any of the parties. Legal counsel should be reminded that the hearing is not a court of law and will be conducted per Ontario Soccer Policies and Procedures;
j) The Panel may direct that any other person participate in the appeal;
k) Parties are entitled to bring witnesses in person to submit evidence to the Panel;
l) A person less than eighteen years of age who is an Appellant must be accompanied by an adult who will act as an adviser, failing which the appeal will not be heard and will be rescheduled;
m) Unless otherwise agreed by the parties, there will be no communication between the Panel and the parties.

9.2 Where insufficient notice (less than 7 days) for the hearing is given and/or less than three Appeal Panel members, but no less than two (2) Appeal Panel members, appear for the hearing, the following procedures will apply:

a) If there are less than three Appeal Panel members, the parties to the Appeal will be required to sign the appropriate waiver form consenting to proceed with the appeal hearing with a panel of two members;

b) If no objection about insufficient notice is raised at the appeal hearing by any party, the hearing will proceed in the normal manner;

c) If any party raises an objection about insufficient notice, the parties to the Appeal will be required to sign the appropriate waiver form consenting to proceed with the appeal hearing without proper notice;

d) Should any party object to the continuation of the hearing because of insufficient notice and/or lack of three panel members, and refuse to sign the waiver, the Chair will have this recorded in the Minutes and will adjourn the hearing.

9.3 Any party required to attend a hearing may request one (1) postponement of a hearing. The party shall submit a written request including the correct fee in the form of a recorded payment that must be received by the Governing Organization no later than four (4) days prior to the date of the hearing, stating the reason for requesting the postponement. The Governing Organization will have full discretion to allow the postponement or to deny the request.

9.4 In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone conference.

9.5 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 the appeal cannot be concluded within the timelines dictated in this policy, the Disposition Manager, Administrator or Panel may direct that these timelines be revised.

9.6 At the start of the Hearing, all parties shall be brought into the hearing room. The Recording Secretary shall record the names and status of all attendees.

9.7 The Appellant shall be allowed to amplify or qualify each point of appeal deemed relevant by Disposition Manager and a member of the Discipline and Appeals Committee. The Respondent shall be given the opportunity to give their position on each of their points responding to the appeal deemed relevant. At this time, any witnesses will be asked to leave the room prior to any discussion taking place.

9.8 Witnesses shall be brought back in one at a time at the request of either party or the Panel. If a witness is appearing for the Appellant, the Appellant shall be given the opportunity to ask the first question. After giving testimony, the witness shall remain in the room. If they insist on leaving, the Panel must ensure that they leave the building and not speak to any other witnesses that have still to be heard.

9.9 The Appellant, Respondent and any Affected Parties shall be given the opportunity to present final comments, after which the Chair shall declare the hearing recessed. At this time all but the Panel Members shall leave.

9.10 Audio Visual Technology

9.10.1 Tape recorders may be used by any party at Appeal Hearings. All persons participating in the hearing shall be advised that the hearing is being taped.

9.10.2 Videotape evidence is acceptable provided it substantiates verbal evidence given by any party. Videotape evidence that simply seeks to show errors made by a match official shall be ruled out of order and not considered. Videotape evidence that shows possible errors in identification by the match official shall be allowed.

PROCEDURE 10.0 - ATTENDANCE AT APPEAL HEARING

10.1 The Appellant and the Respondent and, where applicable, Affected Party must attend the hearing. Anyone representing any of the parties at an Appeal Hearing must provide a signed proxy before being allowed to participate at a hearing.

10.2 Failure to attend an appeal hearing when required without a good and sufficient reason.

a) An Appellant in an Appeal will lose the appeal

b) A Respondent or Affected Party will lose the right to argue the decision being appealed. The Appeal Hearing will proceed based on the documentation pertaining to the Respondents original decision but without the Respondent's or the Affected Party's response to the appeal being considered in any way.

10.3 The Appellant, Respondent and where applicable, the Affected Party shall have standing at the Appeal Hearing and will be entitled to ask questions and make statements relevant to the appeal.

10.4 Advisers

10.4.1 An adviser is a person 18 years of age or older who provides advice to any party required to attend an Appeal Hearing; and may not act as a witness nor provide any testimony at an Appeal Hearing. They may not question the competence of a game official and may question a witness for clarification purposes only.

10.4.2 The Chair of the Appeal Hearing Panel shall notify any advisers present that the hearing will be conducted strictly in accordance with Ontario Soccer "Governing Documents".

10.5 Observers

10.5.1 Each party required to attend an Appeal Hearing is entitled to have a maximum of two observers in attendance at the Appeal Hearing in order to ensure that a specific party receives a fair hearing. They may not act as a witness nor provide testimony. But may speak at the discretion of the Panel

10.6 Club Representative, OSRA or Local Referee Association Representative, League Representative

10.6.1 Each Club/OSRA/Local Referee Association is entitled to send one (1) representative to an Appeal Hearing at which one of its players, coaches, match officials or administrators is the Appellant and also when the Match Official is involved in a Match Official Assault. A Club is required to send a representative in the case of match official assault. The representative may act as an adviser at the hearing.

10.6.2 A Club/OSRA/Local Referee Association representative may not act as a witness nor provide any testimony at the Appeal Hearing but may be required to answer questions posed by the Panel.

10.7 Witnesses

10.7.1 Each party required to attend an Appeal Hearing is entitled to bring witnesses. Witnesses must appear in person. Written reports by witnesses are not acceptable.

10.7.2 There is no limit to the number of witnesses allowed, but they must add new testimony and the Hearing Panel can limit testimony when it becomes repetitious

PROCEDURE 11.0 - APPEAL DECISION

11.1 Within 10 days of concluding the appeal, the Panel will issue its written decision, with findings and the Rights of Appeal. The decision should include the following points:

a) Issue to be decided
b) Background to the case
c) Statement of the facts
d) Authorities considered
e) Decision
f) Reasons for decision
g) Rights of Appeal information

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

a) To reject the appeal, forfeit the appeal fee and confirm the decision being appealed; or
b) To uphold the appeal and refer the matter back to the initial decision-maker for a new hearing except in the case where the initial decision maker did not have jurisdiction to make the decision, in which case the appeal may be upheld and returned to a competent jurisdiction to be reheard; or
c) To uphold the appeal and vary the decision; and
d) To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.
e) To refund the appeal fee to the Appellant where the appeal is upheld and to charge the appropriate administrative fee to the Respondent as shown in the Governing Organization's schedule of Fees, Fines, Bonds and Penalties

11.3 Fees, fines, bonds and penalties levied will be in accordance with the "Schedule of Fees, Fines, Bonds and Penalties" of the applicable Governing Organization.

11.4 The decision will be considered a matter of public record. A copy of the decision together with the findings will be provided to each of the affected parties but the minutes may only be given to the Governing Organization.

11.5 The decision of the Panel will be final and binding on the parties and on all members of Ontario Soccer, subject only to the provisions of the next higher governing body's Appeal Policy.

11.6 Where the appeal is upheld, the appeal fee shall be refunded to the Appellant and an "Appeal Hearing Administrative Fee "shall be charged to the Respondent. The amount of the "Appeal Hearing Administrative Fee "shall be published by the Governing Organization hearing the appeal.

11.7 **Failure of an Appeal Hearing Panel to render a written decision**

a) If a written decision is not rendered by the Appeal Hearing Panel within the timeframe specified by the Governing Organization under whose authority the appeal was heard, the Appellant may request that the next higher Governing Organization rehear the appeal without payment of any further appeal fees. This "Request for Leave to Appeal" must be made in writing in accordance with Policy 4.0 but within twenty-five days of the original hearing date.
b) The delinquent Governing Organization will be charged with acting in contravention of a Policy and or Operational Procedure and required to attend a Discipline Hearing.
c) All costs will be charged to the delinquent Governing Organization.

PROCEDURE 12.0 - APPEALS OF PLAYING-OUT DECISIONS

12.1 An appeal by a Club against a decision of a District Association on "Playing-Out Rights" shall be judged strictly in accordance with the District Association's "Playing-Out Criteria" as filed with Ontario Soccer.

12.2 A District Association which fails to file its "Playing-Out Criteria" with Ontario Soccer, will have any appeals against its decision(s) judged strictly in accordance with the "Ontario Soccer Playing-Out Criteria".

12.3 In considering any appeal about Playing-Out Rights, the panel will base its decision entirely on the District Association or Ontario Soccer "Playing-Out Criteria" in effect for that District Association. The Panel will consider:

a) Procedure re: the "Playing-Out Criteria" in effect;
b) Interpretations re: the "Playing-Out Criteria" in effect and
c) New information re: the "Playing-Out Criteria" in effect.

PROCEDURE 13.0 - APPEALS REGARDING TRANSFERS

13.1 If a Registrant or Registered Organization does not follow the requirements of Registration Operational Procedure with regards to a player requesting to transfer from one club to another, the player submits an appeal. The following procedures would apply:

a) The District Association shall schedule an appeal hearing to take place no later than twenty-five (25) days after the original notice of intention to transfer. The need to give notice for the appeal hearing in accordance with Procedures in this Appeals Section is waived.
b) The District Association shall inform both parties, and notify the Club of its right to contest the appeal.
c) The District Association may transfer the player as soon as the Appeal Hearing has concluded in favour of the player.
d) The District Association may require the Club to pay a fee to contest the appeal.
e) Where an appeal has been lodged by a player, the matter will be brought to a conclusion within thirty days of the date of the player's written notice of intent to transfer.

PROCEDURE 14.0 - FINANCIAL PENALTIES

14.1 Fees, Fines, Bonds, and Penalties levied by an Appeal Hearing Panel shall be in accordance with the "Schedule of Fees, Fines, Bonds and Penalties" of the Governing Organization having jurisdiction in the appeal however the schedule of Fees, Fines, Bonds and Penalties may not be higher than shown on Ontario Soccer Schedule

14.2 Fees, Fines and Penalties levied at appeals conducted by Ontario Soccer shall be in accordance with Ontario Soccer's Standard Penalties and Schedule of Fees, Fines, Bonds and Penalties.

14.3 If an appeal to Ontario Soccer by an individual or an organization is upheld: a $250.00 "Appeal Hearing Administrative Fee" is charged to the Respondent, except when an appeal is upheld based solely on "new facts that were not available when the decision by the Respondent was made".

14.4 If an appeal to Ontario Soccer by an individual or organization is ruled out of order in accordance with Appeal Procedure 5.2, a $150.00 administrative fee will be charged to the appellant.